

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, February 02, 2016

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Hagedorn, Senators Keough, Winder, Nonini, 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** convened the meeting of the Senate Transportation Committee (Committee) at 1:30 p.m.

MINUTES APPROVAL: **Vice Chairman Hagedorn** moved that the Minutes of the January 19 meeting be approved. **Senator Den Hartog** seconded the motion. The motion passed by **voice vote**.

RS 24027 **Chairman Brackett** invited Jerry Whitehead, Chairman of the Idaho Transportation Board (ITB), to the podium to present **RS 24027**. **Mr. Whitehead** said this RS removes language in Idaho Code that states the bases for the removal of an Idaho Transportation Department (ITD) executive director. The new language clarifies that the executive director is an at-will employee who serves at the pleasure of the ITB. This is brought forward to help future boards avoid issues the current board faced a few years ago. The current director is well liked, effective and would not be affected by this change. **Mr. Whitehead** said he would stand for questions, but there were none.

MOTION: **Senator Keough** moved to send **RS 24027** to print. **Senator Vick** seconded the motion. The motion passed by **voice vote**.

RS 24134 **Chairman Brackett** thanked Mr. Whitehead and invited Senator Winder to present **RS 24134**. **Senator Winder** said this RS deals with eminent domain. During project planning where government entities must acquire property for the correct accommodation of a project, sometimes those public decisions include determining the value of the property at the time interest in the property is shown, which can set standards that courts follow. This legislation's purpose provides that the value of the property to be acquired, or condemned, may not include an increase or decrease in value based on the project's proposed use of the property. **Senator Winder** said he would stand for questions.

Senator Lacey thought this language was already in Idaho Code where it says the value of the property as of the day that they decide to do condemnation, Idaho Code § 7-711. **Senator Winder** said he was correct, but this RS provides standards across all judicial districts throughout the state and would give a more consistent standard for protecting the rights of individuals and establishing fair market values.

Senator Vick asked if Senator Winder would explain section 2(c) of his RS referring to preliminary action in anticipation of condemnation proceedings. **Senator Winder** said that this refers to a third-party jurisdiction changing the rules unintentionally, and sometimes intentionally. As an example he said that cities deal with planning and zoning issues or annexations that have impact, or in this case a condemning agency. This legislation keeps the playing field even across the state. There were no further questions.

MOTION:

Vice Chairman Hagedorn moved to send **RS 24134** to print. **Senator Buckner-Webb** seconded the motion. The motion passed by **voice vote**.

PASSED THE GAVEL:

Chairman Brackett passed the gavel to Vice Chairman Hagedorn.

S 1229

Vice Chairman Hagedorn invited Chairman Brackett to present **S 1229**. **Chairman Brackett** said this legislation aligns the State of Idaho with federal legislation passed by Congress in December 2015. It lifted the prohibition on 129,000-pound-gross-weight vehicles operating on Idaho's Interstate Highway System.

Chairman Brackett continued that during the 2013 session, the Idaho Legislature approved legislation to make the 129,000-pound pilot routes on Idaho's Interstate Highway System permanent and also allowed these heavy trucks on select routes as authorized by the local highway jurisdiction that has authority on a requested route. The final step to fully implement this effort required Congressional authorization allowing 129,000-pound vehicles to operate on the Interstate Highway System in the State of Idaho subject to state approval. The federal legislation was enacted on December 18, 2015. The purpose of **S 1229** is to align Idaho law in a new section, Idaho Code § 49-1004B, following the recently passed federal legislation. **Chairman Brackett** offered to stand for questions, but there were none from the Committee.

Vice Chairman Hagedorn said that some people had signed up to testify. He called on Gary Halverson of Glanbia Foods, Inc., in Twin Falls and asked him to take the podium. **Mr. Halverson** said he was testifying in favor of the bill for both safety and economic benefits. He said this legislation will make his company more competitive with companies in neighboring states. There were no questions for Mr. Halverson.

Vice Chairman Hagedorn called on others who had signed up to testify on **S 1229**:

Dennis Tanikuni of the Idaho Farm Bureau testified in favor of the bill and said the Idaho Farm Bureau has supported 129,000- pound-load trucks since 2003. There were no questions for Mr. Tanikuni.

Skip Smyser said he was representing the Idaho Trucking Association in support of this legislation. There were no questions for Mr. Smyser.

Dave Carlson of AAA of Idaho (AAA) said he represented the 120,000 Idaho members of AAA who did not support this legislation. **Mr. Carlson** said the federal legislation that Chairman Brackett mentioned in his presentation was one section inserted in the massive federal legislation, H.R. 2029, known as the Consolidated Appropriations Act of 2016 and drew little attention in federal law. AAA nationally has had a 30-year fight with the trucking industry over heavy trucks for safety reasons. They have concerns with the 4 percent increase in fatalities with large trucks. Congress had concerns as late as last summer; aging infrastructure is a primary concern.

Mr. Carlson listed the states that do not allow the 129,000-pound-load trucks. He had attended a transportation safety meeting in North Idaho about certain routes. He suggested the Committee look at the issues that were raised at that meeting. He said the trucking industry said that only their best drivers would be driving these heavy trucks. He believes this policy declaration is relative to existing concerns.

Mr. Carlson said that AAA has problems with the 129,000-pound-load trucks on highways. AAA recommends that **S 1229** include sidebars for funding for safety issues, data for miles traveled and other information. Idaho should have a clear understanding on speed limit reduction with a bigger range of vehicles on the highways. **Mr. Carlson** stood for questions, but there were none.

MOTION: **Senator Nonini** moved that **S 1229** be sent to the Senate floor with a **do pass** recommendation. **Senator Vick** seconded the motion.

CONFLICT OF INTEREST: Before the vote was called, **Senator Keough** stated for the record that she has a conflict of interest with this bill as her employer is involved with the use of heavier trucks. She thanked both sides for presenting the issues on heavier trucks, and asked Chairman Brackett and ITD to initiate a negotiated rulemaking process discussion on the issue.

VOTE: The motion passed by **voice vote**. **Chairman Brackett** said he would carry the bill on the Senate floor.

ADMINISTRATIVE RULES: **Vice Chairman Hagedorn** said the Committee would be reviewing the remaining administrative rules presented at the beginning of this Legislative Session. They include one pending rule from the Idaho State Police (ISP) and five pending rules from ITD. **Vice Chairman Hagedorn** welcomed Major Bill Reese of ISP and asked him to present the first docket.

DOCKET NO. 11-1301-1501 **Major Reese** said this rule was not written in the correct format for incorporating by reference. It referred to a document from 1998-1999 when ISP handled administrative rules for the Idaho Public Utilities Commission. **Major Reese** met with Vice Chairman Hagedorn and Dennis Stevenson, Administrative Rules Coordinator, to discuss their concern over this problem. It was decided that since Idaho Code has not changed and the date of the incorporated document had not changed, the rule should not change. ISP asked that this docket be approved and they would initiate a temporary rule as an agreed-upon solution. **Major Reese** offered to stand for questions.

Vice Chairman Hagedorn agreed that this had been confusing. He thanked both Major Reese and Mr. Stevenson for meeting and developing a solution of a temporary rule. There were no questions from the Committee.

MOTION: **Senator Lacey** moved to accept **Docket No. 11-1301-1501**. **Senator Keough** seconded the motion. The motion passed by **voice vote**.

DOCKET NO. 39-0316-1501 **Vice Chairman Hagedorn** thanked Major Reese and asked Reymundo Rodriguez, ITD's Commercial Vehicle Services Manager, to the podium to present the last five administrative rules.

Mr. Rodriguez said that the proposed modifications in this docket are necessary in order to provide efficiency for motor carriers by allowing them to haul more than one non-reducible item on a 53-foot trailer on certain routes. ITD is responding to industry changes as the 53-foot trailer is now the standard length for trailers. The proposed rule changes will: 1. clarify which types of loads will be permitted as non-reducible and may be hauled on 53-foot trailers on the majority of Idaho routes; 2. clarify that vehicles hauling reducible-height loads must be of legal dimensions for the highways; and 3. remove language pertaining to self-issuance of permits for customers with fee accounts as these fee accounts were eliminated after implementation of the new point-of-sale system that allows escrow accounts. No hearings were requested or comments received. ITB approved these modifications in July; the docket has the support of the Trucking Advisory Council. **Mr. Rodriguez** said he would stand for questions, but there were none.

MOTION:

Senator Nonini moved to accept **Docket No. 39-0316-1501**. **Senator Lacey** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
39-0317-1501**

Mr. Rodriguez said ITD was approached by industry to allow the movement of overwidth loads without the issuance of a permit similar to the exemption allowed to farmers moving implements of husbandry. ITD is committed to safety as a main priority in the movement of overlegal vehicles and/or loads but understands the need for mobility and economic opportunity. After researching the issue, ITD concluded that the annual oversize permits can accommodate a greater width than the current width of 14 feet, 6 inches, and still ensure the safety of movement of those oversized vehicles and/or loads. The proposed modifications in this docket are to allow the movement for industry to transport loads up to 16 feet wide by annual permit rather than having to purchase a single-trip permit as currently required for wider loads. Other modifications to this rule pertain to insertion of proper descriptive names. No hearing was requested or comments received. ITB approved the modifications in August; the docket has the support of the Trucking Advisory Council. **Mr. Rodriguez** said he would stand for questions.

Senator Lacey asked why office trailers were removed from that section 100.

Mr. Rodriguez said they were taken out of that section because ITD doesn't have safety oversight for licensing those specific size and width limitations.

Senator Lacey asked if there was a licensing requirement for an office trailer as it moves down a highway. **Mr. Rodriguez** said typically the paperwork has been done through the county, so it was removed from this section.

Senator Nonini referred to the bottom of page 53, section 08, regarding speed limit requirements. He pointed out that modular buildings were removed but office trailers were left in and asked if they had a speed limit restriction. **Mr. Rodriguez** responded they fall under the common maximum speed of 60 miles per hour. There were no further questions.

MOTION:

Senator Vick moved to accept **Docket No. 39-0317-1501**. **Senator Nonini** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
39-0319-1501**

Mr. Rodriguez said this request is also made by industry to allow greater width on annual oversize permits. As in the prior docket, this one deals with manufactured homes, modular buildings and office trailers. It also deals with overlegal loads of equipment. The proposed modifications allow the movement for industry to transport loads up to 16 feet wide by annual permit rather than having to purchase a single trip permit as is currently required. Industry representatives asked ITD to increase the allowable load widths that could be transported utilizing an annual permit that limited these movements to a width of 14 feet, 6 inches. This change ensures the rule is aligned with the previous docket. No hearings were requested or comments received. ITB approved these modifications in July; the docket has the support of the Trucking Advisory Council. **Mr. Rodriguez** said he would stand for questions.

Senator Nonini referred to the middle of page 58, section 005, regarding Public Records Acts compliance and wanted to know the purpose of this section. **Mr. Rodriguez** said this was added to be consistent with the previous docket. There were no further questions.

MOTION:

Senator Den Hartog moved to accept **Docket No. 39-0319-1501**. **Senator Vick** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
39-0321-1501**

Mr. Rodriguez said the proposed modifications are to remove the option of "fee accounts" for the monthly charging and payment of overlegal permit fees. ITD's modernization efforts have brought forward a new point-of-sale system that allows a carrier the option of establishing an escrow account for payment of overlegal permit fees. Elimination of the fee-account process streamlines business processes and is more effective and efficient. This is needed to make the rules consistent with the processes used under the new cash-drawer system.

Mr. Rodriguez continued that other modifications in this docket identify multiple width loads of kiln-stacked lumber that may be transported as a non-reducible load on an annual oversize permit. This is only for a specific designated portion to ensure that the lumber industry in St. Maries, Idaho, could move their product in a safe and efficient manner. No hearings were requested or comments received. ITB approved these modifications in August; the docket has the support of the Trucking Advisory Council. **Mr. Rodriguez** said he would stand for questions, but there were none.

MOTION:

Senator Nonini moved to accept **Docket No. 39-0321-1501**. **Senator Den Hartog** seconded the motion.

CONFLICT OF INTEREST:

Before the vote was called, **Senator Keough** stated for the record that she has a conflict of interest with this docket as her employer is involved in the lumber industry.

VOTE:

The motion passed by **voice vote**.

**DOCKET NO.
39-0322-1501**

Mr. Rodriguez said the docket's proposed modifications are necessary so that ITD is in compliance with the passage of 2015 H 70. That bill required steer axle tire limitation restrictions match those currently in Idaho Code. The legislation allowed more flexibility in the amount of weight carried on the steer axles only. Prior to the legislation, the axles were restricted to 600 pounds per inch-width of tire or the manufacturer's load rating, whichever was less. Now the steer axle may not exceed the manufacturer's load rating per tire, the load rating of the axle or 20,000 pounds per axle, whichever is less. No hearings were requested or comments received. ITB approved the modifications in July; the docket has the support of the Trucking Advisory Council. **Mr. Rodriguez** said he would stand for questions, but there were none.

MOTION: **Senator Nonini** moved to accept **Docket No. 39-0322-1501**. **Senator Lacey** seconded the motion. The motion passed by **voice vote**.

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

ADJOURNED: **Chairman Brackett** thanked Vice Chairman Hagedorn for an efficient rule review process and for a job well done. With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:26 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary