

MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Monday, March 27, 2017

**TIME:** 2:30 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Brackett, Vice Chairman Nonini, Senators Keough, Winder, Hagedorn, Den Hartog, Lodge, Harris, and Rohn(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** convened the meeting of the Senate Transportation Committee (Committee) at 4:05 p.m.

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

**S 1206** **Transportation Funding: GARVEE, surplus eliminator, sales tax for transportation, cigarette tax distribution. Vice Chairman Nonini** invited Chairman Brackett to present **S 1206**.

**Chairman Brackett** said he would give a quick overview. **S 1206** contains: \$300 million in GARVEE, the surplus eliminator, a new fund established called the Transportation Expansion and Congestion Mitigation Fund, and finally, a redirection of some of the cigarette tax money.

**Chairman Brackett** went through the bill, page by page. Page 1 contained the GARVEE bonding authorization with the Idaho Transportation Board (ITB) making the selection of projects from the original GARVEE list, minus the Indian Valley project, is for new construction. Pages 2 and 3 list the original GARVEE corridors.

Page 4 contained the Strategic Initiatives Program or the surplus eliminator that was established in 2015 with a two-year sunset if nothing is done. The primary difference in this legislation is it provides for a 60/40 split with 60 percent going to the Idaho Transportation Department (ITD) and 40 percent to the local units of government.

On the top of page 5, once the State Controller has determined any excess cash balance on July 1, 50 percent of any General Fund excess will be transferred into the Strategic Initiatives Fund for transportation. There is a new process established for when cash is transferred. This was requested by the Division of Financial Management (DFM) and the Legislative Services Office (LSO) to facilitate the timing after the books are closed, but the result is the same. At the bottom of the page, the new fund is established that the money will go into.

Top of page 6, as already discussed, the surplus is split and 50 percent goes into transportation, the other 50 percent goes into the Budget Stabilization Fund. The new process for making the transfers is at the bottom of page 6.

Page 7 describes sales tax distribution where some of the money goes into the new fund. Page 8, line 17, Subsection 10 is the local revenue sharing distribution from the sales tax. Page 11, line 25 to 28, is where 1 percent of sales tax shall be distributed to the newly created fund. The distribution provided in this section must immediately follow the distribution in Subsection 10 back on page 8. This is immediately following the revenue sharing for the local units of government.

Page 12 talks about what is commonly known as "water GARVEE", but it is redistribution of the cigarette tax. This came about following the payment of the bonds for the Capitol renovation. At that time the Capitol renovation is adequately funded, the remaining moneys shall be distributed as follows: \$4.7 million directed to part of the federally required State match for GARVEE debt service, and \$5 million directed to the secondary aquifer planning and management for replenishing our aquifer. The third part is the unallocated portion that varies from year to year with a declining balance; in 2018, it is projected to be \$5.1 million and that portion of the distribution will be directed to the new fund. The sunset will be lifted on all three accounts.

**Senator Den Hartog** asked for clarity for the \$300 million GARVEE bonding portion; will it take care of I-84 from Nampa to Caldwell? We only have the environmental impact statement (EIS) for the stretch of highway from Franklin Road in Nampa to the Karcher interchange in Nampa. **Chairman Brackett** said the EIS has basically been completed from Franklin in Nampa to Karcher and awaits the funding for construction. Hopefully, work on the EIS from Karcher on to Caldwell will be able to begin.

**Senator Den Hartog** asked about water GARVEE on page 12 and whether the sunset is lifted on all three distributions, that includes the GARVEE debt service, the aquifer, and the remaining amount to transportation. **Chairman Brackett** said it was his understanding. **Senator Den Hartog** asked whether there were updates on the progress of the aquifer recharge and if there is a need for \$5 million ongoing. **Chairman Brackett** said that most of the work to date on the recharge has been done on the Eastern Snake Plain. With the settlement agreement between the ground water users, the pumpers, and the local jurisdictions, recharge is happening but there is still work to be done. While that was important to the State, there are about eight additional aquifers throughout the State that need attention including the one in the Boise Valley, which is second on the list. There has been considerable work done on monitoring; the first step needing addressing according to aquifer management programs. With the settlement money came substantial General Fund money appropriations to implement the settlement agreements. The \$5 million is the additional work that can and should be done; if it didn't come from this source, then it would either result in a delay or come directly from the General Fund.

**Senator Rohn** thinks the issue of highways and roads definitely needs to be addressed. His concern is the 1 percent loss to the General Fund which appears to be ongoing in this version of the legislation. He wondered if there was a better approach and whether consideration was given to a 2 cent hike in the gas tax with a sunset clause. It would give time for the Legislature to come up with a funding mechanism for not just expanding but maintaining the roads. Idahoans are concerned about its bridges and ongoing deferred maintenance. **Chairman Brackett** responded that the surplus eliminator is limited to maintenance, so by extending the sunset, maintenance is being addressed. All tax revenue legislation must begin in the House of Representatives. No fuel tax proposal has come over, but he understood there was some support for it.

**Senator Winder** commented on Committee members' concerns. There is an interchange on Highway 95 north of Coeur d'Alene that potentially could qualify for GARVEE funding, as well as other projects on Highway 95 up towards Sandpoint. The aquifer recharge is already in existing code; this is not new code. With regards to the Karcher to Caldwell Franklin Road, the EIS is complete from Nampa Franklin to a little ways past Karcher; that section of the interstate can be completed. Some of the GARVEE money can be used for the EIS to do the rest of the 8-mile section. It is his understanding that would cost \$180 million. Hopefully, there will be some more federal dollars coming in the future as well. Finally, the 1 percent is not really coming out of the General Fund, it is 1 percent of the sales tax; this does not impact the income tax or the corporate tax. Given that, it probably works out to less than .04 percent from the General Fund. There hasn't been any appetite on the House side for a gas tax, nor is there any on the Senate side. The 7 cent increase to the gas tax two years ago went entirely toward road maintenance, so it is recognized as a high priority. All these issues are trying to be addressed.

**Senator Keough** asked what the language on page 5, line 23 meant. **Chairman Brackett** replied that the economic opportunity is a priority for the State's Strategic Initiative Program but most of the real needs for local jurisdictions are maintenance and safety. **Senator Keough** asked what the thought process had been. **Chairman Brackett** said this is a much compromised bill. The House ranked these issues higher in priority for local jurisdictions.

**Senator Keough** asked what the new language on page 7, line 5 regarding taxes meant. **Chairman Brackett** referred her to page 11, lines 25 to 28, that discusses the order in which the distribution will be made. With the gross sales tax receipts, the first thing to come off are the refunds; then there are two immediate choices, one of which is to the local jurisdictions revenue sharing. This path holds the local units of government harmless. It gets back to whether we take a percent or a fixed amount. **Senator Keough** asked if it is the intention of this bill to impact the budget just passed by the Legislature. **Chairman Brackett** responded that she was correct.

**Senator Rohn** followed-up on the 60/40 split. How is the 40 percent split going to affect the local units. Will there be a shortfall for their budgets and how will it be made up? **Chairman Brackett** said there is already a shortfall in their budgets for maintenance. This provides additional revenue that will relieve some of those shortfalls.

**Senator Harris** asked if there is a reporting requirement. **Chairman Brackett** said earlier versions contained clear reporting, but they did not make it into this bill. The two provisions not included are: 1.) no payments would be made until the reports are received; and 2.) if reports were not received by June 30, the money would be transferred into the Budget Stabilization Fund. However, by statute there still is a reporting requirement.

**Senator Hagedorn** wanted to clarify that it is still a requirement that locals report on how their money is used. However, what did not make it into this bill was the sweep of the remaining money going into the Budget Stabilization Fund. **Chairman Brackett** said it is correct about the sweep, but it did not explicitly say that funds would be withheld until the report was received. He thinks this is a needed addition.

**Senator Winder** clarified that the 40 percent to local jurisdictions is new money earmarked to the locals and will have a positive impact on their budgets. The Strategic Initiative Program under H 312aa (2015) hasn't changed and the reports are still required. When he last checked, it was up in the 95 percent range of the locals reporting.

**Senator Lodge** asked if she could get a list of which projects have been completed or partially completed on the original corridors listed on pages 3 and 4. **Chairman Brackett** went through the corridors listed with updates from his memory. He has asked ITD to develop a clear report that shows which have been done. **Senator Lodge** asked that ITD include which have been completed because of public safety and the dangers of driving on those highways. **Chairman Brackett** said that while safety was a consideration on several of these, there was good documentation on the decrease in fatalities and accidents on the completed GARVEE segments.

**Senator Winder** reminded the Committee that the list on pages 2 and 3 refers to corridor areas, as part of the Connecting Idaho Program, and not projects. There have actually been about 59 projects completed and about \$830 million worth of work done.

**Senator Den Hartog** asked what is the difference between the Strategic Initiative Program and the new Transportation Expansion and Congestion Mitigation Fund. As she reads it on page 4, line 30 to 34, there is safety, mobility, etc., which she believes is covered in the existing program. Rather than create a new program, why wasn't the money placed in the existing fund? **Chairman Brackett** said in H 312aa (2015) ITD did have an initiative program that was placed in statute. It identified projects that would be rated using specific factors in order to compute the return on investment. It was focused on maintenance. The new bucket is focused on new construction with a different criteria listed at the bottom of page 5.

**Senator Winder** added that on page 4, line 36 the bill talks about repair and maintenance which is very specific for what the strategic initiative was created; mainly because of the bridge problems. Page 5, line 34, talks about expansion and congestion which would be in areas where there wasn't capacity. Capacity improvement means expansion like increasing the number of lanes; beyond routine maintenance or replacement.

**Senator Hagedorn** said it was important to note that previously the Strategic Initiative Program was just for ITD; now the locals will be involved in the old and the new programs.

**CLOSING  
REMARKS:**

**Chairman Brackett** remarked that the Committee has considered GARVEE funding at length; it is an important piece to the information needed to continue the discussion on transportation funding in Idaho. He closed by asking the Committee to send **S 1206** to the floor with a do pass recommendation.

**PASSED THE  
GAVEL:**

Vice Chairman Nonini back to Chairman Brackett.

**MOTION:**

**Senator Lodge** moved to send **S 1206** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

**Senator Rohn** commented that he understands how this bill evolved in order to address a very critical problem. There has got to be a better way to fund Idaho's highways and roads than to dip into the General Fund. He cannot support this motion.

**Senator Winder** said the entire legislature has made a commitment to education by funding the 5-year plan. He sees **S 1206** as a way of creating jobs, both union and non-union, and helping the economy. The GARVEE projects during the recession did generate thousands of jobs. This is a very positive thing that will generate a better economy. It costs a lot of money when trucks and cars are stopped, in addition to the number of accidents on the interstate. This doesn't solve all the problems, but it gives tools to ITD and the locals to deal with some problems.

**Chairman Brackett** added it's just one of a number of tools that can and should be used. The fuel tax needs to be revisited. Miles traveled is another issue needing study; with the improvements to technology, it is a viable funding alternative. GARVEE bonding is a valuable tool to have.

**Senator Hagedorn** reminded the Committee that four of the Committee members were on Lieutenant Governor Little's Task Force for funding highways. Most states do use general funds on their highways because their fuel tax and registrations have not been able to keep up with their maintenance needs. We're behind in our maintenance, behind in our expansion, and we need to start walking down that same road.

**Senator Winder** commented that this has been an ongoing process for the past six weeks. Most support getting the interstate fixed and having GARVEE funding options, but the House has made it clear these other pieces of this bill are very important to them. If we don't do something like this, there may be no GARVEE for the interstate.

**Chairman Brackett** said that with H 312aa (2015) the maintenance was addressed and raised \$95 million, but the task force identified a \$262 million short fall. There was still work to be done, and even after this bill, there will still be work to be done.

**Senator Keough** commented that she was planning on voting to send this to the floor because she thinks the larger Senate body deserves the opportunity to consider this legislation. That does not mean she will necessarily vote for it in the end. **Senator Keough** has a long history with transportation: she voted to raise gas taxes; raise registration fees; and helped GARVEE over the starting line. She does not believe in doing something just because the rest of the country is doing it; it doesn't make it right. The Legislature's refusal to look at a gas tax increase is disturbing. It is a continuing source of revenue. Gas prices fluctuate 5 to 25 cents in the course of a week to ten days. It's a pay-as-you-go tool that is being ignored. She appreciates the tireless time the authors spent on this bill. She believes that the Senate and House transportation committee members could have been utilized to use their deep pool of knowledge for helping develop this legislation.

**Senator Hagedorn** reminded the Committee that what was done with H 312aa (2015) would have required a 20.125 cent per gallon increase in the gas tax just to cover the maintenance deficit.

**Senator Den Hartog** said she, too, greatly appreciates the amount of work and effort in putting this legislation together; recognizing it had not been a simple or easy task. She has been an advocate of investing General Fund dollars in the transportation infrastructure system. But when you see all the different carve-outs done over the years of sales tax revenue before it flows into the General Fund, she believes that there is a lack of transparency. It is no way to budget or to allocate tax dollars; Idahoans must know how their money is being spent. She appreciates the creative nature of placing the 1 percent onto Idaho roads and that ultimate those dollars would have gone into the General Fund. She would like it to be done in a transparent process; she feels the same way about the cigarette sales tax money. These things are happening outside JFAC year after year with no conversation from the budget committee and the Legislature as a whole.

**Senator Keough** expressed she was not advocating a 20 or 25 cent increase in the gas tax, however there is a 20 to 25 cent fluctuation in gas prices in her work commute from Sandpoint to Coeur d'Alene. She does think it's reasonable to talk about a 5 cent increase. She does not believe gas tax should be left off the table especially when we're going into debt to take care of Idaho roads.

**Senator Lodge** said 40,000 people drive between Caldwell and Meridian every day; the worst is between Karcher and Northside. She shared her experience that morning; the wreck was a quarter-of-a-mile from where she got on the interstate and it took her 35 minutes to go that quarter-of-a-mile. The increase in population in Canyon County has been unbelievable. She's concerned with all the cars backed-up on the interstate because of air quality. Without economic development there is no money to fund education; we're pushing this down the road so that future generations have to also fight this same battle. The interstate is so dangerous; this is a public safety issue. With people late to work, employers are complaining and it is affecting the economic growth of our State. There are lots of things in the bill she does not like, but she doesn't want to keep this legislature operating at a cost of \$30,000 per day. She is going to support this bill to get this thing done and take a burden off future generations.

**Chairman Brackett** said this is not an end-all to solve the transportation issue, but he's confident that many of the good ideas heard today will continue to be discussed. At a minimum, the surplus eliminator will be revisited two years from now.

**VOTE ON MOTION:**

The motion to send **S 1206** to the floor with a do pass recommendation was approved by **voice vote**. **Vice Chairman Nonini, Senators Harris, Den Hartog, and Rohn** asked that their nay votes be recorded.

**ADJOURNED:**

With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 5:07 p.m.

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Senator Brackett  
Chair

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Gaye Bennett  
Secretary