

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, February 25, 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 of the Senate Transportation Committee (Committee) to order at 1:35 p.m. and asked the secretary to take a silent roll. With a quorum present, **Chairman Brackett** welcomed everyone to the Committee.

VOTE ON GUBERNATORIAL APPOINTMENT: **Chairman Brackett** asked the Committee to consider a motion to vote on the appointment of Lee Gagner of Idaho Falls to the Idaho Transportation Board. The Committee had heard from Mr. Gagner at the February 20, 2014 meeting.

MOTION: **Senator Nonini** moved to send the gubernatorial appointment of Lee Gagner to the Idaho Transportation Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Hagedorn** seconded the motion. The appointment was approved by a unanimous **voice vote**. **Chairman Brackett** said he would carry the appointment on the Senate floor.

MINUTES: **Chairman Brackett** asked the Committee to consider a motion to approve the Minutes of the February 6, 2014 meeting.

MOTION: **Senator Keough** moved to approve the Minutes of the February 6, 2014 Committee meeting. **Senator Buckner-Webb** seconded the motion. The motion passed by unanimous **voice vote**.

S 1285: **Chairman Brackett** said that the Committee had heard **S 1285** at a previous meeting where the 'do pass' recommendation failed on a roll call vote. Following that meeting, the interested parties met and the result was to amend the bill to remove the alternate election cycle option for highway district commissioners. **Chairman Brackett** invited Stuart Davis, Executive Director of the Idaho Association of Highway Districts, to discuss the proposed amendment. **Mr. Davis** explained the issues raised when the Committee had previously heard this bill and the remedy for those issues that an amendment would provide, including removing the alternate election cycle option. **Mr. Davis** said he would stand for questions.

Senator Bock wanted to know if he could review the amendment. **Chairman Brackett** said that the first order of business is to send the bill to the 14th Order. **Senator Bock** said that he thought there were three highway district commissioners, which meant that one would be up for election every two year so that none would be elected in the same year. **Mr. Davis** said that was exactly the case.

Senator Hagedorn asked how this bill would affect the Ada County Highway District (ACHD). **Mr. Davis** said that ACHD is a separate entity as shown in Idaho Code, Title 40, Chapter 14. All other highway districts fall under Chapter 13. There were no further questions for Mr. Davis.

MOTION:

Senator Winder moved to send **S 1285** to the 14th Order for amendment. **Senator Nonini** seconded the motion.

Senator Bock said he thought this was a good idea that alleviated the possibility of two or more commissioners being removed at the same time. This is a good system for continuity.

Chairman Brackett called for a vote on the motion. The motion passed by a unanimous **voice vote**. **Chairman Brackett** said he would carry the bill on the Senate floor.

GAVEL PASSING:

Chairman Brackett thanked Mr. Davis and passed the gavel to Vice Chairman Johnson. **Vice Chairman Johnson** invited Chairman Brackett to present **S 1360**.

S 1360:

Chairman Brackett said that **S 1360** creates a process whereby the Idaho Transportation Board (ITB) may provide maintenance of a highway not being adequately maintained by a county or highway district. This legislation amends Idaho Code § 40-709 and adds a new § 40-709A. The new section outlines the process whereby the ITB could be petitioned if public safety, health or welfare could be endangered because the subject county or highway district is inappropriately and unreasonably failing to maintain a highway or portion thereof that it is obligated to maintain.

If the petition is granted, the Idaho Transportation Department (ITD) will perform the maintenance itself or it may contract with another political subdivision for the maintenance. In either case, the actual cost of maintenance shall be deducted from the funds that would otherwise have been allocated pursuant to Idaho Code § 40-709 to the county or highway district that failed to provide adequate maintenance.

Chairman Brackett went through the bill page by page explaining the essence of the legislation. **Chairman Brackett** said he would stand for questions.

Senator Bock asked Chairman Brackett to share some real life examples. **Chairman Brackett** said there is a particular example of a road that crosses between counties with the jurisdiction passing from a county to a highway district. The maintenance was not being done on the county portion of the road. Since this is the only access in or out of this community, it becomes a problem for emergency situations. **Senator Bock** asked if this affected Ada County. **Chairman Brackett** said that it would.

Senator Hagedorn said he likes the concept of this bill, but he asked if the maintenance is done by ITD would the cost be deducted by the State Controller, who would normally pay the highway district. He used a bridge over a service canal as an example. He thought it would be more logical for that highway district to go out of business rather than replace the bridge. **Chairman Brackett** said that example goes way beyond normal highway maintenance and falls outside of the realm of this legislation. **Senator Hagedorn** asked if this bill focused on maintenance as a safety issue only. He asked if the deductions from the Highway Distribution Account are taken once a year or are they taken out over time. **Chairman Brackett** said that there are both situations. This bill provides a process for petitioning the ITB and they make the determination. **Senator Hagedorn** asked if there was consideration of the transfer from the highway district to ITD with regard to safety and liability. **Chairman Brackett** said that would be a question for others who will be testifying.

Vice Chairman Johnson referred to page 4, line 14 where the ITB shall consider a request for termination and modification, and wanted to know if a county highway district is or is not ready to take over these responsibilities, how much time passes between the request and the ITB meeting to consider the request. **Chairman Brackett** referenced page 4, line 8 where it says the request is subject to a petition and once it is submitted, it is in the hands of the ITB for a decision. There were no further questions for Chairman Brackett. **Vice Chairman Johnson** asked him if he wanted to make a closing statement.

Chairman Brackett closed by saying that this legislation addresses the situation where adequate maintenance is not being done by a highway district or county, in spite of the fact that they are receiving funds from the Highway Distribution Account. There are many examples throughout the State where a highway goes through two or more jurisdictions. Historically, maintenance is performed through unofficial or official agreements such as a Memorandum of Understanding, but the counties and local highway districts have worked out maintenance agreements whereby the citizens are served.

TESTIMONY:

Vice Chairman Johnson invited Mollie McCarty of ITD to present testimony.

Ms. McCarty said that ITD has reviewed the legislation, and they have no problem with it. Some of the issues being raised can be addressed in the rulemaking process where ITD can work out some of the details of the process. **Ms McCarty** said she would stand for questions.

Senator Bock said he just wanted to make sure that ITD supports this bill as it is written right now. There were no further questions for Ms. McCarty.

Vice Chairman Johnson thanked Ms. McCarty and invited Steve Price, Legal Council for the Ada County Highway District (ACHD), to present testimony. **Mr. Price** said that ACHD had reviewed the legislation and that they had helped draft it along with Stuart Davis of the Idaho Association of Highway Districts. He said it was well drafted. **Mr. Price** said that the ITB had enough discretion to make it work. **Mr. Price** said he would stand for questions.

Senator Hagedorn asked about the transfer of liability of maintaining another jurisdictions' responsibilities. **Mr. Price** said they could draft liability into statute making it part of the Tort Claim Act, but sometimes the best thing is to leave things to a common law liability.

Senator Nonini asked about Moon Pass in Shoshone County and whether it could be an issue for this legislation. **Mr. Price** said it was addressed in the bill on page 3, line 4, 'to that which has been historically done.' That will take care of the Moon Pass situation.

Vice Chairman Johnson thanked Mr. Price and invited Stuart Davis, Executive Director of the Idaho Association of Highway Districts, to present testimony. **Mr. Davis** said the bill simply creates an adequate way for residents whose main access road is not being maintained to get to hospitals and purchase groceries. This Committee confirms the members of the ITB, and they should be trusted to do the right thing. **Mr. Davis** said he would stand for questions, but there were none.

Chairman Brackett said that this is a tough but fair proposal that he hopes will never need to be used. **Vice Chairman Johnson** thanked Mr. Davis and Chairman Brackett and asked the Committee for a motion.

MOTION:

Senator Keough moved to send **S 1360** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion.

Senator Keough asked if it was the intent of Chairman Brackett to send **S 1360** to the 14th Order for amending. **Chairman Brackett** said that his group does want the bill amended.

AMENDED MOTION:

Senator Keough moved to send **S 1360** to the 14th Order for amendment. **Senator Hagedorn** seconded the motion. The motion passed by a unanimous voice vote. **Chairman Brackett** said he would carry the bill on the Senate floor.

GAVEL PASSING:

Vice Chairman Johnson passed the gavel back to Chairman Brackett.

H 403:

Chairman Brackett welcomed Senator Patrick to the Committee and asked him to present **H 403**. **Senator Patrick** said that this amendment to Idaho Code establishes a specialty license plate that will support the 4-H program in Idaho. 4-H was started over 100 years ago when it became part of agricultural studies at land-grant universities.

This program will provide a specialty license plate option for people who wish to proudly note their association with 4-H clubs in Idaho while helping the historical youth education club thrive. The plate features the 4-H clover logo, and the monies from this plate will be managed by the University of Idaho Foundation Friends of 4-H Division. They will also be used across the State by 4-H programs, educational events, and training materials for youth and leaders in curriculum offerings that better prepare Idaho youth for future careers. **Senator Patrick** said he would stand for questions, but there were none.

TESTIMONY:

Chairman Brackett called on a number of people in attendance who had signed up to speak in favor of **H 403**. Each speaker told of a positive experience that they had while participating in a 4-H program, or that they were currently having in a 4-H program as either a participant or an administrator. The people who made presentations were: **Zach Asher** of Middleton; **Bobbi Hall** of Gem County; **Rebecca Nyce** of Emmett and Boise County; **Erin Root** of Vallivue High School in Caldwell; **Christina Schram** of Ada County; **Justine Nesbitt** who is 4-H's Idaho State Secretary; **Beth Carter** of Boise County; **Kristin Nesbitt** who is from Ada County and serves as the Vice President of Ada County 4-H Ambassadors; **Linda Webb** of Valley County who after 55 years in 4-H is the President of Idaho Friends of 4-H; and **Jim Wilson** of Coeur d'Alene who is an extension educator.

Chairman Brackett, Senator Rice, Senator Hagedorn and **Senator Nonini** asked questions of some of the speakers that dealt with the following areas of interest: whether the speaker would consider purchasing a 4-H plate; the favorite 4-H project of the speaker; the sources of funding for 4-H; and the speakers' current or past involvement with 4-H. There were no other questions for the speakers.

Chairman Brackett asked Senator Patrick to make a closing statement. **Senator Patrick** said the monies from the 4-H license plate sales will be managed by the University of Idaho Foundation's Friends of 4-H Fund. The University of Idaho is the State's land-grant university. 4-H will receive \$22.00 for the initial issuance of each plate and \$12.00 for each succeeding annual registration. Monies will be used to support 4-H youth programs throughout Idaho, such as the 'Know Your Government' program which costs each student \$200 to participate. The Friends of 4-H provides \$5,000 towards that program. The money from these license plates will help sponsor a lot of students. **H 403** has no fiscal impact on Idaho's General Fund. In conclusion, **Senator Patrick** thanked the Committee for hearing his bill.

Chairman Brackett thanked Senator Patrick and all the speakers and asked the Committee for a motion.

MOTION:

Senator Nonini moved to send **H 403** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the bill. **Chairman Brackett** asked if there was any discussion.

Senator Rice said that normally he would vote against a license plate bill, but he had been in 4-H when he was six years old in California. He said it was a good learning experience. In addition, it was clear to **Senator Rice** that Senator Patrick had gone through the process to create a new license plate and had exceeded the process requirements.

Senator Hagedorn said that 4-H was a great quality program that the State can promote. Half of the monies from license purchases go back to the State as revenue. He said that this is an example of a great specialty license plate program.

With no further discussion, **Chairman Brackett** called for a vote. The motion passed by a **voice vote**. **Senator Bock** wished to be recorded as voting nay. **Senator Patrick** said he would carry the bill on the Senate floor.

ADJOURNED:

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

Senator Brackett
Chair

Gaye Bennett
Secretary