

**MINUTES**  
**SENATE INTERIM COMMITTEE ON TRANSPORTATION, TECHNOLOGY AND LEGISLATIVE**  
**AFFAIRS**  
**HOUSE INTERIM COMMITTEE ON PUBLIC TRANSPORTATION**

**Tuesday, July 26, 2011**  
**Room B, MAC**  
**Little Rock, Arkansas**

The Senate Interim Committee on Transportation, Technology and Legislative Affairs, and the House Interim Committee on Public Transportation met jointly on Tuesday, July 26, 2011, at 10:30 a.m., in Committee Room B, MAC Building, Little Rock, Arkansas.

**Committee members in attendance:** Senators Linda Chesterfield, Senate Chair; David Wyatt, Vice Chair; Jake Files, Mike Fletcher, Jeremy Hutchinson, Missy Irvin, and Bill Sample; Representatives Jonathan Barnett, House Chair; Denny Altes, John Catlett, Efreem Elliott, David Fielding, Mary "Prissy" Hickerson, Jon Hubbard, Loy Mauch, Walls McCrary, David Meeks, Reginald Murdock, Betty Overbey, Leslee Milam Post, Gary Stubblefield, and Tommy Thompson

**Also attending:** Senators Paul Bookout and Jimmy Jeffress; Representatives Nate Bell, David Branscum, Jerry Brown, Gary Deffenbaugh, Billy Gaskill, Jeremy Gillam, Sheila Lampkin, Buddy Lovell, Mike Patterson, James Ratliff, Garry Smith, Randy Stewart, and Jon Woods

Senator Chesterfield called the meeting to order.

Proposed Rule – Arkansas Highway and Transportation Department – Amendments to Regulations for Access Driveways to State Highways (Exhibit C)

Representative Barnett advised that the proposed rule was referred to the Committees by the Administrative Rules and Regulations Subcommittee during its meeting on Wednesday, July 13, 2011.

Representative Barnett recognized Mr. Tony Sullivan, State Maintenance Engineer, and Mr. John Mathis, Assistant State Maintenance Engineer, Arkansas Highway and Transportation Department (AHTD), to discuss the proposed rule changes. Mr. Sullivan stated the AHTD amendments provide design standards for the safe movement of traffic in and out of private properties with a minimum of interference and hazard to highway traffic. Driveway permits are divided by commercial, non-commercial, and temporary usage. Mr. Sullivan stated that AHTD made a decision to set a minimum \$750 bond, an increase of \$250, on commercial driveway permits. The bonds had previously been calculated using a sliding scale method of 5% of an estimated project's total. This method has become arbitrary. The \$750 bond is returned to the commercial business upon project completion. Mr. Sullivan was asked to give the reason for the bond increase from \$100 to \$750 for temporary driveways. Mr. Sullivan said many of the temporary driveways are used by timber and logging companies that cause a lot of damage, and tend to abandon the driveways without repairing the damage. The last cost increase for temporary driveway permits occurred in 1990. In response to a question, Mr. Sullivan said the process of scheduling a public hearing has started.

**Senator Chesterfield made a motion to consider the rule reviewed. Senator Irvin seconded the motion, and it was approved.**

Presentation on Commercial Drivers Licenses (CDL) Proposals (Exhibit D)

Representative Barnett recognized Representative Tommy Thompson for a presentation. Representative Thompson referenced the Federal Motor Carriers Safety Administration (FMCSA) Notice, which is a notice of request for public comment (Exhibit D). Representative Thompson introduced Mr. Jeffrey Hall, Arkansas Farm Bureau, and Mr. Robert Stobaugh, a Conway County farmer, to speak on the following issues:

- Interstate and intrastate movement of farm products

- Crop share agreements between farmers and landowners
- Movement of farm implements on state highways

Mr. Hall stated the FMCSA public comment period was originally due to expire on June 30, 2011. Farm Bureau asked the Arkansas congressional delegation to request an extension, which was granted with a new comment period due to expire August 1, 2011. The FMCSA is seeking input for guidance on a uniform application of safety regulations.

Mr. Hall advised that the United States Department of Transportation Federal Highway Safety Administration issued guidance in 1975 that stated agriculture products should be considered interstate commerce because farmers intend for their crops to be sold out of state. The Arkansas Farm Bureau disagrees. Mr. Hall gave an example of the large amounts of rice grown in Arkansas, not only in the United States but out of the United States as well. Farm Bureau believes the movement of agriculture products should be considered intrastate commerce, and is concerned the final guidance document will require farmers and ranchers to meet the same regulations as over-the-road truck drivers. Mr. Hall added many Arkansas farmers have crop share agreements with landowners, which helps to lower overhead and mitigate risk. Farm Bureau believes the crop share lease agreements should not be considered part of commercial carriers. Farm Bureau does not believe farm equipment and implements of husbandry should be considered as motor vehicles subject to Commercial Drivers License (CDL) regulations.

Representative Barnett recognized Mr. Robert Stobaugh. Mr. Stobaugh stated that his family farms approximately 5,500 acres, which covers 14 miles. His equipment is moved over approximately 5 miles of county, state, and interstate highways. His major concern is the movement of farm equipment and the possibility that a CDL will be required. When asked what type of license is currently required to move tractors and equipment on public roads, Mr. Stobaugh replied only a standard driver's license is required.

Representative Barnett recognized Chief Ron Burks, Arkansas Highway Police. Chief Burks stated the FMCSA request for public comment came from issues in other states. The State of Illinois interprets the regulations for tractors or instruments of husbandry traveling on roadways as subject to commercial motor vehicle regulations. Chief Burks pointed out Arkansas does not have that interpretation. There is minimal guidance in the current FMCSA regulations regarding farm implements traveling on the roadway. However, there is interpretive guidance in the regulations concerning off road construction equipment. Chief Burks said the FMCSA proposes implementing the same interpretive guidance for farm implements for incidental travel along the roadways and making it clear in the regulations they are not commercial motor vehicles, for the purpose of the motor vehicle safety regulations.

Representative Barnett suggested the Committees work with Farm Bureau to prepare a letter from the Committees to be submitted for the public comment period. He said a draft of the letter will be provided to Committee members for review and approval before being sent. Senator Chesterfield suggested the letter also be sent to Chief Burks for review. Other legislators in attendance asked to also receive the letter.

**Representative Stubblefield made a motion for staff to draft the letter and submit it to FMSCA by August 1. Representative Catlett seconded the motion, and it was approved unanimously.**

#### Discussion of Federal Mandates for Traffic Sign Retroreflectivity (Exhibit E) Handouts

Representative Barnett recognized Mr. Tony Sullivan, State Maintenance Engineer, Arkansas Highway and Transportation Department (AHTD), and Mr. John Mathis, Assistant State Maintenance Engineer, AHTD, for discussion of federal mandates for sign retroreflectivity (Handouts 1-5). Mr. Sullivan stated Congress passed a mandate in 1993 as a section of the Federal Department of Transportation's appropriation act for sign retroreflectivity. He explained the Congressional mandate and said the mandate is included in the publication, "Manual on Uniform Traffic Control Devices (MUTCD)". The MUTCD provides design standards for the

application of traffic control devices. The Federal Highway Administration (FHWA) published a Notice of Proposed Amendment in July 2004 with changes to the MUTCD. The Arkansas State Highway Commission adopted the 2009 version of the MUTCD as the guide for AHTD. The MUTCD has a January 2012 compliance date for minimum changes to the retroreflectivity requirements. Mr. Sullivan noted the compliance dates when cities, counties, and the state must establish a sign maintenance program on the new minimum sign retroreflectivity requirements. Copies of letters the AHTD sent to counties concerning the new requirements were provided to the Committees (Handouts 1&2). Mr. Sullivan said there has been some confusion concerning the regulation requirements. The regulations require that signs meet the new standards as they are replaced due to breakage, wear, or vandalism.

Representative Barnett recognized Mr. Dan Douglas, Benton County Justice of the Peace, and Mr. Chris Villines, Executive Director, Association of Arkansas Counties (AAC), to discuss concerns counties have in meeting the requirements. Mr. Douglas discussed a bill introduced in the U.S. House of Representatives, HR2442, the Rural County Mandate Relief Act of 2011, whose sole purpose is to repeal the unfunded mandate in the MUTCD. He said the Benton County Quorum Court Transportation Committee met July 1, 2011, to approve a resolution in support of HR2442. They plan to send the resolution to Congressman Steve Womack and both U.S. Senators. Mr. Douglas stated the Benton County Quorum Court would like the legislative Transportation Committees to support HR2442.

Mr. Villines expressed his belief that the AAC will join with other state associations in support of HR2442. The Committees discussed the appropriateness of legislative committees acting as a vehicle for county government. Representative Barnett suggested that AAC and the County Judge's Association work together to send a letter to individual committee members and members of the House and Senate, asking them to support HR2442 on an individual basis.

There being no other business the meeting adjourned at 12:30 p.m.