

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, January 27, 2015

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Nonini, Senators Keough, Winder, Hagedorn, Vick, Den Hartog, Buckner-Webb and Lacey

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 1:30 p.m. and welcomed everyone to the meeting. The first agenda item was approving Minutes.

MINUTES: **Vice Chairman Nonini** moved to approve the Minutes of the January 15, 2015 meeting. **Senator Vick** seconded the motion. The motion passed by **voice vote**.

RS 23317: **Chairman Brackett** invited Jim Clark of Frontier Communications to take the podium to present **RS 23317**. **Mr. Clark** stated that this legislation is the second step in recovering the cost of relocating telecommunication facilities. In 2010, Frontier Communications purchased Verizon's landline facilities located throughout the State. The issue of relocation costs surfaced, and in 2009, S 1097 passed the Legislature. That bill addressed the problem of mandated relocation costs. **RS 23317** provides a mechanism to recover the cost of relocation. **Mr. Clark** said that relocation policy has been in Idaho Code for six years and it is time to reimburse affected businesses. He thanked the Committee and stood for questions.

Before calling for questions, **Chairman Brackett** reminded the audience this was a print hearing and questions would come from Committee members only. Testimony from the public would be taken if the legislation is heard at a later date.

Senator Hagadorn asked if there had been discussion with other utilities about this legislation. **Mr. Clark** said only the concept, not the specific legislation had been discussed.

Senator Lacey wanted to know why the legislation only asks for 75 percent of the relocation costs be reimbursed. **Mr. Clark** explained they are asking for 75 percent because they have a surcharge of 25 cents per line which pays about 85 percent of those costs. The cost was nearly \$1 million per year for his client. **Senator Lacey** asked why the legislation is only for telecommunications. **Mr. Clark** said the fiscal note would be high, and they want to keep costs down initially.

Senator Vick offered a comment. He believes that other utilities can recover their costs in their rates while telecommunications cannot because they are no longer regulated.

MOTION: **Senator Vick** moved to print **RS 23317**. **Senator Hagedon** seconded the motion. The motion passed by a **voice vote**.

RS 23199:

Chairman Brackett welcomed Chris Fisher of the Idaho Transportation Department's (ITD) Dealer Licensing Program to present **RS 23199**. **Ms. Fisher** said this legislation amends Idaho Code § 49-1608 by changing a wholesale dealer's surety bond requirement. During the 2013 Legislative Session, the Idaho Consumer Asset Recovery (ICAR) Fund was created to increase protection for Idaho consumers purchasing vehicles from licensed retail vehicle dealers. Wholesale dealers are not licensed to sell vehicles to individual customers, which means their buyers are not covered under the provisions of the ICAR Fund. In order to increase protection for those customers, it has been recommended by the Idaho Dealer Advisory Board that the current \$20,000 surety bond be increased to \$40,000. This amendment also exempts wholesale dealers from participating in the ICAR Fund. If adopted, this proposal will increase consumer protection for a larger group of automobile purchasers. **Ms. Fisher** thanked the Committee and stood for questions.

Senator Vick asked what was the cost of a \$40,000 bond. **Ms. Fisher** said it depended on the applicant's credit rating. A \$20,000 bond cost about \$125 for an applicant with a good credit rating, but she wasn't sure about the pricing as the amount of the bond increased. She also added that she believed more background information was required of the applicant. **Ms. Fisher** said she would get him more information.

Senator Hagedorn wanted to know if the wholesalers or retailers were recommending this legislation. **Ms. Fisher** said the recommendation came from the Dealer Advisory Board as well as other dealer associations.

MOTION:

Senator Winder moved to print **RS 23199**. **Senator Hagedorn** seconded the motion. The motion passed by a **voice vote**.

RS 23221:

Chairman Brackett welcomed Ed Pemble, ITD's Drivers Services Manager, to present **RS 23221**. **Mr. Pemble** said this legislation's primary purpose is to implement new Commercial Driver's License (CDL) and Commercial Learner's Permit (CLP) standards as well as associated knowledge and skills testing standards. This is similar to the unsuccessful legislation ITD brought last year in S 1306.

The differences between last year's bill and this legislation is: (1) the 14-day CLP holding period prior to skills testing was removed; (2) the fiscal impact to implement is higher and the costs cannot be shared with other changes; (3) the effective date has been moved to July 8, 2015 to accommodate the new deadline set by the Federal Motor Carrier Safety Administration (FMCSA); (4) the wording of this legislation avoids conflicts with current statutes; and (5) a section has been added to address specific implementation date language in order to remove duplication in Idaho Code. **Mr. Pemble** thanked the Committee and stood for questions.

Senator Nonini commented that he appreciated ITD's work to clean up this legislation.

MOTION:

Vice Chairman Nonini moved to print **RS 23221**. **Senator Winder** seconded the motion. The motion passed by a **voice vote**.

**PASSED THE
GAVEL:**

For the purpose of voting on administrative rules, Chairman Brackett passed the gavel to Vice Chairman Nonini.

Vice Chairman Nonini reminded the Committee that each of the eight administrative rules brought before the Committee were presented and reviewed at a previous meeting. The Committee would now have an opportunity to accept, reject or partially reject each of them.

**DOCKET NO.
11-1301-1401:**

Vice Chairman Nonini asked if there were any more questions or discussion on this Idaho State Police (ISP) docket.

Lieutenant Horn of ISP stood to be recognized. Although he would like this docket approved, after further review and discussion with Dennis Stevenson, Idaho Administrative Rules Coordinator, ISP found issues with the rule that need to be addressed.

Mr. Stevenson said that there was a problem with the way the incorporation by reference was presented on page 5, subpart 4. This docket and **Docket No. 11-1301-1402** should have been combined into one docket. The incorporation by reference as written is not actually incorporated according to procedures. **Vice Chairman Nonini** asked for a recommendation on how to deal with these dockets and asked if ISP was withdrawing them. **Mr. Stevenson** suggested the Committee approve both dockets. ISP will then write a temporary rule to fix the problem. The rest will remain accepted. **Senator Winder** asked if the Committee should reject or accept the dockets. **Mr. Stevenson** said if the dockets are approved, the temporary rule will fix the problem and the Committee will not have to deal with the parts of the dockets without issues again. **Senator Hagedorn** asked if the docket could be amended by the Committee. **Mr. Stevenson** said that was not an option.

MOTION:

Senator Winder moved to accept **Docket No. 11-1301-1401**. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
11-1301-1402:**

Lieutenant Horn said that everything in this docket was correct.

MOTION:

Senator Winder moved to accept **Docket No. 11-1301-1402**. **Senator Buckner-Webb** seconded the motion. The motion passed by **voice vote**.

Senator Winder asked to be excused from the Committee in order to attend a leadership meeting.

**DOCKET NO.
35-0105-1401:**

Vice Chairman Nonini asked if there were any more questions or discussion on this Idaho State Tax Commission (STC) docket. Hearing none, **Vice Chairman Nonini** called for a motion.

MOTION:

Senator Keough moved to accept **Docket No. 35-0105-1401**. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
35-0105-1402:**

Vice Chairman Nonini asked if there were any more questions or discussion on this docket.

Senator Hagedorn questioned the changes to pages 17 and 18, Section 11. He said there was no authorization in Idaho Code and would like to work with STC to draft legislation that would include the necessary language. He thought the Committee should wait to act on this docket until such authorization is in Idaho Code.

Senator Vick agreed that if there is a deficiency in Idaho Code, the Committee should wait to approve this docket.

Don Williams, STC's Tax Policy Specialist, stated that Idaho Code states if there is a difference between the International Fuel Tax Agreement (IFTA), that is currently incorporated by reference, and language in Idaho Code, then IFTA's language would prevail. He argued that was the authorization.

Senator Hagedorn reiterated that legislation was needed to remedy what he saw as a problem.

Chairman Brackett called on Mr. Stevenson for clarity. **Mr. Stevenson** said that statute should precede a rule; the IFTA default is not preferred to legislation.

MOTION: **Senator Hagedorn** moved to hold **Docket No. 35-0105-1402** for time certain based on the outcome of legislation. **Senator Lacey** seconded the motion
Senator Keough asked for more information about the proposed legislation. **Senator Hagedorn** suggested that draft legislation would take the IFTA language and incorporate it into Idaho Code.

The motion passed by **voice vote**. **Senator Keough** asked to be recorded as voting against the motion.

DOCKET NO. 39-0203-1402: **Vice Chairman Nonini** welcomed Robert Petersen, a Boise retail automobile dealer representing the Governor's Advisory Board and the Idaho State Independent Auto Dealer Association (Association), to the Committee to offer testimony supporting this docket.

Mr. Petersen said this rule had been discussed at length and was supported by the Governor's Advisory Board and the Association, which represents 300 used car dealers throughout Idaho. He presented the rule as being a consumer protection tool. A used vehicle is a huge purchase for many consumers. It is important that consumers know when a dealer's business will be open. Although he does not like the government dictating how to run his business, this rule deals with a dealer's place of business and hours of operation. Rogue dealers generally disappear or are not predictably available. When administrative issues like title registration or availability come up, not knowing when the dealer will be in his place of business makes it difficult for consumers. They should be able to go to the dealer with their problems at a known day and time. It is also important for investigators to know when the dealer is going to be available. The rule requires a dealer to be open at least 20 hours per week, and at least 1 hour has to be Monday through Friday from 8:00 a.m. to 5:00 p.m. This accommodates investigators because those are their hours of operation. This rule is not so strict as to be overly burdensome for dealers. **Mr. Petersen** thanked the Committee and stood for questions.

Senator Vick thanked Mr. Petersen for presenting this rule in a manner he had not previously considered. His concern was that the State should not make businesses open at mandated times. Mr. Petersen's testimony helped him understand the rationale behind the rule. As a small business owner himself, **Senator Vick** did not want to discourage entrepreneurship. **Mr. Petersen** agreed with Senator Vick and said that in March it will be 40 years since he and his father started their business. He agreed that too many barriers discourages small business.

MOTION: **Senator Vick** moved to accept **Docket No. 39-0203-1402** with exception of Section 100 and Subsection 6a and 6b. **Senator Keough** seconded the motion.

SUBSTITUTE MOTION: **Senator Hagedorn** moved to accept **Docket No. 39-0203-1402**. **Chairman Brackett** seconded the motion

Senator Hagedorn appreciated the original motion, but the dealers' associations had thoroughly vetted the rule. While he agreed that imposing State edicts on business was not ideal, he thought the rule should be accepted.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Vice Chairman Nonini** called for a **roll call** vote. **Chairman Brackett, Senators Hagedorn, Buckner-Webb** and **Lacey** voted aye. **Vice Chairman Nonini, Senators Keough, Vick** and **Den Hartog** voted nay. Senator Winder was absent. The motion failed.

VOTE ON ORIGINAL MOTION: The original motion passed by **voice vote**.

DOCKET NO. 39-0310-1401: With no additional discussion of the docket, **Vice Chairman Nonini** called for a motion.

MOTION: **Senator Hagedorn** moved to accept **Docket No. 39-0310-1401**. **Senator Keough** seconded the motion. The motion passed by **voice vote**.

DOCKET NO. 39-0316-1401: With no additional discussion of the docket, **Vice Chairman Nonini** called for a motion.

MOTION: **Senator Vick** moved to accept **Docket No. 39-0316-1401**. **Senator Hagedorn** seconded the motion. The motion passed by **voice vote**.

DOCKET NO. 39-0350-1401: With no additional discussion of the docket, **Vice Chairman Nonini** called for a motion.

MOTION: **Senator Hagedorn** moved to accept **Docket No. 39-0350-1401**. **Senator Buckner-Webb** seconded the motion. The motion passed by **voice vote**.

PASSED THE GAVEL: Vice Chairman Nonini returned the gavel to Chairman Brackett.

ADJOURNED: **Chairman Brackett** thanked Vice Chairman Nonini for getting the Committee through the administrative rules process. With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:28 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary