

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, March 26, 2013

TIME: 1:00 P.M.

PLACE: Room WW02 (Lincoln Auditorium)

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Johnson, Senators Keough, Winder, Rice, Nonini, Hagedorn, Bock and Buckner-Webb

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the Senate Transportation Committee (Committee) office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Brackett** called the meeting to order at 1:05 p.m. and asked the secretary to take a silent roll. With a quorum present, **Chairman Brackett** explained the Committee had a full agenda today and that he would jump around the agenda to accommodate the schedules of some presenters. **Chairman Brackett** welcomed Representative Loertscher to the Committee and asked him to present **H 321**.

H 321 **Representative Loertscher** began by stating that under House Rule 38 he is disclosing that this legislation could impact properties in which he has an interest, and that there is a typographical error on page 6, line 9 that has been corrected. This bill is a culmination of a year of efforts to deal with pertinent road issues and the Idaho Code. This bill addresses several issues arising from the testimony and discussion before this Committee during last year's legislative session relating to H 628aa. Last year this Committee formed an Interim Task Force that included members of the House and Senate to further study these issues. On October 1, 2012, the Right-of-Way Task Force convened and accepted extensive testimony from several stakeholders and the public. **H 321** amends several statutory provisions to address the issues raised with the Right-of-Way Task Force and also represents a collaborative resolution of the stakeholders' interests. It protects private property rights, and ensures adequate public right-of-ways for transportation and utility entities. This bill applies to any and all existing and future highways and public right-of-ways, and it includes an emergency clause because of the year delay in legislation and the immediate need to provide clarity regarding the status or abandonment of highways and public right-of-ways. **Representative Loertscher** went through the bill page by page and stood for questions.

Senator Rice asked what private groups (he used the Idaho Food Producers as an example) thought about this bill. **Representative Loertscher** said they supported this bill. There were no further questions for Representative Loertscher.

TESTIMONY: **Dennis Tanikuni**, Assistant Director of Governmental Affairs for the Idaho Farm Bureau Federation, said that the Idaho Farm Bureau supports **H 321** and confirmed that the Idaho Food Producers support it as well. There were no questions for Mr. Tanikuni.

Stuart Davis, Executive Director of the Idaho Association of Highway Districts, and **Rich Hahn** of Idaho Power and **Will Hart**, Executive Director of the Idaho Consumer Owned Utilities Association, all testified that they and their organizations support **H 321**. There were no questions from the Committee.

MOTION: **Chairman Brackett** called for a motion. **Senator Keough** moved that **H 321** be sent to the Senate floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by unanimous **voice vote**. **Chairman Brackett** will carry the bill on the Senate floor.

H 322 **Chairman Brackett** welcomed Stuart Davis, Executive Director of the Idaho Association of Highway Districts, back to the podium and asked him to present **H 322**. **Mr. Davis** said this is a trailer bill to S 1117, the bill that allows the Idaho Transportation Department (ITD) and local highway jurisdictions to designate routes for vehicles weighing of up to 129,000 pounds. **H 322** clarifies that the designation of highways by an authority having jurisdiction over those highways is a discretionary act of the governing board of that jurisdiction. It confirms that an authority having jurisdiction may place limitations on a designation of a particular route or may withdraw a designation if circumstances warrant. It also confirms that a local jurisdiction will publish notice and hold a hearing before designating a route. This bill alleviates the concerns his organization and others had with S 1117. There were no questions of Mr. Davis.

TESTIMONY: **Michael Kane**, representing the Idaho Association of Counties, and **Ken McClure**, representing the Idaho Forest Group and the Idaho Milk Producers, testified in support of **H 322**. There were no questions from the Committee.

MOTION: **Chairman Brackett** called for a motion. **Senator Nonini** thanked all the stakeholders who worked together to make this bill happen. He said that this bill passed the House unanimously. With that, **Senator Nonini** moved that **H 322** be sent to the Senate floor with a **do pass** recommendation. **Vice Chairman Johnson** seconded the motion. The motion carried by unanimous **voice vote**. **Senator Nonini** will carry the bill on the Senate floor.

H 290 **Chairman Brackett** welcomed Senator Guthrie to the Committee and asked him to present **H 290**. **Senator Guthrie** said this bill allows vehicles, owned and operated by a farmer or his agent, to be operated on a highway with up to 2,000 pounds in excess of any axle, bridge or gross vehicle weight limit. Current practice of loading farm commodities in rural Idaho can be a challenge. Often a producer must use air gauges or best-guess estimates to ensure the gross and axle load weight being transported is legal. Commodities can vary with respect to pounds per bushel, and bulk loads tend to shift during transport. This legislation would allow some latitude to compensate for those shipping realities. **Senator Guthrie** shared his personal experience in these situations and stood for questions.

Senator Rice asked if there was information on the effect higher weight limits would have. **Senator Guthrie** said it is an issue that can be addressed during the next session. **Senator Rice** asked if the Senator had considered reducing fines instead of increasing weight limits. **Senator Guthrie** said that option had not been raised.

Senator Hagedorn asked if the weight increase was on each axle. **Senator Guthrie** said 2,000 pounds is the total amount, it is not 2,000 on each axle. **Senator Hagedorn** said the bill reads: "in excess of any axle."

Senator Buckner-Webb asked what happens if the weight becomes considerable. **Senator Guthrie** said the even payload on trucks is 80,000 pounds; with a ten percent load shift axle weight can change. It doesn't elevate the weight per axle to the point of becoming a safety issue. There were no further questions for Senator Guthrie.

TESTIMONY: **Dennis Tanikuni** of the Idaho Farm Bureau Federation testified in favor of **H 290**. He said this bill benefits their members throughout Idaho and affects all commodities, e.g., grain, potatoes, beets. He explained that the smaller the commodity, the greater the shift in transit. He said that corps do not convert to cash until they're in the truck. The bill needs clarifications next year and the Idaho Farm Bureau Federation will be happy to address the concerns. **Mr. Tanikuni** stood for questions.

Senator Rice asked if there was any reason they might achieve an extra 2,000 pounds and get to a higher load limit. **Mr. Tanikuni** did not agree with the Senator's premise and gave reasons (like atmospheric changes) and examples why weights might change.

Senator Bock asked if grain was hauled on two-trailer trucks. **Mr. Tanikuni** said that some were. **Senator Bock** asked how many cubic yards does 2,000 pounds represent. **Mr. Tanikuni** described how small the volume of 2,000 pounds is when talking about grains, for example. **Senator Bock** asked about other crops. **Mr. Tanikuni** said he didn't want to guess because it is harder to verbally describe the volume of larger commodities.

MOTION: **Senator Hagedorn** commented that a ton of hay will take up a different sized space than other commodities. It absolutely depends on the commodity being hauled. With that, **Senator Hagedorn** moved that **H 290** be sent to the Senate floor with a **do pass** recommendation. **Senator Keough** seconded the motion. The motion carried by **voice vote**. **Senator Guthrie** will carry the bill on the Senate floor.

H 279 **Chairman Brackett** welcomed Representative Gestrin to the Committee and asked him to present **H 279**. **Representative Gestrin** quoted from **H 279**'s statement of purpose: "The purpose of the act is to clarify Idaho laws relating to the registration of boats, snowmobiles and off-highway vehicles. The amendments set forth in this act clarify that ITD has no obligation to index registrations of vehicles operated off of Idaho's highway systems, and likewise that the Idaho Department of Parks and Recreation has no obligation to share information it collects relative to the registration of boats, snowmobiles and off-highway vehicles with ITD."

Representative Gestrin said this registration system was created to build an infrastructure and make it customer user-friendly. The Department of Motor Vehicles (DMV) at ITD is closed on Fridays and the weekends, so those using Idaho forests for recreation would have to wait to register sometime during business hours on Monday through Thursday.

Registration was created by the outdoor recreation groups as a tax on themselves to fund recreation on public lands. If snowmobilers or motorcyclists only operate on private land they don't have to register their equipment. These funds are what keep Idaho's snow paths groomed and trails maintained. Thirty years ago, ITD collected these funds and the recreation groups requested that it be moved to the Idaho Department of Parks and Recreation. **Representative Gestrin** concluded by stating that **H 279** passed the House by a 56 to 9 vote; he stood for questions.

Senator Rice asked how this bill would affect recreationists from neighboring states who use our forests but aren't registered. **Representative Gestrin** said it doesn't affect them because they are required to purchase a use sticker at the trails and other public lands they want to use. There are booths set at trails to sell stickers; these booths would need to remain in place if ITD takes over this responsibility.

Senator Hagedorn asked if there was a reason for bringing this legislation now. **Representative Gestrin** said that the Idaho Department of Parks and Recreation had brought a bill earlier this session to transfer the responsibility to ITD. That bill is being held in the House Transportation and Defense Committee because recreationists said they want to continue to work with the Idaho Department of Parks and Recreation and not ITD. This group is willing to increase the fee up to fifteen percent as an attempt to make clear that the sticker is not connected to titling recreation equipment. There were no further questions for Representative Gestrin.

TESTIMONY:

Because of time constraints, **Chairman Brackett** asked that those wishing to testify limit their testimony to two minutes. He called on Sandra Mitchell, Executive Director of the Idaho Recreation Council, and said she would be given extra time for her testimony. He asked if she wanted to testify first or do a wrap-up at the end. **Ms. Mitchell** said she would prefer to wrap-up the testimony.

The following individuals testified in support of **H 279**: **Larry Laxon** of the Valley County Snow Groomers, **Jim Kulm** of the Idaho Recreation Council, **Ron Platt** of the Donnelly Snowmobile Club, **Haden Claiborne** who is President of the Idaho Utility-Type Vehicles and Past President of the Boise All-Terrain Vehicles Trail Riders, **Chuck Wells** of the Idaho Snow Sports Association and the Camas County Snowmobilers Association, **Harold Johnson** of Filer who is the President of the Idaho Snow Sports Association, **Tamara Cikaitoga** who is the Fremont County Parks and Recreation Director, **David Claiborne** of the Idaho State All-Terrain Vehicle Association and **Barney Skogerson** of Boise.

Only **Chris Goetz**, Clearwater County Sheriff and member of the Idaho Sheriff's Association, testified in opposition to **H 279**.

Vice Chairman Johnson and **Senator Hagedorn** had questions for those testifying that dealt with the process of selling and distributing stickers and the issues over transferring the registration responsibility to ITD.

Chairman Brackett invited Sandra Mitchell to deliver closing remarks. **Ms. Mitchell** said that the Idaho Recreation Council, of which she is Executive Director, is an organization composed of clubs, associations and individuals from all parts of the state with a desire to preserve recreation opportunities for future generations. Our members include owner/recreationists of 4-by-4s, all-terrain vehicles, horse-back riders, dirt motorcyclists, mountain bikers, motorized and non-motorized boaters, rock-hounds, recreational vehicles, utility-type vehicles, back country aviators and snowmobilers.

Ms. Mitchell said her remarks would be brief because it is a simple issue. (1) The motorized recreationists chose to tax themselves, to pool that money and invest it in building the infrastructure needed for their motorized sports. The program is managed by the Recreation Department within the Idaho Department of Parks and Recreation. It is funded entirely by registration funds and federal and state gas tax funds. Recreation receives no state general fund money. (2) The registration program is the method used to collect the funds. It was never intended to be a means of proving ownership or as a tool in law enforcement. She isn't aware of any recreationist who cares if other departments use their information. (3) Recreationists give their money and they get a sticker. Registration funds combined with gas taxes have built an infrastructure that brings visitors by the thousands to Idaho and as a result recreation has become an important component in the economic stability of rural Idaho. (4) Since the registration program was moved from ITD to the Idaho Department of Parks and Recreation has flourished, because it is managed by recreation professionals who have a vested interest in it being successful. They understand that registrations must be accessible to the public. The vendor program is critical to the success of the registration program. (5) The off-highway vehicles community is not resistant to change (she used how frequently

their equipment changes as an example). Idaho is still has many places where access to the world-wide-web isn't possible; these remote places are often where people recreate. They will embrace the change when online registration anywhere in Idaho is available. (6) The registration program managed by Idaho Department of Parks and Recreation is effective, efficient and economical. Up to fifteen percent of each registration fee can be used to administer the program. It has only used around twelve percent, making around \$250,000 available for maintenance of public recreation land each year. The program isn't perfect, but it is a program in need of laser surgery not amputation. In conclusion, she asked the Committee to keep the registration program that is paid for by the users for the benefit of the users in the Idaho Department of Parks and Recreation where it is well-managed. There were no questions for Ms. Mitchell.

Senator Hagedorn saw Amy Smith, ITD's Vehicle Services Manager, in the audience and asked if she would yield for questions. She agreed. **Senator Hagedorn** asked if there was a requirement in Idaho Code or an administrative rule stating that ITD must begin processing registrations of off-road vehicles and incorporate them into ITD's system. **Ms. Smith** said that, as the Committee knows, ITD is getting ready to replace their system and with passenger vehicle registrations there are certain information requirements. Idaho Department of Parks and Recreation doesn't have the authorization to collect from vendors; they are sending "unclean" data. **Senator Hagedorn** narrowed the focus to off-road vehicles and private equipment, and wanted to know how they would be managed given they are titled but not currently registered. **Ms. Smith** said she could not speak to off-road vehicles but explained how passenger vehicles are handled. She said that off-road vehicles were not in her bailiwick. There were no further questions for Ms. Smith.

MOTION:

Senator Hagedorn said there are challenges but doesn't think changes should be made at this time. He suggested getting stakeholders together over the summer to discuss solutions. With that, **Senator Hagedorn** moved to hold **H 279** in Committee and let the issues be worked out. **Senator Buckner-Webb** seconded the motion. **Chairman Brackett** asked if there was any discussion.

Senator Bock agreed with Senator Hagedorn and said given the situation, this was a good solution.

Senator Winder said there was some merit in holding the bill, but if there is an issue he would like to hear from the director of the Idaho Department of Parks and Recreations. Director Nancy Merrill came to the podium. **Senator Winder** asked if this bill eliminates a problem. **Ms. Merrill** said it did not fix problems because the Attorney General does require the registration. Going back to where we were is doable. **Senator Winder** asked if there was a mandatory July 1 deadline to have a system in place and if that will be a problem. **Ms. Merrill** said they need better information from the counties. After July 1 they will no longer be sending the information in a triplicate format as has been done in the past. The Idaho Department of Parks and Recreation will need to find a new way. There were no further questions for Ms. Merrill.

SUBSTITUTE MOTION:

Senator Winder moved to send **H 279** to the floor with a **do pass** recommendation. **Senator Keough** seconded the motion. **Chairman Brackett** asked if there was any discussion.

Senator Hagedorn said there were concerns with the use of registration that might create some concerns that don't need to be created. If we can get everyone together then perhaps a solution can be found. This substitute motion would take the process backwards and he will vote "no" on the substitute motion.

Chairman Brackett called for a vote on the substitute motion. The substitute motion **failed by voice vote**. **Senator Winder** and **Senator Keough** asked to be recorded as voting "aye."

VOTE ON ORIGINAL MOTION:

Chairman Brackett called for a vote on the original motion. The original motion carried by majority **voice vote**. **Senator Winder** and **Senator Keough** asked to be recorded as voting "nay."

MINUTES:

Senator Keough moved that the minutes of the Committee meetings on February 12, March 5, March 12, March 14 and March 19 be approved. **Senator Buckner-Webb** seconded the motion. The motion carried by unanimous **voice vote**.

Chairman Brackett said that today was the last scheduled meeting of the Committee, future minutes approval will be done by the buck-slip process. Any future meetings of the Committee will be at the call-of-the-chair.

PAGE:

Chairman Brackett invited Robin Crotteau, Senate Transportation Committee Page for the second half of the legislative session, to come to the podium. The **Chairman** commented on what a delight it was to have Ms. Crotteau as the Committee's Page. She had even drafted a concurrent page resolution. He presented her with a parting gift from the Committee and asked her to share her impressions and experience.

Ms. Crotteau said she enjoyed seeing people testify and become involved in the work being done by the Committee. She especially enjoyed the "big truck" debate and the significant number of members of the public who participated in that hearing. She indicated there had been discussion among the Senate Pages about issues facing each committee and she had shared that transportation was important. She then told the Committee that upon graduation from Timberline High School in Boise later this spring, she was looking at going to college in either Iowa or Ohio. She had just been accepted to Grinnell College in Iowa. **Ms. Crotteau** concluded by thanking the Committee for a great experience.

Chairman Brackett agreed with Ms. Crotteau and confirmed how important transportation is to our state and our economy.

Senator Winder commented, knowing Ms. Crotteau enjoys rock climbing, that she would find no rock climbing in Iowa. **Ms. Crotteau** assured the Senator that inside rock-climbing-walls were available at Grinnell.

Senator Bock asked what she would do if she were accepted at Oberlin College in Ohio. **Ms. Crotteau** said that it was her mother's alma mater. A lot depends on financial aid packages offered, but both are excellent schools. There were no further questions for Ms. Crotteau.

ADJOURNED:

With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:42 p.m.

Senator Brackett
Chairman

Gaye Bennett
Secretary