

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, March 05, 2019

TIME: 1:30 P.M.

PLACE: Room WW53

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

**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 1:31 p.m.

H 88 **Chairman Brackett** invited Representative Palmer, Chairman of the House Transportation and Defense Committee, to present **H 88** to the Committee.

Representative Palmer said that over the next five years, the Idaho State Police (ISP) appropriation from the gas tax will be redirected to the General Fund for the Highway Distribution Account (HDA). **H 88** has no effect this fiscal year, but it will begin next year by reducing ISP's gas tax appropriation by 1 percent per year for five years. Those dollars will be directed to transportation funding. It will put approximately \$17 million into transportation and those dollars will be backfilled with the General Funds over that spread of time.

DISCUSSION: **Senator Nelson** asked how much money 5 percent of the gas tax totaled annually. **Representative Palmer** said it amounts to between \$17 and \$18 million, but it varies each year.

Senator Lodge asked if the money will be backfilled into ISP as part of their public safety on the public roads responsibilities. **Representative Palmer** said this legislation does not address that issue specifically, but the House Joint Finance and Appropriations Committee (JFAC) Chairman has stated in committee and on the House floor that it would be his priority to move General Fund money around in order to be able to do just that, since it will be spread out over five years. **Senator Lodge** said she was concerned about that amount of money being replaced by the General Fund, because it has been her experience as she drives the roads of Idaho, that ISP is already stretched thin with a limited number of officers. She asked if there were additional assurances besides what the House JFAC Chairman has said. **Representative Palmer** said it has been talked about several times where the funds might be found. ISP's budget is about \$70 million and this is a small portion of it. ISP performs many functions to keep Idaho safe, but the only thing the gas tax funds can be used for is patrol. If the Legislature can fill this decrease with General Fund money, ISP would be able to use their entire budget where they deem necessary. Currently, this gas tax money is locked only for patrol. **Senator Lodge** commented that she did not like the word "if" because safety on the roads is one of her top priorities.

Chairman Brackett commented that he had thought there would be a 60/40 split with the additional fund placed in the HDA, but the bill indicates 39.5 percent and 40.5 percent for the local jurisdictions' share. He asked Representative Palmer to explain those percentages. **Representative Palmer** agreed with Chairman Brackett's point on the percentages and would provide an answer as to why the percentages are not the traditional 60/40 split.

TESTIMONY: The following people testified in support of **H 88**: **Nick Veldhouse**, Executive Director of the Idaho Association of Highway Districts; **Wayne Hammon**, Chief Executive Officer of the Idaho Associated General Contractors; and **Jeremy Chou**, representing the American Council of Engineering Companies of Idaho and the Idaho Association of Commerce and Industry. No one testified in opposition to **H 88**. There were no questions from the Committee for those who testified.

DISCUSSION: **Senator Rice** commented that he looked at the percentages in the bill. It appears to him that it was adjusted by .5 percentage both for the local jurisdictions and for the State's share instead of the traditional 60/40 split (60 percent to the state and 40 percent to the local jurisdictions). It would be easily corrected by amending the bill.

MOTION: **Senator Rice** moved to send **H 88** to the 14th Order of Business for possible amendment. **Vice Chairman Crabtree** seconded the motion.

DISCUSSION: **Senator Winder** asked Representative Palmer to share his opinion of the motion. **Representative Palmer** understood the change and thought it would satisfy the concerns.

Senator Den Hartog thanked Representative Palmer for bringing this bill to the Legislature. She said that making this change over a period of five years was a responsible strategy, and she also said that everyone wants ISP's budget to be whole.

VOICE VOTE: The motion to send **H 88** to the 14th Order of Business for possible amendment passed by **voice vote**. Senator Rice will work on the amendment and Chairman Brackett will carry the bill on the Senate floor.

H 106 **Chairman Brackett** invited Representative McCrostie to present **H 106** to the Committee.

Representative McCrostie said that **H 106** amends Idaho's "slow down, move over" law to extend the emergency vehicle safety protections to tow trucks, highway and utility maintenance vehicles, and passenger vehicles that are stationary and displaying their flashing lights. The current "slow down, move over" law requires that if a police car is parked with its lights flashing and rendering aid to another vehicle, drivers must slow down below the speed limit and move to the adjacent lane prudently. The problem is that other emergency vehicles, such as tow trucks and utility maintenance vehicles, are also involved in these emergency situations. If the police leave the scene of these emergencies, then other vehicles driving on the roadways are no longer required to slow down and move over. This bill will make these other emergency vehicles part of the "slow down, move over" law. He concluded by asking for a do pass recommendation from the Committee.

DISCUSSION: **Senator Rice** asked how **H 106** would treat private vehicles parked on the side of the road with their hazard lights turned on, when the owner has left it to get help. **Representative McCrostie** said the standard is for a passing driver to act reasonably and prudently. If the parked vehicle is unattended, the driver on the highway does not know that there is no driver with the parked vehicle. Once the flashing lights no longer operate, then the "slow down, move over" law would no longer apply.

Vice Chairman Crabtree asked how drivers passing on the highway and not moving over would be caught if law enforcement has left the emergency. He also wanted to know if there was data from other states showing how this change would save lives. **Representative McCrostie** said he did not have the data on the outcomes from other states that have enacted this law. He also said that enforcing **H 106** without law enforcement present might be a challenge, but he surmised that it would be similar to the way catching violators currently works, perhaps by radioing another officer to convey the information about a violator.

TESTIMONY: **Fred Birnbaum**, Vice President of the Idaho Freedom Foundation, testified in opposition to **H 106**. The following individuals testified in support of **H 106**: **Rick Burlingame**, District 3 Director of the Idaho Towing Association and part owner of Boise Valley Towing; **Matthew Conde**, Public Affairs Director for AAA Idaho; and **Sarah Biggers**, Legal Director of the Idaho Towing Association and owner of Crossroads Towing in Nampa.

DISCUSSION: **Senator Nelson** asked Mr. Conde how this legislation would affect AAA's members. **Mr. Conde** said that a towing operator would naturally know how to assess and operate through an emergency situation on the highway, but the average driver would generally have difficulty navigating an emergency situation on a fast-moving interstate.

Senator Rice commented that he thought about the different circumstances raised during the presentation and testimony. He had some concerns with stranded motorists being included in this legislation. Highway maintenance vehicles already had the means to clear lanes, but he thought that **H 106** needed to be amended to just add tow trucks to the "slow down, move over" law.

MOTION: **Senator Rice** moved to send **H 106** to the 14th Order of Business for possible amendment. **Senator Den Hartog** seconded the motion.

CONCLUDING REMARKS: **Representative McCrostie** said he appreciates the motion and will respect the will of the Committee. He advocated, however, that highway and utility maintenance vehicles be included in any amendment as well. Many stakeholders, including Avista and Rocky Mountain Power, support and believe that utility workers need the protection and should be included.

DISCUSSION: **Senator Den Hartog** asked if Representative McCrostie thought it would be advantageous just to remove abandoned vehicles from the bill. **Representative McCrostie** appreciated the thoughts and said it was a consideration they would strongly consider.

Senator Nelson thought that it's important to protect the safety of passengers of stationary vehicles. As he balances the safety aspect with the inconvenience of slowing down traffic, he tends to agree with the safety option. He would favor keeping that language in the bill.

SUBSTITUTE MOTION: **Senator Nelson** moved to send **H 106** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. **Chairman Brackett** called for a roll call vote. **Senators Winder, Burtenshaw, Buckner-Webb, and Nelson** voted aye. **Chairman Brackett, Vice Chairman Crabtree, Senators Den Hartog, Lodge, and Rice** voted nay. The motion failed.

**VOICE VOTE
ON ORIGINAL
MOTION:**

The motion to send **H 106** to the 14th Order of Business for possible amendment passed by **voice vote**. Senator Rice will carry the bill on the Senate floor.

H 126

Chairman Brackett invited Representative Kauffman to present **H 126** to the Committee.

Representative Kauffman stated that **H 126** is a very simple bill that pertains to oversized loads. Idaho Code says that a truck can use 18 inch by 18 inch flags for the front of a vehicle and 12 inch by 12 inch flags on the back. In order to conform to an Idaho Administrative Code rule, align with the Federal Motor Carrier Safety Regulations and the requirements of surrounding states, **H 126** changes the size of red or florescent orange flags hung at the end of an oversized load on a vehicle to be a minimum of 18 inches by 18 inches. **Representative Kauffman** concluded by asking for a do pass recommendation.

MOTION:

Senator Lodge moved to send **H 126** to the floor with a **do pass** recommendation. **Senator Rice** seconded the motion. The motion passed by **voice vote**. Senator Lodge will carry the bill on the Senate floor.

HJM 6

Chairman Brackett invited Representative Raymond to present **HJM 6** to the Committee.

Representative Raymond said the purpose of this joint memorial is to establish the need for local and stakeholder involvement as it relates to highway safety, highway improvements, and vehicle/wildlife interactions when the National Environment Policy Act (NEPA) process becomes involved in publicly funded projects.

This memorial has been brought because of an issue being processed in eastern Idaho. The Idaho Transportation Department (ITD) proposed a highway improvement project on Highway 20 near the State border with Montana. The proposal triggered a threshold where the NEPA process kicked-in. That process is meant to allow everyone involved to have a voice in the process and in the project.

Several people had ideas about how the project, that included several wildlife crossings and the associated fencing with those crossings, should look. As the project progressed and local government leaders and local citizens became involved, it was determined that a more conservative approach could be taken to resolve the issues between wildlife and vehicle interactions and collisions. NEPA, the Federal Lands Policy Management Act, and other federal and state laws created a very big umbrella to include all stakeholders that required local cooperation. All the agencies working on the same project, however, displayed limited coordination with the distribution of updates and other important information. That was the impetus for this memorial.

Representative Raymond closed by stating the memorial basically asked that stakeholders be fully informed whenever wildlife crossings and infrastructure are proposed as an option for transportation projects, and that ITD be given clear guidance to that effect.

DISCUSSION:

Senator Winder asked if these were above or below grade crossings.

Representative Raymond said that in this particular case, they were over grade crossings.

Chairman Brackett asked if he was advocating for local participation or no wildlife crossings. **Representative Raymond** said he was advocating for local participation.

MOTION: **Senator Burtenshaw** moved to send **HJM 6** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion passed by **voice vote**. Senator Burtenshaw will carry the bill on the Senate floor.

ADJOURNED: With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:38 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary