

MINUTES
Approved by the Committee
Legislative Conference Committee
Friday, April 10, 2015
8:00 A.M.
Room WW17
Boise, Idaho

Chairman Brackett called the Conference Committee to order at 8:10 a.m.

The Senate committee members present: Senators Bert Brackett, Dean Cameron and Roy Lacey. The House committee members present: Representatives Joe Palmer, John Vander Woude and Mat Erpelding.

Legislative Services Office (LSO) staff present: Director Eric Milstead, Mike Nugent, Cathy Holland-Smith, Katharine Gerrity, Paul Headlee, Keith Bybee, Robyn Lockett, and Charmi Arregui. Also present was Brian Kane, Assistant Chief Deputy Attorney General.

Chairman Brackett began by correcting the record; he said that on the previous day, April 9th, as he was summarizing, he misspoke as to the detail of the Strategic Initiatives Program in regard to the state/local relationship. The tentative agreement was that the locals would be able to compete (with state projects) going through the ITD process, taking into consideration safety, mobility, economic development, repair and maintenance of bridges, and purchase of public rights-of-way. That was his recollection of where the committee ended up the previous day, on April 9th. He asked if there were any corrections and, hearing none, he assumed that was an accurate characterization of what the tentative agreement was. He apologized for that, and said he wanted to set the record straight.

Chairman Brackett asked the six conference committee members to each share what their vision or solution was, going forward. Representative Palmer said that the vision going forward should be to fund transportation at some level, in the \$100-\$130 million range, that being an acceptable number to him. He thought that would be progress. With a \$262 million shortfall, he didn't think this could be dealt with all in one year. He thought the committee could get something figured out that morning. He believed it to be necessary to have a General Fund component in transportation funding for several reasons; the gas tax will continue to go backwards. He commented that no matter how much is added on, gas tax is a regressive tax and hurts people at the bottom end of the income spectrum the most. He added that the price per gallon has not really changed in the last ten years.

Representative Vander Woude said he hoped that a plan could be reached, adding that he wasn't willing to walk away from this session without funding transportation, unless others force him to. He said he wanted to find something that works for everyone, believing there to be options that have been narrowed down. He hoped to find \$100-\$120 million, some path forward affecting the General Fund, hoping that would be acceptable. His biggest hope was to not have this same fight every 3-4 years, wanting a more long-term vision or direction. He considered a 4-6 year window to be reasonable, even though the vision needs to consider 5-20 years down the road, as far as a funding mechanism for roads. He knows there is angst about using the General Fund, but there has to be some type of revenue source that ties back into cost inflation, etc. so that we don't come back with a gas tax that sits there and ten years later, buying power has been decreased back to where we started.

Representative Erpelding's opinion was that if the state waits 25 years to fix problems, they would later be a really heavy lift. He said it was very disappointing to him that this committee was arguing over one penny on the gas tax. He pointed out that many budgets had not reached 2009 levels. He explained that tit-for-tat taxation by some raised fees in one area and cut fees in another area, in order to make things work. It was extremely disappointing to him, as a member of this conference committee, to experience a stranglehold on the House side, hoping there would be compromise.

He didn't want this committee to agree on a poor package that would have members back here in two years. That demonstrated to him that members were not here to actually make Idaho a better place, but were here to protect their influence and power.

Senator Lacey said he thought the Senate sweet spot was somewhere in the \$125 million range. The House sweet spot heard today, he said, was between \$100-\$120 million. He thought the committee could get to that very easily by keeping the 10 cents on gas tax (4-4-2) and the negotiated registration fees tentatively agreed upon on April 9th, meeting in the middle between what the House and Senate first had, leaving the electric and hybrid fees in the Senate amounts, reduced from the House; the gaseous fuel phase-in, leaving that in although there was not a lot of money there, that being easier to phase in over three years, rather than in one year; legislative intents, as negotiated, he thought were fine. The surplus eliminator was not something that the Senate had planned on; however, with the tentatively agreed upon negotiated local participation and the understanding that JFAC could pull the money out before a surplus was declared, he thought that might be sold to the Senate. He said that total package would generate \$114 million, being close to where the committee needed to be. Then, he said that committee could adjourn, and the Legislature could Sine Die by nighttime.

Senator Cameron expressed his appreciation for comments made this morning and his better understanding of where the House was. He explained that he did not agree to participate in this committee for it to end up a failure; he believed that unless members were willing to reach a compromise, it would be a failure on the conferees as well as the system. Those who would be hurt the most, he said, would be the children and those legislators who come later to figure out how to raise fees. Senator Cameron referred to the Idaho Transportation System Primer (February 2015) pointing out previous legislatures, up until 1996, had to adjust that gas tax multiple times. In 1996 it got adjusted and attempts were made that failed several times, and here we are in 2015 and are now paying the price for poor decisions made by past legislatures. He said he didn't want to raise taxes, but he also doesn't like deficit spending. The federal government gets criticized for their inability to address needs, balance the budget and stop deficit spending, and it was unconscionable to him that members in a conservative state could continue to deficit spend and pass that burden on to our children. Every businessman and farmer knows that equipment and infrastructure must be maintained or the economy will be hurt. For those reasons, he thought that the weight was heavy on this committee to reach a compromise and find a solution. He emphasized that he did not want to use General Funds, believing that to be fraught with danger; he saw that happening a little bit in negotiations. He didn't want legislators involved in the process of pushing which roads should be built; he believes that is inappropriate and oversteps their responsibility, their authority and duty. The fear of using General Funds is that legislators would be involved, and was what he feared was going on now. He said that this conference committee, the previous day, had tentatively agreed that if General Funds were being used, the split would be 60-40. That would allow local projects with safety issues and a few other criteria to rise to the top; why anybody would not be willing to allow the most unsafe roads to be addressed first was beyond his capability to understand. That was all the Senate had asked for, believing they had agreement on that. He hoped that was still okay, but he feared that some who may want to make sure their desired roads were fixed first were trying to cut out locals from even being able to participate in that process. To him, that was unreasonable. He said the sweet spot was in the range of \$125 million, and he was willing to go to the General Fund, if this committee could get into that range. He was willing to use the General Fund on the surplus eliminator approach after taking care of all the other needs such as educating children, paying teachers, housing prisoners, and making sure citizens are safe. As long as the state can do those things, then he was willing to go to the surplus eliminator approach, provided that the committee could generate around \$125 million and allow locals to participate in the revenue, at least on roads being maintained for public safety. That was his goal, even though it didn't solve the complete problem. He assured the members that if those things were not done, this issue would need to be dealt with again in four years. Senator Cameron didn't want to walk away from some

\$40 million this year in General Funds, adding that he didn't know how much it would have been last year or the year before that. If members wanted to have access to those General Funds, he didn't think the Senate members were asking for much, believing their requests to be reasonable, adding that they had given in on everything.

Chairman Brackett thanked all the committee members for their comments. He said he would be disappointed if this committee failed; there would be no question that Idaho citizens would be let down if a solution was not agreed upon, going forward. He said every member would bear the burden of that, no question. He thought it would be unconscionable to disregard the safety of our citizens, whether on the state or local system, with regard to potential allocation of the Strategic Initiatives Program. With regard to all other differences, there could be give and take, but prior to adjournment on the day prior, members were negotiating with themselves, that not being a good place to be and he said he refused to go there again. He reiterated the significance of the progress made on the previous day, potentially bringing in the General Fund surplus eliminator of this package that was tentatively agreed to, which was not easy, for all the reasons mentioned. They were looking at a lot of money potentially, upwards of \$30-\$40 million this year, which could dwarf the rest of what was being talked about. If the economy stays good, the state could be in this same range for a few years, going forward. He said it would be interesting to see how the numbers turned out, but potentially the state is looking at hundreds of millions of dollars that could go into transportation. To walk away from that would be astounding to him. He invited further discussion.

Representative Palmer agreed with everything the Chairman said. The prior evening, he had received emails expressing concern about the committee members leaving the table to go off to have what others deemed to be "secret meetings" that were out of sight. He expressed hope that in today's meeting members could sit at the table in front of cameras and attendees to make decisions. He said that he and Representative Vander Woude were willing to make a decision that the House Floor could move forward with. He thought he had a fairly good idea of where the Senate would go, and he thought something could be worked out.

Representative Palmer said he'd spent a great deal of time these past three months talking about transportation issues, and many people thought that funds should come from user fees. He had yet to find a person in the state of Idaho who didn't use roads in some way, even if they didn't have a car. People have paid for roads from the beginning, money is diminishing, and it's not going to continue to work. In order to just balance out at this point, the gas tax would have to be raised 30 cents, and he wondered how long legislative members would last if they raised the gas tax 30 cents, that not being a good plan to him. He said that they would be back in a few years raising it higher, so he believed that another way must be found to fund transportation, just as with schools and other agencies.

Representative Palmer agreed that Senator Cameron is the guardian of the General Fund, along with 104 other people, but the 20 who sit on JFAC are the first line. He wanted everyone to know how impressed he was with what JFAC had done this year and the budgets that were set. He voted for all the school budgets this year, being proud of what had been accomplished. He thought it looked like budgets were raised about 2%, believing that to be really good and he thought JFAC had done an awesome job. As they have held that line and worked tirelessly in JFAC, he said that the state was close to \$100 million above and beyond what was there before, and the budget was balanced. Looking at the other side of this issue, being a conservative, he didn't want to raise taxes.

Representative Palmer said that the budget got balanced, budget increases were held at 2%, there was a \$100 million surplus, but taxes were going to be raised for transportation issues. He said that was a tough sell since not all constituents believe that the money was spent properly, even though he thought they did a good job. He would have a hard time telling constituents that the state has extra money from taxpayers, but taxes would still be raised, that being a hard explanation for him. He knew that the state must have savings for a rainy day, but he thought that some of that

extra money, after everything is paid, should be moved into the transportation account, and he believed there was room for this committee to work together on that. He said he saw the Senate move toward that, and the House backed down from the number. There had been compromise on using General Fund dollars.

Representative Palmer thought that the House would now agree to a raise in the fuel tax and registration. He reminded the members that a bill passed the House with a lot of support to stimulate the economy, taking the tax off groceries. He believed that to be a good thing for everybody, adding \$63 million in fuel tax dollars to offset that. The House voted for it because members could tell constituents that they saved money on grocery tax, not to mention economic impact. He proposed that H 311 be moved forward; he suggested that if Senator Cameron could agree with H 311, he thought it would pass the Senate like it did in the House. He said that with H 310, moving ISP to the General Fund, breaking that over 3-5 years if necessary would generate \$16 million; H 312 originally raised registration fees \$15-\$20 and passed the House once, generating \$100 million, and he thought that was a path forward. If that didn't work, he mentioned H 260, which he thought would pass the House, a bill raising the gas tax 8 cents, and there could be a little room there, generating \$73 million. As the economy grows, after all bills are paid, if the surplus is above 4.5%, \$10 million is pulled out to put into the account split 60-40, for the state and locals. Every time the surplus hits \$20 million, it will buy one cent off that gas tax, to bring it down toward 25 cents. That is how a gas tax might be sold on the House side, even though a hard sell. He thought that one of those routes should be explored, since he thought this committee was at an impasse on H312aaS. He thought there was a problem with the surplus eliminator language since they are not going to come together on that split. Representative Palmer mentioned the "personal agendas" brought up by Senator Cameron and he said that his proposals would alleviate the situation that was referred to. Either one of these suggested plans, he thought, could work; he hoped the committee could move forward.

Chairman Brackett put the committee at ease at 8:44 a.m. Representative Palmer said he hoped that, if members needed to talk, they could talk here in the committee room. Members left the room and Chairman Brackett called the meeting back to order at 8:53 a.m.

Chairman Brackett apologized for the delay and continued the discussion, asking for additional comments. Senator Cameron thanked Representative Palmer for his kind words about the hard work done by JFAC members, adding that they did work very hard to put forth a very conservative budget, some argued too conservative in some agencies. It was a maintenance budget, and everything done was tied to requirements that legislators had put on the state. Members came to this session knowing there were two major problems, the first being education and paying teachers, which was addressed in H 296 and was funded. That funding had some growth built into it. Senator Cameron reiterated that at 5% growth would generate \$150 million, just to meet the needs of the state without any additional legislation being passed, which there was plenty of this year, with much fiscal impact. Without anything additional, about \$100 million is needed. House Bill 95 passed both bodies, was amended only to change the effective date, and that and other measures were hits of over \$17 million on that \$150 million. Senator Cameron said that in the Speaker and Pro Tem's letter, this committee was here to address amendments to H 312aaS, and he recognized that other ideas could be brought up as part of those amendments, but to go back and talk about H 311 and other issues, he thought was not a path forward, but backwards. Was the Senate willing to consider income tax relief in the future? He said "absolutely," but they want to do it in a meaningful, appropriate, responsible way. Was the Senate willing to consider grocery tax relief in the future? He thought they were, but they didn't want to do it in some last-ditch effort to save face. He said that was not the Senate's method of operating; the Senate didn't manipulate their members to vote one way or another, but allowed them to vote their own conscience.

Representative Palmer objected to the Chairman, adding that he didn't think anyone here was trying to save face. Chairman Brackett asked Senator Cameron and Representative Palmer to choose their

words more carefully. Senator Cameron responded: "Thank you, Mr. Chairman, I apologize." Senator Cameron stated that he thinks the Senate is willing to take up those issues over the next summer, believing that the Pro Tem was committed to that, as well as others, with an opportunity to look at revenue. His concern, having been through several economic downturns and difficult situations, was forcing an additional tax increase when the economy is down, which was the problem with the bill that had the 4% tied to the surplus eliminator. The amendments proposed by the House on the previous day he thought were reasonable, to the extent that the state's business can be taken care of, including the education of children. Senator Cameron said he was not here to discuss the pros and cons of those other tax proposals because that was not the charge of this committee. The charge of this committee was to raise revenue, so if the House was willing to raise \$100-\$120 million in revenue, how is that done? That would require a gas tax increase, and everyone in Idaho does use roads; the truest form of making not only Idaho citizens pay for roads, but those who travel on Idaho roads who are not Idaho citizens, is the fuel tax. Senator Cameron said he was willing to use the General Fund, provided that local projects, addressing safety conditions, would rise to the top, along with any other project, trusting that to ITD. He suggested a meaningful increase to raise \$100-\$125 million, not counting the General Fund, and not counting H 95. If this committee was not willing to go there, then he predicted failure; he said the members may as well go home for the weekend and come back next week, possibly for weeks on end, rather than adjourning Sine Die. If the six members of this committee could not find a compromise, he didn't know how 105 members could find a compromise. He expressed faith that this committee could find a solution, but was disappointed at what had been proposed, since he saw it as going backwards again. If the House was willing to walk away from \$128 million, which is what would have been raised had this bill been in place since FY 2008, a significant hit on meeting that number. Raising taxes \$120 million he thought would be a good start toward the shortfall, believing that, in the future, we will get there. That compromise would not include Senator Cameron having the liberty to include what he had previously said about grocery tax credit and income tax relief. He said he knew the will of his caucus in the Senate, and they did not want to rush such haphazard decisions, but were interested in having a meaningful, responsible discussion of appropriate tax relief, in whatever form that takes. The Senate was not willing to go there at the last minute; he said they need to see a path forward, one that is affordable, not harmful to education and those public safety services that the state is required to provide.

Representative Palmer said he completely understood what Senator Cameron was saying, and he had no problem with that, believing it a great idea to discuss matters during the interim. Those mechanisms amended into that bill, in his second proposal, would lower the amount taken from the General Fund and would raise the gas tax increase, so he thought that would answer all Senator Cameron's concerns.

Senator Cameron said he had not seen that proposal, but if it's the proposal that ties the surplus eliminator to the 4%, that is a non-starter for the Senate, going backwards, and to him that was not workable. That would put the state in a situation within 1-2 years where every career ladder that was voted on for teachers this year would have to be frozen, and that would be disingenuous to teachers and to the entire process. If the House was willing to vote on a 7 cent increase in gas tax in the past, he thought they were very close, believing that the number needs to be in the \$100-\$125 million range; he didn't think they could get there with an 8 cent increase (which would generate \$72 million) plus \$23 million from registration fees.

Responding to comments by Representative Palmer relating to budget increases, Senator Cameron said that everyone was kept at about 2%, public schools was at 7.4%, and the overall budget including public schools was over 4%. There was no sense pulling more money out of the General Fund if there were problems in education. The proposal brought to this committee by the House on April 9th, he said, was reasonable and he was willing to "plug his nose" to try to sell that to the Senate. He didn't want public schools or other public safety services to be harmed. He thought he

could sell this, provided that something meaningful was done on gas tax and registration and an opportunity for local projects with safety issues to be addressed. That was where he thought the committee needed to go. There was agreement on this on April 9th, so going elsewhere, in his opinion, would be going backwards.

Senator Lacey commented that the career ladder for teachers that everyone agreed to fund would go away, if not funded. He said he thought the committee had come to a reasonable compromise with regard to the surplus eliminator. He also said he thought that raising taxes in one place and lowering in another was simply leveling the field and not doing anything for roads.

Representative Vander Woude referred to numbers the committee discussed on the previous day; raising fuel tax 7 cents would generate \$64 million, registration increases would raise \$25 million, and H 95 would generate another \$20 million for roads, totaling \$109 million. That reaches the ballpark number. Representative Erpelding said that he was disappointed about trying to drag in H 95 that would pull \$20 million out of the General Fund. He said it is unknown how much it would benefit transportation and it cannot be added into this process from any level of realistic use of numbers, in his opinion. He added that he agreed with the Senators and felt strongly that this is a problem that had been avoided for 20 years; he said he knew that legislators would be back here desperate, if they use these smoke and mirror approaches to funding transportation. Money must come from true, budgeted, measurable numbers, since everything else is volatile, particularly the surplus eliminator. The state's transportation system is in desperate need of maintenance dollars.

Chairman Brackett asked Senator Lacey to review his compromise proposal with the gas tax increase of 4-4-2 cents over four years, the registration at negotiated amounts tentatively agreed upon the previous day, leaving electric and hybrid fees at the Senate amounts, which were slightly less than the House, gaseous fuel phased in, the legislative intents as in the amendment that had been agreed upon, the surplus eliminator as was agreed upon tentatively with money being given to ITD, available to ITD and also the locals, including safe routes to schools, the total package being slightly more than \$114 million. A straw poll was taken on this proposal and there were 4 ayes and 2 nays, not a majority of both separate committees making up this joint conference committee.

Senator Cameron attempted another proposal, stating that it was the same at Senator Lacey's with the exception that the gas tax would be 4 cents (1st year immediately), 3 cents (in 2 years), and 2 cents (in 4 years), totaling a 9 cent increase in the gas tax, which would generate \$105 million. All other items in Senator Lacey's proposal would remain the same. A straw poll was taken and there were 4 ayes and 2 nays; the outcome had the same result, and there was no majority from the committees.

Senator Lacey said that the members had come here to solve a problem; it seemed to him that a few were not trying to solve a problem and there were no ideas coming forth to solve the problem, which was not a solution. He thought there had been great compromises, but the committee was not moving forward.

Representative Palmer suggested that the committee look at another option; he didn't see where there was any movement on the Senate side. The language couldn't be changed, he thought the gas tax was still high, the phase-in was still there, the hybrids were lower than the House set, and that was all he had to say.

Representative Palmer added that a bill had been sent out of the House with a \$20 million tax increase, and it came back with a \$127 million tax increase.

Chairman Brackett said that the committee was again approaching point/counterpoint and he hoped to avoid that.

Senator Cameron agreed that the House had sent a bill that the Senate amended; he thought it was understood that the Senate would amend it. The House also sent a proposal with a 7 cent increase in the gas tax, so that was from the House Floor. Senator Cameron then proposed to this committee

a 4 cent increase (this year), 2 cents (in 2 years) and 2 cents (in 4 years) for a total of 8 cents, plus the other provisions proposed by Senator Lacey. That would generate \$95 million.

Chairman Brackett said he thought that the Senate members were negotiating with themselves, which was his observation. A straw poll was taken and there were 4 ayes and 2 nays, the vote being the same, with no majority from the committees.

Representative Vander Woude, trying to arrive at a proposal that could pass the House, proposed that the gas tax be 4-2-1, in two-year increments, totaling 7 cents; the gaseous tax goes off; and the surplus eliminator stays with ITD the way it was written in the bill, the locals being cut out from participation, even for safety projects for that General Fund money. Representative Vander Woude pointed out that in discussions with ITD, the Director thought there might be a way for locals to get some available dollars, believing that might be a route forward. Chairman Brackett asked if that would be access to the General Fund money that goes to ITD. Representative Vander Woude replied he thought it might be greater access to the federal money for locals, that being the understanding of the Director's brief explanation. Chairman Brackett asked if the locals would still be cut out of the General Fund dollars, and he thought the locals would be cut out, and that was affirmed. A straw poll was taken and there once again was not a majority.

Chairman Brackett put the committee at ease at 9:30 a.m. and they reconvened at 2:17 p.m.

Chairman Brackett read what he called elements from the Code of the West: "Do what has to be done; be tough, but be fair; when you make a promise, keep it. Remember that some things aren't for sale, and know where to draw the line." He said he liked that, and he hoped it had not offended anyone, adding that he would like to take that to heart.

Chairman Brackett announced that there was another proposal, and Representative Vander Woude referred to H 312aaS, referring to Section 1, annual registration fees, proposing that \$21 be added to all five categories, raising about \$28 million; truck registrations would stay the same at \$25; electric and hybrids would stay the same, hybrids raising \$500,000, trucks about \$3.7 million; gas tax originally 25 cents would be raised to 32 cents, by 7 cents ongoing, with none of the steps; new money from registration and gas be split 60-40 to ITD and to local highway districts; page 10, Section 5 gaseous fuel phase-in: that section would be removed from the bill; on page 11, legislative intent, Section 6, line 22: change that date from January 1, 2021 to 2019. He said those were the proposed changes to H 312aaS, and it was also recommended that DRKAG275 be included and that DRKAG275 have a sunset in two years, adding that there was angst about locals. ITD had said they may have a way to work around that, but he suggested that this be revisited in two years to see how this sweep works, believing it to be a considerably different approach as budget issues are dealt with. There would be a sunset on that section of the bill only. Money raised by this proposal would be about \$95 million.

Chairman Brackett asked about the 60-40 split. Ms. Gerrity stated that the percentage splits are in two different sections. She said that the 60-40 split could be done in 63-2412, Idaho Code, and there is a different section that has locals and ISP included in that with 5%. Chairman Brackett asked Ms. Gerrity if, with an understanding by the committee, she could draft to reflect that, and she affirmed that she could. Chairman Brackett clarified that locals could not participate in the surplus eliminator, asking if that was correct. Representative Vander Woude said that was correct at this point; he believed this was an issue that should be revisited to see how it was working under the 60-40 split of the \$95 million. He thought that locals would get about \$36-\$37 million more, moving forward, and if there were greater needs, they could be looked at in a few years. Chairman Brackett asked what the sunset applied to-and Representative Vander Woude replied that the sunset would only apply to the surplus eliminator section of the bill, not to the whole bill, and would not affect the gas tax.

Ms. Cathy Holland-Smith asked for clarification, asking whether it was the intent to have the transfers of the sweep to the budget stabilization only in effect for two years also, and be subject to the sunset, or only the distribution to the transportation. Representative Vander Woude said it

was his intention that the whole section sunset; the sweep, not just the distribution, but the whole mechanism for sweeping the surplus. At that sunset, that whole section could then be reviewed to see how that affects the budget and budget policy moving forward.

Ms. Gerrity asked for further clarification from Representative Vander Woude regarding DRKAG275. Representative Vander Woude wanted Section 1 to sunset in two years; she wondered about Sections 2 and 3, and Representative Vander Woude said he needed to think about that.

Representative Erpelding asked, given that there would not be a year delay in paying, about the budget shift that would occur, if it was to sunset out, would it potentially cause a problem moving forward.

Ms. Holland-Smith said she didn't believe it would cause a problem, but she was trying to understand what the intent was. Representative Vander Woude said it was his intention that once it sunsets, the budget stabilization reverts back to the old policy.

Chairman Brackett said that there was an emergency clause in DRKAG275, to go into effect immediately, and would be in effect at the end of this fiscal year. This was in place for part of a budget year, plus two more full budget years, was that correct. Representative Vander Woude said his intention was to only go through two cycles, so it would sweep this year and next year, and by the end of the following year, it would then have to be dealt with. Chairman Brackett commented that this two-year sunset was not exactly what they meant.

Mr. Mike Nugent said that the budget stabilization part would be say April 1 or 15, 2017, so that then the old version would come back. Chairman Brackett didn't think that was what he heard, but rather the end of June, 2015, and again in effect June 30, 2016, we don't go into 2017. Mr. Nugent said that would give two cycles, so the 2017 session would be the old budget stabilization account language, rather than the new, because a July 1 sunset would give 3 cycles, potentially. Ms. Holland-Smith said if July 1, 2016 is the end date it would work. Chairman Brackett asked if this would be revisited in the 2017 legislative session and Ms. Holland-Smith believed that the old style would go into effect before then, because the old system has 4 equal payments, and so to stop it as of June 30th, 2016, means you would go to the old way July 1, 2016. Representative Vander Woude said he didn't think there should be a sunset in the middle of the year when not in session; he preferred that it sunset in May or June because none of this happens until the close of the fiscal year. He didn't want it to sunset when members were not in session or have a chance to take off the sunset, so he would sunset it at May 15th, the longest a session has even gone, or May 1st, so the Legislature has a chance to look at that sunset and decide whether to keep it or not, before reverting back to the old policy. Chairman Brackett suggested instead of May, couldn't it be in October or December. Representative Vander Woude said "then you would have 3 years of it." This needs to be addressed before the sunset expires to decide whether to keep the sunset on or take it off.

Ms. Gerrity asked about registrations for light vehicles and passenger cars. Chairman Brackett thought that was fine. Ms. Gerrity asked about wording for the sunset. Ms. Gerrity said it was her understanding that the entire act would sunset on May 15, 2017. Representative Vander Woude replied: "No, just that section." Ms. Gerrity asked for clarification on Section 1, if it would be the original DRKAG275 language and Representative Vander Woude replied: "Yes, that is correct."

Chairman Brackett asked Ms. Gerrity to go back to the sunset, not the entire act, but just the DRKAG275 portion of the act or package being discussed. He asked if Senator Cameron was okay with the sunset date of May, and Senator Cameron said if you're going to sunset it, you need to at least be able to make the normal transfer into the budget stabilization fund, so the dates were throwing him a curve. He said this was a House proposal and he asked Representative Vander Woude to go back through exactly what was being proposed. He wasn't sure about the \$95 million figure, asking for clarification.

Chairman Brackett asked when the Legislature would consider the sunset, in 2017 or 2018. Representative Vander Woude said 2 years from now, in 2017. The old policy would go back to the quarterly, instead of taking it out at the end of June. Senator Cameron said that point needed to be made clear, because if going back to quarterly payments, he didn't know that the May date would work, and he asked Ms. Holland-Smith.

Ms. Holland-Smith replied that you would get your sweep of General Fund moneys at the end of FY 2015 and FY 2016; then, if the sunset was in May, between 1st of July, 2016, until end of May, 2017, it would be in limbo because it would not yet be sunsetted and wouldn't be making those quarterly payments. If you were going to go back and allow the sunset to expire, then as long as you don't go retroactive, it would just be looking forward and wouldn't go back to try to capture any money for the rest of the year, unless you did a retro. Senator Cameron asked if a quarter's payment would be lost. Ms. Holland-Smith said only if you choose to; you could, depending on what the rate of growth would be and the revenue as to whether or not it would have triggered it. Senator Cameron asked if there was a more ideal time to transition back. Ms. Holland-Smith said she needed more time to work this out to see how those payments would actually work, if the members wanted to see an alternative. Chairman Brackett said Ms. Holland-Smith had some time while the committee talked about registration.

Senator Cameron went back to the 60-40 split and said he didn't want to create an extra burden for ITD tracking, but with provisions in DRKAG275, we're shortcircuiting locals, who, in his opinion, have just as many maintenance issues on local roads to access freeways. He wanted to figure out the mechanics and he didn't understand Ms. Gerrity's explanation. Are you setting a capped amount for ISP or taking the figure that is collected on "x" day under the old distribution, and then every dollar collected after that date would be on a 60-40 split; how would that work without hurting ISP and the locals. Representative Vander Woude asked Ms. Gerrity to explain this. Ms. Gerrity said that the one section being addressed is Section 40-701, Idaho Code, (highway distribution account apportionment); that is where ISP receives their 5%. The language for the 60-40 division is in Section 63-2412, Idaho Code, distribution of the gas tax. Senator Cameron had two concerns, based on her comments: (1) we can amend the section on gasoline tax, but that still doesn't mean it's any easier for ITD to track and distribute the money in that manner. He was trying to work through the mechanics of how ITD would do that, not just the legal codification question; (2) if you're amending the section on gasoline taxes, are you not saying that all motor fuel taxes from here forward will be split under that 60-40 basis, trying to make sure that what's currently collected today would remain under the current distribution, believing that to be Representative Vander Woude's intent. He was inquiring about the mechanics and also how ITD would track that. Ms. Gerrity said that the way the language was written, 25 cents would continue to be distributed as it is currently; the extra 7 cents would then be distributed 60-40. Senator Cameron asked how ITD would track that; do they have to establish a new accounting format in ITD's system. Ms. Molly McCarty, Governmental Affairs Manager, ITD, yielded and she said that she did not have the exact answer today, although it had been discussed, and she assured the members that would be worked out.

Senator Lacey proposed that the split be changed to a 58-42 split to give locals a little more money, to sunset in two years or whatever. Chairman Brackett summarized that the members would take a straw poll on changing the split between ITD and locals, going forward, with a freeze on everything as of this date, suggesting that the 58-42 split be applied. A straw poll outcome was 4-2, 3 (ayes) and 0 (nays) on Senate side, and 1 (aye) and 2 (nays) on the House side, so the straw poll failed. Representative Vander Woude said there was some angst, but that they would try to help the local districts. He wanted to see where needs were before doing any bigger split than 40.

Chairman Brackett moved to Section 5, gaseous fuels, and the proposal was to remove that whole section of the amendment. Representative Vander Woude said that was correct, believing that the previous law just passed through both bodies was put into place and thought it disingenuous, given votes made there, to try to revisit that issue; he suggested that language be removed from this

section of the amendments. Chairman Brackett said that a straw poll had been taken on that on the previous day.

Chairman Brackett moved on to Section 6, legislative intent to impose on all commercial vehicles in excess of 60,000 pounds an annual registration fee and operating fee by weight class based on miles. The date of January 1, 2021, would drop back to January 1, 2019, and Representative Vander Woude affirmed that to be correct, so legislation would have to be done in 2018 in order to be effective in January, 2019. Senator Lacey believed they had put in 2021 to allow time for the technology to catch up with their idea, so that more trucks would be ready to keep track of that, asking if there was information changing that. Representative Vander Woude wanted to step it up, adding that he didn't have other information. Chairman Brackett said that legislative intent expires in one year, so renewal could be annually; he did not see any problem in that, for himself. A straw poll on this passed, so that date was tentatively changed to January 1, 2019.

Director Milstead read: Section 7, legislative intent, line 43 would read: All (strike additional) funds collected under (strike provisions of this act) and insert "Idaho law" remitted to the Idaho Transportation Department or entities subject to the distribution provisions of section 40-709 and 63-3638, Idaho Code, shall be used exclusively for the construction, repair, maintenance of the public highways. Senator Cameron asked for an explanation on changing that language; what was being gained or lost. Representative Palmer said that this was handed off earlier by leadership, saying they had talked to someone in ITD suggesting this would make it easier or more clear; language was changed for the repair and maintenance to make it clear what the money was for. Senator Cameron asked whether "funds collected under Idaho law" versus "the provisions of this act" would change how current funds are being collected versus new funds being collected under this act. He asked for Mr. Kane or Director Milstead to help him understand the legal construction of that language. Director Milstead explained that the change in the original language was limited to "the provisions of this act." By changing it to "funds collected under Idaho law," it was much broader than this particular act, it was any revenue that was provided to ITD. He didn't know what the fiscal impact of that would be or exactly what funds or revenues were implicated under that change, but it was broader than the original language considered. Senator Cameron asked: "Does that then change the distribution on existing funds?" Director Milstead said he didn't think it changed the distributions; it does qualify how they are going to be used as follows: "shall be used exclusively for the construction, repair, maintenance of the public highways." Senator Cameron asked if it was restricting or changing the qualification process by which roads were treated or maintained; does it change ITD's direction on how they would handle existing funds. Director Milstead said he thought there were a number of considerations that the Idaho Transportation Board considers when it is picking projects. He suggested that Ms. McCarty speak to that. Ms. McCarty asked Senator Cameron to repeat his question, which he did, as follows: "If the change in the language doesn't change how the funds are distributed, does the change determine or change the allocation or methodology by which ITD would determine which projects should be brought forth first, or change the focus of the existing money and restricting it down to a more narrow use of those dollars."

Ms. McCarty wondered, with regard to money coming to ITD for strategic initiatives, was she being asked how those projects would be determined and would this change any of that. Senator Cameron said it seemed to him that what the language did was to change the provisions of this act to current Idaho statute, so it seemed to be saying, to him, that money that ITD is already collecting would now have to meet the conditions that are proposed in this act and, if that is the case, by putting that language in there, is the process being redefined or restricted. Chairman Brackett said that intent language is only good for one year, so then, despite all the refinement we get with what is being struggled with right now, does that expire in one year and then we are back to where we were originally? Representative Erpelding asked if Section 63-2412, Idaho Code, is the sales tax distribution to cities. Chairman Brackett responded that it was not. Chairman

Brackett suggested leaving Section 7 as it was originally written; he called for a straw poll and the non-binding vote was unanimous, in favor.

Chairman Brackett said that there were 3 more sections of legislative intent, sections 8, 9, and 10, with "ok as is" and a straw poll again was unanimous, in favor, tentatively.

Chairman Brackett called on Ms. Holland-Smith to address comments or a recommendation to achieve what the committee wanted to achieve. Ms. Holland-Smith said that after discussing this with her budget and DFM staff, they recommended May 31, 2017, as the sunset date. The problem with cutting it off too early is that the program is still in place, so if it was intended to allow the sunset to close on the program, the bills would have to be paid and the program finalized, so that gives plenty of time for the Legislature to decide during the 2017 session, giving two full payments. Because you're accelerating the payments in FY 2016 she explained, you don't need to worry about the equivalent payment that would need to be made in those first two quarters, so May 31, 2017 would be the best date to accomplish any cleanup, if changes were needed, for the sunset, giving plenty of time to make a decision to have two full cycles.

Chairman Brackett asked if she was talking about budget cycles or legislative cycles, asking for clarification. Miss Holland-Smith replied that it would give two budget cycles (FY 2016 and FY 2017) and two legislative cycles (2016 and 2017).

Chairman Brackett said there was tentative approval on all the amended portions of H 312aaS with changes and deletions, and also tentative approval on the surplus eliminator in DRKAG275. He asked if there was tentative approval on DRKAG275, with the sunset particularly, but all the other provisions as well. Senator Cameron replied that he was torn, but the sunset gave him added comfort that at some point it could be made sure that the General Fund, public schools and others were protected. He didn't want to go through this process again in two years. He wished this could be shared with the locals since they help contribute to this pot of money, believing they should be entitled to benefits as much as anyone else. However, he recognized this committee must make progress, so he said he would acquiesce on that point.

Chairman Brackett asked all the members to share on where they were with DRKAG275 and amendments to H 312aaS.

Representative Vander Woude was in favor, stating this was a tedious, difficult process, believing that progress had been made. He thought that policy changes needed a second look regarding implementation, but he was happy with the sunset portion. He hoped that the recommendations arrived at could be moved through both bodies in order to Sine Die.

Representative Erpelding commented that he was in a similar position to Senator Cameron with the surplus eliminator; he appreciated the two-year sunset. He thought it was very short-sided for the Legislature to only come up with \$95 million and to tack on an arbitrary charge on hybrid vehicles. Policy decisions like that, he said, indicate a lack of long-term planning. That being said, he didn't participate in this conference committee to fail. He believes that politics is the art of the possible, so if this was the best that the Legislature could get, then, reluctantly, he thought he could support the recommendations. Given the legislative intent, and being relatively new to the Legislature, he thought it would be interesting to see if legislative intent is followed to actually make the highway infrastructure and the way it's funded fair for everyone. With that said, he supported this.

Senator Lacey expressed disappointment at what the committee had accomplished, since there is a \$262 million need, having come up with only \$95 million. He thought that kicking this problem down the road would later cost children much more, but he very reluctantly said he would hold his nose and vote for this.

Representative Palmer said that he would support what the committee had done.

Chairman Brackett pointed out that he served more than on this committee, the Senate Transportation Committee and the Senate; while he is from District 23, they have their own particular interests, as does every district, but in a greater sense, he reminded the members that they all serve the greater state. He said that parochial interests may be unavoidable, but what you do with them is the question. He said he would continue to look at the state as a whole, trying not to look back, having learned lessons from GARVEE, and he was not sure that what this committee had arrived at reflects that. He was particularly disappointed that safety concerns by locals were not recognized as legitimate concerns. He emphasized that was not what the committee was saying with this proposal. He expressed concern about the General Fund money; he could differentiate between policy decisions that have General Fund impact and taking money out of the General Fund. At this point, he said that money was going to be taken directly out of the General Fund, although it would be surplus. Having said that, he said he was committed to doing the right thing to arrive at a solution. As much as he wanted to resolve this today, he was willing to come back during the interim, since this needed to be resolved, in the best interest of the state, including the local interests. The two-year sunset was the provision allowing him to support this.

Senator Cameron said there were two ways to look at this: he could focus on the disappointment that safety issues for locals were not going to be addressed or the fact that we are not making a big enough dent, barely paying more than the GARVEE interest in this proposal, but he was not choosing to do that. He thought that in spite of the fact that the issue had not been fully resolved, a significant stride forward had been made in addressing transportation issues, management and maintenance of our current infrastructure. Ninety-five million dollars is not enough money, he said, but it is a lot of money, plus potentially whatever can come from the surplus eliminator in a few years to make a significant dent in that infrastructure need, to make sure that citizens are safe. He was choosing to focus on the fact that this committee did not walk away from the table, rather than on what didn't get accomplished. This committee had done something and made significant progress in the deficit that the state holds, cautioning that this will have to be addressed again in two years, to decide whether to keep the sunset on the surplus eliminator and how to help address local issues. The state can have the best freeway system in the world, but if local access doesn't help people get to those freeways, products cannot get to market and people cannot get to jobs, etc. At some point, this must be addressed more fairly, in his opinion. He expressed his appreciation to Chairman Brackett and Representative Palmer for their tenacity and willingness to keep working and to all the other members. He said that nobody could deny how difficult this process had been, and how much heart and effort had been put into this. He said that if Representative Vander Woude was inclined to make a motion, he was ready to second that motion.

Chairman Brackett asked for any further comments. He also expressed his appreciation to all members of the committee, believing that progress had been made, admitting that there still was work to do, but the work done in this committee gave a path forward.

Representative Vander Woude said that this had not been an easy task for any of the members on this committee, but they were chosen to do this task. They had reached the point where he was ready to make a motion that the two committees accept the recommendations as were presented earlier, the changes to H 312aaS, along with the addition of the DRKAG275. Chairman Brackett reiterated that the motion had been made by Representative Vander Woude and seconded by Senator Cameron.

Chairman Brackett pointed out that his notes said that the motion should be that H 312aaS is lost and that the committee substitute what had been agreed upon, but he said he would leave it up to staff to work out the details. Director Milstead agreed that would be an appropriate way to go, that H 312aaS was lost, but that the conference committee had agreed to a new bill that staff would draft. Director Milstead asked for permission to walk through the changes again to make sure that the bill drafting team all had the correct direction. Chairman Brackett agreed that the committee needed to know what was going to be voted upon, so he requested that Director Milstead walk the

committee through what he understood the motion to be. Director Milstead addressed the Senate amendments to H 312aaS, Section 1: each of those tiers for vehicle registration shall be increased by \$21. Amendments to Section 2 remain intact. Amendments to Section 3 remain intact. Section 4 is revised: The new subsection (2) shall reflect an increase in the fuel tax of 7 cents to 32 cents, and new subsections (3) and (4) are removed. Section 5 is eliminated. Section 6: the date is changed to 2019 (not 2021). Section 7 remains intact. Mr. Milstead noted that Sections 8, 9, 10 remain intact. DRKAG275 remains intact except for: page 4 following Section 4, line 15; there will be a sunset provision added that the provisions of the sections in this act, in that particular draft, shall sunset May 31, 2017. The sunset will apply to only the sections in this draft. He asked LSO staff if they had any questions. Mr. Nugent stated for the record, regarding the sunset, that he thought what would be needed is a repealer of the two sections and to reenact the budget stabilization account as it exists now with the effective date, just so there is no misunderstanding.

Chairman Brackett put the committee at ease at 3:35 p.m. and reconvened at 3:50 p.m.

Chairman Brackett rephrased Representative Vander Woude's Motion as follows: "We will amend H312aaS to reflect the recommendations summarized by Director Milstead and that we do amend DRKAG275 to reflect the changes pointed out by Director Milstead."

Senator Cameron asked if a new RS was going to be drafted, rather than to amend H 312aaS. Chairman Brackett replied that, as he understood it, H 312aaS would be amended and a new RS for DRKAG275 would reflect those changes. The committee report would include those understandings. Senator Cameron asked if the bodies would end up voting on those issues separately. Mr. Nugent replied that it was his understanding, talking with the Senate and House majority leaders, that there were going to be Senate amendments to the Senate amendments, a "radiator cap," and there will be a new RS, prepared simultaneously with the new RS to be introduced in the House, and the Senate amendments would work their way up the Senate calendar. The verbiage will be word for word, other than there being the "radiator cap" on the amendment.

Chairman Brackett asked about the committee report and whether there would be one or two bills that each body would vote on. Mr. Nugent replied that he believed that would be the call of the respective leaderships, after the committee report was submitted.

Senator Lacey asked if there would be a "radiator cap" on H 312aaS that included DRKAG275 for the Senate to look at, asking if there would be an amended bill plus a new bill. Chairman Brackett clarified that there would be another RS to reflect the changes in DRKAG275.

Director Milstead stated that leadership would determine what legislation moves forward. Direction had been given to construct two identical drafts, one being a new draft, the other being amendments to the amendments of H 312aaS, both being identical, just in two different documents. Chairman Brackett asked if that information would be in the conference committee report and Director Milstead affirmed that it would be.

Chairman Brackett stated that leadership would make the decision on the process, once the committee report was made. Mr. Nugent said that direction given from the two majority leaders was to include DRKAG275 in both versions, in both the amendments and the new RS. Chairman Brackett asked: "As far as the committee report, or as to how they are going to proceed?" Mr. Nugent replied: "In both, as part of the motion that was adopted, but it would also be in both the amendments to the amendments and the new RS."

Chairman Brackett asked whether the committee report or the legislation would be drafted two separate ways, and would leadership then decide how they want to move forward with implementation. Representative Vander Woude answered that there would be either a new draft with everything in it or H 312aaS, and that leadership would decide the best route, whether with a new bill or the old bill; that was his understanding.

Mr. Kane clarified that it was his understanding of the rule, as well as the call for the committee from the Speaker, that this committee's report will only address the amendments agreed upon by the committee with regard to H 312aaS. If a new RS is drafted, the committee could certainly recommend that the RS be drafted, but the germane topic for this committee was the amendments to H 312aaS. The committee's report would be that the house of origin makes the following amendments as outlined to H 312aaS. Chairman Brackett said that sounded very simple and clear, but asked about making a recommendation on DRKAG275. Mr. Kane said it was his understanding that DRKAG275 would become part of the amendments recommended to H 312aaS; DRKAG275 would be built into H 312aaS with the changes agreed upon by the committee.

Chairman Brackett called for a roll call vote on the motion which had been made by Representative Vander Woude, seconded by Senator Cameron and then summarized for the committee by Director Milstead. The roll call vote was unanimous as follows: Senate: 3 ayes, 0 nays; House: 3 ayes, 0 nays.

Chairman Brackett sincerely thanked all of the members for their hard work, diligence and persistence. He congratulated everyone on a job well done, adding that the work was not yet complete.

Chairman Brackett adjourned the conference committee at 4:02 p.m.