

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Thursday, February 20, 2014

TIME: 1:30 P.M.

PLACE: Room WW53

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

**ABSENT/
EXCUSED:** None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's 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 1:33 p.m. and asked the secretary to take a silent roll. With a quorum present, **Chairman Brackett** welcomed all in attendance to the Senate Transportation Committee (Committee) meeting. **Chairman Brackett** welcomed Jerry Whithead, Chairman of the Idaho Transportation Board, and asked him to introduce Lee Gagner who is being reappointed to the Idaho Transportation Board.

GUBERNATORIAL APPOINTMENT: **Mr. Whitehead** thanked the Chairman and the Committee and said it was his pleasure to introduce Lee Gagner. **Mr. Whitehead** began by stating that Mr. Gagner was a man who did not need an introduction. He has been a member of the Idaho Transportation Board (ITB) for six years. Members of the ITB have come to depend on him for his breadth of experience and insight. **Mr. Whitehead** said he was pleased to recommend the reappointment of Lee Gagner.

Chairman Brackett thanked Mr. Whitehead and welcomed Mr. Gagner to the podium. **Mr. Gagner** introduced himself as being a former businessman who lives in Idaho Falls. He represented that part of the State in the Legislature six years ago. He has operated many businesses over his career. As a member of the ITB, he has spent a lot of time on the business objectives of the Idaho Transportation Department (ITD). As a result, the ITB hired a good director and he's pleased to report that the work is getting done. **Mr. Gagner** thanked the Committee and said he would stand for questions.

Senator Keough thanked Mr. Gagner for his service and said it was great to have him on the ITB.

Senator Winder asked him to report on the Grant Anticipation Revenue Vehicle (GARVEE) funds and any improvements in crash safety reductions. **Senator Winder** said that when he sat on the ITB the 'Toward Zero Deaths' program was new to the State. He asked if that program was still in place, and wanted to know what the ITB and ITD were doing about it. **Mr. Gagner** said that logo is used on just about every piece of their advertising. Safety is the most important issue to work on. They sat through a two-hour session on impaired driving. ITD's Deputy Director Stokes makes this his primary objective and the number of highway deaths are down dramatically. They are looking at causes and determining what changes need to be made.

Senator Hagedorn thanked Mr. Gagner for his service and asked what in the last six years was ITD's greatest accomplishment and what does he see as the next great accomplishment. **Mr. Gagner** said that changing the culture at ITD was difficult but has been very successful. They have strong performance measures and they chose the right person to head ITD, and because of that there are good programs in place. As for the future, he sees two issues: (1) 50 percent of ITD's workforce will soon be of retirement age so they are working hard to put mentoring programs in place; and (2) on the financial level, they are trying to anticipate what will happen with deficits left by federal reauthorization. He has spoken to members of the Congressional delegation about the fear of a lack of federal funding, and the many issues regarding State funding. There were no further questions for Mr. Gagner.

Chairman Brackett thanked Mr. Gagner and explained that the Committee would vote on his appointment at a future Committee meeting.

**VOTE ON
GUBERNATORIAL
APPOINTMENT:**

Chairman Brackett asked the Committee to consider a motion to vote on the appointment of Mark Sweeney of Lewiston to the Aeronautics Advisory Board. The Committee had heard from Mr. Sweeney at the February 18 meeting.

MOTION:

Vice Chairman Johnson moved to send the gubernatorial appointment of Mark Sweeney to the Aeronautics Advisory Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Bock** seconded the motion. The appointment was approved by a unanimous **voice vote**. **Vice Chairman Johnson** said he would carry the appointment on the Senate floor.

PRESENTATION:

Chairman Brackett welcomed Travis Jones, Executive Director of the Idaho Grain Producers Association, to the Committee and asked him to begin his presentation on behalf of the Idaho Transportation Coalition on 'Real World Examples from Real World Idahoans'.

Mr. Jones began by introducing himself and telling a story of Fremont County, Idaho. He said that it is remote and rural and that the number of cars and trucks on its roads increased by 30 percent from 1980 to 2001. There are 95 bridges and over 700 miles of roadways of which nearly half are unpaved and most are unimproved. Farmers grow barley, wheat and alfalfa, and raise cattle. They rely on good roads and bridges, especially during the harvest season. Any transportation delays can have a big impact on a farmer's bottom line.

Mr. Jones continued by describing a 50 year old, 20 foot wide concrete bridge over the Enterprise Canal that connects six farms by way of a dirt road. It is a narrow bridge that barely accommodates the width of modern farm equipment. Because of this, one of the girders was damaged which caused the bridge to be reduced to one lane. It made the passage of vehicles nearly impossible. Because the bridge had been neglected, the county closed the bridge permanently. The closure forced farmers to go three miles out of their way to keep operations going and get grain to market. Tractors and other farm implements were forced to use busy county roads instead of the quiet dirt roads. The result was long delays at harvest in 2013. There were no financial options for the county to repair or replace the bridge this fiscal year. It is high on the list for replacement in the next fiscal year. Their goal is to get it done before the next harvest season starts.

According to the county engineer, half of their bridges are 20 feet wide which is too narrow for modern use. The county can only afford to replace two bridges a year. When a problem arises it sets the schedule back, and there is always a danger of financial impacts. This scenario is occurring in rural counties all over Idaho. The small problems on rural roads and bridges have a big impact on Idaho's overall commerce and economy. Agriculture is the top driver of Idaho's economy and the State needs good roads and bridges to keep operations moving. **Mr. Jones** said he would stand for questions.

Senator Nonini asked Mr. Jones to share the cost of replacing Idaho's roadways. **Mr. Jones** said that he was more familiar with agriculture and suggested asking that question of the ITD representatives at the hearing. **Senator Nonini** asked for him to respond to his question from the agricultural industry perspective. **Mr. Jones** said that the Lewiston port alleviates some of their issues, but trucking product in Idaho is problematic.

Senator Hagedorn referred to the bridge mentioned in the presentation and asked when a bridge fails between fields whether that is a county or a highway district problem. **Mr. Jones** said that it is a county road, but the responsibility needs to be addressed by multi-jurisdictions that include the State, the local highway district and the county. **Senator Hagedorn** said that was a great example of what the Committee struggles with regarding getting crops to market. The struggle is: where and how to fund these issues, especially with local jurisdictions. **Mr. Jones** reminded Senator Hagedorn that where agriculture drives a community, farmers contribute by paying property taxes that help maintain roads.

Vice Chairman Johnson asked if the agricultural community has solutions to address the problems. **Mr. Jones** said the grain producers support an increase in the gas tax as long as it is done reasonably. He said that biodiesel fuel has gotten some interest in the House, but only a certain amount of biodiesel fuel can be used. He sees it as a quick and easy solution, but they would like to be in the legislative discussion over this issue. **Vice Chairman Johnson** asked his opinion on a tax increase on diesel fuel. **Mr. Jones** said that his board has not issued an opinion on that issue, but would likely agree if the money was used to improve roads.

Senator Keough asked if the grain producers members could pass extra costs along as a surcharge to buyers. **Mr. Jones** said they have no leverage and they cannot pass those costs along. He added that in Lewiston, the port charges a surcharge to grain producers that they must pay.

Chairman Brackett asked about Mr. Jones' seventh slide depicting 'Plant No. 17 Associated Seed Growers Inc. New Haven, Conn.' and wanted to know how that is connected to Idaho. **Mr. Jones** said he wasn't sure and that John Foster, co-founder of Kestrel West, had compiled the slides in his presentation. **Mr. Foster** took the podium and said that he was certain the building in the slide is in Fremont County, Idaho, but he would research the matter and share the source of the picture with the Chairman. There were no further questions for Mr. Jones or Mr. Foster.

S 1302:

Chairman Brackett thanked Mr. Jones and invited Stuart Davis, Executive Director of the Idaho Association of Highway Districts, to the podium to present **S 1302**.

Mr. Davis told the Committee that **S 1302** was a housekeeping bill that deals with the exchange of real and personal property between intergovernmental entities. Currently, property valued at less than \$10,000 needs to go through a long process that includes three public notices, which can cost as much as \$200 each. This is required only for transferring property from one government entity to another, no public notice is required to transfer property from a government entity to a private organization. This legislation discontinues that process for government to government transfers. **Mr. Davis** said he would stand for questions.

Senator Winder read from the bill and said that it did not make sense that there used to be no notice and now there was a requirement. **Mr. Davis** said that if the value of the property is less than \$10,000 a government entity can transfer that property to a private entity without notification. To give that same property to another government entity requires publishing three public notices in different newspapers. **Senator Winder** asked if the purpose of the public notification was for the public or to keep government honest because of previous abuses. **Mr. Davis** said that a board decides if there is surplus property for transferring. Idaho Code says that property under \$5,000 can be disposed of to private or public entities. **Mr. Davis** said that, currently, public entities are discouraged from selling their surplus property to other public entities because of the process.

Senator Bock wanted to know more about the history of this section and the rationale for it that has not yet been explained. **Mr. Davis** said this bill is the result of an action of the Ada County Highway District (ACHD) when they tried to transfer a truck to the Meridian School District. Since they were both government entities, both had to publish notices in three different newspapers. **Senator Bock** asked why this legislation was written this way and suggested there is an underlying issue. **Mr. Davis** said that when the Legislature consolidated bidding laws, some issues were incomplete. **S 1302** takes away the need for public notice for property valued at less than \$10,000. **Senator Bock** said that if there is a hodgepodge of statutes that need consolidating, then the Legislature should look at the whole quilt rather than make changes that could affect other issues. He suggested that there may be other statutes that could conflict with the 'less than \$10,000' property value clause. **Mr. Davis** said he was not aware of a conflicting issue.

Vice Chairman Johnson suggested that rather than change statute, the government entity should hold their property until it accumulates to a value more than \$10,000 and avoid piecemeal transfers. **Mr. Davis** said this bill is meant to reduce these small issues. Perhaps they could stack property beyond the \$10,000 value. It could streamline the operation. There were no further questions for Mr. Davis.

Senator Keough asked the Chairman if anyone had signed up to testify in favor of the bill who could address some of the concerns raised by Committee members. **Chairman Brackett** invited Roger Seiber of the CapitolWest Public Policy Group to take the podium. **Mr. Seiber** suggested that Steve Price, ACHD Chief Counsel, could offer some clarity and more details about the issues raised, but Mr. Price had stepped out of the meeting and was not immediately available.

MOTION:

Given the need for additional information, **Senator Winder** moved to hold **S 1302** in Committee at the call of the Chair. **Senator Buckner-Webb** seconded the motion.

Senator Bock said that if this bill is rescheduled, he would like to hear testimony about the unintended consequences of the legislation.

The motion to hold **S 1302** in Committee passed by a unanimous **voice vote**.

S 1285:

Chairman Brackett thanked Mr. Seiber and asked Mr. Davis to present **S 1285**.

Mr. Davis said that **S 1285** corrects problems outside of Ada County. This bill does not affect ACHD. It extends the existing highway district commissioners term of office to six years. Currently, highway district commissioners have staggered two and four year terms. There are cases where you can have three new commissioners with no experience. A six-year term was the only length that worked, one commissioner will be up for election every two years. **Mr. Davis** said there were commissioners in the audience to testify. The Idaho Association of Highway Districts Board voted to support this legislation. **Mr. Davis** said he would stand for questions.

Senator Nonini asked for an explanation of the optional alternative election mentioned in the bill's Statement of Purpose (SOP). He said that the language in the bill does not match the SOP, and he asked if nonelection years were part of the alternative election options. **Mr. Davis** said that if all three commissioners adopt the alternative option, then the election date changes to odd-numbered years but on the same date.

Senator Keough asked if this were adopted, would only one commissioner come up for election per cycle. **Mr. Davis** said that was correct, all but the ACHD commissioners' term would go to six years. The alternate option gives a means to implementing the eventual six-year term for each commissioner.

Senator Keough summarized that every highway district commissioner, except for ACHD, will face an election every third election cycles. **Mr. Davis** confirmed her statement.

Chairman Brackett asked Mr. Davis to explain the process if a highway district did not choose the alternative option. **Mr. Davis** said that if a highway district does not choose the alternative then they go through their regular election cycle, but all terms will be for six years.

Senator Bock asked if six-year terms were more desirable than the current system. **Mr. Davis** explained how difficult it is to get good candidates to run for these seats that have two or four year terms. It is easier to recruit candidates when they know they will have a six year term, and there is more continuity with the operations of the highway district.

Vice Chairman Johnson suggested that cycle two is the same as the election cycle for county commissioners and wanted to know if that system had been considered. **Mr. Davis** said it had not and that the change fits highway district commissioners. **Vice Chairman Johnson** wondered if under the alternate cycle option could a new commissioner could become chairman. **Mr. Davis** confirmed that it could happen. There were no further questions for Mr. Davis.

TESTIMONY:

Chairman Brackett thanked Mr. Davis, and called on those wishing to testify to take the podium. **Chairman Brackett** welcomed **Dave Burgess**, a Twin Falls Highway District Commissioner, who said that he had worked for the highway district for 35 years, retired and then decided to run for commissioner. He is very familiar with the highway district's issues. There are several problems with the current election system: (1) currently there is the possibility of having three new commissioners in two years; (2) with shorter terms some run for commissioner because of their own self-interest and a longer term would alleviate that; (3) it takes a while to learn what a highway district is and what a commissioner does, this would allow a longer time to develop that knowledge; and (4) in smaller districts' elections, voter turnout is generally low which means a candidate with less experience can easily be elected. **Mr. Burgess** said he would stand for questions.

Senator Hagedorn asked what occurs when a commissioner resigns. **Mr. Burgess** said that the remaining two commissioners appoint a replacement.

Vice Chairman Brackett asked if the appointment filled the remaining term of the commissioner who resigned. **Mr. Burgess** confirmed that was correct. There were no further questions for Mr. Burgess.

Chairman Brackett thanked Mr. Burgess and welcomed **Kevin Renfrow**, a South Latah Highway District Commissioner, who said he was in his third term as commissioner. He had defeated a commissioner who was on a two-year term cycle, another commissioner resigned and the clerk of the highway district died. **Mr. Renfrow** said he then became chairman even though he had very little experience and a new highway district clerk. It is easier to serve for a six-year term than to run every two years, and appointing someone for an empty seat is never a good solution. **Mr. Renfrow** said he would stand for questions.

Senator Nonini asked about the statement that he didn't have any experience. **Mr. Renfrow** said he had no political experience. **Senator Nonini** asked why he ran for commissioner. **Mr. Renfrow** said that he had always wanted to be a commissioner.

Chairman Brackett asked what Mr. Renfrow's highway district budget was. **Mr. Renfrow** said it was \$1.2 million. There were no further questions for Mr. Renfrow.

Chairman Brackett thanked Mr. Renfrow and welcomed **Rod Twete**, a Lakes Highway District Commissioner, who said that he was appointed to be a highway district commissioner, which meant their highway district had three new serving commissioners. He had worked at the highway district for over 30 years but was only familiar with the operations of the office. He said that there had been a disgruntled employee who was let go and ran for highway district commissioner and came close to winning. He supports a six-year term with one commissioner up for election every two years. **Mr. Twete** said he would stand for questions.

Senator Nonini commented that Mr. Twete, like himself, is from North Idaho. The Senator had received a call from Monty McGomery who supports **S 1285**. Mr. McGomery spent his career working in the trucking business. **Mr. Twete** said that Mr. McGomery continues to work in the trucking industry.

Chairman Brackett asked what his highway district budget was. **Mr. Twete** said it was \$6.4 million. He also said that the Post Falls Highway District has all three of their commissioners up for election.

Senator Hagedorn asked how much of his budget was state money and how much came from the highway district. **Mr. Twete** offered a general breakdown of their funding. There were no further questions for Mr. Twete. **Chairman Brackett** thanked Mr. Twete and asked the Committee for a motion.

MOTION:

Senator Bock said he was convinced by the testimony and moved that **S 1285** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion.

Senator Keough asked to explain her vote. She was not unsympathetic, but she pointed at the election of county commissioners and said she worried about putting up one person at a time. She called it a 'messy process'.

Senator Rice thought it was a weakness that every two years one highway district commissioner would be up for election, but this only happens if the highway district chooses the alternate form. He does not believe this bill addresses the problem identified, and it does not strike him as the way to do things. There was no further discussion.

Chairman Brackett called for a voice vote, but with uncertainty of the outcome he called for a roll call vote. The secretary called the roll. **Senators Brackett, Nonini, Hagedorn** and **Bock** voted aye. **Senators Johnson, Keough, Winder, Rice** and **Buckner-Webb** voted nay. The motion **failed**.

ADJOURNED:

With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:50 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary