

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Thursday, January 09, 2020

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Crabtree, Senators Winder, Den Hartog, Lodge, Rice, Burtenshaw, and Nelson

ABSENT/ EXCUSED: Senator Buckner-Webb

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: With a quorum present, **Chairman Brackett** convened the session's first meeting of the Senate Transportation Committee (Committee) at 1:32 p.m.

PAGE INTRODUCTION: **Chairman Brackett** asked the Committee page, Spencer Payne of Eagle Idaho, to introduce himself to the Committee. **Mr. Payne** said he was a senior at Rocky Mountain High School in Meridian. He enjoys tennis and skiing, and is also an enthusiastic ant keeper. He wants to study microbiology and chemistry at Brigham Young University in Provo, Utah, and looks forward to serving on a mission for his church.

Chairman Brackett stated the Committee would be taking up an overview of the administrative rules review process, and Vice Chairman Crabtree would be overseeing that process for the Committee.

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

ADMINISTRATIVE RULES REVIEW: **Vice Chairman Crabtree** said he was looking forward to working through the rules process. He envisioned the Committee would first look at the omnibus pending rules and omnibus pending fee rules from the Idaho Transportation Department (ITD). If there are specific concerns within each of those dockets, those rules can be held out to be taken up separately in more detail at a later meeting. The Committee would then move forward with the traditional rules and hear experts from ITD and the State Tax Commission, who would present them to the Committee as has been done in previous legislative sessions.

Vice Chairman Crabtree welcomed Dennis Stevenson, Administrative Rules Coordinator for the Division of Financial Management (DFM), and asked him to give an overview of the rules process this session..

Mr. Stevenson explained what took place at the end of the 2019 Legislative Session that left all administrative rules expiring on July 1, 2019. The Governor, through an Executive Order, directed DFM, state agencies, and the Legislative Services Office (LSO) to go through the state's administrative rules to clean up language, consolidate duplications, and remove obsolete rules. The result was a single pending omnibus rules docket numbered 1900 and 1900F (for "fee" docket) for each state agency. This Committee has fewer rules because ITD had gone through that process last session. Committee members can address their concerns and issues with the omnibus rules as they have with any docket changes.

In response to Committee questions posed by Senators Nelson and Rice, **Mr. Stevenson** explained the significant undertaking of cleaning up Idaho's existing rules, with instructions from the Governor to "do no harm" to a rule's intent and integrity. In addition to germane agencies reviewing the rules, the process relied on DFM for oversight and LSO to perform analysis and a side-by-side comparison of the original rules and the rules following the wordsmithing and clean up. Some rules were vacated or consolidated to avoid redundancy.

Senator Winder stated the Idaho Constitution says the Legislature has the right to review agency rules and reflect upon whether they are following the intent of the law. He asked Mr. Stevenson if there was a way to add a review process that looks at the rule and the actual law to avoid getting into personal biases.

Mr. Stevenson explained a rule is rejected because it does not meet legislative intent. Determining legislative intent can be subjective, which is why one house may confirm legislative intent while the other may not. A solution may be to look to the germane joint committee for direction when proposed rules are filed with LSO. LSO's memorandum on a rulemaking is the primary place to identify where there may be problems, but it can also be the place that initially determines whether the rules implement, prescribe, interpret, or enforce legislative intent, which helps stray from personal biases.

**ITD RULES
REVIEW:**

Vice Chairman Crabtree introduced Ramon Hobdey-Sanchez, ITD's Government Affairs Project Manager, to present an overview of ITD's omnibus and traditional rules.

Mr. Hobdey-Sanchez thanked Mr. Stevenson for doing a good job in setting the stage for his presentation. There was a lot of work done over the past year in rules. He reminded the Committee that last year ITD's rulemaking process, specifically with its Commercial Motor Vehicle Rules, were reduced from 22 rules to 8. ITD saw the Governor's Red Tape Reduction Act as a perfect opportunity to continue that work within their governing rules.

Mr. Hobdey-Sanchez stated that this year there are 35 ITD non-fee omnibus rules. Of those, three were consolidations in the areas of traffic control devices, outdoor advertising, and aeronautics rules. The consolidation was focused on customer service and making the material easy to understand, easy to identify, and easy to interpret. The remaining 32 rules are in their original form with no modifications. There are seven fee omnibus rules. Only two experienced changes; fee Rules 39.02.05 and 39.02.60 were consolidation rules with no changes to the actual fees being charged.

ITD also did their traditional, standard rulemaking in nine separate dockets. They were put through the standard negotiated rulemaking process with stakeholder and industry input. In terms of substantive changes, ITD significantly reduced word count and chapters, with a focus on restrictive words such as "must," "shall," "requires," and "prohibits." ITD went through its chapters to identify those words, get rid of restrictions, and soften language to make it easier for citizens to do business with ITD. They cut 200 regulations in both omnibus and traditional rules, and cut 16 chapters in the consolidation in the omnibus rules.

Senator Den Hartog asked if the Legislature needs to consider cutting corresponding outdated Idaho Code. **Mr. Hobdey-Sanchez** said that the majority of the work was merging, omitting duplications, or removing outdated language. The consolidation on the vehicle title rules had stakeholders involved. There is nothing in the other rules that would require revisions to Idaho Code. There were no further questions.

ADJOURNED:

With no further business before the Committee, **Vice Chairman Crabtree** adjourned the meeting at 2:04 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary