

Senate Transportation Committee

Minutes
2010



MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: January 14, 2010

TIME: 1:30 p.m.

PLACE: Room WW02

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS 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.

MINUTES: The regular meeting of the Senate Transportation Committee met jointly with the House Transportation and Defense Committee to hear the Idaho Department of Transportation (ITD) present the status and updates of ITD. **Chairman McGee** called the meeting to order at 1:30pm. He asked the secretary to take a silent roll and all members of both Committees were present. He introduced **Darrel Manning**, Chairman of the ITD Board to begin the presentation.

Mr. Manning thanked the Legislature for their time devoted to ITD. He asked for input in consolidating reports for the Legislature so that reports include only information helpful to the Legislature in their assistance to ITD. **Mr. Manning** introduced **Brian Ness**, the new Director to ITD, stating that **Director Ness** comes to Idaho with experience in Rural Iowa, as well as experience in the Michigan Department of Transportation for 30 years. **Chairman McGee** thanked **Mr. Manning** for his comments and introduced **Director Ness**.

Director Ness thanked the Committees for their time and stated that he looks forward to representing ITD and getting to know the individual members of the members of the Legislative Transportation Committees. He stated that he is prepared to take on the role as Director with much experience including the areas of highway, aeronautics and transit working in both Michigan's Transportation Headquarters and District Offices during his 30 years with Michigan's Transportation Department. Although his is from Michigan, his is no stranger to the Western United States and has family in the area. He also stated that he researched Idaho's Department of Transportation in preparation for his interview with the Board of Directors and found ITD to have dedicated employees and be a great place to work. He emphasized that the Legislature plays an important role in effective communication which assists ITD in making

sound and appropriate decisions. **Director Ness's** vision is for ITD to be the best Department of Transportation in the country and he will continually strive to achieve that. As Director, Ness will review every program and expense to ensure that taxpayer money is being spent wisely. **Director Ness** expects that he and ITD will be judged by accomplishments and results. **Director Ness** then gave a brief introduction of **Scott Stokes**, the Deputy Director of ITD. **Chairman McGee** introduced **Mr. Stokes** to The Committees.

Mr. Stokes began by thanking Governor Otter and Legislative leadership for the opportunity, through the Office of Performance Evaluations (OPE) audit, to enhance the Department in several aspects. He specifically discussed the OPE audit in regard to performance goals and accountability. ITD is embracing the recommendations of the OPE audit and is ahead of schedule in some cases of implementation of the recommendations of the OPE audit. **Mr. Stokes** stated he will also cover the status of the current system as an update for the Committees. The accountability aspect of the presentation will include management of stimulus funds, GARVEE, and the budget.

The four performance goals of ITD are to ensure the transportation system is safe, the roads and bridges are smooth and unrestricted, services are provided timely and cost effectively and the users are satisfied with DMV services. ITD has developed draft performance measure for each of these goals in order to realize the goals. These performance measures are drafted to help confirm system accountability and credibility. ITD is on track and ahead of schedule with the Executive Order benchmarks for performance measures.

Last Year, the Legislature provided direction funds for ITD to purchase Management Systems Technology. ITD has studied the systems of surrounding states and met with systems experts in Utah and soon Wyoming in order to understand the best practices in the country and create the best performance management. Combining best aspects of all systems allows ITD to capture best materials and will reward ITD for hard work. The new system will combine maintenance and pavement management into one integrated system. Users will be able to capture material, equipment, and labor costs as well as future forecasting and resourcing. Goals and performance measures will be linked with planning and work activities. A contract has been worked with a vendor to install the systems and work began to install the new system on Jan 4. The system will be fully utilized in January 2012. There will be training for ITD employees regarding the new system in the interim. By all accounts, ITD is ahead of schedule in relation to implementing management systems.

One of the recommendations made by the OPE audit was a system plan to tie strategic goals together. This will allow ITD to prioritize for performance based project selection and will improve state selection of new projects and transparency projects built. Prioritization will improve STIP and corridor plans. Executive Order provided January first as a deadline to being the prioritization plan, however, ITD began working on the prioritization plan in June 2009, demonstrating that ITD is ahead of

schedule for the statewide transportation plan. There are reports available at www.ITD.idaho.gov, if anyone wishes to see the prioritization of projects illustrated. Annual Accountability Reports will be available early next week (1/18/2010).

Mr. Stokes then discussed the general funding issues, stating that since 1997, the last first full year of the last fuel tax increase, the general fund, has increased 77%, even with the decrease from 2008 to 2009. ITD does not receive any general fund revenues. ITD's state funding has grown 16% since 1997. Therefore, ITD is currently operating on state revenues similar to 2001 revenues, even without discounting for inflation. ITD has managed the flat revenue trend by protecting and preserving essential services and prioritizing the activities key to preserving the system and current investments.

In responding to questions as to how revenue challenges have affected the STIP, the Board has focused on operating, preserving and restoring the system as the highest priority. The Board has made necessary decisions including eliminating preliminary development, reducing the rest area program, reduced system planning programs including CMAQ, and stopping new expansion projects, with the exception of those already under contract or ready for contract.

In order to preserve the condition of roads, ITD has cut programs and adjusted funding priorities to maintain the current system and preserve the existing highways and bridges which Idaho has invested billions of dollars to build. ITD will Prioritize in order of operations and preservation, restoration and lastly new construction or expansion. In order to prevent system deterioration, in 2009, ITD was able to pave 964 lane miles, up from the 600 lane miles which must be paved per year in order to maintain roads to be in the same condition they are in today. This brought 82% of ITD pavements to fair or good condition, compared to 80% last year. This was a one-time infusion and by the year 2013, ITD will be able to pave only 293 lane miles. Without increased funding, the condition of Idaho's roads will rapidly decrease.

The stimulus program allowed ITD to replace the 60-year-old Dover Bridge and rehabilitate and replace the decks of 16 bridges. However, replacing and preserving bridges is still a huge challenge. Idaho's bridges are rapidly aging. For example, 540 bridges are currently older than 50 years. In 6 years, over 50% of Idaho's bridges will be 50 years old or older. This will create a balloon payment in bridge replacement, but also magnifies bridge maintenance and repair demands. At the current rate ITD is replacing bridges, each bridge will have to survive nearly 120 years.

Next, **Mr. Stokes** discussed highway safety, stating that 223 people lost their lives on Idaho highways in 2009. There has been a continual reduction in lives lost from year to year. There was a 4% decline from 2008 to 2009. ITD believes that one death is too many and is magnifying efforts to find innovative way to push the trend further downward. ITD makes data driven decisions to improve the safety of Idaho's roads. The

three primary contributors to traffic deaths are aggressive driving (speed), impaired driving, and failure to buckle up. Safety is ITD's highest priority. ITD works to promote safe roads and to encourage Idahoans to take personal responsibility when they get behind the wheel. In wrapping up his presentation, **Mr. Stokes** stated that the Idaho Transportation Board and ITD are making necessary choices in which programs to cut and which to preserve in order to maintain roads and bridges; however, without adequate funding in the future, the condition of Idaho's roads and bridges will decrease rapidly at great cost to Idaho's citizens.

He ended by stating that ITD embraces the guidance and recommendations of OPE audit and the Executive Order. ITD is pursuing these improvements with full energy. He thanked the Governor and the Committees for the opportunity to transform ITD into an industry leader. He gave an introduction of **Chief Engineer, Tom Cole**.

Chairman McGee introduced **Mr. Cole**. He stated that the 2009 year was unique in that the national stimulus passed by Congress brought an additional \$182 million for Idaho transportation. **Mr. Cole** discussed criteria used to consider projects to use the \$182 million. ITD considered projects that meet the federal stimulus criteria and also met some additional criteria which included long lasting impact of the project, and projects that involved the most jobs and variety of trades. The Bill required a certain percentage of the funds to be distributed to the Transportation Management Area which amounted to approximately \$11 million dollars. The board also made the decision that they would distribute funds to locally sponsored projects in the amount of approximately \$17 million dollars. The remaining \$154 million dollars were to be used on the state highway system. Eight major projects were selected from all around the state with an estimated value of \$154 million dollars. Once the original eight projects were bid, ITD realized a savings of approximately \$50 million dollars. Therefore, the districts prepared an additional eleven projects for bidding which are soon to be under contract. Some of the projects in Eastern Idaho, Rigby High School turn lanes and Henry's Lake passing lanes, have actually been completed. Once all of these projects have been awarded, it will represent approximately 2100 jobs created or retained by the industry. Currently Idaho has obligated 98% of the original 182 million dollars, which places Idaho in the top ten nationally. The Idaho Transportation Board was able to fund projects in many different categories. The board also funded some projects in the enhancement category and the enhancement category was the only one required by the Bill to have a certain percentage of the funds set aside for projects. The Board had the latitude outside that category to fund types of projects that met the funding criteria.

Chairman Wood asked if bridges qualify under enhancement projects. **Mr. Cole** replied that they do not. He further explained that the projects that were selected were located throughout the state. If anyone is interested in more in-depth information on any specific project, information can be found at the ITD website under the accountability tab and a list of projects with detailed information is available, including the cost of the job and whether individual jobs were created or retained because of that job.

Congress is again working on a stimulus bill. The version that has passed the House of Representatives would provide a similar amount of funding as the 2009 stimulus bill. The additional funding will allow for another much needed shot in the arm for Idaho's highways. The bad news is that the strings or restrictions in the second stimulus are much more limiting than those in the previous stimulus. The 2009 stimulus bill required that 50% of the funds be obligated within 120 days. The term obligation means that the projects were ready to bid. The second stimulus as it currently stands, would require 50% of the funds to be under contract within 90 days. "Under contract" means that ITD would have gone through the bidding process and have an executed contract and the contractor could start work on the 91st day. This requirement is extremely restrictive for Idaho. Historically, the average bidding and awarding process has taken an average of 92 days. ITD has a great attitude regarding tackling challenges such as this one. For this reason the challenges which ITD faces may not seem as daunting from the outside looking in as from the inside looking out. All funding would potentially give ID more money, but requirements are far more limiting. In 09 obligation had to be fulfilled in 21 days. Under current bill, req 50% of work to be under contract in 90 days. Historically in Idaho, it takes 92 days to award a contract. ITD is doing everything possible to position the Department to adapt to these changes and position itself to be ready to meet the obligations needed to qualify for these funds should they become available under the potential second federal February 4, 2010 stimulus package.

Chairman Wood asked whether the environmental impacts departments will be able to help speed up the bidding process or whether the time required for environmental impact statements may interfere with meeting the obligations for the requirements under the current federal legislation.

Mr. Cole replied Projects that are currently identified are not ones that have environmental issues. The process takes time because of things identified by code

Mr. Cole stated that he would like to publicly acknowledge ITD for their efforts during the last year to put Idaho in it's current status of delivery of projects. He stated that he is proud to represent ITD and thanked them as an ITD employee and also as an Idaho taxpayer. **Mr. Cole** gave a brief introduction of Jason Brinkman, the ITD GARVEE manager.

Chairman McGee Introduced **Jason Brinkman**, GARVEE manager at ITD. **Mr. Brinkman** stated that it has been a good year with GARVEE. He stated that his presentation will include an update on bonding, information on bid savings, reapplication of those savings, and a summary of this year's GARVEE funding request.

Mr. Brinkman began his presentation by stating that the Legislature has authorized bonding for the GARVEE program each of the last four years, in a total amount of \$681 million dollars. Of that amount, ITD has bonded \$657 million dollars. As of today, ITD has \$560 million dollars of contracts underway or already completed. Eleven contracts, some \$200 million

dollars worth, were let in 2009 alone. ITD expenditures against contracts now exceed \$400 million dollars, with work underway on the remaining amount. Two additional contracts for Interstate 84 work in Nampa, along with right-of-way purchases on SH-16 and US-95, will commit the rest of the bonded funds before the end of the year. ITD estimates that with the contracts in place today, that GARVEE has already created or sustained 10,000 jobs. ITD is also pleased to announce that the total program is currently 10 percent under budget. Approval of this year's funding request would allow ITD to continue with the momentum.

Mr. Brinkman described the specific accomplishments of ITD stating that on US-95, from Worley to Setters to the south of Coeur d'Alene, all GARVEE work is completed with the wider, straighter, safer finished product open to the public. On US-30, southeast Idaho, all remaining GARVEE work is underway to widen and straighten the highway between McCammon and Lava Hot Springs. Moving to Interstate 84, from Orchard to Isaacs Canyon in Boise, all remaining GARVEE work is underway with three highly visible contracts in progress to add lanes and upgrade interchanges. Also, on I-84, on the vital western corridor through Nampa and Meridian, the two remaining construction contracts will be underway by this spring.

The first four corridors are now fully funded for completion of the planned scope fo GARVEE. The other two corridors will need future funding. Mr. Brinkman continued by explaining projects which are currently underway including another construction project on US-95 and on I-16.

Moving on to discuss bonding, **Mr. Brinkman** stated that the bonding authority which the legislature gives to ITD makes the accomplishments of ITD possible. ITD is in the process of wrapping up the fourth successful bonding sale which was accomplished in a single day. A combination of market conditions and the use of limited-time federal interest rate rebate known as Build America resulted in the lowest effective interest rate to date, of just 4.08%. That brings the aggregate interest rate, for all previous bonding to 4.54%. The recent sale brings the total amount bonded to \$657 million dollars, meaning that ITD has bonded for all except \$24 million dollars authorized. The remaining \$24 million dollars are reserved for a right-of-way and construction project on US-95. ITD intends to bond the \$24 million for that right-of-way project, along with the \$26 million additional dollars which ITD is requesting for a future bond sale of \$50 million dollars later this year.

Lastly, **Mr. Brinkman** discussed Bid Savings. He stated that on the 11 construction contracts awarded in 2009, ITD realized \$55.5 million dollars in bid savings.. The Board has fully reallocated these savings to advance phases of 4 existing GARVEE projects in accordance with the guidance the Legislature provided in the 2009 GARVEE appropriation bill. **Mr. Brinkman** emphasized the savings again by explaining that the \$55.5 million dollars in advances would have been requested in this year's funding request if ITD had not realized the bid savings. This would have resulted in a request which would have easily been in excess of \$80 million dollars this year. **Mr. Brinkman** stated that this concludes his

discussion and stated that **Mr. Stokes** would continue the presentation with miscellaneous items. After a short discussion, **Chairman McGee, Chairman Wood** and **Mr. Stokes** decided that, due to time constraints, the remainder of the current meeting would be used for a question and answer session and the miscellaneous items will be addressed in the next Senate and House Transportation Meetings separately.

ITD instituted an \$8.6 million internal holdback or 3.7% of state appropriation based on the revised August Forecast. This holdback is not part of the process the Department uses in consultation with the Board to ensure that expenditures do not exceed revenue. Since that time, revenue has come down an additional 1.6% or \$1.6 Million. Should this trend continue, revenue will decrease a total of between \$3 million to \$4 million for this fiscal year. Revenue for the Aeronautics program is also weaker than appropriated and we have implemented, with the agreement of the Aeronautics Advisory Board, a \$348,000 internal holdback. ITD has also implemented the 3% reduction in personal funding as appropriated. Each division administrator is managing their budget according to the appropriation by eliminating paid overtime, reducing the use of temporary employees, not filling temporary positions and delaying filling some permanent positions. These actions are in addition to the 10% reduction in administrative costs including the transfer of 18 positions to "front-line" positions completed in December 2008.

Last Legislative session, a number of legislative bills passed to provide ITD with additional revenue. The appropriation for these bills amounted to \$26.7 million. The revised August forecast for these bills are \$21.3 million or \$6.4 million less than appropriated and is the majority of the \$8.6 million mentioned previously. The new revenue was appropriated to two areas, DMV system modernization and state funded construction projects.

The DMV system modernization was funded at \$5.6 million. With this funding, the business analysis of both the functional and technical requirements for the system are being completed. Also the development of an RFP for the system replacement is being completed. The total cost for this effort in this fiscal year is \$1.6 million. The release of the RFP will be accomplished by summer of this year. ITD recognizes the magnitude of replacing the DMV system. In order to mitigate the risk of this project, ITD has chosen a solution provider for the full system. This means that the balance of the appropriation of \$4 million will still be needed in a future year, but will not be used in this fiscal year. This does not delay the implementation of the DMV system replacements which is currently scheduled for 2014.

The next area of funding for the new revenue provided by last year's legislative session is to focus on infrastructure preservation projects. There are 9 projects identified in the bridge program and 6 projects in the

pavement program for a total of \$15.6 million.

The ITD Fiscal Year 2011 budget is based on the Governor's recommendation. The funds total \$579.5 million and 1,826.5 FTP's. This is a reduction of 7 FTP's from last year. The funds are made up of \$302 million Federal dollars; \$244 Million State dollars; \$26 million in Bond Proceeds, and \$7 million in other funds. These funds will go to contract construction, bond proceeds, debt service, and the Division of Highways making up 87% of total funds.

The recommendation for the FY2011 budget is to reduce ITD's full time positions by 7 and make additional identified program adjustments of \$25 million for a program maintenance budget of \$494 Million and 1,826.5 FTP's.

There are eight line item budget requests.

The additional GARVEE funding request is \$26 million and a debt service of approximately \$49 million. This is a total budget funding of \$579 million and 1,826 full time positions.

From 2010 – 2011 there is a shift in funding for ITD from a majority of funding coming from the state, to the federal funds making up 55% of the total budget request. Please note that this does not include the federal Stimulus funds.

Mr. Tolman refers to slide 33 of attachment 1 to explain the sources of revenue.

Mr. Tolman finished his discussions by stating that ITD has submitted a balanced budget. He gave an overview of his speech by emphasizing the major points including that ITD manages the budget for resources and makes the necessary adjustments so that expenditures do not exceed revenue. ITD has monthly Budget Council meetings in which the entire budget including revenue trends are discussed and adjustments are made if necessary. Staff briefs the Board monthly so that they can meet their fiduciary responsibility. The entire budget management is accomplished by highly trained and dedicated staff not only at headquarters, but also at the district and program management levels. This team effort is dedicated to giving taxpayers the best value for the funds they provide.

Chairman McGee thanked the presenters for their presentation and asked the Senators and Representatives if they have any questions for the presenters.

Representative Matthews asked **Mr. Cole** if, with the second federal stimulus package, there are concerns for obligations to meet the

requirement to have projects contracted in 90 days. **Mr. Cole** replied that there are concerns and that ITD is doing their best to make the 92 day process meet the 90 day requirement should the Second Stimulus Package become available.

Representative Matthews followed up his first question stating, "In that case, we hope for best, but plan for worst." He asked what the ramifications would be for ITD if there was a snag in the budget process and balanced budget requirements. **Mr. Cole** replied that, first, the money left from 90% of the money which had not been awarded, would be lost. Second, if the requirement was not met, as a state, Idaho would not be eligible to participate in the redistribution to get what another state has lost because that state did not meet their 90 day deadline.

Chairman McGee followed Representative Matthew's question asking whether there are enough "shovel-ready" projects so that ITD will be prepared in case the Second Stimulus does become available. **Mr. Cole** stated that the District is working on projects currently sitting in HQ waiting to start bidding projects. If they bid \$90 million and one is low, they lose it. They typically will have around 20 projects in one bid opening and normally 4 or 5 are awarded. Trying to have projects in the range of \$115 to \$100 million range prepared. **Mr. Stokes** followed up by answering that the ITD team will develop 3 or 4 options and critical timeline to provide to Governor's Office and committees for appropriation and that the Governor must provide certification.

Representative Ringo expressed that she is impressed with what has been completed under GARVEE and employment provided but voiced concern about the debt service. **Mr. Stokes** replied that the department debt service is well under that allowed by the legislature.

Chairman McGee confirmed **Mr. Stokes** intent to infer that the debt service is within the limits set by the legislature.

Representative Hagadorn wondered if local highway districts that receive the \$122 billion are held to the same standards and reporting requirements as ITD. **Mr. Manning** responded that the local departments are held to the same goals and standards. He also stated that ITD has been monitoring the local projects and that they have been doing a good job. **Representative Hagadorn** questioned whether the reports and charts will be similar from the local entities as has been seen from the state and **Mr. Manning** replied that ITD does not have the jurisdiction to control the reporting of over 200 local jurisdictions but most report in compliance with federal standards.

Representative Hart expressed that in years past the industry was moving at a fast pace with the economy slowing now and projects getting a better value for the money. He wondered if money could be set aside during good years to capture the value possible during slower years. **Mr. Stokes** indicated that the past year was at an all time high in construction work and payout, but that the bidding environment was very competitive. ITD watches the construction producer price index and plan accordingly.

Senator Winder asked if the delay in readying projects was due to state or federal codes and requirements. **Mr. Stokes** replied that it is largely state requirements that have to be met i.e. putting projects out to bid, allow bid review time, accepting the bid, having contractors obtain required bonding and insurance and securing sub-contractors

Chairman McGee indicated that if there was anything the legislature could do or agree upon to shorten the preparation time and help meet federal requirements to advise the Chairman and the Committee will be ready to assist.

Senator Winder recalled previous discussion about saving time if there could be an agreement with the contracting community and suggested that ITD please work with contractors to help with time constraints. **Mr. Stokes** agreed that was a good suggestion but expressed concern. He stated that ITD is working on two or three strategies on how the process might be expedited. **Senator Winder** commented on a former program that was moving toward zero deaths (nationwide program). Statewide transportation officials took part in this. Is there any effort to do this as we continue to look at different ways to reduce fatalities on our highways. **Mr. Stokes** replied that statewide safety is currently under that theme and will continue to use data and in March would have an updated strategic highway plan that will be smarter than before.

Vice Chairman Hammond spoke about how the Department has changed over the years and gone to the Horizons program to be more aggressive about having projects ready to go should additional funding become available. He inquired as to how the Horizons program prepares the Department to be ready in regards to be ready to go. **Mr. Stokes** explained that there are still a couple of projects ready to go out of Horizons program. Beyond stimulus 2 there is concern about the ability to have projects ready, therefore there is a question as to whether this is leaving us in a proper readiness situation. **Vice Chairman Hammond** made a subtle suggestion about a project on I-90 near Post Falls.

Senator Broadsword asked if other states don't use money in a timely manner, would the money be available and wondered if appropriations of

a second stimulus would come through JFAC or be direct grant? **Mr. Stokes** answered that in last stimulus all states met their requirements. Idaho has always been in the top ten of projects being delivered and obligated. He also clarified that second stimulus money would be handled the same way as previous stimulus money. The state makes the initial payments and then the funds are reimbursed to Idaho. **Mr. Tolman** further clarified that appropriation process would redistribute funds. Whether the legislature is in session or not there are provisions to appropriate funds as quickly as possible.

Senator Heinrich asked if all stimulus projects that are being awarded are listed on the schedule and inquired further whether consideration is given to how long a project has been on the list. **Mr. Stokes** explained that ultimately projects are required to be on stip. To the extent that we can advance those on the stip we do. The stimulus program was heavily weighted towards readiness. We are looking for the most appropriate ready projects.

Senator Bilyeu then asked **Mr. Cole** for an update on wildlife fencing projects on I-15 near Blackfoot. **Mr. Cole** replied that if there is a second stimulus, the district engineer has proposed that specific project. The district is ready to go whether there is stimulus money or not. **Senator Bilyeu** followed up by expressing her understanding that there was not cooperation with Fish and Game to put up netting, etc, and questioned why ITD could not just finish the project. **Mr. Cole** indicated that it is not a contracted job and that several entities have to work out details and partnership to finish the project.

Senator Broadsword asked what effect the reduction in funding for rest areas from \$10 million down to \$3.2 million has had on the traveling public. **Mr. Stokes** commented that it depends on the age of the constituent. He reported that ITD has received more criticism on spending more money on rest areas than removing the rest areas.

Chairman Wood asked if ITD could continue the presentation in the next house meeting and whether ITD would need to bring staff to finish? **Mr. Stokes** replied that everyone present from ITD will not be needed for him to explain the miscellaneous items in his presentation.

Chairman Wood asked that ITD and the House Committee plan on finishing the presentation in the House Transportation Committee and **Chairman McGee** agreed that the presentation continuation needed to be presented to the Senate Transportation Committee as well.

Chairman McGee expressed thanks for the valuable and educational

presentation and asked that ITD come back with shovel ready projects.

Chairman McGee adjourned the Committee at 2:56 pm

Senator John McGee
Chairman Senate Transportation

Lizzie Kukla
Secretary

Representative Jo Ann Wood
Chairman House Transportation and Defense

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: January 19, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the meeting to order at 1:32pm. He introduced Mr. Scott Stokes, Deputy Director, Idaho Transportation Department for the Presentation of Miscellaneous Items continued from Joint Germane Presentation. **Chairman McGee** then introduced the Committee Secretary, Lizzie Kukla and asked the Page to introduce herself. **Mr Stokes** then continued his presentation by discussing the miscellaneous items including the EPA fines. He also stated the relationship with the EPA partners is much stronger than previously. He then discussed the DMV modernization program. The new system will improve internal controls, prevent fraud, and improve services and delivery options for our customers. The new system will allow us to have "one person-one record" for each person containing all DMV information. This will allow us to provide data to law enforcement agencies more quickly. The system will have increased security against fraudulent ID's and will have decreased costs of \$284,000/year. **Senator Hammond** asked what the timeline was for more secure driver's licenses? **Mr. Stokes** responded that they expect to start later this year. **Mr. Stokes** then discussed Federal Reauthorization. The most recently passed Federal Highway legislation for funding expired in October 2009. We are now operating under a temporary extension of Federal Highway funding which moved the current authorization date to February 28, 2010. There is major debate in Washington between donor and donee states. Donee states receive more money than they pay into the federal highway trust fund. Idaho is a donee state. Donor states are seeking to increase their guaranteed return from 92-95 cents for each dollar paid. This could adversely affect Idaho. We have been able to exercise some flexibility lately in suspending air quality projects. However, due to the actions taken in Congress in the last eight months, we will have to start paying to continue these projects or pay a significant "federal aid penalty" which is a reduction in funding. **Senator Bilyeu** asked how the modernization program will affect staff and

will there be a reduction in staff because of it? **Mr. Stokes** deferred to Allan Frew. **Mr. Frew** said there is not an expectation for a reduction in staff, but we will have much better customer service. **Senator Corder** asked how much planning we do when a new federal program is coming and what will we see for weight limits if the regulations we have are not extended? **Mr. Stokes** said we track upcoming federal legislation very carefully, however we have to balance that with our productivity in house. We partnered with the State Department of Commerce and State Department of Homeland Security to expose our projects in the national arena. We have a staff member in house who follows federal legislation very carefully. **Senator Corder** commented that on a national level there is a desire to let our local regulators such as ISP continue to operate our commercial vehicle program and he would hope that we continue to support local regulators; we have some excellent local regulators and we'd like them to have more control, not less. **Mr. Stokes** replied that we make an effort to partner with other states such as Wyoming, Montana, Oregon and South Dakota in finding commonality on these issues and we have achieved a significant national voice on issues to rural states. **Senator Hammond** asked about the donor/donee state issue and distribution of funds? Is there any effort now for the states west of the Mississippi to band together because they are most likely the donee states? **Mr. Stokes** responded that in the past week, Paula Hammond, Secretary of the Oregon State Department of Transportation, is working with us and Nevada, Montana, South Dakota, Wyoming and Washington in preparing statements that recognize us as a group instead of individual states. **Senator Broadsword** asked about the Mica Project and the consent decree between ITD and EPA; since the five year time period is over have we entered into another consent decree with EPA or is there no action or do you have a Memorandum of Understanding so we don't have a situation that escalates in fines in the future? **Mr. Stokes** replied the consent decree was entered into in 2006 and is very stringent. ITD had to have positions trained and people in place when the consent decree was signed. ITD believed the consent decree was relevant to new projects, but it was actually for all projects. The fines we received in 2006 were for current projects and we were not notified of the fines until July 2008. We believe the next round of fines will be noteworthy and significant; however, we now have a better understanding of the expectations. **Senator Broadsword** then asked if the EPA filed the fines or Idaho Department of Environmental Quality on behalf of the EPA? **Mr. Stokes** answered that it was EPA directly. **Chairman McGee** asked what funds the fines are paid from? **Mr. Stokes** responded that they have to be paid from state money, so they are from the State Highway funds. **Senator Heinrich** asked if the contractor involved in the projects has any responsibility for the fines? **Mr. Stokes** replied that if the responsibilities and the areas of the fines are clear cut, then we certainly pass the fines on to the contractor. That was one of the fundamental problems of the project to begin with; the lines of responsibility were not clear.

RULES:
11-1301-0901

Relating to defining "Commercial Motor Vehicle" and "Hazardous Material". **Vice Chairman Hammond** introduced Lieutenant Bill Reese, Idaho State Patrol. **Lt Reese** stated these changes are in Rule 002

Written Interpretations-Agency Guidelines, removing the sentence on formal declaratory orders because it is in Idaho Code 67-5232. Rule 004 Incorporation by Reference (Rule 4). Rule 4 had been Rule 9 and was moved to be consistent with current formatting. Rule 5 Office-Office Hours-Mailing Address and Street Address has been added. Rule 6 Public Record Act Compliance was Rule 4 and has just been moved, there are no other changes. Rule 7 Citation used to be Rule 6, Rule 7 Forms was changed to Rule 8 and Rule 9 Relief from Regulations used to be Rule 10. The new Rule 10 used to be Rule 5 and the definitions have been changed. Paragraph 01, section a originally did not include gross vehicle weight. It was covered in interpretation so it was enforced, but when the federal rules were updated they defined it more clearly. Paragraph 01. b “Is designed or used to transport more than eight (8) passengers, including the driver, for compensation; or” is new. Paragraph 01. c the wording was changed from sixteen to fifteen passengers, including the driver and not used for compensation. These two changes were because of accidents nationwide with the smaller vehicles. The majority of the people fall in the not for compensation category. They only have to follow three parts of the rules, they have to keep an accident registry, they have to fill out a motor carrier identification report initially and every 24 months and they have to apply for a Department of Transportation number. The only exception are the companies that go beyond the 75 mile radius and are for direct compensation. The best example are vehicles in Eastern Idaho that people pay directly to transport them to the airport in Salt Lake City. We have received no email or written comments on this change. **Senator Corder** asked if the CommuterRide vans considered to be commercial? **Lt Reese** responded those vans are owned by the counties and since they’re government owned, they’re exempt from regulations. On Page 9, paragraphs 05, 06 and 07; the rules were changed from Safety Program Manager to Commercial Vehicle Safety Program Manager for clarity. **Senator Corder** asked how the certification is to take place? **Lt. Reese** stated that if we do a compliance review on an intrastate motor carrier, the carriers are required to address each one of those violations that are found and tell us how they are going to become compliant. **Senator Corder** asked if this is what is being done right now? **Lt Reese** said no, a compliance review is when we come to your business and actually do an audit on your records. The end result is similar, you have an opportunity to tell us how you will fix the issues. On Page 10 under Rule 18, some of the headings have changed on the parts that we adopt by reference, there are no major content changes. Page 11, Rule 04 Hazardous Materials. The definition was changed to be consistent with the federal regulations. The list was deleted because they are not hazard classes and to avoid any confusion. On Page 13 the list from a-p was changed to be consistent. Page 14, 04 Version of Federal Regulations Adopted. This change is based on the most current federal version of October 2008. **Senator Corder** was concerned with the definition of familiarity rather than aware in Rule 02 Obligation of Familiarity with Rules. Even though drivers are required to sign a paper stating they are familiar with the rules, in six months they will have forgotten some of them. **Lt. Reese** responded that personally he doesn’t like the wording of “familiar” and realizes there are things a driver should

know and there are grey areas that they don't deal with a lot, so it's actually up to the individual officer, but if there is a grey area, you err on the driver's side.

MOTION: **Senator McGee** moved to approve Docket No 11-1301-0901, **Senator Broadsword** seconded, motion approved by **voice vote**.

39-0260-0901

Relating to License Plate Provisions. **Chairman Hammond** introduced Tom Fry, Registration Program Supervisor, Idaho Transportation Department. This is a pending rule, the result of changes based on **House Bill 602, 2008 Legislature** and **Senate Bill 1098, 2009 Legislature**. There were no public comments related to this Rule, industry representatives including the Idaho Dealer Advisory Board have reviewed this Rule and their wishes have been brought to us. The Pending Rule went into effect on August 2009. This Pending Rule is also the result of an Administrative Hearing finding. There is a need for a Restricted Vehicle Plate in Idaho for licensed motorbikes, all terrain vehicles and utility vehicle dealers. The vehicle dealer license plate restrictions such as the numbering system for the plates and who can use the plates is in Rules 150 and 151. In Rule 151, Section 01, paragraph g, it states that "vehicles displaying a dealer restricted vehicle plate are not required to display the Idaho Department of Parks and Recreation Off-highway registration to be valid, but are required to be validated in the same manner as are standard dealer plates and display the required annual validation sticker on the restricted plate. **Senator Corder** asked how can Idaho give drivers plates for off-road vehicles on roadways maintained by the Idaho Department of Lands, the Bureau of Land Management, and the US Forest Service, as stated in Rule 151, subsection f when we can't authorize people to travel on them? **Mr. Fry** responded that with the restricted vehicle plate, people can travel on any restricted lands unless the lands are posted specifically stating otherwise. **Senator Corder** stated that he doesn't remember the legislation stating it that way; the local authorities had to authorize which roads people could use. That is part of the problem with the existing legislation; people are driving on roads they are not supposed to be on because they are not marked. **Mr. Fry** responded these two bills reverse the process that was in place before. The law changed so if a driver has off-road restricted sticker they can operate in the area unless the agency posts sections of road for restricted use only. They can also operate on county roads if the road doesn't explicitly say they can't. **Senate Bill 1183, 2009 Legislative Session**, established a new wrecker plate, Rule 154 Provisions for Wrecker Plates. The purpose of the wrecker plates are for the exclusive use of businesses engaged in the towing of a wrecked, abandoned, salvaged, or disabled motorized vehicle. Plates shall not be used on vehicles being repossessed. The plate can be used on multiple vehicles and shows the vehicle is abandoned. In Rule 202, Provisions for Personalized License Plates, Paragraph 08. b, the provision was changed to add the plate cannot carry a connotation of sexual preference or orientation; act of violence, or illegal substances. Rule 204 was changed because of House Bill 226, 2209 Legislative Session, Permanent Commercial Trailer,-Business Logo Plates. **Senator Corder** asked about paragraphs 06 and 08 which state that the business owner has to be the person applying for the logo, but many trailers are leased? **Mr. Fry**

responded that there have been inquiries about these and the cost (\$2000) is an estimate for design of the plates. The owner has to be the person requesting the plate because of copyright issues. **Senator Corder** replied he couldn't buy a plate for most of his trailers because they are

leased and the people we lease them from wouldn't want to buy the plate. **Senator Hammond** asked if we were talking about the owner of the business or the owner of the trailer? **Mr. Fry** responded the lessor has the responsibility for liability, so for the purposes of this rule, the lessor would be the owner. **Senator Corder** made a follow-up statement that it is still two separate people and the rule says they need to be the same person. **Mr. Fry** stated he does not read the rule that the people have to be the same. They will periodically do a mailing to the registrar which will be both the lessee and the leasing company and the response will likely come from the lessor. For all practical purposes, they are the owner. **Senator Corder** read paragraph 06; "Business logo plates will only be issued to vehicles verified to be owned and titled in the name of the business applying for such logo. The person who owns the business and the person who owns the title, are two separate entities. **Mr. Fry** stated for purposes of registration, it would be the leasing company operated by, so both names would appear on the registration. **Senator Corder** stated paragraph 06 says owned and titled, not registration. **Mr. Fry** stated the rule may need some changes.

MOTION: **Senator Broadsword** moved to hold Rule 204 of Docket No. 39-0260-0901, until Rule 204 could be discussed further, **Senator Keough** seconded, motion approved by **voice vote**.

Senator Keough asked if we can hold the rule since we can't change it? **Senator Hammond** agreed.

39-0341-0901 Relating to Traffic Control Devices. Senator Hammond introduced Brent Jennings, Highway Operations and Safety Engineer, Idaho Transportation Department. Mr. Jennings testified there have been no public comments on this rule. This rule adopts the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD). This manual is a national standard; the current version is 2003 with revisions adopted on 2007. Idaho has the ability to make exceptions to this manual and has done so. Paragraph 06 Section 2E.28, Interchange Exit Numbering, was changed to thirty-six inches in height. Paragraph 08, Object Marker Design and Placement Height has the addition of four types of object markers, a-d. Subsection d adds a type of object marker which is one unique to Idaho, called IdaShield. There is picture on page 59. The final change is in Section 15, EXEMPT Highway-Rail Grade Crossing Signs. This section will require train crews to flag the crossing and stop all vehicular traffic prior to allowing any railroad equipment to enter the crossing.

MOTION: **Senator McKee** moved to adopt Docket No 39-0341-0901, **Senator Bilyeu** seconded, motion approved by **voice vote**.

39-0341-0901 Relating to Aircraft Registration. **Senator Hammond** introduced John

DeThomas, Aeronautics Administrator, Idaho Department of Transportation. **Mr. DeThomas** testified there has been no public comment on this pending rule. The rule currently cites Section 63-1203, Idaho Code, which has been repealed by the legislature and replaced with Section 63-301, Idaho Code, with equivalent wording.

MOTION: **Senator Broadsword** moved to adopt Docket No 39-0341-0901, **Senator Keough** seconded, motion approved by **voice vote**.

39-0241-0901 Relating to Special Provisions applicable to Fees for Special Services. (Fee Docket) **Senator Hammond** introduced Ed Pemble, Driver Services Manager, Idaho Transportation Department. **Mr Pemble** testified that this is a pending rule that provides structure in how vehicle and driver records are handled. The most substantive change is in Rule 100, subsection 01. The fee rate was changed from a per hour rate of \$10 to \$18. The actual per hour charged was taken out and a reference to the new Statute, Section 49-202(2)(h) Idaho Code was entered. There are also terminology changes such as taking out microfilm and replacing it with the words image and electronic media.

MOTION: **Senator Corder** moved to approve Docket No 39-0241-0901, **Senator Bilyeu** seconded, motion approved by **voice vote**.

Vice Chairman Hammond turned the meeting back to **Chairman McGee**. In other business, **Senator Corder** mentioned that ITD did a good job of making the rule fit the law, but the law is flawed. At some point we will have to correct the law.

Chairman McGee adjourned the meeting at 2:45 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** January 21, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Werk, Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Winder
- 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.
- MINUTES:** **Chairman McGee** called the meeting to order at 1:35 pm. **Chairman McGee** announced that the proceedings will be broadcast over the internet. **Chairman McGee** announced that Jo Ann Bujarski will be substituting for the regular secretary, who is out sick. **Chairman McGee** turned the meeting over to the **Vice Chair, Senator Hammond**, for the Rules Proceedings. A silent roll was called.
- RULES:** **35-0105-0901** **Pending Rule:** Relating to Idaho State Tax Commission Rules Governing Motor Fuels Distributors' Deductions. **Ted Spangler**, Deputy Attorney General, of the State Tax Commission announced that he had brought **Randy Nilson**, Tax Policy Specialist at the State Tax Commission with him to answer any questions Mr Spangler may be unable to answer. **Mr Nilson** Chairs the committee in the Tax Commission that works with Rules.
- Mr Spangler** presented Rule 35-0105-0901. This Rule is being amended to comply with **House Bill 388**, 2009 Legislative session that repealed fuel tax preferences that had existed previously for gasoline, gasohol and bio-diesel. In order to be sure the repeal was properly reflected in the Tax Commission's rules, the Tax Commission adopted a temporary rule. The change is on page 18, (j) and adds a statement to the existing paragraph to state the deduction is not available after June 1, 2009.
- MOTION:** **Senator Heinrich** moved to approve Docket No. 35-0105-0901. **Senator McGee** seconded, and the motion carried by voice vote.
- 35-0105-0902** **Pending Rule:** relating to Idaho State Tax Commission Rules Governing Motor Fuel Rules. **Mr Spangler** presented Rule 35-0105-0902, There is currently a temporary rule on page 22, Rule 130 that is in affect until the

permanent rule is approved. The rule change on subsection b. adds a statement that “includes ethanol blended with motor fuel”. On page 23, the same change has been made as in Rule 35-0105-0901 above. The change is: “(This subsection only applies to deductions for ethanol or biodiesel that could be made before June 1, 2009)”.

Page 24, Subsection 02 is a cross-reference to the exemption for certain qualified small producers of biodiesel. This is part of **House Bill 9**, 2009 Legislative Session which will be discussed shortly.

Page 24, Rule 131. In **House Bill 11**, 2009 Legislative Session, the legislature authorized the Tax Commission under certain circumstances to require fuel distributors to file their tax returns electronically. This is a new rule that implements that requirement. The distributors who have 25 or more receipts or disbursements on its monthly distributor report are required to file a return electronically. If they don't, it will be considered the same as not filing a return. Subsection 3 relates to the waiver for this rule. If it becomes burdensome or costly for a distributor to comply, they can ask for a waiver. However, the Tax Commission provides free software so there are no additional costs to the distributor.

MOTION:

Senator Corder moved to approve Docket No 35-0105-0902.
Senator Broadsword seconded and the motion carried by voice vote.

39-0260-0901

Pending Rule: Relating to Idaho Transportation Department Rules Governing License Plate Provisions. **Amy Smith**, Vehicle Services Manager at the ITD presented Rule 39-0260-0901. **Ms. Smith** wants to clarify this rule as properly regarded by committee. In the last meeting Senator Corder raised a concern about how the rule was written regarding who can obtain the business logo license plate. The way the legislation is written and the rule follows; the titled business owner is the only one who can receive this business logo license plate. It eliminates certain segments of the industry such as those that lease or rent vehicles. If it's the desire to open the opportunity up to the larger segment, then an amendment to Idaho Code would be needed. If the Idaho Code is changed, ITD would follow with amending the Rule. This Rule was tabled at the last meeting.

MOTION:

Senator Corder moved to approve Docket No 39-0260-0901 with the exception of Rule 204 and that the Committee would reject that portion, Rule 204 and approve the balance of the docket.

Senator Keough seconded.

Senator Broadsword asked for a clarification as to whether the committee was voting to reject the entire section 204 or a portion of Section 204? **Dennis Stevenson** replied that you can reject a portion of a section, you don't have to reject the entire Section. **Senator Corder** clarified that his motion was for the entire section and not just a portion. He stated that the section is too tightly coupled to reject a portion of it.

Senator Broadsword asked Ms Smith whether there is anyone who has applied for this plate? **Ms. Smith** stated that no one has yet applied for the business logo license plate. Motion carried by voice vote.

39-0312-0901

Pending Rule: Relating to Idaho Transportation Department Rules Governing Safety Requirements of Overlegal Permits. **David Metcalf**, Commercial Vehicle Services Program Supervisor, ITD presented the Rule 39-0312-0901 and stated the proposed changes; section 200, subsection 02; change the minimum size of warning flags from 12" x 12" to 18" x 18". This change is being made to alleviate current confusion among carriers and enforcement personnel on the differences between permitted and non-permitted oversize loads as addressed under the Federal Motor Carriers Safety regulations. The Federal Motor Carriers Safety Administration recently changed the flagging requirements to a minimum of 18"x 18" and this change will make the requirements uniform under both regulations.

Senator Broadsword asked if this change would affect using 12" x 12" flags on loads without a trip permit? **Mr. Metcalf** stated that no, this change would not affect loads without a trip permit and only apply to the permitted overlegal loads and any under the operations of the Federal Motor Carriers Safety Administration.

MOTION:

Senator McGee moved to approve Docket No 39-0312-0901.
Senator Broadsword seconded, and the motion carried on voice vote.

39-0316-0901

Pending Rule: Relating to Idaho Transportation Department's Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. **Mr Metcalf** presented Rule 39-0316-0901 and stated that currently the Rule says that vehicles that exceed 4' of front overhang are restricted to daylight travel only on two-lane, two-way highways. It has been determined that up to 7' of front overhang can be safely accommodated for night operations on two-lane, two-way highways. The proposed rule change would change the limit from 4' to 7'. **Senator McGee** asked if this is like a car carrier with an overhang and it extends the overhang from 4' to 7', so it is an addition of 3'? **Mr. Metcalf** answered in the affirmative. **Regina Phipps** Vehicle Size and Weight Specialist, ITD, clarified that this rule does not apply to car carriers, but yes, the overhang size is being extended by 3'.

MOTION:

Senator Broadsword moved to approve Docket No 39-0316-0901.
Senator McGee seconded and the motion carried on voice vote.

39-0317-0901

Pending Rule: Idaho Transportation Department Rules Governing Permits for Manufactured Homes, Modular Buildings and Office Trailers. **Mr Metcalf** presented the change to Rule 39-0317-0901 that will allow the department to allow the movement of Manufactured Homes, Modular Buildings and Office Trailers that exceed a width of 16' at the base and 18' overall on a case-by-case basis. This will benefit the manufactured home industry while ensuring the safe movement of loads on the highways. **Senator Keough** asked about the Legal Authority Section and its changes to Code Sections? **Senator Keough** wanted to be sure that this code was not trying to extend over statute. **Mr Metcalf** yielded to Ms Phipps to answer the question. **Ms Phipps** said that the codes are being clarified and this does not extend over statute.

MOTION: **Senator McGee** moved to approve Docket No 39-0317-0901.
Senator Heinrich seconded and the motion carried on voice vote.

39-0318-0901

Pending Rule: Idaho Transportation Department Rules Governing Overlegal Permits for Relocation of Buildings or Houses. Mr Metcalf stated that the Rule 39-0318-0901 change is to maintain consistency to the previous rule, 39-0317-0901. Subsection 100, paragraph 01 has the word shall to may to maintain consistency between the two rules.

Senator Corder asked what else is going to have to change for moving 16' wide buildings, or are we already moving them and this rule just says they it is permitted? **Mr Metcalf** stated this rule is under temporary rule making since July and we've been able to determine we can move these larger items safely on certain roads. **Mr. Metcalf** then yielded to Ms. Phipps. **Ms Phipps** stated that we have been allowing 16' moves for several years now and we haven't had an issue. What this Rule will accomplish is to allow homes 16' wider at the base to be moved on a case-by-case basis. This request is coming from the manufacturing industry because currently there is a housing shortage in Canada and their facilities are not able to make enough houses. This will allow Idaho companies to have this business from Canada. Montana does not have a size issue with the larger homes on their highways. In most cases, this traffic will occur on four-lane highways. With this Rule, we can talk to the districts and get their approval on the routes. Canada has looked at many facilities to do this work and Idaho has two facilities that are able to manufacture these larger homes. **Senator Corder** asked if the routes are on a case-by-case basis? **Ms. Phipps** said the routes are case-by-case and they have to be approved before they move the homes. **Senator McGee** asked what the Montana Statutes say about the size of the homes? **Ms. Phipps** said Montana already allows wider homes to be moved so they didn't have to change their rules. We worked with Montana prior to changing this rule.

MOTION: **Senator Heinrich** moved to approve Docket No 39-0318-0901.
Senator Bilyeu seconded, motion carried on voice vote.

39-0222-0901

Pending Rule: Idaho Transportation Department Rules Governing Registration and Permit Fee Administration (Fee Docket) **Mr. Metcalf** stated that this rule is under the fee rules. The two key proposed changes will be found in Section 200.01.i and Section 200.06.a. Beginning with Section 200.01.i, "an installment payment plan of fifty dollars (\$50) shall be required and collected at the time of setup for each installment payment plan created." This will cover the administrative costs of the plan. In Section 200.06.a "After the registrant's account has been suspended for delinquent installment payments two (2) or more times, the registrant shall not be allowed to participate in future payment plan programs unless." They would be allowed to have payment plan privileges restored after twelve consecutive months of no suspension related to the account, and upon providing a written request to the department. Currently there have been some customers who have already lost their payment plan privileges by being suspended two or more times in the current year. **Senator Corder** asked if a person has to

have twelve months in compliance yet they're not able to have the installment plan, how are they going to demonstrate compliance? Are there other suspensions that count for the twelve month period other than having their account suspended for lack of payment? **Mr Metcalf** stated that there are several reasons the account is suspended, a bad check, failure to pay fees for the payment plan. It is possible after their plan privileges were removed because of the two suspensions, they could be suspended, so they would have to have no suspensions of twelve consecutive months to be reinstated. **Senator Hammond** asked how many payments do you have to make consecutively before before you can get another payment plan? **Mr Metcalf** said that you have an initial payment plan and then you make three more payments, each one quarterly. If their account is suspended because you received a pre-suspension notice giving you additional time to make the payment and they still do not make the payment, the account is suspended. When the account is suspended, they are still liable to make their remaining payments on the plan. They could set up another payment plan under a different registration type. The proposed changes in this rule is once there is a second suspension, they would not be able to establish any new plans until they have twelve consecutive months of a clear account.

Senator Broadword stated that this Rule was rejected last year because at the time, if the plan was suspended the taxpayers could not be reinstated for life and she appreciates the change to be able to come back on the plan.

Senator Heinrich asked for a clarification that if you are on the payment plan and made 10 out of 12 payments, but then are suspended, what has to be paid so they can start operating again, do they have to pay a full year, or just the balance of the payments owed? **Mr Metcalf** said that at that point you would just need to pay the amount due. The penalties and interest are already part of Idaho Code. At this point, you would not be required to pay the entire payment plan at that time. Timing is a factor; if you are six months getting your account cleared, there may not be any payments due. So, you are required to pay the amount due plus any penalties or interest.

MOTION:

Senator McGee moved to approve Docket No 39-0222-0901.

Senator Keough seconded, motion carried on voice vote.

Vice Chairman Hammond turned the meeting back over to **Chairman McGee**.

Chairman McGee stated this concludes the Rules that will come before this Committee. **Senator Corder** asked if **Chairman McGee** was going to follow up with Chairman Wood on the Section 204 rejection?

Chairman McGee said that he would talk to Chairman Wood.

Chairman McGee adjourned the meeting at 2:35 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** January 26, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Werk
- 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.
- MINUTES:** **Chairman McGee** called the meeting to order at 1:35 pm. A silent roll call was taken. Allen Frew, Division Administrator of the Motor Vehicles Division sent a letter to the Committee on the Department of Motor Vehicles modernization project. The Letter is attached. If the Committee feels that Mr Frew needs to present his findings in person, Chairman McGee will contact him. **Chairman McGee** stated there are three RS's scheduled for this print hearing.
- Senator Corder** stated that during the 2009 Legislative Session, **House Bill 226** was enacted. Since this Committee has already rejected the rule, it should be referred to the Interim Committee for modification so that the intent will apply to all vehicles.
- MOTION:** **Senator Corder** moved that the Chairman of the Transportation Committee write a letter referring the Rule based on **House Bill 226**, 2009 Legislative Session to the Interim Transportation Committee. **Senator Bilyeu** seconded, the motion carried by **voice vote**.
- RS 19200** Relating to Commercial Motor Vehicles. Ed Pemble, Driver Services Manager, Idaho Transportation Department presented RS-19200. **Mr. Pemble** stated this legislation was to correct legal findings from a Federal Motor Carrier Safety Administration audit. The proposed amendment to Idaho Code 49-104 will align Idaho Statutes with the federal definition of conviction for the limited purpose of determining and applying disqualification from commercial motor vehicle driving privileges.
- The amendment to this legislation provides an alternate definition of the word conviction. The alternate definition will be used only for purposes of commercial driver's license disqualifications. This has a very limited scope and will not interfere with the existing definition of conviction which is more overriding and more general. The proposed amendment to Idaho

Code 49-240, relating to bond forfeitures will allow application of the statute to operators of commercial motor vehicles who do not have a Commercial Driver's License. (CDL).

The proposed amendment to Idaho Code 49-1416 will prohibit masking of convictions if a non-CDL driver was cited while operating a commercial motor vehicle.

The proposed amendment to Idaho Code 49-335, Idaho code will give the state authority to disqualify a CDL holder or commercial motor vehicle operator if the Federal Motor Carrier Safety Administration (FMCSA) has declared the driver an "imminent hazard". Imminent Hazard is defined as the existence of a condition that presents the likelihood that death, serious illness, severe personal injury or substantial danger to health, property or the environment may occur before the reasonably foreseeable completion date of a formal proceeding is begun. Due process for these types of disqualifications will be handled by the Federal Motor Carrier Safety Administration. Originally, the State of Idaho thought they had the authority to place disqualifications on drivers, but in the legal review it was determined the State did not.

The legislation also corrects a reference in Section 49-1043 that refers to the wrong statute.

Senator Broadsword asked if the legislation differentiated between Class A, or B commercial licenses? **Mr Pemble** replied the proposed legislation does not differentiate between the different classes of commercial licenses. **Senator Corder** questioned if there is a list of imminent hazards defined in 49 CFR 383.5? **Mr. Pemble** said the imminent hazard definition is what was read previously and it could be applied if the government felt there was a chance a driver was going to cause a death or injury to someone if they are allowed to continue driving. The definition is general enough to cover any number of circumstances. **Senator Corder** then asked if imminent hazard could include someone with diabetes or high blood pressure? **Mr. Pemble** stated that he did not know, he had not seen an imminent hazard disqualification in five years. **Mr. Pemble** then commented that he was not aware of any state that had received a notification of imminent hazard. **Senator Corder** then asked if Page 6, lines 27-31 was a softening in policy since it now read only commercial rather than any vehicle? **Mr Pemble** responded that the wording was actually more restrictive before and now the wording has to specifically state the driver was cited while operating a commercial motor vehicle. **Senator Hammond** then asked if you are cited for reckless driving while driving a personal vehicle, does that mean you cannot drive a commercial vehicle? **Mr Pemble** stated that if you are convicted of reckless driving, you cannot drive a commercial vehicle. **Senator Hammond** then asked if there is a citation, but no suspension, how would that affect the CDL privileges? **Mr. Pemble** responded that he would have to check, but there is a suspension the department would have to impose if you are convicted of a reckless driving offense. If there is no conviction, there is no suspension or disqualification in driving a commercial vehicle.

MOTION: **Senator Broadsword** moved to approve RS-19200 to print. **Senator Hammond** seconded. **Senator Keough** asked that when the bill comes for a hearing that it have a written definition of “imminent hazard” attached. **Mr Pemble** said that could be provided. **Senator Corder** asked that when the bill comes before the committee for a full hearing there is an explanation as to how Commercial licensing gets notified that a driver had a personal infraction. Motion carried by **voice vote**.

RS 19205 Relating to Vehicle and Vessel Titles. Barry Takeuchi, Title Operations Supervisor, Idaho Department of Transportation presented RS 19205 amending Idaho Code to accommodate both an application for duplicate title and transfer to a new owner in a single transaction, for vehicles that are at least 10 years old, are of 16,000 pounds GVW, or have no odometer device and for all vessels. This proposal improves customer convenience by eliminating a delay for buyers in obtaining title, regular registration, and plates and also facilitates financed private party sales for these vehicles and vessels in situations where the seller has lost the title. **Mr Takeuchi** stated that currently if an owner loses his title and is selling the vehicle, he is required to obtain a duplicate title and wait for issuance before assigning it to the buyer. With this amendment the owner can download a form for a duplicate title from the ITD website and assign that form to the buyer.

MOTION: **Senator Hammond** moved to approve RS-19205 to print, **Senator Broadsword** seconded, motion carried by **voice vote**.

RS-19294 Relating to Motor Vehicle Registration. Senator Corder presented RS-19294 to the Committee. Before he began presentation of the bill, Senator Corder disclosed that he owns a trucking company and this bill will affect his business both positively and negatively. Therefore, if the bill is approved to print, Senator Corder requested that another Senator be assigned to carry the bill further.

RS-19294 prevents the double taxation of registered semi-trailers. Currently, when a semi-tractor buys a temporary registration the carrier must also purchase a registration for the trailer it will pull regardless of the registration status of the trailer.

Senator Corder stated the fee for a temporary vehicle registration is \$60. When a trailer is pulled by a vehicle operating with a five day temporary registration permit, there is an additional \$60 temporary registration fee for the trailer, regardless of whether or not the trailer is already registered.

The current legislation also limits the number of temporary permits that could be purchased to three. As a result, additional total revenues from commercial vehicle registrations to the Department in the last six months of Calendar Year 2009 amounted to \$1,161,403. However, not all of the increase is due to the policy that discourages temporary registration, but rather to a significant number of owner/operator vehicles not being registered until the latter half of the year when work became available. In capping the number of temporary registrations to three, it had more drivers register their vehicles. The permanent registration could cause a

decrease in revenue for 2010 of \$435,000 if the assumption is made that the entire amount of \$1,161,403 was due to the bill limiting temporary registrations being passed in 2009.

MOTION:

Senator Hammond moved to approve RS-19294 to print, **Senator Broadsword** seconded, motion carried by **voice vote**.

Chairman McGee adjourned the meeting at 2:05 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES
JOINT MEETING

**HOUSE TRANSPORTATION AND DEFENSE COMMITTEE
SENATE TRANSPORTATION COMMITTEE**

DATE: January 28, 2010

TIME: 1:30 pm

PLACE: Room WW02

MEMBERS: House Chairman Wood, Vice Chairman Hart, Representatives Smith(24), Roberts, Bedke, Wills, Nonini, Hagedorn, Jarvis, Mathews, Palmer, Shepherd (2), Ringo, King, Ruchti
Senate Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, Bilyeu

**ABSENT/
EXCUSED:** Representatives Smith and Nonini

GUESTS: Lance Holmstrom, LHTAC Administrator, ITD; Dan Schaeffer, Hillsdale Highway District Commissioner, ITD; Lan Smith, Gem County Commissioner, ITD; Glenn Miles, Director, Kootenai County MPO; Brian Ness, Director, ITD; Dave Amick, Office of Transportation Investment, ITD; Ed Bala, Engineer, District 5, ITD; Darrell Manning, Chairman, ITD Board; Benjamin Davenport, Risch, Pisca; Roger Seiber, Capitol West; Colby Cameron, Sullivan & Reberger; Randy Prescott, Soda Springs; Tamara Humiston, Idaho Parks & Recreation; Hadley Wagnon, Idaho Parks & Recreation

Chairman McGee called the meeting to order at 1:35 pm.

PRESENTATION: A Joint Germane Presentation of Highway Project Selection Processes was presented by Idaho Transportation Department.

Lance Holmstrom, LHTAC Administrator, ITD, presented the Local System Project Selection Overview. Mr. Holmstrom said elected local highway officials are charged with managing the local transportation system and are accountable to their constituents. Local Highway Technical Assistance Council, LHTAC, has created a series of technical manuals on uniform standards and procedures to promote best management practices, partnered with ITD to develop a local roads GIS base map, and provided management systems to local highway jurisdictions. The overall goal is to improve 1/20th of the local paved highway system each year. LHTAC administers four programs, including federal and local programs, and the criteria for selection is primarily derived from the 1997 Idaho Transportation Planning Task Force recommendations.

Lan Smith, Gem County Commissioner, presented concerning local system in counties. Mr. Smith said Gem County is unique in that it has a county-wide road and bridge plan, a joint comprehensive plan with the city, and a joint planning commission with the city. Mr. Smith said Gem County has four major considerations in making decisions for road

improvements. The comprehensive plan is state mandated. Two hundred members of the community provide input for zero dollars; it is a citizen-driven plan. The county then defines methodology. Gem County concentrates on maintenance and capital improvements are done by grant funding. It is critical that the asset management plan has local people involved in the process; they drive roads daily and gather data. Collection is subjective, but presents an objective view. The capital improvement plan has a five-year rolling window, is a dynamic document, is limited to available funding and can have most citizen involvement. Another layer of involvement drives costs higher and that means waste rather than improvement. Mr. Smith said he believes in incentives for good work.

Dan Schaeffer, Hillsdale Highway District Commissioner, ITD, spoke concerning local system highway jurisdictions. Hillsdale District takes care of the east half of Jerome County. Its last large project was funded by a local dairy who paid for all material and the district paid for labor. Other local businesses have funded maintenance of those roads that they are impacting. Mr. Schaeffer said the district is keeping up conditions of middle to better roads. Hillsdale District submits projects to LHTAC for additional funding.

Glenn Miles, Director, Kootenai County MPO, introduced MPO project selection. He defined and described Transportation Improvement Program (TIP), Statewide Transportation Improvement Program (STIP), and Metropolitan Planning Organization (MPO). Mr. Miles said MPOs develop long-range transportation plans for 20+ years and develop short-range transportation funding programs called transportation improvement programs. MPOs oversee the prioritization and allocation of United States Department of Transportation funds. MPOs exist in urban areas over 50,000 in population and there are five MPOs in Idaho. There is a distinction in the federal code which has enhanced authority and rules for areas over 200,000 in population. MPOs develop individual TIPs for metro areas; ITD merges TIPs into the statewide program. TIPs identify prioritized and selected projects. TIP is a short-term transportation funding strategy developed to show how federal funding will be spent, and must be consistent with the state's STIP. MPO boards receive recommendations from technical committees then the projects are prioritized. Idaho is the only state with an urban balancing program. MPOs and LHTAC cooperate to fund projects in urban areas using federal funds. The TIP and STIP can be amended when necessary and Mr. Miles discussed the defined process for amending a TIP or STIP. Mr. Miles said the railroads are going to play a greater role in freight and goods commerce as well as passenger rail in the future.

Brian Ness, Director, ITD, introduced the project selection process. Mr. Ness said ITD must do everything possible to preserve this valuable investment in the infrastructure in the most cost effective manner possible. Because of declining funding, ITD cannot maintain bridges and roads at their current level nor add new capacity to the system, which is aging faster than they can be rebuilt. ITD must spend its existing revenues wisely.

Dave Amick, Office of Transportation Investment, ITD, presented the statewide process for selecting and funding projects. Mr. Amick described the source of funding. Twenty-five percent of roads are neither

on the national highway system nor the interstate system funding. ITD takes the most restrictive funds, blends them with the most flexible funds, then best aligns those funding sources with programs. Mr. Amick described the planning process of establishing funding needs and expenditures. ITD does the planning then turns the projects over to the public sector to construct.

Ed Bala, Engineer, District 5, ITD, presented district project selection. Seventy-five percent of the value of goods moved in Idaho were moved by truck. Mr. Bala explained the prioritized expenditures over the next five years and what percentage of the budget will be used for pavements, bridges, safety, and capacity. He said that after 2012, ITD will not be doing expansion programs for a while, but will be doing maintenance and safety. Mr. Bala described how ITD collects pavement data and said all spending is guided by the database. He also defined corridor planning.

Darrell Manning, Chairman, ITD Board, presented the board role and responsibilities. Mr. Manning said project selection process takes into consideration safety needs, budget, system needs, and public input. The Board's first priority is to keep highways safe, open and useable. ITD's priorities are operations, preservation, restoration, and expansion. Major construction projects are usually in the category of restoration and expansion, with Board review at each stage of process. Mr. Manning said the Board makes sure that the projects in the STIP are the high priority for the state of Idaho.

Mr. Ness concluded the presentation then asked for questions. In response, **Mr. Miles** said that the only TMA in Idaho is in the Boise area and the EPA responsibility for air quality in Spokane does not include anything in the state of Idaho. Mr. Miles said he is paid through federal, state and local funding for MPOs. Mr. Miles said Kootenai MPO does the planning for all the small towns and the local highway districts within Kootenai County and interacts with other counties on an as-need basis.

Mr. Smith said Gem County enters into developmental agreements quite often with local jurisdictions for those large developments that impact the highway system. Committee members expressed concern about funding the road system in the future because of the expense of federal requirements. **Mr. Holmstrom** said that once LHTAC completes design of a project, ITD manages and monitors the construction, and utilities are part of the design plan. Mr. Holmstrom said bridges under 20' in length are not eligible for federal funds.

ADJOURN: There being no further business before the committee, **Chairman McGee** adjourned the meeting at 3:17 pm.

Co-Chairman JoAn Wood
Chairman House Transportation and
Defense Committee

Co-Chairman John McGee
Chairman Senate Transportation Committee

Sheila Doherty, Secretary
House Transportation and Defense
Committee

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 2, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- 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.
- MINUTES:** **Chairman McGee** called the meeting to order at 1:30.
- RS-19496** Relating to Motor Vehicle Registration. **Chairman McGee** introduced **Senator Hammond** to present this bill. **Senator Hammond** stated this bill clarifies some legislation from last year. This legislation prevents the double taxation of registered semi-trailers. Currently, when a semi-tractor buys a temporary registration the carrier must also purchase a registration for the trailer it will pull regardless of the registration status of the trailer.
- Semi-trailer registration is \$15 annually or alternatively \$105 for a non-expiring license. The current temporary registration requirement assesses an additional \$60 fee to the trailer when pulled by a vehicle operating with a five day temporary registration permit.
- MOTION:** **Senator Werk** made a motion to send RS-19496 to print. **Senator Hammond** seconded the motion. The motion carried by **Voice Vote**.
- S 1296** Relating to Commercial Motor Vehicles. **Chairman McGee** introduced **Ed Pemble**, Driver Service Manager, Idaho Transportation Department. **Mr. Pemble** stated that during the print hearing there were a number of questions and one of them was a definition of imminent hazard and the Committee has that definition included in their folder. Senator Corder had asked how driving records are monitored for employees and that will be addressed shortly. The purpose of this legislation is to correct legal audit findings arising from a Federal Motor Carrier Administration review of Idaho Statutes. This bill combines almost all of the recommendations from the audit, and strengthens the code.

1. The proposed amendment to Section 49-104 will align Idaho Statutes with the federal definition of conviction for the limited purpose of determining and applying disqualification from commercial motor vehicle driving privileges.
2. The proposed amendment to Section 49-240, relating to bond forfeitures will allow application of the statute to operators of commercial motor vehicles who do not have a Commercial Driver's License (CDL).
3. The proposed amendment to Section 49-335, Idaho Code, will give the state authority to disqualify a CDL holder or commercial motor vehicle operator if the Federal Motor Carrier Safety Administration (FMCSA) has declared the driver an "imminent hazard". Due process for these types of disqualifications will be handled by the FMCSA.
4. The proposed amendment to Section 49-1416 will prohibit masking of convictions if a non-CDL driver was cited while operating a commercial motor vehicle. The definition of **imminent hazard** is: "the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment." The imminent hazard disqualification has been used once since 1999 when a driver was caught driving a commercial vehicle 102 miles per hour high on crystal meth.

Senator Hammond asked for clarification on declaring a driver an imminent hazard, does the federal government have to do that? **Mr. Pemble** replied that only the federal government can declare an imminent hazard, but there is an appeals process. **Senator Corder** asked if the federal agents act through the State Police? **Mr. Pemble** said there is a crew from the FMCSA that audits drivers in Idaho. **Senator Corder** then asked, if, in defining someone as an imminent hazard, is that done by the state police since they are at the scene? **Mr. Pemble** responded the authority is to put on the driver's record they are an imminent hazard.

Senator Corder asked if an operator were determined to be an imminent hazard, what would the notification process be to the employer? **Mr. Pemble** replied that he would defer to **Hal Putnam**, Driver's Records Supervisor, Idaho Transportation Department. He said the driver is required to inform his employer. **Mr. Putnam** stated that he did not know what the process is, but assumed the FMCSA would send a letter to the driver, but not send anything to the motor carrier, because they wouldn't know who the motor carrier is. **Senator Corder** stated this is something that should be followed-up on, but it's not enough to keep him from supporting the legislation. However, there is a missing piece for the Federal Government which is to notify an Idaho carrier of an Idaho driver stopped by the Idaho state patrolman and the driver was determined to be an imminent hazard.

Senator Broadsword stated her concern was if the driver continued to drive, would the carrier be fined? Would the carrier be responsible for the behavior of the driver and whose insurance would be affected? **Mr. Pemble** stated the truck would be put out of service, the driver would not be allowed to get back in the truck. As for the carrier's responsibility, the

carrier would be responsible if they knowingly allowed the driver to continue once they were put out of service. **Mr. Putnam** added there is a process in place through Access Idaho that allows for monitoring drivers' records. Access Idaho will monitor the ITD system and if there is activity on that driver within the month, they will generate a driving record back to the carrier. One hundred drivers a month monitored would cost \$14.

Senator Corder appreciated the clarification. **Mr. Pemble** stated there would not be fines if no action was taken on this bill, but if there had been no action when there is another audit in three years, there may be fines then.

MOTION:

Senator Hammond made a motion to send **S 1296** to the floor with a do pass recommendation. **Senator Corder** seconded the motion.

Senator Hammond stated most of this activity is related to a federal audit so we are complying with what federal government would like us to do to match their regulations.

The motion carried by **Voice Vote**.

S 1297

Relating to Motor Vehicle Registration. **Chairman McGee** introduced **Barry Takeuchi**, Title Operations Supervisor, Idaho Transportation Department. **Mr. Takeuchi** stated this bill amends Section 49-502, Idaho Code, to revise provisions relating to the delivery of Certificate of Title upon sale or disposition, to revise provisions relating to certain dealer's reassignment of existing Certificate of Title or of an application for duplicate certificate of title and to make technical corrections. This will make the process of selling a vehicle after you've lost the title much more streamlined. **Senator Corder** asked how the department knows the car is not stolen when the form for a replacement title is filled out and turned in? **Mr. Takeuchi** replied the form simply allows the individual to state he is the owner. The buyer can go through the department to determine the person selling the car is the true owner. The process has been the same since 1996; it can now be done in one step instead of two.

Senator Corder then asked how the department gives the information to the potential buyer without violating the privacy act? **Mr. Takeuchi** stated that if a question is yes-no, the staff can respond yes or no as to whether the seller is the legal owner. **Senator Heinrich** asked if there is anything on the form that states the buyer should verify the title? **Mr. Takeuchi** replied the form has not been reworked with that information on it.

Senator Hammond asked; if a person has stolen a car, has it physically in their possession, has the registration with the owner's name on it, and has the VIN number, what is to stop them from transferring the title to themselves (the thief)? **Mr. Takeuchi** replied it would be a good idea for the buyer to check at the time of purchase. **Senator Hammond** replied the thief is filling out the form to put the car in their name; what is to stop them from doing that? **Mr. Takeuchi** responded the application has the signature notarized. **Senator Bilyeu** asked what other states are doing? **Mr. Takeuchi** responded he does not know what other states are doing in this regard. **Senator Bilyeu** followed up with a request for research into what other states are doing related to online forms. **Mr. Takeuchi** stated

they could get this information at a later date. He then stated this change would make the ITD become more efficient and would be helpful for customer service.

MOTION:

Senator Heinrich made a motion to send S 1297 to the floor with a do pass recommendation as long as there is a notification on the form cautioning the buyers to check the legality of the title. **Senator Bilyeu** seconded the motion. The motion carried by **Voice Vote**.

Chairman McGee adjourned the meeting at 2:05 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

Jo Ann Bujarski
Transcriber

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 4, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- 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.
- MINUTES:** **Chairman McGee** called the meeting to order at 1:33 p.m. and introduced Lance Holmstrom with the Local Highway Technical Assistance Council (LHTAC), noting that he was returning to answer questions generated from the last meeting.
- Chairman McGee** introduced Senator Keough who specifically had questions for LHTAC.
- Senator Keough** asked **Mr. Holmstrom** to explain the funding process for LHTAC, especially, what funding flows through LHTAC to the locals and what doesn't. **Mr. Holmstrom** stated that LHTAC receives only a small amount of money from the highway distribution account (approximately .3% which accounts for approximately 28% of their budget) and most goes directly to the local highway jurisdiction.
- Senator Keough** asked **Mr. Holmstrom** if LHTAC actually allocates money for local communities. **Mr. Holmstrom** stated that LHTAC does not allocate the money. The money actually goes from the controllers office directly to the local highway jurisdiction.
- Senator Keough** asked about LHTAC helping local jurisdiction's planning for the future and wanting to clarify whether the same measures used in planning for the local jurisdictions were used by ITD. **Mr. Holmstrom** indicated that some of the same measures were the same, such as relating to safety and crashes. LHTAC is moving toward similar performance measures. **Mr. Holmstrom** noted that LHTAC could improve the information on the output side. The local highway districts are spending approximately \$33 million per year which includes maintenance such as seal coats, etc. but it would be good to see the number of paved road miles increased from that expenditure.

Senator Keough questioned the concept of “shovel-ready projects” and the potential for more stimulus funding with the concern that Idaho may not have shovel-ready projects available. She expressed concern about the lag time of the shovel readiness projects. She questioned whether LHTAC was trying to minimize the turn around between when a project is bid to when the contractor may begin work. **Mr. Holmstrom** answered that when the funds became available on March 1st, everything had to flow and follow the federal process, thus taking time for the shovel-ready projects to come into play. Procedures needed to be followed which took about six or seven months. Last year there were zero shovel-ready projects on the local side, including ACHD. Anticipation for this year has produced potential cost savings for the first round of local stimulus funding and the Governor’s discretionary moneys. We asked the agencies that had previously applied for stimulus money to put together plan specifications and cost estimates preparing the groundwork with their own funds allowing the projects to be ready when the money becomes available. Last year there was a savings of 30% from the engineers cost estimate and the actual advertised bid. We now have 19 projects from local highway jurisdictions that were willing to spend their own funds readying the projects in hope of leftover stimulus money. Those projects will be situated to take advantage of funds, if they become available.

Senator Keough expressed concern that it takes six or seven months to get a project ready. Concerns from local jurisdictions are about increasing paperwork requirements and increasing hoops to jump through, depleting their resources to do other projects. Senator Keough asked if the council has the same concerns and how they might be addressing that. **Mr. Holmstrom** answered that LHTAC has been working to streamline the process. Partnered with ITD, it still takes 3-4 years to get a federal aid project from start to finish. It really depends on when the money is available. We plan out 5 years in advance trying to be ready if the money becomes available. There are procedural concerns and funding availability issues. We are working hard to reduce the red tape. We still have to comply with the federal highway regulations.

Senator Corder stated that the red tape is red rope and it is hanging the highway districts. We need to develop a strategy to get through that bureaucracy with the federal people and let the experts do their jobs We would be able to build twice as many roads. We need to engage our federal delegation in that process. **Mr. Holmstrom** agreed.

Vice Chairman Hammond asked for the figures that were used for the breakdown in the financial exchange that LHTAC is doing with ITD. **Mr. Holmstrom** said LHTAC receives approximately 12.5% of the S&P Funds from ITD. Those funds are split 50/50 between urban and rural allocating to rural highway districts in Idaho about \$13 million. Then because of an agreement with the ITD Board we exchanged \$3.7 million in federal aid and received back \$2.2 million. That money is made available mostly for construction rather than a smaller portion for transportation planning and

sign requirements.

Vice Chairman Hammond then followed Senator Corder's comments concerning the taking of \$3.7 million of federal money for \$2.2 million of unfettered money and being able to accomplish the same thing with the \$2.2 million in terms of actual construction, rather than following the red tape and using federal money. He questioned whether that is what **Mr. Holmstrom** was saying. **Mr. Holmstrom** said the answer was yes citing several studies from private consultants comparing the cost of using federal aid verses local funds. The differential came to about \$.60 on the dollar.

Vice Chairman Hammond expressed how discouraging that was.

Senator Werk asked about the piece of legislation about consolidating highway districts that has been met with wide acclaim in the highway district community and the local chamber alliances and chamber's of commerce. **Senator Werk** also asked whether **Mr. Holmstrom** would comment on that piece of legislation and whether that would have any impact on potentially getting the jurisdictions to begin the discussion about how to find deficiencies and have better coordination.

Chairman McGee interrupted indicating the purpose of this meeting was not to debate that piece of legislation, but to answer questions from the prior presentation.

Senator Werk restated his question as to if there were discussions pertaining to the jurisdictions as to the broader idea of how we might change the system to make us more efficient and better coordinated. **Mr. Holmstrom** said LHTAC does not take positions on legislation but there could be better coordination and efficiency. Some coordination can be effective and some problematic. There can be advantages to consolidation.

Chairman McGee stated three members of this committee sit on the Governor's taskforce for transportation and are also looking at efficiencies in transportation.

Senator Corder commented that caution must be used when looking at efficiencies at this level because they can't be measured against other standards of efficiencies.

Senator Heinrich asked in reference to the differential of what can be accomplished with the use of state money versus the use of federal money. He asked whether the Davis Bacon Wage Act has a impact with that. **Mr. Holmstrom** indicated yes, that 40% results from the Davis Bacon Wage Act. Studies could be done to see what those costs are from the various regulations.

Senator Heinrich questioned whether there was a clearing house to see what building materials and equipment are available? **Mr. Holmstrom** indicated there was a web page but took that as a suggestion to promote

a location where local jurisdictions might research availability to piggyback equipment.

Senator Heinrich wondered if there had been additional requirements from LHTAC put upon the grant process from local jurisdictions before they receive money from LHTAC. **Mr. Holmstrom** said requirements are minimal no red tape has been added with LHTAC.

Senator Heinrich wanted to know if local jurisdictions were using developmental agreements. **Mr. Holmstrom** stated there are local highway districts that are looking at agreements. Consultants are provided to assist those entities.

With no further questions, **Chairman McGee** thanked **Mr. Holmstrom** for his time and his presentation.

Mr. Holmstrom encouraged the Senators to look at the annual report which includes details about the stimulus program and process striving to keep it equitable and fair to everyone.

Chairman McGee introduced **Greg Laragan** to present the 129,000 pound project.

Mr. Laragan summarized the report that detailed 129,000 pound trucks on limited routes. The original three-year study didn't allow enough time, thus sixteen routes were designated and the study was extended to a ten year time frame. Legislation required reports to be available in 2007, 2010 and 2013. Since the first report in 2007, and now six years of data, there is still no negative information but more specifics reported compared to the 2007 report. The industry has reported an economic benefit from the project.

The impact and concern is greatest for long-span bridges. Field data doesn't indicate concerns, but computer models do show that cracking can occur, even though some of the routes that are used are only a small portion of all the trucks being used on all the routes. **Mr. Laragan** then referred to page 6 of the 129,000 pound report.

Factors that complicate making conclusions are as follows: All other trucks have annual permits which allow operation with axle weights and overall weights larger than the pilot project trucks. The effects of other trucks are difficult to separate from the pilot project trucks.

Routes were doubled since 2007. Data collected since then is not conclusive because of the short time since the routes were doubled. Some routes experienced drop in pilot project truck trips. **Mr. Laragan** then referred to page 9 of the report. There was greater utilization of pilot project trucks in the second three years over the first three years by 36%. For the last two years of study the routes have doubled.

Senator Corder questioned how reports were received from the local jurisdictions on segments of road they had to permit. **Mr. Laragan**

explained the trucks are only required to report they traveled on “some” county road but not a specific road. It is a small number relative to the remaining.

Senator Corder followed up by stating that the local jurisdictions are not monitoring deterioration and **Mr. Laragan** responded that was correct.

Senator Corder then clarified Mr. Laragan's remarks about other trucks that are hauling legally with greater axle weights than the 129,000 pound trucks. **Mr. Laragan** responded that Senator Corder is correct and those trucks were usually hauling light machinery or something similar.

Senator Bilyeu questioned how the pilot project trucks/drivers were selected. **Mr. Laragan** responded that companies volunteer to participate because of the economic benefits of either configuring existing trucks to haul 129,000 pounds/axle or purchasing those trucks.

Senator Bilyeu inquired as to data specific to safety issues. **Mr. Laragan** clarified that data has been collected throughout the history of the study, some routes having six years worth of data and others only three. That data was compared with the entire state as well as data from those specific routes before the pilot program. The conclusion was that there was no impact on safety.

Senator Werk stated his understanding that data will not be available because there are no controls in place specific to the pilot trucks and questioned whether there will be conclusive data in the next three years with regard to bridge spans, etc. **Mr. Laragan** said yes, that was correct.

Senator Werk inquired as to the cost of preparing this report to the Idaho Department of Transportation. **Mr. Laragan** stated that costs were assembled two years ago with approximately 24 people involved. **Senator Werk** further questioned the propriety of further funding a report for the next three years that did not have conclusive data.

Senator Winder referred to page 5 and questioned how many bridges within the report had the figure on the left occurring. **Mr. Laragan** deferred to **Matt Farrar**, State Bridge Engineer for the Idaho Transportation Department. **Mr. Farrar** clarified that the exact numbers could be compiled and reported at a later time.

Senator Winder asked for information concerning bridge design and signs of stress on a bridge that appears over a period of time. **Mr. Farrar** stated bridge design involves several types of bridges and capacity analysis determining the level of stress a dead load produces. National Standards and codes are met during design for legal loads. If the loads are legal and kept within the stresses then the design is adequate. With the higher truck loads, particularly with the longer span bridges, stresses are over the design stress load limit.

Senator Winder asked if **Mr. Farrar** had seen any of those signs of stress on the particular bridges in the study. **Mr. Farrar** answered that on some

bridges a higher level of stress is allowed because it does not occur that often. **Senator Winder** asked if at the annual inspections any of the bridges within the projects showed any visible signs of deterioration or impact allowing conclusions to be drawn. **Mr. Farrar** indicated no stresses or cracking attributed to the pilot project trucks. Deterioration is noted but not attributed to the project.

Senator Werk commented concerning the fifty year life span of bridges and whether data received depended upon the age of the bridge at the start of the study and questioning data collected with overloads compared to the age of the bridge and if deterioration was from the stress or generally from the life of the bridge. **Mr. Farrar** commented that the project has value because it gives perspective of what the loads are and where they are from giving a level of comfort for bridge reliability.

Senator Werk questioned about the life span of bridges that bear increased loads. **Mr. Farrar** explained that is dependent upon the type of bridge but modeling is available to know how soon a bridge will fail if it is a steel bridge, but not with concrete bridges. **Senator Werk** commented that it would be interesting to understand the fiscal impact in regard to deterioration of bridges so decisions can be made as to cost versus benefit.

Senator Corder asked what weight would be used for design of bridges today that might last fifty years and **Mr. Farrar** explained that design today is a combination of an 80,000 pound truck and a simulated line of trucks that umbrellas the current legal loads. Designs now include loads that are above the legal limit for Idaho. The concern is for existing bridges designed with different loads in 1940-1950. All bridges are safe and are monitored as they deteriorate.

Senator Winder questioned concerning the allowable weight of 129,000 pounds in surrounding states. **Mr. Farrar** answered that states east of Idaho have legal loads of around 129,000 pounds but to the west it is similar to Idaho at around 105,500 pounds.

Mr. Laragan wished to point out there have been no negative trends within the last six years pertaining to bridge deterioration in regards to trucks of 129,000 pounds.

Chairman McGee introduced **Roy Eiguren**, an attorney and lobbyist, who worked with the 129,000 pilot project.

Mr. Eiguren stated he represents two companies who used the pilot project, Amalgamated Sugar and American Ecology Corporation and the Idaho Pacific Truck Corporation, a primary supporter of this project. The economic impact section of the report shows substantial savings enjoyed by the participants. The congressional delegation is working with us to extend this pilot program to the freeway system in southern Idaho. Appreciation was expressed to the Transportation Department for their willingness to work with these companies on the pilot project.

Senator Werk commented that he understood the economic benefit, but expressed concern that the economic benefit is offset by the damage to the bridges and additional costs for road maintenance. **Mr. Eiguren** shared the concern that if impacts were negative they would ask that this project be suspended. He expects to return in 2013 to engage in a discussion as to whether the pilot project should continue. Four of the six surrounding states do allow higher limits with no reports showing negative impacts

Chairman McGee introduced **Scott Stokes** concerning the Accountability Report. **Mr. Stokes** spoke about three basic components are performance measures, management systems and statewide system plan. He then summarized the intermediate benchmarks contained in the report and reported all three measures are on track with benchmarks. He pointed out that the report includes data on the stimulus projects, GARVEE projects and status.

Chairman McGee commented on a letter sent to him from Director Ness responding to the question as to whether legislation is needed to help prepare for stimulus money with the answer being that legislation is not needed.

ADJOURNMENT Having no further business, Chairman McGee adjourned the meeting at 2:48 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 9, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- 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.
- MINUTES:** **Chairman McGee** called the meeting to order at 1:35 p.m.
- RS 19533** Relating to Motor Carrier Safety Inspections. **Senator Corder** introduced **RS 19533** and said the opening remarks would apply to this proposed bill and **RS 19526**. Both proposed bills were originally introduced last year. This legislation will provide a statewide policy for the safety inspection of motor vehicles. It identifies the parameters of inspections for vehicles engaged in agriculture. While agriculture vehicles are exempt from the requirements of this proposed legislation, they are still required to pass safety inspections with respect to the brakes, lights, turn signals, steering, sound devices, glass, mirror, exhaust system, windshield wipers and tires. The other changes remove unnecessary language. **Senator Broadsword** asked how the bill would affect the air quality rules for the Treasure Valley and Canyon County? **Senator Corder** stated the bill will not affect air quality standards.
- MOTION:** **Senator Keough** made a motion to send **RS 19533** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.
- RS 19526** Relating to Motor Vehicles and Rules of the Road. **Senator Corder** said this bill will solve problems that affect all classes of vehicles. If a vehicle is transporting items that may fall off, such as sugar beets or branches, the police officer has to wait until something hits the ground and then fine the driver for littering. This legislation will provide a statewide policy for load securement on all vehicles. This shall not apply to the hauling or transport of any timber, agricultural or livestock product or byproduct raised or grown and offered for sale. There was a concern for this law with the water users in the event of an emergency. Idaho Water Users do. As a quasi-government entity, irrigation districts are exempt from this statute. Canal companies are not exempt under federal law, but will have the same exemptions as their sister companies, the irrigation districts, do

under federal law. This proposed law allows vehicles that travel through multiple jurisdictions to understand that the standards are consistent. **Senator Werk** thanked Senator Corder for the work done on both bills and asked if agriculture is exempt entirely as to how they transport their loads. **Senator Corder** responded that he did not want to write an exemption for each specific possible exception. The point of this legislation is to create a platform for requiring a standard. If something is considered a standard, an officer can still require the product to be secured. If the proposed bill is approved to print, the state police will be here to testify with more specific examples. **Senator Werk** asked whether there is a general standard that agriculture and timber have to follow as well. **Senator Corder** replied there is still a double standard for commercial vehicles versus private vehicles and commercial vehicles fall under the federal regulations, so there are requirements to secure their vehicles, but the overall standard is one of liability.

MOTION: **Senator Keough** made a motion to print **RS 19526**. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

S 1311 Relating to Motor Vehicle Registration. **Chairman McGee** introduced **Vice Chairman Hammond** to bring S 1311. **Vice Chairman Hammond** stated **S 1311** follows a bill from the last session which limited the number of temporary registrations that a hauler could use to three. The concern was that haulers would continue to buy temporary registrations rather than a permanent registration. In the bill that was passed last year, when a hauler purchased a temporary registration, they had to buy a temporary registration for their trailer(s) being pulled by the tractor or truck as well, regardless of whether the trailer was already registered. **S 1311** allows the hauler to only buy a temporary registration for the trailer if the trailer is not already registered. There is also an amendment to this proposed bill, line 15, "Combination of vehicles, where such combination of vehicles includes one (1) or more unregistered vehicles" needs to be changed to: "more than one (1) unregistered vehicles".

MOTION: **Senator Winder** made a motion to move **S 1311** to the 14th order for amendment. **Senator Broadsword** seconded the motion.

Chairman McGee introduced **Allan Frew**, Motor Vehicle Administrator, Idaho Transportation Department. **Mr. Frew** testified in **opposition** to the amendment of the bill. **Mr. Frew** stated this amendment would cost the ITD approximately \$500,000/year. The fees that are assessed to tractors are high because they include the weight of the trailer. The trailers are a fixed fee of \$15 and it can cost upwards of \$4800/year to register a tractor. The fees are disproportionately high for registering a tractor. The Idaho Transportation Department (ITD) doesn't care if the trailer is registered or not. If the power unit is registered, and there is a trailer, it's considered a combination vehicle and the fees double. **Vice Chairman Hammond** asked if the trailer has to pay a fee as part of the tractor, why bother to register the trailer? **Mr. Frew** responded a lot of these vehicles are from out-of-state and the trailers are not registered. In the case of Idaho residents, they will bring a trailer in service and operate that tractor with trailers that are already registered. The ITD is trying to capture those fees. They're disproportionately high if the hauler is running a combination

of vehicles. The fees are set that way intentionally.

Senator Winder asked if **Mr. Frew** was involved in writing the original fiscal note? **Mr. Frew** replied that he doesn't know what the fiscal note says. **Senator Winder** then asked why this one line of change makes a fiscal impact of \$500,000? **Mr. Frew** responded that ITD has a certain segment of trailers that are registered and they don't know that number, so ITD provided what was considered a reasonable range. The range includes 65% - 80% of the vehicles.

Senator Keough asked if the target of this legislation was to have trailers that haven't otherwise paid, to pay. She asked if no changes are made, if the fees being charged twice. **Mr. Frew** stated the department doesn't feel that is the case because fees for registration are disproportionately high for the power unit. The trailer is \$15/year; that covers only administrative costs. **Senator Keough** asked why would more money be paid to register a trailer that is already registered. **Mr. Frew** replied the power unit itself is being temporarily registered for that vehicle to operate for five days which is \$60. For a combination of vehicles, it's twice as much, \$120. The power unit can have up to three trailers. The power unit doesn't damage the roads; the combination of vehicles does.

Vice Chairman Hammond asked if a temporary permit is purchased for the tractor only, the tractor is hooked up to a registered trailer and freight is hauled with this combination, is this particular combination being run illegally. **Mr. Frew** responded that it is because the combination of vehicles has not been paid for, just the single tractor. ITD no longer charges by weight carried and miles traveled. **Vice Chairman Hammond** asked why anyone would register a tractor by itself being that haulers are not going to drive the tractor by itself. **Mr. Frew** replied that a single vehicle can operate by itself, such as beet trucks. Those are called single trucks. A furniture dealer out of Utah with a single truck would come to Idaho and drop off a load. This truck would get a trip permit. A trip permit is the same as the temporary permit.

Senator Bilyeu asked if the \$4800 fee for the power unit is being left alone. **Mr. Frew** replied that it is.

Senator Corder asked what the configuration is for the \$4800 tractor, specifically how much weight and how many miles and which tier. **Mr. Frew** replied that the configuration is 105-5. The power unit would be registered at the highest tier and each trailer, up to three would be registered at about \$15 each. **Senator Corder** asked which tier specifically. **Mr. Frew** answered the highest tier, above 50,000 miles a year. **Senator Corder** figuring the daily fee, asked if \$4800/365 days in a year, would be \$13 a day. He requested clarification that temporary permits are good for five days. **Mr. Frew** responded that **Senator Corder** is correct. **Senator Corder** continued, stating that with a five day permit, (13 x 5 = \$65) the tractor is paying full registration for tier five at the 106,000 lb weight when the tractor may be an 80,000 lb tractor. The tractor is paying it's way regardless of the trailer. The trailer registration may be set too low, but that is not the current issue. If the trailer

registration should be raised, that should be discussed in other legislation. **Mr. Frew** responded if the combination is \$60/week to operate and there are 52 weeks, that would be \$2000 rather than \$4800 to operate the same configuration. **Senator Corder** said the math is going the wrong way because if the \$4800 (top end) is doubled, then the hauler is actually paying \$9600 instead of \$4800. **Mr. Frew** stated the department looks at this as running the vehicle combination for five days, one week, for \$60 rather than \$120. This encourages people not to register permanently. This concern might be addressed by the cost allocation study task force. **Senator Corder** replied that this bill might encourage haulers not to register if the bill passed last year limiting temporary registration to three times had not been passed. The fiscal impact is based on what was done last year because last year's bill encouraged people to register and this potential negative change should have been offset last year. It is no longer fair to require haulers to temporarily register an already-registered trailer and people are being taxed twice. **Mr. Frew** stated that these are concerns the department has and it is up to the committee to determine what to do.

Senator Werk asked if there had been a meeting with the sponsor before this meeting and if there is room for common ground. He also asked what changes were made to registration fees last year? **Senator Corder** replied that before last year a person could buy as many five-day permits as they'd like. Last year the law was changed so that a hauler could use a temporary permit only three times and then had to register permanently. This encouraged people to register permanently rather than keep purchasing temporary permits. The economy was also poor in the beginning of the year and a lot of trucks were registering near the end of the year. That had nothing to do with the changes to this law. There are a number of dynamics that have gone into the fiscal impact. **Senator Corder, Mr. Frew** and **Mr. Rodriguez** have had conversations about the fiscal impact and ITD can't get any closer with their estimates because of the variables from last year. There is a different philosophy between the Transportation Committee and ITD. It is this Committee's responsibility to that citizens of Idaho who own-operate tractors and trailers are not double-taxed, especially since last year legislation was passed to limit the amount of temporary permits.

**SUBSTITUTE
MOTION:**

Vice Chairman Hammond made a substitute motion to hold **S 1311** in Committee at the call of the Chair. **Senator Werk** seconded the substitute motion. **Vice Chairman Hammond** stated that there is enough confusion among the Committee Members to indicate that more work needs to be done on this legislation. **Senator Bilyeu** asked **Senator Corder** what was done last year to generate \$500,000 for ITD that would be lost? **Senator Corder** replied that the amount of the estimate was additional revenues. This change will reduce those revenues between \$300,000 and \$450,000; but this is a reduction to the increase in revenue of \$1,160,00 due to last year's legislation. He reiterated the point made by **Mr. Frew** that these numbers are estimates based on the number of permit holders due to variable not able to be included from only one year of data.

Senator Winder stated he would support the substitute motion of **Vice**

Chairman Hammond.

Chairman McGee stated the Committee would now vote on the substitute motion by **Vice Chairman Hammond**, seconded by **Senator Werk**. The substitute motion carried by **voice vote**.

H 397

Relating to Driver's Training Instruction Permits. **Chairman McGee** introduced **Lynn Rhodes**, Driver's License Program Supervisor, Idaho Transportation Department. **Ms. Rhodes** stated that both commercial and public driving school representatives were contacted regarding the content of this legislation and voiced their support. Currently, driving instruction permits may only be issued to people 14 ½ to 17 years of age. If a person 17 years of age or older wants to take driver training they will be issued a Class D instruction permit. However, they must pass the Idaho knowledge test first. People who have reading or learning challenges have substantial difficulty passing the knowledge test without first obtaining classroom instruction. This change will allow people 14 ½ years of age and older to pass the knowledge test after completion of driver training. This legislation also corrects the identity document requirements in sections 49-305 and 49-306, Idaho Code, so these two sections are congruent with regard to the issuance of driver training instruction permits, Class D instruction permits and drivers licenses. The applicant must use a certified birth certificate as proof of their identity whenever possible. **Senator Broadsword** said on page 6 regarding the birth certificate or another government-issued document, is a picture from the school yearbook a valid government-issued document? **Ms. Rhodes** replied that it is not considered a government-issued document; the yearbook is used to support an exception process.

MOTION:

Vice Chairman Hammond moved to send **H 397** to the floor with a do-pass recommendation. **Senator Keough** seconded the motion. **Senator Werk** asked about the changes of permit requirements for 17 year olds. How does this change affect those between 17 and 18 years old? Is everyone directed into the same funnel? **Ms. Rhodes** responded that it has no impact whether people over 17 years of age go to drivers' training school or not. Driver's training is only required for people under the age of 17, but there are people older than that who choose to take driver's education. **Senator Bilyeu** asked what the intent of the legislation is? **Ms. Rhodes** replied there have been a fair number of people who could not pass the knowledge test by reading the manual and the ITD tried to find another way to give them the knowledge they need. The motion carried by **voice vote**.

Chairman McGee mentioned there will be several sets of minutes to approve at the next Transportation Committee meeting. The meeting was adjourned at 2:35 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

Jo Ann Bujarski,
Transcriber

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 11, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- 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.
- Chairman McGee** called the regular meeting of the Senate Transportation Committee to order at 1:30 pm and asked for approval of the minutes.
- MINUTES:** **Senator Keough** stated that she has reviewed the minutes from January 21, 2010 and found them to be in order.
- MOTION:** **Senator Keough** made a motion approve the minutes from January 21, 2010. **Senator Werk** seconded the motion. The motion passed by **voice vote**.
- MINUTES:** **Senator Winder** stated that he has reviewed the minutes from January 19th and found them to be in order with a couple of typographical changes to be made.
- MOTION:** **Senator Winder** made a motion to approve the minutes from January 19th. The motion was seconded by **Senator Keough**. The motion carried by **voice vote**.
- GUBERNATORIAL APPOINTMENT:** **Chairman McGee** introduced **JV DeThomas** from IDT Division of Aeronautics to introduce Gubernatorial Appointment **Rodger Sorenson** to the Idaho Aeronautics Advisory Board. **Mr. DeThomas** gave a brief introduction of **Mr. Sorenson**, stating that **Mr. Sorenson** is from Soda Spings, ID and no other individual does as much as **Mr. Sorenson** for aeronautics in Idaho.
- Chairman McGee** introduced **Mr. Sorenson** to the Committee and asked him to give information about his experience in aviation and with the Board. **Mr. Sorenson** stated that he has been with the Aeronautics Advisory Board for nine years. Before being a member of the Board, **Mr.**

Sorenson was a retired airline pilot. He recalled a memory as an airline pilot in which another pilot explained that he could do a fine job at work, but he can call in sick and another pilot will take the job, illustrating his importance upon being devoted to his work and responsibilities. He stated that it has been a pleasure serving on the Board.

Senator Keough thanked **Mr. Sorenson** for his service and asked if he sees a way that the Aeronautics Advisory Board, the Idaho Transportation Board and the Legislature can work together to convince the FAA of the need to be more supportive of smaller airports than they currently are as a way to cut through red tape at the state level to the federal level. **Mr. Sorenson** stated that there is a way and the FAA is presently considering letting the states do more in regard to assigning the various funds to the local airports. The Board will be able to give a positive report if all goes well within the next year. **Senator Keough** again thanked **Mr. Sorenson** for his time and his work on that effort.

Senator Winder commented on the service, hard work and amount of time that **Mr. Sorenson** spends working on the Board.

Senator Werk stated that he appreciates the work that **Mr. Sorenson** does. He asked whether the AAB has a stance or any impact in regard to the air traffic control center in Idaho, referring to it as TRACON. He also asked if TRACON is in his sphere of work. **Mr. Sorenson** stated that TRACON is not in his sphere of work, however, he stated that the Board has been involved in the issue since the Congressional Delegation had a hearing in Boise a number of years ago. Everything points to the fact that we should keep the air traffic control and he would like to keep it in the area. Keeping it in the State would benefit the state and the area.

Senator Bilyeu asked if **Mr. Sorenson** if he still owns the Stars Ranch in Custer County and whether business has fallen off with the present economic struggles. **Mr. Sorenson** replied that calf prices were down last fall. He attempts to sell grass grown on the Ranch. He does the fencing and the irrigating and has a mile long runway which he usually has to clear it due to the aftermath of the grazing problem.

Chairman McGee thanked **Mr. Sorenson** for his time and explained that, as is the tradition, the Committee will vote on the nomination during the next committee meeting.

Chairman McGee noted one more housekeeping item and explained the letter included in the Senators' folders addressed to the Lieutenant Governor and the Governor's Task Force on Transportation regarding license plates.

RS 19642:

Chairman McGee turned the gavel over to **Vice-Chairman Hammond** in order that he may present legislation to the Committee. **Vice Chairman Hammond** introduced **Chairman McGee** to bring RS 19642, Relating to Texting While Driving. **Chairman McGee** stated many people have been involved in the discussion regarding this bill. He explained that page 1, line 36 defines texting using the federal guidelines sent down recently in

regard to Commercial Drivers Licenses and texting. Page 5, line 3 makes texting while defacto "inattentive driving."

Senator Broadsword asked how adding this to the law makes it different than the current inattentive law on the books? She stated that she is struggling to understand why we need to list one specific inattentive activity without listing others. **Chairman McGee** replied that first, 20 states have already implemented texting while driving legislation. Recent studies have shown that texting while driving is worse than drunk driving. Texting while driving has become such a dangerous issue that it deserves to be singled out.

Senator Werk told **Chairman McGee** that he has had a lot of meetings with law enforcement, who have stated specifically that in order to enforce laws, specifics are needed. Law enforcement requested specifics to be stated in State Code in order to enforce the law.

MOTION:

Senator Heinrich made a motion to send **RS 19642** to print and **Senator Keough** seconded the motion.

Senator Bilyeu made a comment that she and others have also drafted legislation regarding texting legislation, illustrating the importance of the issue and is pleased that this legislation will be going to print.

The motion carried by **voice vote**.

Vice-Chairman Hammond gave the gavel back to **Chairman McGee**.

RS 19589

Chairman McGee asked **Senator Werk** to discuss **RS 19589**, Relating to Pedestrians, Motor Vehicles and Bicycles. **Senator Werk** began by saying that he and **Chairman McGee** became involved in cyclist safety after three cyclist deaths occurred in Boise over the course of one month and an additional cyclist death in Twin Falls. He stated that **RS 19589** seeks to enhance the penalty for any kind of cycling infraction. This legislation adds a \$75 infraction to be added to any penalty for violating bicyclist laws. This applies to both vehicles and to bicyclists. If a motor vehicle has an interaction with a cyclist, the infraction would be added to motor vehicle and if a bicyclist puts himself in danger he would also be subject to the infraction. The funds would be used by ITD to enhance the safe routes to school programs which grants money to schools throughout the state to create safer situations in school zones. The amount of a \$75 increase is being used because the same amount was used by Senator Goedde in an increased fines for a violation in a school zones bill.

Senator Broadsword asked where the fund for this money would be established. **Senator Werk** stated that the fund is being set up in the same way that pretty much all funds are set up. He stated he cannot answer the question directly because he allowed legislative services to provide how the fund is set up and how one uses the fund. He stated that he will work to understand how the fund is used and whether it is different from other funds which are set up. If there are differences, he would be open to amending that wording.

Senator Keough asked for future clarification that there is some bucket of money someplace for state routes to schools because it is granting money out across Idaho and she is wondering if this fund is a duplication. Her second concern is with the funding wording for “continuously appropriated.” She advised **Senator Werk** to check with the co-chairs of JFAC because unless the wording is caught before, it will be questioned on the Senate Floor and the JFAC chairs will want to discuss the wording. **Senator Werk** replied that ITD set up the Safe Routes to Schools Program seven years ago. It brings in federal money through a grant process. This would bring in money through that competitive grant process and provide a few more resources. **Senator Werk** stated that he will talk to the co-chairs of JFAC regarding the funding wording.

Senator Heinrich referred to page 1, line 37 and requested clarification that in regard to the clerk of the court having to daily remit such civil penalties to the county auditor. He stated that as a former clerk of the court, most counties will be in violation of this code at least four days out of the week. **Senator Werk** responded that the wording as used by legislative services is standard. He will make sure of that and amend the bill if necessary so that the clerk of the court is not in violation of the code.

MOTION: **Senator Keough**, made a motion to send RS 19589 to print, **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 19588: **Chairman McGee** asked **Senator Werk** to continue with **RS 19588**.

Senator Werk stated that meetings with law enforcement made clear that harrassment of pedestrians and cyclists was a highly underreported crime. There are many issues with being able to use simple assault issues and the battery statute because if a beer can or cup of ice is thrown at a cyclist, there is no physical human contact. Law enforcement has requested a harassment statute to give law enforcement means to pursue those that harass cyclists. This statute, if printed and passed, would require that one acts maliciously and with specific intent to intimidate or harass.

Senator Broadsword stated that while she agrees that harrassment is bad, she uses her horn to warn cyclists if they are in harms way. She asked if a cyclist believe that the horn was being used to scare or harass the cyclist, if she would be in violation of code. **Senator Werk** answered that the statute specificaly states that the act must be malicious in order to warrant a violation of the statute. **Senator Broadsword** stated that she envisions a “he said, she said” regarding events under this statute and is looking forward to debate.

MOTION: **Senator Winder** made a motion to print **RS 19588**. **Senator Bilyeu** seconded the motion.

Senator Bilyeu expressed warning on wording of “sound of horn.”

The motion carried by **voice vote**.

RS 19587:

Chairman McGee asked **Senator Werk** to continue with **RS 19587**. **Senator Werk** stated that code does not protect against pedestrians darting in front of traffic. **Senator Werk** explained "fixing", stating that a recently popular fix to bikes, especially among young people, is to strip a bike of derailleurs and other features. There is no coasting on these bikes and often these bikes are stripped of a brake. Law enforcement would like a statute to require a working brake on a bicycle.

Senator Broadsword stated that this bill is needed, however she would like to see a \$75 fine and asked if that is included in other legislation. **Senator Werk** replied that if Civil Enhancement Bill passes, the \$75 infraction would be applied to all four pieces of legislation.

Vice Chairman Hammond asked if additional legislation is needed to ensure that cyclists are equally aware of the cars around in order to ensure their own safety. **Senator Werk** stated that he should have included a sheet of current cyclist laws, providing that yes, there are enhanced laws regarding laws for cyclists and passing these pieces of legislation would increase the fine for infraction by cyclists as well as motorists for violation. **Senator Werk** added that physics are dramatically against cyclists in a collision with a motor vehicle.

MOTION:

Senator Broadsword made a motion to print **RS 19587**, **Vice Chairman Hammond** seconded the motion. The motion carried by **voice vote**.

RS 19582:

Senator Werk brought **RS 19582** explaining that the legislation requires motor vehicles to give three feet to pass runners or cyclists. Motor vehicles are given an exemption that if no opportunity to give three feet to pass, the motor vehicle may still pass with less than three feet. However, if a cyclist is on a narrow road, for example, causing cars to build up behind the cyclist because there is not enough room to pass the cyclist, a cyclist must pull over or the cyclist will be in violation of the code. This legislation allows a cyclists reasonable room to maneuver on the road.

Vice Chairman Hammond made a motion to send **RS 19582** to print, **Senator Bilyeu** seconded the motion.

Senator Broadsword asked for **Senator Werk** to provide widths of roads and widths of vehicles, including large trucks and width needed to pass as a result when presenting the printed bill to the Committee. **Senator Werk** replied that he will review the legislation that has worked in other states, for example, when a dump truck is on a narrow road and there is not ample space to pass a bicycle.

The motion carried by **voice vote** with **Senator Keough** voting no.

Chairman McGee recognized the Chairman of the Idaho Transportation Board, **General Manning**, as being present in the meeting.

Chairman McGee adjourned the meeting at 2:20pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: February 15, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

MINUTES: **Chairman McGee** called the Senate Transportation Committee to Order at 1:32 pm. The Secretary took a silent roll and all members were present.

Chairman McGee thanked the Committee for coming to an irregularly scheduled meeting on a Monday, it being the last day to send an RS to the floor from a non-privileged committee.

Chairman McGee stated that the Committee will be reviewing five Routing Slips to send to print.

RS 19623 Relating to Dealers and Salesman Licensing

RS 19630 Relating to Dealers and Salesman Licensing

RS 19317C1 Relating to the Safe Boating Act

RS 19610 Relating to Recreational Activities and Registration Fees

RS 19625 Relating to Motor Vehicle Service Contracts

Senator Corder stated that unless someone has a desire to hear each bill presented individually, he would like to move all five bills be sent to print for the sake of time and because the Committee will hear each bill individually once printed.

MOTION: **Senator Corder** moved to send **RS 19623, RS 19630, RS 19317C1, RS 19610** and **RS 19625** to print. **Vice Chairman Hammond** seconded the motion, and the motion carried by voice vote.

Senator Keough noted that, historically, this is not the first time a committee has voted to print more than one bill at a time, and it will not be the last. She also noted that the Committee will review the legislation again after it is printed.

Chairman McGee adjourned the meeting at 1:34 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 16, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- 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.
- PRESENTATION:** **Chairman McGee** called the regular meeting of the Senate Transportation Committee to order at 1:33pm and the Secretary took a silent roll.
- Chairman McGee** introduced Tom Warne, President of Tom Warne & Associates, to discuss transportation finance.
- Mr. Warne** stated his presentation will explain aspects of national and state transportation funding which he has undertaken during his more than thirty years of experience in the transportation field. He stated that he will explain approaches taken by the Utah Department of Transportation while he was Director. **Mr. Warne** explained that in regard to the national transportation picture, there are two specific assets, first, finding the money to build the system, and second the climate change which plays a role in future transportation funding.
- Mr. Warne** focused on how Idaho's demand and population growth is greatly outstripping production and maintenance of infrastructure. Much of the infrastructure in Idaho just had it's fiftieth birthday. **Mr. Warne** discussed donor states versus donee states, referring to slides number ten and eleven of the attached slide show, stating that donor states are states which receive less per dollar out of the federal transportation fund than they contribute and donee states are states which receive more for every dollar which they put into the fund. For example, Alaska receive 6 dollars for every dollar which they contribute to the Federal Transportation Fund. Idaho is currently a donee state He stated that the federal approach to transportation funding is to oversubscribe
- In terms of the Environmental Protection Agency, who has usurped certain powers, there are substantial challenges brewing pertaining to

greenhouse gas emissions and regulations. **Mr. Warne** discussed how the federal transportation administration is backlogged, slow in funding and the demand for federal monies far outweighs the amount available. He discussed that the Federal Administration does not support a raise in the motor fuels tax or a VMT tax. He apprised the committee of Idaho's dependence on federal monies with 52% of the transportation monies coming from federal funds. ITD can't make long term plans due to delays in possible federal funding. **Mr. Warne** warned that environmental issues can't be ignored and can impact funding summarizing that Idaho needs to solve their own problems and not wait for the federal government to solve problems, further revealing that Idaho is not alone in a shortfall of funds. Fund raising strategies and ballot initiatives were discussed. Utah's DOT and growth was discussed including summit meetings, bonding, financing and the Centennial Highway fund. **Mr. Warne** summarized his presentation stating that federal aid will most likely not increase, that most states are taking the initiative to solve their own transportation challenges and that citizens are willing to pay for transportation if there is a plan, a schedule and a limit on the tax increase.

Chairman McGee commented on the value of the presentation from a former director in a neighboring state with similar issues and stated that it is good to have a perspective on national issues.

Chairman McGee asked the Committee if they had any questions for **Mr. Warne**.

Senator Heinrich wondered if there was any correlation between conditions of the roads in the states that are a donee versus donor states and if a re-evaluation of the donor/donee status will change after review of road conditions. **Mr. Warne** indicated the condition of the roads are part of the discussion but do not drive how money is allocated.

Senator Winder inquired concerning stimulus dollars and the time frame associated therewith. **Mr. Warne** replied most states have spent the original stimulus. It is now called a jobs bill and is creating an environment for more money for infrastructure projects. Complications are resulting from the public's fear of the deficit and politics in Washington. He guessed there was around a 50% chance of another stimulus and if so, it would result in a small dollar amount if any.

Senator Winder questioned what the ratio in Utah is for state funds vs. federal funds. **Mr. Warne** said when he started it was 20%-state and 80%- federal, but currently 80%-state and 20%-federal. **Senator Winder** followed by asking what flexibility a higher state ratio allowed. **Mr. Warne** indicated that it allows the states to ignore the federal regulations and processes giving flexibility on how to spend money. When using federal funds, he estimated that, at least 20% of the value is lost.

Senator Hammond asked concerning the donor/donee designation and how much weight it carries in the discussion of funding. **Mr. Warne** replied that it is very serious and can affect Idaho because the delegations that have the most sway will carry the day and advised that

Idaho should work with its delegation to not lose ground.

Chairman McGee thanked **Tom Warne**

PRESENTATION: **Chairman McGee** introduced **Marilyn Sword**, Chair of the Interagency Working Group for Public Transportation, who is here for an annual presentation.

Marilyn Sword introduced her team and theme of the presentation being "Community Partnerships and Coordinated Solutions"

Ms. Sword then discussed role of IWG.(Interagency Working Group), the makeup of the board and its purpose to advise the Department of Transportation and Governor on providing public transportation in Idaho. Every community has different transportation needs and all aspects of Idaho depend on transportation. Modes of transportation and the importance of having varying transportation options were discussed.

After studying needs of the state, IWG developed 17 management areas, made up of local people to discuss problems and solutions in their communities. **Ms. Sword** introduced I-Way which is a statewide system connecting people in Idaho to transportation options, growing from merely a cause to an information system connecting all areas of the state. A key partner in providing quality transportation to the citizens of Idaho is the Community Transportation Association of Idaho (CTAI).

The presentation of CTAI was then introduced by **Heather Wheeler**.

Heather Wheeler, executive director for CTAI, gave examples of what has been done locally. CTAI is a non-profit organization that provides a collective voice for transportation providers setting policies. CTAI facilitates and supports statewide coordination to effectively move people throughout Idaho. **Ms. Wheeler** used the City of Victor and Riggins as examples of how CTAI was able to use stimulus funding.

Marilyn Sword continued the presentation by introducing research by the National Association of Governors showing that coordination of transportation issues results in costs reductions. She encouraged the members of the committee to discuss transportation options with constituents through I-Way and presented a 3-minute video about I-Way. **Ms. Sword** then offered to answer questions.

Senator Corder wished to clarify who **Ms. Sword** represents and to whom does she report. **Marilyn Sword** answered she represents the Interagency Working Group. In the past IWG presented written materials but desired this year to present a formal presentation.

Senator Heinrich asked if all people pay the same fee for public transportation even though the modes of transportation in the video were different. **Marilyn Sword** clarified that the video showed examples of different modes of transportation indicating there is not yet a statewide fee

structure.

Senator Heinrich followed up by asking if individuals pay for the transportation or if any are subsidized. **Marilyn Sword** was uncertain but assumed it would be some of both. Some with disabilities may get a script for reduced cost bus fares but it may be a combination to participate in these programs.

Senator Broadsword told of her participation in a strategy session held in Sandpoint with a mobility planning group. She recounted that it was interesting to hear all points of view and was energized by the experience.

Chairman McGee thanked **Marilyn Sword** for the presentation.

**GUBERNATORIAL
APPOINTMENT:**

Chairman McGee introduced **Chairman Manning**, chairman of the Idaho Transportation Board who presented **Jan Vasser** for appointment to the Idaho Transportation Board. He reviewed her experience and resume then recommended her to the committee.

Jan Vasser stated that she is honored to be appointed by Governor Otter. She told of her experience as an administrator and background with the City of Lewiston both in employment and in volunteer work.

Senator Hammond commented on the capabilities of **Ms. Vasser**. **Senator Winder** concurred with **Senator Hammond** and stated that he has known **Jan Vasser** for many years.

Chairman McGee asked for Ms. Vasser's comments concerning the prior presentation by **Mr. Warne**. **Ms. Vasser** commented on Utah's transportation funding shifting away from federal and towards local funding and that shift might be problematic for Idaho. Her experience in city matters has shown that as citizens are involved and is convinced of the need to be open to the possibility of tax increases

Senator Hammond mentioned that an issue surfacing is sharing the gas tax with local entities, cities, counties, etc. An argument is that local entities don't share enough of the transportation tax burden and should fund their own roads. He asked **Ms. Vasser** for her opinion concerning this. **Ms. Vasser** stated that local governments do a good job of using funds efficiently. Local governments have to be accountable to ITD and federal highway administration. There might be opportunities for a re-evaluation of the code for consolidation of the number of highway districts.

Senator Corder questioned **Ms. Vasser** on her philosophy on diversification of revenue streams for ITD, citing her mention of a possible gas tax and wondered if that thought might continue to sway diversification negatively. **Ms. Vasser** answered that she has not been a part of the task force formed to examine revenue diversification and therefore doesn't have a position.

Senator Corder clarified his question explaining that funding comes from gas tax and some from registration fees and wondered if volatility is caused when gas taxes continue to be raised. **Ms. Vasser** replied that a mix is needed further recalling that Idaho hasn't raised the gas tax since 1996 indicating the gas tax might need an adjustment. She expressed a balance with all sources of revenue, not just a single source is needed. **Senator Corder** questioned her philosophy about dissolving highway districts, with a possible code modification and stating the code already contains provisions to dissolve districts. **Ms. Vasser** replied that since Idaho is so diverse, highway districts are needed but in her experience changes in districts were difficult to make.

Senator Werk asked if **Ms. Vasser** imagined herself filling a role on the board to facilitate change in districts. **Ms. Vasser** explained since it is a local issue it is not the role of the board to dictate changes, but possibly to communicate with the local jurisdictions concerning code change. **Senator Werk** questioned if she thought it was appropriate for the board to facilitate communication with local jurisdictions. **Ms. Vasser** replied that she thought it would be a role of the board.

Senator Bilyeu commented on Ms. Vasser's suggestions that discussion throughout the state is needed to educate the public as to the needs and to share in raising revenue. **Senator Bilyeu** recalled efforts made by the Governor to engage parties throughout the state only to be voted down by the legislature and asked for Ms. Vasser's suggestions to get approval of the people throughout the state as well as the legislature. **Ms. Vasser** remarked she didn't have a particular formula but thought for information, transportation needs and outcomes could be disseminated by informing people in the states that there would be awareness as to their roles. The legislature needs to have trust in the board and the staff before voting.

Chairman McGee questioned concerning the use of bonding to pay for transportation projects in the state. **Jan Vasser** stated bonding is similar to the GARVEE program which she supported, paying for projects with today's dollars rather than future dollars and stated support for bonding.

Chairman McGee explained the appointment process to **Ms. Vasser** and thanked her for her time before the committee.

**GUBERNATORIAL
APPOINTMENT:**

Chairman McGee asked for a motion regarding the Gubernatorial Appointment of **Rodger Sorenson** to the Aeronautics Advisory Board.

MOTION:

Senator Keough made the motion for the gubernatorial re-appointment of **Rodger Sorenson** to the Aeronautics Advisory Board. **Senator Werk** seconded the motion.

The motion carried by **voice vote**.

**UNANIMOUS
CONSENT
REQUEST:**

Chairman McGee discussed Concurrent Resolution 121 to declare findings of the State to reject Section 204 of Docket 39-0260-0901. He explained the need to pass the concurrent resolution on the rules. He

asked for support by unanimous consent to send the Concurrent Resolution to a privileged committee for a print hear on the rule rejection.

MOTION:

Senator Winder made a motion for unanimous consent to send the Concurrent Resolution to the privileged committee. The motion passed by **without objection**.

Chairman McGee adjourned the meeting at 2:47 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: February 23, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the regular meeting of the Senate Transportation Committee Meeting to order at 1:35 pm.

He introduced **Chairman Jo Ann Wood**, Chairman of the House Transportation and Defense Committee and **Mayor Garret Nancolas**, Mayor to the City of Caldwell as being present in the meeting.

Mayor Nancolas introduced the Caldwell Mayor's Youth Advisory Council. **Chairman McGee** announced that several members of the Caldwell High School Government class are also in attendance and joked that he is pleased to have "Caldwell Day" in the Senate Transportation Committee Meeting.

MINUTES: **Senator Broadsword** stated that she has read the minutes from January 26th and has found them to be in order.

MOTION: **Senator Broadsword** made a motion to approve minutes from January 26th. **Vice Chairman Hammond** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Senator Bilyeu** stated that she has read the minutes from February 2nd and has found them to be in order.

Senator Bilyeu made a motion to approve the minutes from February 2nd. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McGee** introduced **Joan Wood**, Chairman of the House Transportation and Defense Committee, to introduce **Chip Kemper**, a

Gubernatorial Appointee to the Aeronautics Advisory Board.

Chairman Wood announced that she has known **Mr. Kemper** since he was 15 years old and stated that he is the president and owner of Queen Bee Air Specialties in Rigby, Idaho. He became a young entrepreneur and took on his father's business as the owner of Queen Bee Air Specialties. He is a graduate of Columbia High School and of Idaho State University in Botech Aviation Maintenance. He is a graduate of Plymouth State College, Plymouth New Hampshire, Business Administration and obtained the following aviation credentials: pilot private SMELS, commercial pilot, pilot SELS, Air Pilot Transport Certificate MEL, Certified Flight Instructor, CFISMELS, Certified Instrument Flight Instructor, CFISMELSES, Airframe and Powerplant mechanic certificates, Inspection authorization for maintenance, BOM Flier and aviation certified trainer for single engine airtaker operations. She stated that Mr. Kemper and his father have flown all over the Western United States fighting fires. She is proud of what Queen Bee Air Specialties has done for the city of Rigby. As of two years ago, Queen Bee Air Specialties brought about \$7 million into Idaho and into Rigby. It is the highest grossing airport in the State that receives no federal funding and outproduces many smaller airports in Idaho. She recommended that **Chip Kemper** is a choice individual and she is happy to introduce him to the Committee.

Chairman McGee introduced **Chip Kemper** to the Committee to give further information regarding his experience and qualifications. He stated that the number of \$7 million dollars per year, which is brought into the City of Rigby because of Queen Bee Air Specialties (QBAS) was as a result of the 1997 study. Currently the airport brings about \$18 million per year into the City of Rigby. QBAS works in aerial fire fighting working for the Idaho Department of Lands, Colorado State Forest Service, and Bureau of Land Management on contracts.

Chairman McGee reminded the Committee that they have the questionnaire given to Gubernatorial Appointments as well as background information included in their packets. He asked if the Committee had any questions for **Mr. Kemper**.

Senator Broadsword asked whether **Mr. Kemper** sees a need for improvement of the Board and what avenues he might take while on the Board since he has attended every Board meeting since May of 2009.

Mr. Kemper stated that he has been shadowing **Mr. Bob Hoff** who has held his position on the Aeronautics Advisory Board for a dozen years. He stated that the more he learns, the less he knows. The young firefighters really depend on the system of air fields and roads to deliver everything they need, such as jet fuel to run a helicopter among other things. The bad part of this business is utilization and a positive impact. He stated he is learning still about the laws, the trustees and benefits dollars used to upgrade the aerial force. He stated that the determination as to whether a program is worthy of a grant is reasonable straightforward.

Senator Bilyeu asked for a clarification as to where QBAS income comes

from. **Mr. Kemper** responded that half of QBAS's income comes from firefighting and with the dealer of this line of aircraft selling aircraft in parts across the Western US and Canada. In a given year, maybe one third of the income comes from aerial fighting and during a different year it may be two-thirds to three-quarters of the income. It varies with the seasons.

Chairman McGee clarified that less than 10% of the small airport's income comes from State contract.

Chairman McGee recognized **Mr. Thomas**, the Chief of the Aeronautics Division and **Mr. Sorenson**, another Gubernatorial Appointment to the Aeronautics Advisory Board. **Chairman McGee** thanked **Mr. Kemper** for his service to the State and reminded the Committee and the students in the room that it is tradition to wait for the next meeting to vote on the Gubernatorial Appointment.

**Docket
39-0322-1001:**

Chairman McGee turned the gavel over to **Vice Chairman Hammond** to conduct the rules proceeding.

Vice Chairman Hammond introduced **David Metcalf**, the Commercial Vehicles Program Services Program Supervisor for ITD.. **Mr. Metcalf** is here to present Rule 39-0322-1001, Rules Governing Overlegal Permits for Extra-length Vehicle Combinations. Representatives from the logging industry requested an increase in the allowable length on blue-coded routes in order to enable them to utilize their hauling equipment more effectively and efficiently, providing benefit to the industry. **Mr. Metcalf** referred to the map which he included in the Senator's folders which has blue roads for distinction and which will be included as an attachment. This is a temporary rule which increases limitation for permitting vehicle combinations from the blue coded routes from ninety feet to ninety-five feet and overall lengths including loads over ninety feet. It still allows vehicles to operate within the maximum off-tracking limitations. ITD conducted tests in November 2009 to ensure that this increase in allowable length would maintain safety for the general public on these highways. Assuming approval, this temporary rule will be promulgated as a proposed rule after the session ends and will appear next session in order to make it permanent.

Vice Chairman Hammond asked **Mr. Metcalf** to clarify what he meant when discussing on-track versus off-track. **Mr. Metcalf** referred to the map which he included in the Senator's folders and stated that the different colors stood for roads which vehicles with certain loads may travel on based upon the length and traction of those roads.

Senator Corder asked why 5 feet were added for the configuration change. He asked if the 5 feet were in overhang or axel placement. **Mr. Metcalf** responded that the extra feet were added to help the industry with their size of vehicles. They often have 33' long log trailers and putting two of those together with the power unit exceeded the 90 feet, but not the 95 feet. They were only able to haul one 33' long trailer or add another smaller one to it. This made the logging industry not very efficient for the type of equipment they are using. **Senator Corder** followed his

question requesting clarification on the test to determine off-track results, if another trailer is added, the off-track tractor ought to have been eliminated. **Senator Corder** wanted to know about the test used to demonstrate that the second trailer extension by 5" kept the off track within the 5 1/2 feet. **Mr. Metcalf** replied that the off-track was able to be maintained within the limits with the extra 5' configuration. When the two 23' trailers were connected, the same tracking capabilities were maintained.

Vice Chairman Hammond asked to clarify that "on track" is defined as keeping both the tractor and the trailer within their own travel lane. **Mr. Metcalf** agreed stating that with a long trailer, the back tires might cross the center line whereas a combination of several trailers, even though the overall impact is longer those can actually track better because they negotiate the turn and make sure the outside tires don't cross the center line. **Senator Corder** asked if there is a range or a limit to be off-track, such as five feet, which a truck or tractor may be off-track, but still be within the limitations and not be cited. **Mr. Metcalf** responded that there is actually a formula that is followed for a track to be in a certain range that ITD is finding on certain routes. To explain that formula in more detail, a subject matter expert may be needed.

Vice Chairman Hammond introduced **Alan Frew**, the Motor Vehicle Administrator for ITD. **Mr. Frew** stated that there is not a tolerance or range for 5.5 feet. The reason there is a set at particular off track, is because when the road geometrics are established, there is a particular engineering analysis done which has to do with the lane widths and the curvature of the road. When pulling a trailer, the power unit tends to take one path and the trailer behind tends to take a shorter path, hence the off-track. That computation is allowed in that the 5.5' takes the lane curvature and the width of the highway into account. In this case, the truck will try to get over as far as it can so that the trailer behind does not cross the center line.

Senator Corder asked if a calculation was done on paper to see if someone is off-track or on-track or was it actually done on the road. **Mr. Frew** assured **Senator Corder** that the calculation was done by an engineer named Jim Carpenter and he is very meticulous and concerned about highway safety. He had his team go out and document routes.

Senator Broadsword asked if this would address the problem her constituents have been having on State Highway 3 and State Highway 5. **Mr. Frew** responded that since the mills were asking for a specific length, requesting to standardize the length, ITD looked at the off-track and studied all the parts and pieces very carefully and provided the 95' length allowance. **Senator Broadsword** thanked **Mr. Frew**, stating that she thinks it will solve the problem.

Senator Werk stated that the issue is safety and damage to roads. Also, overweight trucks and increased costs for maintenance. He asked if the longer trucks are going to be as safe as the trucks operating today and whether they will put more wear and tear on routes. He also asked if

routes are suitable for these truck lengths. **Mr. Metcalf** responded that in regard to **Senator Werk's** question on safety, the answer is yes. All safety standards will be maintained. As far as the wear and tear, he chose to yield to **Alan Frew**, who stated that when there is additional weight, there are additional axles required to help counter the weight.

Senator Werk asked what kind of controls the State has in regard to weight limitation and if the State has a way of knowing what weights are traveling on routes. **Mr. Frew** replied that weights are monitored by weight check stations throughout the state. Additionally, logging trucks have scales built into them.

Senator Keough declared that she has conflict of interest, being employed by the logging contractors, who has an interest in this rule. She added to **Mr. Frew's** comments that logging trucks may also be docked if the weight is too high in addition to having scales built into their trucks. ITD also has a fine set of scales that are deployed throughout the State unannounced to ensure that all vehicles are operating legally and as required.

Senator Heinrich asked **Mr. Frew** if his constituents in Valley County will load up their 95' length trailers with logs and have no where to go. **Mr. Frew** responded that there is still a piece that is being worked on and that is one test for off-track that was video taped. That is a very narrow, windy piece of canyon between New Meadows and McCall. The chief engineer has discussed making some improvements and ITD anticipates in the very near future that ITD can make some improvements to that highway and the trucks can travel as they need to.

MOTION:

Chairman McGee made a motion to adopt **Docket 39-0322-1001**. The motion was seconded by **Senator Broadsword**. The motion carried by **voice vote**.

**DOCKET
0901-2602-0101:**

Vice Chairman Hammond handed the gavel back to **Chairman McGee** to continue with the proceedings of the meeting. **Chairman McGee** then introduced **Vice Chairman Hammond** to discuss **SCR 201, A Senate Concurrent Resolution Rejects Section 204 of Docket 0901-2602-0101**.

Vice Chairman Hammond stated that the problem with **Section 204** is that one must be an owner to apply for a business logo license plate and many trailers are actually leased. This is the reason for rejecting **Section 204 of Docket 0901-2602-0101**.

MOTION:

Senator Heinrich made a motion to send **SCR 201** to the floor with a do pass recommendation. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

RS 19686:

Chairman McGee introduced **Senator Werk** to bring **RS 19686**. **Senator Werk** explained that **H 241** passed last year which changed the Negative Electric Vehicle Statute. Inadvertently, the State placed a decode in the balance for the low speed vehicles to operate on 35mph roads and to

**UNANIMOUS
CONSENT
REQUEST:**

cross 45 mph roads, setting up dangerous conditions potentially. Last year, **Senator Werk** supported this legislation because it allowed these vehicles to meet the requirements, but now we want to straighten out the code. He asked the Committee for unanimous consent to send **RS 19686** to a privileged committee for a print hearing. The idea is to have a category of vehicles at low speed and have a category of vehicles taken into account last year in H 241, which are medium speed vehicles.

Senator Keough stated she would like to know the reasoning for missing the deadline for print hearings in non-privileged committees. **Senator Werk** apologized to the Committee for the late introduction of this bill. He stated that it took about a week longer than he thought to ensure the language and areas of code that needed to be changed were found and addressed.

There being no objection, **Chairman McGee** stated that the **RS 19686** will go to a privileged committee for a print hearing.

**GUBERNATORIAL
APPOINTMENT:
MOTION:**

Senator Broadsword stated that when the bill is presented to the Committee for a hearing, she would like to have an answer as to why the bill is requiring registration for small vehicles such as a golf cart.

Senator Winder moved to send the Gubernatorial Appointment of **Jan Vasser** to the Aeronautics Advisory Board to the Senate floor with do pass recommendation. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

Chairman McGee reminded the Committee that Thursday the text message legislation will be heard in the large auditorium, WW02.

Chairman McGee adjourned the meeting at 2:20pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: February 25, 2010

TIME: 1:30 p.m.

PLACE: Room WW02

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

S 1352: **Chairman McGee** called the meeting to order at 1:35 pm and gave the gavel to **Vice Chairman Hammond** in order for **Chairman McGee** to present **S 1352, Relating to Texting while Driving**.

Chairman McGee stated that he has worked with many legislators and entities to produce fair, thoughtful legislation and the "Idaho way" to proceed with the text messaging while driving.

He stated that **Senator Bock** brought this issue to the forefront and would like to yield the floor to **Senator Bock** to give an introduction.

Chairman McGee stated that he will walk through the Committee the bill. He will later request a motion to send the bill to the 14th order. He will proceed with discussion on the bill as if the amendment is in place.

Chairman McGee stated that the definition of "Texting" is defined in the bill as engaging in the review of manual preparation, transmission of written communication by wireless devices except that texting by persons driving law enforcement, fire, emergency vehicles should be exempt while engaged in the course and scope of their duties. This language includes the proposed amendment. Law enforcement will be exempted in the language due to the need to use computers which are often kept in the passenger's seat of a police cruiser. The second amendment is on page 5, line 33 to include the word "moving" to ensure that if a person is behind the wheel and is pulled over to send a text message as is expected of them, then they should not be penalized.

Chairman McGee explained the reason Idaho is pursuing a ban on Texting while driving in Idaho. Texting has become an alarming form of distraction while driving, including the visual, manual and cognitive

distraction. There has been much study regarding texting while driving at the University of Utah, including information which states that texting while driving is equivalent to having a blood alcohol level of .08%.

A ban on texting will give law enforcement the ability to proactively stop accidents before they happen. It states that the citizens of Idaho do not condone the practice of texting while driving.

In addressing a couple of issues, Senator McGee stated that we are creating a new law even though an inattentive driving law is already in existence. In large part, the drafters of the bill agree that texting while driving is indeed inattentive driving. Therefore, the penalty for texting while driving is the same as inattentive driving. However, texting while driving is so dangerous that it does need to be defined and included in the inattentive driving statute. **Chairman McGee** conceded that there are enforcement issues with the legislation. Law enforcement would explain that there are enforcement issues with many of Idaho's statutes.

Vice Chairman Hammond introduced **Senator Bock** who stated that he appreciates the bipartisan process and hopes to see more in the future. He thanked **Chairman McGee** for giving him the credit for beginning the process to bring this legislation forward. **Senator Bock** then credited to a six year old who brought to his attention that texting while driving is an actual occurrence and stated that soon after, he witnessed a citizen driving on the highway and texting at the same time. **Senator Bock** thanked **Chairman McGee** and others for working together to make this legislation a reality.

Vice Chairman Hammond introduced **Senator John Goedde** to make comments regarding texting while driving. He read a letter from a sixth grade class from his district which he received January 7, 2010. He read the letter which included a petition from the class to ban texting. The petition read that, "Texting while driving is dangerous and should be banned in Idaho." The petition included four or five pages of signatures.

Vice Chairman Hammond recognized **Chairman Jo Ann Wood** from the House Transportation and Defense Committee who was in attendance at the meeting.

Janelle De Weerd is with the Meridian Mayor's Youth Advisory Council (MYAC) and is a Sophomore at Meridian High School. She described that a high school student at Meridian HS was killed while texting and driving. This made she and her high school aware of how dangerous and serious an issue texting while driving. She cited Virginia Tech's Transportation Institute found that drivers who were texting while driving were 23 times more likely to crash or have a near crash event than non distracted drivers. Additionally statistics done by the National Highway Traffic Safety Administration attribute four out of five accidents, 80%, to distracted drivers. Passing a law would act as a deterrent to teenagers who want to text while driving. Youth have much to risk. She stated that from a youth's perspective, youth are not aware of the danger which they are causing themselves and that education is needed to advise youth that they are in

jeopardy. She stated that teens with cell phones average 97 texts per day.

Senator Corder asked **Ms. De Weerd** if she knew how many lives have been saved because of laws which ban texting in other states that currently have the law. He also inquired about her experience interviewing youth on the subject, asking how many were asked whether they would obey the law if it were passed. **Ms. De Weerd** stated that all students stated that if a law were passed, that they would not want to be pulled over due to having two driving infractions that will get a driving license taken away.

Eli Narry, a Sophomore at Rocky Mountain High School, and Chair of Meridian Youth Advisory Council explained that he supports the texting while driving legislation.

Jo Stahl, a Senior at Rocky Mountain High School and a member at MYAC also explained that he supports the bill. On February first, the MYAC met with a Meridian Police Lieutenant who stated that the law will be another tool to pull people over and let them know about the dangers of texting while driving.

Mike Kane, representing the Idaho Sheriff's Association supports the amendment to S 1352. He stated that the reason for the amendment is to create an exception for law enforcement to use wireless devices which require an officer to refer to a computer, often while driving. Police officers will not be able to text while driving, but will only be able to use wireless devices pertinent to doing their job.

Senator Corder asked whether **Mr. Kane** knows of any data which will show that legislation has prevented texting while driving. **Mr. Kane** responded that he does not, but that the legislation is a good approach because it shows that Idaho takes a stand against texting while driving. **Senator Corder** followed his question stating that he agrees with **Mr. Kane**, but that this law, although good, may not prevent texting while driving. He added that other states are passing this law and this reason alone is not a good reason for Idaho to do so.

Senator Keough asked for more clarification for the exemption because law enforcement also may be creating a danger by taking their eyes off the road. **Mr. Kane** stated that size of the screen law enforcement is using is comparable to the size of a laptop screen and interferes with visual focus less than a smaller screen such as a telephone might. He added that there are procedures which police departments have in place to avoid safety hazards such as procedural guidelines against entering information into a computer while driving 75 MPH. Modern law enforcement requires law enforcement to have these tools to use in their cruisers.

Megan Buxton, representing Mayor's Youth Advisory Council in Caldwell stated that texting while driving is a choice and the choice not to text while driving will make for safer roads. Teenagers need a push sometimes in order to do the right thing. Much data will show that the risks of texting

while driving far outweigh the benefit.

Eric Baer, a lobbyist and intern for Idaho Farm Bureau stated that the Idaho Farm Bureau is thankful for the opportunity to support this legislation and strongly urges passage of **S 1352**.

Mark Browning, a Boise citizen and bicycle commuter stated that he has had experiences with inattentive drivers and has had to duck off of his bike for personal safety. He gave a narrative of his son's debate trip in which the bus was hit by a driver texting as an example of the legislation needed to dissuade drivers from texting in Idaho.

Senator Broadword asked whether **Mr. Browning** interpreted the amendment to read that people stopped at a stop light would be able to text because they were not moving. **Mr. Browning** stated that he did interpret the amendment to read that way and stated that the amendment would currently follow the statute for inattentive driving. He thought the amendment took a brilliant approach in that it further defined why law enforcement need the tool that is the language in the bill in order to enforce the inattentive driving statute for texting while driving.

Senator Winder asked what type of effort schools may do to educate youth such as through drivers ed and other means to help them understand the dangers of texting while driving. **Mr. Browning** replied that schools can play an important and vital role in helping students to understand the dangers.

Dave Carlson representing AAA in support of legislation stated that he has looked at compelling evidence for the need to ban texting while driving and sees what other states are doing now. He attempted to answer **Senator Corder's** question regarding whether there are statistics finding that passing laws prohibiting texting while driving actually decreases the number of people texting while driving. **Mr. Carlson** stated that finding that information may have to do with tracking of trailing devices being issued. It may take ten to twelve months before there is enough data to draw conclusions from. Twelve states passed laws banning texting last year and two dozen are considering doing so this year. AAA compiled a great deal of evidence. Texting elevates that crash risk, the distraction decreases the facilities required for driving, and no single approach is going to solve this problem. Education, engineering and enforcement are all needed to address this problem. Because there is not data as to what exactly the reasons are for inattentive driving citations or accidents, many states are asking their law enforcement to use a checklist or list the inattentive activity which caused the citation or accident. Efforts are looking at component of driver's training as an educational tool as well as other educational means at the secondary educational level. In 2008, there were 1 trillion text messages sent in the United States. In 2007, there was one-third that amount. He illustrated that a driver driving 35 miles an hour could cover a football field in 4.2 seconds. In Idaho, drivers 25 and under comprised 39% of the drivers involved in distracted driver crashes in 2008. Despite the improvement in the teen licensing law, teen driver ages 15 to 19 still account for 14% of

fatalities. S 1352 takes a definition that looks at the process rather than the devices involved. With this bill, drivers will think twice before texting. Best piece of anecdotal information is that AAA conducted a series of questions in California before and after the text messaging ban. Two surveys showed the level of texting dropped off substantially, declining about 70%. During this survey, when the AAA employees were trying to determine how many people were still texting despite the texting law, they noticed that texting drivers never looked up or made eye contact when stopping as opposed to drivers with other forms of distractions. **Mr. Carlson**, on behalf of AAA, urges the Committee send S 1352 to the floor with do pass recommendation. Allstate American Family Insurance also supports this legislation. Mr. Carlson also recognized the family of Kassy Curfoot, a teenage girl who died in a car accident while texting and driving. Her family is also in strong support of this legislation.

Senator Bilyeu asked if the data provided by AAA includes cell phone use over all or if it is limited to texting while driving. **Mr. Carlson** responded that the data is limited to only texting while driving, because AAA recognizes that only 7 states in the past decade have taken on cell phone use due to it being a sticky issue. **Senator Bilyeu** followed her question asking if AAA has taken any position on cell phone use. **Mr. Carlson** stated that they have, and for the past ten years have taken both sides of the issue. They have determined that the safest approach to driving is to avoid all distractions. They, being practical, understand that banning cell phone use is hard to pass and difficult to enforce.

Mayor Tammy De Weerd, mayor of Meridian came forward and asked to yield her time to a member of MYAC, **Ingrid Embossy**, who apparently was not signed up to testify but would like to testify. **Vice Chairman Hammond** welcomed **Ms. Embossy** to the Committee. **Ms. Embossy** stated that she is a Senior at Rocky Mountain High School and a member of MYAC in Meridian. She reported that studies have shown that the danger of texting while driving can become impersonal when looking at so many numbers. Because texting while driving has such a high potential harm, she urged the Committee to send the bill to the Senate Floor with a do pass recommendation. She stated that the bill is needed to be law in Idaho, for those who are aware of dangers, but continue to text while driving, because they will have penalties.

Senator Broadsword asked whether any students who have testified have texted while driving if this bill would become a deterrent for such activities. **Ms. Embossy** admitted to texting while driving previously, but after researching the issue and understanding the dangers, she and her friends are aware of risks associated with texting while driving and she is confident that her friends will stop this dangerous activity.

Wayne Hoffman, the executive director of the Idaho Freedom Foundation stated that he is neither opposing or supporting this legislation, but wants to provide data relevant to legislation. He stated that in the year 2000, the number of drivers licenses in Idaho was about 890,000. In 2008, there were a little over a million drivers licenses. As a result, the number of vehicles and drivers in state have increased in the number of vehicle

registration; in 2002 there were about 1.475 million and in 2007 there were 1.59 million registered. In 1999 there were about 25,000 traffic accidents in Idaho. In 2008 there were about 25,000 traffic accidents in Idaho. Therefore, one can assume that since the number of drivers has increased, that the number of text messaging has also increased exponentially. **Chairman McGee** asked **Mr. Hoffman** if he is suggesting that texting while driving is not dangerous. **Mr. Hoffman** replied that was not his intention, but is pointing out that the State of Idaho lumps the reason of inattentive driving accidents together as opposed to the number of accidents caused by cell phones and number due to texting while driving. If this law is passed, there will not be a means of comparison because ITD doesn't keep a baseline of data dealing with texting while driving. **Mr. Hoffman** continued with his presentation stating that his nephew is a police officer in Maryland which is one of the first states to pass a law banning texting while driving. When **Mr. Hoffman** asked his nephew about his experience in enforcing the ban on texting while driving, his nephew stated that, "We don't enforce that stupid law." His nephew explained to him that when driving down the road, he cannot tell if a driver is texting or twiddling their thumbs when looking at vehicle next to him.

MOTION:

Senator Werk commented that if **Mr. Hoffman** is referring to not being able to know when someone is texting while he or she is driving, thus making this law unenforceable, he is incorrect. As a cyclist, **Senator Werk** has experienced drivers who are texting while driving and have put him in danger. Humans have a great power to be able to observe their environment and law enforcement is trained even more to be able to observe their environment, that being the premise of their job. **Senator Werk** is unclear about the usefulness of **Mr. Hoffman's** testimony when he is stating that there is no way to enforce the law because one can never see if someone is texting while driving and is hoping to hear some information such as statistics to evaluate the law at hand and the bill in front of the Committee. **Mr. Hoffman** stated that he doesn't have any data which states that he cannot see whether someone is texting while driving. His point is that in his own studies from the people and police officers that he has spoken with, these people have had a very difficult time, apart from going to a vehicle and seeing a phone on their seat and asking that person if he or she was texting while driving and getting an honest yes answer, knowing whether a person is or was in fact texting while driving. In wrapping up his presentation, **Mr. Hoffman** reminded the Committee that he is neither opposing nor promoting this legislation, but is stating that perhaps the Legislature could act on any future data which ITD might take in stating what specific activity, such as texting, has caused a certain percentage of inattentive driving accidents.

Senator Winder stated that he has to go to another committee and wants to thank the students from the Mayor's Youth Advisory Committees for their testimonies. He was impressed that the students were concerned about texting while driving and encouraged the legislation as opposed to trying to talk the Senators out of the legislation.

Chairman McGee stated that he would like to ask **Colonel Steve Jones** of the Idaho State Police Department to yield to a question. He asked

whether **Mr. Jones** believes, like **Mr. Hoffman's** nephew stated, that this is a stupid law. **Mr. Jones** replied that this is not a stupid law; defining texting while driving as inattentive driving closes some loopholes in the current inattentive driving statute. This law would allow law enforcement to stop a person he or she sees texting and ask what he or she is doing and enforce and educate the public regarding texting while driving. In current code for inattentive driving, law enforcement must show that the inattentive action created some sort of change to the driving behavior. This legislation would show that the Legislature of the State of Idaho have taken notice that texting causes a distraction from driving, the manual, the cognitive and the visual which have been testified about previously. **Chairman McGee** thanked **Mr. Jones** for his testimony, his service to the State and congratulated him on his coming retirement.

Senator Corder asked for a moment of personal privilege due to having another meeting to attend shortly. He thanked **Mr. Jones** for his services and thanked the students for their testimony. He joked that the Committee should write a letter to the parents of students who testified today because they indicated that their behaviors and the behaviors of their friends would change if the Legislature simply passed a law. Their parents would be delighted to hear that if the Legislature asks these teens not to do something, that they will not do it.

Steve Crow of ABATE and the Rescue Riders testified that motorcycle riders are very vulnerable on the roads and are vigilant riders who see what is going on for their safety. They support this bill, but do not believe that the law goes far enough. Cell phones are blinder to blind spots when put up to one's ear. He would like to see legislation which bans phone use while driving altogether.

Vice Chairman Hammond asked for questions and discussion on the bill.

Senator Keough made a motion to send **S 1352** to the 14th order. **Senator Werk** seconded the motion. **Senator Broadsword** stated that she previously believed that this legislation was not necessary due to already having an inattentive driving law. After seeing that the work which has gone into this legislation adds texting to the inattentive driving law, it has made a huge difference between the original bill and the intent of the bill now. Therefore, she feels that she can now support this legislation, it having been made beneficial for all ends. **Vice Chairman Hammond** made a side note regarding **Senator Goedde's** testimony, letter and petition from the students from River City Middle School in Post Falls, Idaho. He commented and joked that the students sent that letter to **Senator Goedde** because they originally sent it to their Senator, **Senator Hammond**, who told them there was already a law on inattentive driving. So then they sent the letter to their neighbor to the east in Coeur d'Alene. The motion carried by **voice vote**.

Senator Broadsword asked that anyone who has their testimony in written form, but did not have a chance to present it due to time constraints, bring it forward so that it might be submitted into the

permanent record with the minutes.

Vice Chairman Hammond handed the gavel back to **Chairman McGee**.

Chairman McGee adjourned the meeting at 2:53pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** March 2, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room WW53
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu
- MEMBERS ABSENT/ EXCUSED:**
- 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.
- MINUTES APPROVAL:** **Senator Werk** made a motion to approve the minutes from February 9, 2010. **Senator Bilyeu** seconded the motion. The motion carried.
- APPOINTMENTS:** **Chairman McGee** placed before the committee the gubernatorial appointment of **Chip Kemper** to the Aeronautics Advisory Board.
- MOTION:** **Senator Broadsword** made a motion to send the Gubernatorial Appointment of Chip Kemper to the floor with the recommendation that it be approved by the Senate. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.
- S 1359:** **Chairman McGee** indicated first order of business was **S 1359** relating to auto dealers and salesman licensing, and introduced **Rex Green** of the Idaho State Independent Auto Dealers Association. **Mr. Green** gave a brief description of ISIADA and the Governor's Dealer Advisory Board and their role of advising the ITD on matters of motor vehicle sales in Idaho as well as representation in all hearings before the department involving motor vehicle dealer licensing or new applicants for motor vehicle licenses. He stated that **S 1359** recommends that the Governor's Dealer Advisory Board be expanded by two members, explaining that the proposal would allow independent auto dealers outside of the Treasure Valley to be represented, one from northern and the other from southeastern Idaho. The fiscal impact would be \$2,500 in travel expenses to cover travel costs, specifically flights. Currently members of the advisory board serve without pay for a period of three years. A non-voting member addition is recommended to represent the motorcycle, ATV and power sports dealers of Idaho.
- Senator Heinrich** noted that the committee now consists of 8 and the

proposal is to increase to 10 and wondered if an even number of voting members is wise. **Rex Green** replied matters brought before the board affect both new and used car dealers and a consensus is reached.

Senator Corder asked what the reasoning was for placing a non-voting member on the board. **Mr. Green** replied that due to the different classification of vehicles that fall outside the realm of current vehicles the board needed an expert representative to advise ISIADA and that since that person did not represent an association such as the other members do, he would be classified as non-voting. **Senator Corder** stated he doesn't agree with the logic of having a non-voting position.

Senator Bilyeu asked what was the reason for requesting more members. She asked if there has there been a problem with the current number of eight. **Mr. Green** replied that currently members do not geographically represent all areas of Idaho. **Senator Bilyeu** followed with a question asking if upon re-appointment of members could members be included from the different regions. **Mr. Green** replied that was possible and historically that has been done.

Chairman McGee asked for further individuals wishing to testify.

Bobby Peterson stated he was the current president of ISIADA. He currently serves as Chairman for Governor's Unit Advisory Board. Independent dealers are congregated in the Boise, Nampa and Caldwell areas. The Northern and Eastern parts of the state have no representative. This legislation aims to propose balance with those new representatives.

Senator Broadsword commented that on the existing Board the balance of ownership is vastly different and asked why it has taken until now to make the change when there are so many more independent auto dealers than there were when the board was established. **Bobby Peterson** can't entirely answer, but it is something he recognized when he went to the board. He stated it is time to balance this out.

Senator Winder stated in response to **Senator Broadsword** that ISIADA approached him because of his role on ITD and he himself was supportive because he had worked with the advisory board.

Senator Corder questioned about the non-voting member, especially in finding that the non-voting member can break a tie. **Bobby Peterson** explained that a non-voting volunteer position would lessen the motivation for someone to use a voting position for the wrong purpose.

Senator Werk inquired whether the aim in this legislation is to achieve geographic balance. **Bobby Peterson** answered that the Board has been approached by dealers from Eastern Idaho who feel they have something to offer to the board. **Senator Werk** followed by asking if geographical distribution is the reason for the legislation, then why is the wording not in the legislation. **Bobby Peterson** replied the representatives are chosen by the Board and it is the Board's intent to create that kind of

geographical balance. The discussions on that Board that Mr. Wright has participated in have been civil and productive. The more input that the Board can get on issues such as when to raise bonds for Idaho, the better for the citizens of Idaho.

Chairman McGee then asked for others wishing to testify.

Trent Wright introduced himself as the executive vice president of the Auto Dealers Association and the Idaho RV Dealers Association. He noted the used-car dealer's advice is valuable to address such issues such as bonding and location of dealerships to the ITD as well as to consumers. He explained the reluctance of dealers in some geographic areas not willing to serve on boards due to the small number and expense to attend meetings even only three times a year. In response to **Senator Werk's** question, **Trent Wright** stated that the board has the advantage of appointing the representatives.

Senator Heinrich wondered who has the authority to convene the Committee and how often does the Committee meet. **Trent Wright** said the number of meetings is spelled out in code and that number is a maximum of three per year.

Chairman McGee asked **Amy Smith** if she could look that information up for the committee.

Amy Smith, vehicle services manager at ITD, indicated that ITD stated that meetings of the Dealers Advisory Board are called three times per year and more if needed.

Senator Broadsword asked if members have to be present to participate or can they teleconference. **Amy Smith** replied that typically, members are present. ITD has not entertained the thought of have conference calls to facilitate the meetings, but the dept has the capabilities to do that and something we can look into.

MOTION:

Chairman McGee called for a motion on **S 1359**.

Senator Winder made a motion to send **S 1359** to the floor with a do pass recommendation. **Senator Bilyeu** seconded the motion. The motion carried by **voice vote**.

S 1361

Rex Green would like to defer bill to another meeting if possible due to understanding that this bill would be taken up at a later date.

Senator Winder apologized to the chair for the lack of communication. His previous understanding was that we would deal with this legislation in the amending order.

MOTION:

Senator Corder made a motion to hold **S 1361** in committee subject to the call of the Chair. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

S 1360

Chairman McGee introduced **Senator Jorgenson** to bring for consideration **S 1360**, relating to the Safe Boating Act.

Senator Jorgenson, of District 6 recounted the history of the legislation introduced last year, but stated that it didn't make it out of committee in the House. **Senator Jorgenson** explained that currently one may purchase a boat that may be equipped with an original equipment switch which, when flipped allows exhaust through side of the boat instead of under. He explained that use of that switch does not break the noise ordinance unless it is used excessively. The mere existence of that option may be cited and boat impounded. The language of this legislation on page 2 line 22 asks that this switch not be subject to violation unless used beyond the noise allowance. The amendment that was required from last year is added indemnifying dealers from the unauthorized use of these boats.

Chairman McGee clarified that this is the same bill heard last year.

Senator Jorgensen answered yes, with exception of a line added with the language which a House Committee required. This bill is supported by the Idaho Sheriff's Association, the organization responsible for marine enforcement.

Senator Broadsword stated she was struggling with the phrase "notwithstanding any other provision" because it is not something normally see in code. **Senator Jorgensen** agreed that the language is awkward noting that it seems there are a lot of double negatives. However, it does read correctly.

Senator Werk ask why was the new amendment was inserted and expressed concern that language is very broad. **Senator Jorgensen** explained he was following concerns from the House that if legislation is passed protecting boat owners, sellers of boats must also be protected. This legislation doesn't provide immunity, but a statement of responsibility. **Senator Werk** wondered if the only time these mufflers get special dispensation is when they are a part of the original equipment. **Senator Jorgensen** noted that the language applies to original equipment only.

Senator Corder was troubled by the fact that if anyone was operating any other motor vehicle that is not consistent with the way it was designed, the State doesn't absolve dealers of our poor behavior. He indicated that the legislation worded, "original equipment" can be applied as though it were stock equipment. **Senator Jorgensen** added that this is not a device applied after construction of boat and explained that this is definitely an OEM item. With respect to any legal authority this legislation is not

waiving any authority to dealers.

Senator Corder asked if he could address the question to **Michael Kane** for a clarification of the language. **Mr. Kane**, representing the Idaho Sheriff's Association, explained that this language seemed to be an over abundance of caution, so that if the stock equipment was misused later there would not be liability for the dealer

Chairman McGee inquired as to whether the manufacturer would be pursued rather than the dealer. **Mr. Kane** recalled firearm legislation which exempted firearm manufacturers and dealers from liability of an accident.

Senator Winder stated that the language addition deals just with noise and so the intent is accomplished. If someone is sold a handgun and it was misused, the manufacturer should not be held responsible, stating further that this same principle applies here. A dealer should not be held accountable for a consumer violating a noise limit.

Senator Broadsword asked if there has been an instance in which a dealer was held responsible for putting on a device such as this in Idaho. **Mr. Kane** answered that there have been instances of people who have been cited for simply having a piece of equipment even though it was not used and also did not know of a dealer who had been cited or sued because of someone making too much noise. **Senator Broadsword** ask why the wording is for just the dealer and not the dealer "and/or" the manufacturer. **Mr. Kane** answered he had no clear answer for that.

Senator Jorgensen thanked the Committee, explaining that people who purchased boats that have been ticketed and impounded have caused a great deal of stress between the boat owner and the seller. Relief from that stress is the purpose of this legislation.

Chairman McGee asked for further questions and asked if there were any others wishing to testify.

MOTION:

Senator Heinrich moved to send **S1360** to the floor with a do pass recommendation. The motion was seconded by **Senator Winder**. The motion carried by **voice vote**, with **Senator Broadsword** voting no.

S 1357

Chairman McGee introduced for consideration **S 1357** concerning motor vehicle service contracts and asked **Mr. Kane** to present. **Mr. Kane** stated he was representing the Property Casualty Insurance Association of America and described this bill as a collegial bill. The Service Contract Bill was sunsetted. The Service Contract Bill was problematic for a few reasons. This bill does two things which are that it makes it a misdemeanor for deceptive advertising practices and creates a civil penalty. Either the Attorney General or a county prosecutor can do this. This legislation makes it clear that there must be a \$15 million surplus to protect customers in case a warranty company goes out of business. **Trent Wright** was asked to come forward since he was very involved in drafting the legislation..

Mr. Wright stated that the Casualty Insurance Association spent this year coming up with a compromise which is this legislation concerning insurance minimums. Many dealers carry, on average, half a million dollars of service contracts every four years, and if one of the businesses carrying a contract goes out of business, the consumers are very angry. This legislation insures that dealers selling service contracts to residents in Idaho have a strong insurance policy to back them up in the case that the warranty company goes out of business.

Senator Werk asked whether liability transfers along with the dealer and whether the insurance covers the seller of the warranty as well as the dealer. **Mr. Wright** answered that Idaho is a non-obligor state. This legislation will require dealers, in the event they have their own service contracts, to have enough insurance to cover their service contracts as well as the companies they choose to cover their contracts.

Senator Werk asked **Shad Priest**, Deputy Director of Insurance, to yield to a question. **Senator Werk** questioned about the requirements on page 2 wanting to understand the differences between the requirements and why one would be chosen over the other. **Mr. Priest** explained that the different options are listed for companies that are financially different than others. The other requirements are standard requirements that a licensed insurance company should be following.

Senator Broadsword recounted that this Committee passed something very similar last year. **Mr. Kane** recalled that something similar was passed, but it was sunsetted, because the language spoke to what must be reprinted on brochures and other literature. He is presenting this bill as opposed to amending that previous one because it was sunsetted and LSO drafted it this way for that reason.

Mr. Kane then thanked the committee for tolerance.

MOTION:

Chairman McGee presented **S1357** for a motion. **Senator Heinrich** moved that **S1357** be sent to the floor with a do pass recommendation. The motion was seconded by **Senator Broadsword**. **Senator Werk** supported the motion, but indicated he still has questions regarding the premiums. The motion carried by **voice vote**.

Chairman McGee stated that Thursday's agenda will be lengthy and advised the committee to expect communication in regard to changed times or extended meetings.

ADJOURNMENT

Chairman McGee adjourned the meeting at 2:49.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: March 4, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Kerby, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the regular meeting of the Senate Transportation Committee to order at 1:09 pm and asked the secretary to take a silent roll.

He stated that due to the length of the agenda, he may have to limit testimony and he will use his judgement as time passes.

MINTUES: **Senator Broadsword** stated that she has read the minutes from February 15, 2010 and has found them to be in order.

MOTION: **Senator Broadsword** made a motion to approve the minutes from February 15th. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

S 1361 Chairman McGee introduced **Rex Green** from Idaho State Independent Auto Dealers Association. **Mr. Green** brought **S 1361**. He stated that used car dealers needed more training resources. Dealers were having trouble passing their licensing tests due to lack of resources for studying. The result of this lack of resources and difficult tests causes a lack of industry and over 500 auto dealers "carry that grunt." **S 1361** contains highlights changing chapters for bonding. On subsection I, ISIADA wanted to make sure that the exam was passed based on the information presented. Licencing classes would consist of eight hours of instruction or as otherwise approved by the department, which shall include the written examination. **Mr. Green** stated that he would like to see this bill sent to the amending order to make necessary changes as a result of collaboration with ITD.

Senator Broadsword stated that a,b,c and d look like things that should

be in rule and not in statute. Putting them in statute will mean coming back year after year with minor changes to be made. She asked why **Mr. Green** didn't approach this change with a change in rules as opposed to a change in legislation. **Mr. Green** replied that ITD preferred to have a law as opposed to a rule so if the Association would be able to administer themselves.

Mr. Green continued discussing that fees for the exam shall not exceed \$350.00 and fees for the dealer education program shall not exceed \$200.00. The classes shall be available on a monthly basis. This would become effective January 1, 2011.

MOTION:

Senator Werk made a motion to send **S 1361** to the amending order. **Senator Winder** seconded the motion. The motion carried by **voice vote** with **Senator Broadsword** voting no.

Chairman McGee introduced **Senator Werk** who brought **S 1389**. He began by stating that last year legislation was passed which now needs to be changed. In trying to accommodate higher speed electric vehicles, we created a safety hazard as slower vehicles can now travel on higher speed roads. We can fix this problem by creating a Medium Speed Electric Vehicles (MSEV) category that can operate safely on 35 mph roads. In addition, to align Idaho terms with federal terms and avoid confusion, Neighborhood Electric Vehicle (NEV) is changed to Low Speed Vehicles (LSV). Sections 1 and 2 changes references to sections. Section 3 changes the language to include medium speed electric vehicles. The federal government does not currently have definitions for Medium Speed Electric Vehicles. The MSEV allows higher speed electric vehicles on roads with speeds of up to 35 mph and provide for higher safety standards since those vehicles are operating at a higher speed. Section 7 outlines speed regulations. The purpose of the bill is to correct the safety hazard created last year by allowing these vehicles to operate on roads with much higher speeds.

Senator Broadsword asked if these vehicles come with the roll bar and the crush proof options included in the bill as standard parts or if they need to be added. **Senator Werk** responded that the federal government is behind in setting regulations regarding medium speed vehicles and has no standards. The state of Washington has set its own standards as a result which have been successful and Idaho is following the State of Washington in doing so.

Senator Broadsword asked what the added cost will be to a customer when he or she has to add either a roll bar or a crush proof part. **Senator Werk** replied that a vehicle comes standard with these, there would be no additional costs. The reality is that other states have adopted those additional requirements.

Senator Broadsword stated that there is a problem with rural Idaho roads being 55 miles and hour and that these vehicles are only being able to cross roads which are 45 mph at the most. **Senator Werk** replied that the bill is simply trying to solve safety issues created last year and is not

being approached to solve that pre-existing issue.

Senator Heinrich asked who defines, low and medium speed vehicle. **Senator Werk** responded that LSV is a federal definition and MSEV is being defined by various states because the federal government does not have a definition.

Senator Hammond asked **Senator Werk** if he is adding safety standards as to how the vehicle should be constructed **Senator Werk** replied that the drafters of this legislation are looking at current federal statutes for low speed vehicles and are looking at commonalities among other states for MSEVs which need to be enforced.

MOTION:

Senator Bilyeu made a motion to send **S 1389** to the floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote** with **Senators Broadsword, Senator Hammond, and Senator Heinrich** voting no.

S 1348:

Chairman McGee again introduced **Senator Werk** to bring **S 1348**. He stated that these four road safety bills were written with the intent to protect vulnerable road users. These bills present a balanced approach to bringing safety to Idaho's roads for all users.

Senator Werk introduced **Kurt Holzer**, an attorney in Boise and a cyclist and motorist on Idaho roadways. **Mr. Holzer** explained **S 1348**. In his power point presentation, he stated that Idaho's citizens already must provide due care, due care being defined as the clearly defined knowledge and duties that should be expected. **S 1348** sets the passing space for human powered vehicles as 3 feet. States such as Louisiana, Connecticut, Colorado and Utah have already adopted the three foot passing space. The bill also adds a no right hook provision to avoid motor vehicles turning right into a vulnerable road user. Also, if motorists must cross a double yellow line to give three feet to pass for human powered vehicles, there would be no penalty if a car is not otherwise able to give three feet to a cyclist. Currently, this is against the law and is common as drivers give vulnerable road users space as they pass. The legislation would work both in rural and urban areas. This legislation provides an exemption to the three feet to pass requirement that if a driver cannot give three feet to pass assesses that he or she can get around a cyclist safely without providing three feet, it is allowed.

Senator Werk passed out a handout, which will be attached with the minutes, in which he addressed the current obligations of cyclists.

Senator Broadsword asked if allowing motor vehicles to cross a double yellow line will put the State of Idaho in any violation of federal statutes which would endanger any funding coming from the federal government.

Greg Laragan, Chief Engineer of the Division of Highway Operations, stated that the double yellow line would operate on a no passing rule. This bill would not violate federal standards.

Deputy Police Officer **Jim Kerns** of the Boise Police Department was introduced to testify. He stated that in June, he was charged with heading the Task Force on Safety. From his experience with the Task Force, he gained concern and an understanding of the responsibility Idaho and its citizens have. The three foot to pass rule is good for Idaho. The responsibility Idaho has is to create safety. This law protects Idaho's most important resources: people. It also allows law enforcement to enforce rules to protect vulnerable road users. Although many motorists already provide three feet to pass, the bill will create an expectation of behavior. **S 1348** allows police officers to have certain expectations of the public and gives a reason to educate the public when the rule is violated.

Senator Bilyeu asked if there is a bicycle lane, is one expected to pull out even further. **Mr. Kerns** replied that a bicycle lane already creates a safety lane. This law is for two lane roads with no bike lane.

Senator Winder asked if there is a conflict with the rules passed by the task force. **Mr. Kerns** replied that the rules are not in conflict; the Task Force was aware that **Senator Werk** was working on this legislation and the Task Force was careful to ensure there were no conflicts.

Senator Werk asked if a car is 2.5 feet from a bike, would a police officer still issue a citation. **Mr. Kerns** replied that the police officers have a lot of discretion. If a car is 2.5 feet and it still looks like a danger for the cyclist, the police officer may still stop and educate.

Chairman McGee introduced **Kristen Armstrong**, an Olympic gold medalist in the road cycling individual time trial. Ms. Armstrong stated that Idaho is one of the most diverse places to ride regarding beauty, but it is dangerous to be cyclist in Idaho. Motorists either aren't aware of dangers or are aware and don't give enough room in order to purposely harass cyclists.

Senator Bilyeu stated it is nice to have **Ms. Armstrong** here. She asked **Ms. Armstrong** to expand her explanation of harassment. **Ms. Armstrong** stated that within the group that she rides, she hears of harassment at least once per week. Motorists scream out the window, throw trash or fire crackers at cyclists, drive closely or pass a biker and then cut into the bike lane, for example. The three-feet to pass law would help in many cases because usually when cyclists are being harassed, motorists are within inches of the cyclists.

Chairman McGee introduced **Tom Law**, an attorney and cyclist in the Boise area. **Mr. Law** has experienced Idaho's roads all over the state whether running or cycling. **Mr. Law** has experienced many motorists harassing him. The focus of the bills is not for cyclists and runners to take up the whole road, but to protect those that are on the roads and not in a car. This law will keep the roads safe for all motorists. Not all cities in Idaho have places for pedestrians and cyclists such as the greater Boise area.

Chairman McGee introduced **Walt Sledzieski** who is the President of the Treasure Valley Cycling Alliance. He stated that he has been asked by motorists whether they could pass a double yellow line in order to provide safety for cyclists, making the point that motorists would like to be able to make the roads safer for cyclists. The goal is to be safe and predictable.

Chairman McGee introduced **Michaela Lyman**, the President of Yield to Life, Idaho subchapter. She stated that the goal of the Chapter is to create safety on the roads and to encourage motorists to yield to cyclists and runners. We need this guideline in order to protect safety on Idaho's roads. Yield to Life takes young children on the roads and wants those children to feel that they are safe on the roads.

Senator Werk asked if the fact that this new Idaho code being on the books, would be an opportunity to educate young drivers in drivers' ed. **Ms. Lyman** replied that it is absolutely understandable to expect young drivers to have these expectations after having understood the requirements of drivers in drivers' ed.

Jerry Deckard rose to testify on behalf of the Associated Logging Contractors of Idaho (IALC). Most Idaho roads are different than the roads in Boise and their use in Boise. The highways are used for commerce. He mentioned specifically highways 2, 6, and highway 97. Highway 97 runs around the east side of Lake Cour d'Alene. It is also the route loggers use to get logs and chips to the paper mill down the river. The State need to educate motorists and cyclists in order to create safety. These highways around the capitol city generally have a marked bicycle lane, but highways outside of the capitol city do not. The IALC requests that the education of motorists, and support the education in another way. The IALC support the committee holding the bill in committee.

Senator Corder asked why the IALC asks this of the Committee when this bill is aimed at cars because big trucks already give cyclists more than three feet generally. **Mr. Deckard** responded that trucks don't want to be held liable for wider than normal roads on which they cannot pass the double yellow line.

Senator Werk stated that this law provides an exemption to pass safely and cross a double yellow line legally when one would otherwise be cited for doing the right thing and crossing a double yellow line. **Mr. Deckard** stated that with this legislation, the state is now placing into law the liability of a truck. **Senator Werk** (referring to reference that he does not want a truck to choose between hitting a cyclist or an oncoming bus) replied that **Mr. Deckard** is talking about choosing between a bus driver and a cyclist. He asked why we have to choose. **Mr. Deckard** replied that it is really easy to say that when not behind the wheel of a big truck.

Senator Corder asked if an ITLA lawyer in the room will yield to a question. **Mr. Holzer** agreed. He asked whether this legislation increases liability for truckers. He stated that this law does not increase more liability because all parties have responsibilities that are not changed by this law. A cyclist coming around an uphill corner in the way of a possible truck

was not exercising due care.

Senator Broadsword stated she is concerned about Highways 3 and 5, especially between St. Mary's and Plummer which has 21 dangerous turns. This legislation states "shall not pass" when going in the same direction. She asked **Mr. Deckard** if he came up with the same discovery. He replied that trucks have to give it all they have to stop and sometimes can't when driving heavy truck. He stated that the word "shall" creates a problem.

Senator Werk attempted to answer **Senator Broadsword's** question by referring to the broad exemption from the 3 foot to pass requirement in Section four of the bill. The provision is associated with when you are passing a vulnerable road user. **Senator Broadsword** replied that the bill specifically says, "this section shall not apply." **Senator Broadsword** has great concerns about that. **Senator Werk** stated that this provision in Section four discusses overtaking on the left and is a broad exemption that applies to the provisions of the bill.

David Beckham testified and stated that he lived in Latah county and drove many of those roads. He stated that there is a widely held belief that the truck drivers and logging truck drivers have a disrespect for the other motorists.

Closing comments were given by **Mr. Holzer** who stated that this legislation, puts an obligation on the motorists, allows them to legally cross a double yellow line when safe to pass a vulnerable road user, and provides a broad exemption when a motor vehicle can pass within three feet safely, but cannot provide the three foot buffer.

Senator Winder asked about the language "shall", and asked why **Mr. Holzer** used, "Due Care." **Mr. Holzer** stated that he is defining due care because it is already each person's responsibility to use due care and make the roads safer. The Committee cannot lose sight of what **Chief Kerns** said regarding the discretion that officers have when enforcing the law. The word shall gives a real body to the concept of due care.

Senator Hammond stated that often, logging trucks are turning back into the woods off the highway, and believes they would cause a substantial traffic hazard to the vehicles behind them if they had to stop because of an oncoming bicycle. He stated he does not believe we are quite "there yet" in regard to passing the bill. He stated that he wants to help cyclists out, but he doesn't want to do it at the expense of other motorists.

Senator Werk made a motion to send **S 1348** to the floor with do pass recommendation. **Senator Bilyeu** seconded the motion.

MOTION:

Senator Broadsword stated that she appreciates what the sponsor is trying to do. However, the more she reads the bill, the more concerns she has. Referring to the Section stating that one "shall" not pass a bicycle unless giving 3 feet, she asked how do you stop a loaded truck when you cannot give them three feet. She would be happy to move it to the

amending order where the author can fix the bill.

Senator Broadsword made a substitute motion to send **S 1348** to the 14th order. **Senator Hammond** seconded the motion.

**SUBSTITUTE
MOTION:**

Senator Winder stated that tragic accidents have occurred. Though this bill may not be perfect, if there are suggestions as to what may be amended regarding the language of the bill, **Senator Winder** would like to hear it.

Senator Heinrich stated that the language is subjective and he would like to see some of the language provided to cyclists and motorists, but in prudence; "thou shall" is confusing language. Would like to narrow it down and give an opportunity to change the bill in the 14th order.

Senator Bilyeu asked the maker of the substitute motion what changes she would amend. **Senator Broadsword** stated that she would change the language in section 1, and section 2, number 3 to clarify language and to rethink how the exemption is worded. **Senator Bilyeu** stated that she to ask the author of bill if he object to going to 14th order. **Senator Werk** stated that he respects any comments and concerns from the Committee. Moving the exemption to any given section is fine and rewording is fine. He addressed **Senator Hammond's** concern in stating that a truck slowing to make a right hand turn from a highway would slow all traffic to 20 mph anyway. **Senator Bilyeu** stressed the importance of the legislation and wants to prevent killing the bill.

Senator Winder stated that he appreciates **Senator Werk's** willingness to clarify the bill. He has heard from constituents in district 14, both motorists and cyclists have comments regarding safety for both cyclists and motorists.

Chairman McGee clarified the two motions stating that the first motion to take up will be the substitute motion:

The motion carried, **S 1348** will be sent to the 14th order.

Chairman McGee asked **Senator Werk** to continue with **S 1351**.

S 1351:

Senator Werk stated that this bill seeks to enhance penalties for motorists and cyclists who break the law by adding a \$75 dollar civil penalty that goes into a newly created Safe Routes To School Fund. This fund will be used to augment federal funding for the statewide ITD Safe Routes to School Program. He has had questions asked regarding references to the daily remittance for penalties. The court needs to take a look at this language and change it throughout code.

Senator Broadsword stated that a constituent of her believes that since the economy is bad, the state is trying to make money with these increased fines. **Senator Werk** stated that in good times or bad doesn't change whether someone dies because of a motorist/cyclist collision.

Senator Heinrich made a motion to send **S 1351** to the floor with a do

MOTION:

pass recommendation. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

S 1350

Chairman McGee asked **Senator Werk** to continue with **S 1350**, regarding harassment of non-motorized road users. **Senator Werk** began by stating that he has heard enough concerns about of the sounding of horns provision that he will ask the Committee to consider sending this bill to the amending order to take out the provision having to do with horns. Another question concerning driving point, if cited for harassment, a driver would get points taken on his driving record, which would possibly increase insurance premium costs.

Mr. Holzer added to **Senator Werk's** comments stating that acts in this bill don't fall within the definition or reach of assault. Another reason this bill would work better than an assault statute is that this gives a specific statute which addresses how things are happening on the roadway. There is a limited application which only applied to malicious acts and the malicious state of mind must be proven. The highest standard in any criminal statute is to prove intent. Therefore, this deals with a limited number of motorists who are causing a problem. This legislation also provides consequences for malicious behavior. There is a misdemeanor for threatening, throwing objects or engaging in behavior that puts the road users at risk.

Senator Corder stated that if the Committee is going to amend for a horn, they should also amend for jakebreaks or engine breaks to be exempt. The reason he made this comparison is because if the one being harassed files the report, the filer may have skewed judgment. **Mr. Holzer** replied that the legislation states specifically that malicious behavior is required to enforce the proposed law.

Senator Corder asked for the definition of malicious to which **Mr. Holzer** replied, "spiteful and of ill-will" as defined in legal statutes.

Mr. Kerns rose to speak in favor of S 1350, stating that the bill speaks of behavior that is specific. In order to enforce, an action has to be malicious with the intent to harm. For example, the sounding of a horn is not a violation of law. The key is the intent of the violator. He addressed **Senator Broadsword's** question regarding why this law doesn't apply to cars stating that cyclists are more vulnerable than cars on the roadways.

Chairman McGee asked **Mr. Kerns** his opinion regarding how motorcycles would be treated under this legislation. He asked if there should be a separate law for motorcycles. **Mr. Kerns** stated that he really can't answer that question, except to say that a motorcyclist is a motor vehicle by code and a cyclist is not. A motorcycle is bound the road as a motorist and a cyclist is not.

Senator Broadsword asked what a motorist would currently be charged with for throwing a pop cup at a cyclist and yelling an inflammatory comment. **Mr. Kerns** replied that the motorist would probably not be charged at all, maybe with assault. Police officers have to look at Idaho

Code and see what fits. It would be much easier to make something fit if there was legislation specifically having to do with harassment of cyclists.

Senator Werk added that there has been much talk about specific statutes because its easier to bring before a judge.

Senator Heinrich asked what a pedestrian would be charged with if he or she threw a rock off a bridge and damaged a vehicle's windshield. **Mr. Kerns** stated they would be charged with vandalism and malicious injury to property. **Senator Heinrich** asked if that is also harassment. **Mr. Kerns** replied that he doesn't know that it's in the code under harassment.

Senator Broadsword asked if someone threw a pop cup, could they be charged with littering and receive a fine of \$1000.00. **Mr. Kerns** replied that they could indeed.

Richard Marion testified that he would like to see **S 1350** passed and sent to floor with a do pass recommendation. As a runner on the side of the road, when someone throws a full can of pop at his head, he would hate for that person to only be charged with littering. He has had a glass beer bottle go by his head and then the car chased him down. When the police showed up, he was told there is no law in Statute to prosecute.

Tom Lloyd also stood to testify and said that he has experienced a car so intent on harassing, that the car hit a parked car. This bill also helps enforce other laws. He urged against sending the bill to the amending order for this reason. Regarding enforceability, there is a two step process: law enforcement, and prosecuting attorney's office. Assault laws aren't going to apply if they cannot be enforced and they won't be enforced if the code doesn't match the assault crime perfectly.

Senator Corder stated that although vindication is important, it may not be enforceable. He is concerned that the Committee may be passing a law that the State cannot use. How would the prosecuting attorney's office prioritize cases such as these with a huge stack of cases representing statutes to enforce. **Mr. Lloyd** stated that when a pattern emerges from a citizen, it gives teeth to enforce the law on a second or third offense.

Senator Corder made a motion to send **S 1350** to the 14th order. **Senator Hammond** seconded the motion. The motion carried by **voice vote** with **Senator Broadsword** voting no.

MOTION:

S 1349:

Chairman McGee asked **Senator Werk** to continue with **S 1349**. He explained "fixie" bikes (those without any working breaks) and explained that many youth are using these bikes without any breaks, and although some young "fixies" may be able to stop a bike without a break, others are not able to so safely, especially in an emergency. Law enforcement do not have a statute requiring a break for bicycles and therefore would like to see a statute requiring a brake for all bicycles.

Chairman McGee requested clarification on children's bikes such as

bikes with training wheels. **Senator Werk** replied that children's bikes would be an instance in which a police officer would use discretion and they are equipped with coaster brakes and not covered by this statute.

Senator Hammond made a motion to send **S 1349** to floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

MOTION:

Chairman McGee adjourned the meeting at 3:42 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: March 9, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Kerby, Corder, Heinrich, Broadword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the regular meeting of the Senate Transportation Committee to order at 1:35 pm and the secretary took a silent roll.

MINUTES: **Senator Heinrich** stated that he read the minutes from February 4, 2010 and found them to be in order.

MOTION: **Senator Heinrich** made a motion to approve the minutes from February 4, 2010. **Vice Chairman Hammond** seconded the motion. The motion carried by **voice vote**.

S 1336: **Chairman McGee** introduced **Senator Corder** to present **S 1336**. **Senator Corder** recognized members of the Idaho State Police, namely **Lieutenant Bill Reese**, for his input on this legislation as well as **S 1337**.

Senator Corder explained that **S1336** would require load securement for trucks carrying loads which might fall off of a truck while a truck is moving. Before this legislation, law enforcement could only give a citation if a truck's load actually fell to the ground, whereas this legislation would allow law enforcement to give a citation if a load was not covered to prevent parts of the load from falling to the ground, creating a safety hazard for other drivers. Federal exemptions apply which have to do with government entities including state agencies, irrigation districts and any quasi government entity. There are also exemptions called out for timber, agriculture or livestock products as well as irrigation districts and canal companies.

Senator Corder introduced **Captain Johnson** and **Lieutenant Evanston** from the Idaho State Police to answer questions.

Chairman McGee asked if any members of the committee had questions.

Vice Chairman Hammond asked for clarification of the agriculture exemption and uniformity with respect to different community standards. Senator Corder clarified his understanding and explained that agriculture trucks are not removed from liability. This statute would prevent an officer from stopping them on the basis that they did not have 6 inch freeboard. **Vice Chairman Hammond** inquired as to the penalty for not following this section of code. **Senator Corder** yielded to **Sergeant Jim Evanston** who stated that it is an infraction penalty of less than \$100. **Chuck Colter** representing the Idaho Coalition for Motorcycle Safety spoke in support of **S 1336**.

MOTION: **Senator Heinrich** made a motion to send **S 1336** to the floor with a do pass recommendation. The motion was seconded by **Vice Chairman Hammond**. **Senator Corder** declared a conflict of interest and stated he intends to participate in debate and vote. The motion carried by **voice vote**.

S 1337 **Senator Corder** introduced **S 1337** and recalled a meeting two years prior in which two widows testified in this Committee whose husbands were killed due to an accident with a cement truck due to a safety hazard created by exemptions for cement trucks because the truck was an intrastate vehicle. **Senator Corder** then began questioning and reviewing exemptions which are serious safety concerns. **S 1337** adds requirements which were formerly in code, which require safety inspections but were removed. Agricultural vehicles are required to have minimum safety elements.

Vice Chairman Hammond clarified that these inspections would be random should a police officer choose to do so and are basic in order to secure safety. **Senator Corder** replied that this is a correct statement. Law enforcement has the ability to stop a vehicle and have it taken in, but it won't inspect one on a highway unless there is a safe place to do so.

Senator Heinrich asked if the language "any farmer" could include custom farmers. **Senator Corder** replied that it could and if a custom farmer is an intrastate operator he will lose his exemption. **Captain Johnson** and **Lieutenant Evanston** nodded their concurrence.

MOTION: **Senator Heinrich** made a motion to send **S 1337** to the floor with a do pass recommendation. The motion was seconded by **Vice Chairman Hammond**. **Senator Corder** declared a conflict and stated he intends to participate in debate and vote. The motion carried by **voice vote**.

S 1311 **Chairman McGee** introduced **Vice Chairman Hammond** who stated this bill has been presented in the past and was held. Legislation was passed last year which limited the number of temporary registration permits to three which one could buy for a trailer to. If a person wanted to put a trailer on a tractor with a temporary permit, even if the trailer already has a

regular permit, another temporary permit must be purchased. Therefore, one is being double billed for permits on the trailer. This bill disallows ITD to charge for a second temporary permit for a trailer attached to a tractor or truck with a temporary permit if a regular permit is already existing for the trailer.

MOTION:

Senator Heinrich made a motion to send **S 1311** to the floor with a do pass recommendation. **Senator Winder** seconded the motion. **Senator Corder** declared a conflict, but intends to participate in debate and vote.

Chairman McGee mentioned an amendment drafted and asked **Vice Chairman Hammond** concerning the amendment. **Vice Chairman Hammond** indicated that only one word needed to be corrected and so would need **S 1311** to be sent to the amending order.

SUBSTITUTE MOTION:

Senator Heinrich made a substitute motion to send **S 1311** to the amending order. **Senator Winder** seconded the substitute motion.

Senator Bilyeu asked for discussion on the fiscal impact, asking **Senator Corder** to explain the million dollar fiscal impact that ITD would not receive as a result of passing this legislation. **Senator Corder** stated that the number of impact is subjective due to the fact that the system does not track why vehicles do not register or if vehicles register late. Also, the legislation passed last year has only been in effect for less than one year, not providing enough data to take objective numbers from. ITD gets the net gain of over half million dollars income from last year's bill, implying that even if the language is changed, the state would still have received a net income of over half million dollars last year.

Chairman McGee asked for further discussion. Hearing none, a vote was called for and the substitute motion carried by **voice vote**.

S 1397

Chairman McGee introduced **Susie Pouliot**, CEO of the Idaho Medical Association, who presented **S 1397**, which will protect physicians from retaliation who recommend that individuals have a drivers license revoked for medical issues which inhibits an individual's ability to safely operate a motor vehicle. An example was given of a physician who made a report to ITD that a patient with diabetes who is not aware when she has low blood sugar is not capable of safely operating a motor vehicle. This physician received a strong, negative response from the patient. This bill also gives families an "out" for a way to help prevent an individual from driving who may not be able to safely do so from driving even when that individual is in denial about his or her medical inhibitor to safe driving. AAA wasn't able to have a representative, but gave authority to **Ms. Pouliot** to state that they do support the legislation.

Senator Heinrich asked **Ms. Pouliot** of any report in which doctors have gotten into trouble regarding liability or monetary loss regarding performing such duties. Ms. Pouliot stated that although she does not have specific examples, there may be a chilling effect among physicians who may want to make such a recommendation because of the possibility of repercussions.

Senator Werk asked about the “in good faith” wording. **Ms. Pouliot** yielded to **Ken McClure**, an attorney with the Idaho Medical Association. He stated that “in good faith” is the best wording when erring on the side of public safety in dealing with physicians who are making a decision regarding a patient. When a family comes before a doctor asking for the physician to give them help in preventing a family member from driving unsafely. **Senator Werk** followed his question stating that the clinical standard at present is a very low standard for a physician and wondered what is done with a report that is submitted to ITD. **Mr. McClure** responded that ITD will receive the report and may make a decision based upon the information included in the report, potentially with a hearing officer based on whether a rational decision needs to be made. **Senator Werk** asked whether the patient would have any knowledge of the issue before the doctor sends the letter to ITD. **Mr. McClure** answered that the patient should be examined before a physician makes such a decision and the patient should have an idea that it would be such an issue. However, if a patient disagrees with such a decision made by ITD, the patient has the right to a hearing and full due process. **Senator Werk** questioned if a professional standard of “reason to believe” is too broad based. **Mr. McClure** answered that a physician has no cause to be involved except for his/her concern for the public safety.

Senator Bilyeu asked **Mr. McClure** if AARP was contacted. **Mr. McClure** stated that AARP was not contacted and noted that AAA contacted the Idaho Medical Association. **Senator Bilyeu** expressed concern that she is troubled that IMA is trying to take the responsibility away from the family members to make such decisions for elderly individuals, especially. **Mr. McClure** replied that the actual amendment being made to current code is for an individual who “isn’t physically capable of driving.” It is in the public safety’s best interest and that is why AAA supports this legislation.

Senator Kerby stated that he is impressed with how thorough this legislation is. He remarked that his business is as an insurance agent and this legislation has been sorely missed. He thanked **Mr. McClure** and **Ms. Pouliot**

MOTION:

Senator Winder made a motion to send **S 1397** to the floor with a do pass recommendation. **Senator Kerby** seconded the motion.

Senator Werk stated that he cannot support the motion, but may support the motion on the floor with more information. **Vice Chairman Hammond** reminded the committee that this bill does not require a doctor to do anything, but gives a doctor the protection needed in the case that such a determination is made that a patient cannot safely operate a motor vehicle. **Senator Werk** replied that his concerns have to do with what standards we are using and the reasons why.

Senator Bilyeu asked what retribution a person may take against a doctor who makes such a determination. **Ms. Pouliot** replied that the person’s physical impairment may not necessarily denote a mental impairment.

Senator Heinrich stated that he would be more inclined to support the bill if the physician was not necessarily the one to initiate such a decision.

VOTE:

The motion carried by **voice vote** with **Senators Bilyeu and Werk** voting no.

Chairman McGee adjourned the meeting at 2:41 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: March 11, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Kerby, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the regular meeting of the Senate Transportation Committee to order at 1:35 pm and the secretary took a silent roll.

MINUTES: **Senator Broadsword** stated that she has read the minutes from January 14, 2010 and has found them to be in order.

MOTION: **Senator Broadsword** made a motion to approve the minutes from January 14, 2010. **Senator Bilyeu** seconded the motion. The motion carried by **voice vote**.

H 486 **Chairman McGee** introduced **Representative Cronin** who brought **H 486**, relating to Special Motor Vehicle License Plates. **Representative Cronin** explained that this legislation would create a special license plate for mountain biking. For every plate that is purchased, \$22 will go to Parks and Recreation to help maintain trails used by mountain biking.

Senator Broadsword wondered why the Department of Parks and Recreation would get the initial \$22, being the lion's share of the initial fee, and not the highway fund. **Representative Cronin** responded that the \$35 fee would be divided with \$13 to the Highway fund and \$22 to the Parks and Recreation Department. The costs of the plates would be paid for by the Idaho Mountain Biking Association.

Senator Broadsword asked **Amy Smith** to come and answer a question in regard to other special license plates. **Ms. Smith** clarified that ITD has only been getting \$10 of the initial and the renewal fee. Last year, there was an increase of \$3 in the renewal fee and indicated the fee proposed in this legislation was in line with the \$13 for other special plates. **Senator Broadsword** stated that it is her contention that the ITD fund should be getting the lion's share.

Senator Kerby asked **Representative Cronin** to clarify the association planning to pay for the plates. **Representative Cronin** responded that the organization was created to raise funds for this purpose. The organization is made up of members that are mountain biking enthusiasts around the state and the funds will be used to create and maintain biking and hiking trails in Idaho.

Chairman McGee recognized those individuals in the audience who had signed up to testify.

Jeff Baker, a resident in Boise, testified that he has done extensive research on the mountain biking plate. He stated that there have been 28 plates. He stated that his conservative estimate of plates printed would be around 1500 plates which would generate \$150,000 over a seven year period. He stated that there are over 17,000 trails in Idaho and explained that it takes money to build and maintain those trails. The idea behind this plate is to give groups the opportunity to build new trails to be used not only by bikers, but by hikers, equestrians and others. The positive impact on the communities can be realized by tourists using trails.

Senator Corder inquired as to the total possible revenue that could be raised. **Mr. Baker** explained the method used to figure revenue.

Chairman McGee introduced **Leo Hennesy** from the Department of Parks and Recreation. **Mr. Hennesy** introduced his position of non-motorized Trails Coordinator for the State of Idaho. He expressed Director Merrill's support of this legislation. He stated that many trails have been lost due to lack of maintenance. He described the maintenance needed for trails, which has often been done by volunteers, but may need maintenance done by heavy equipment and the costs associated with that maintenance. **Mr. Hennesy** urged support of this legislation so that Idaho could continue to be known for its trail legacy.

Chairman McGee introduced **Terry Hesslan**, a citizen of Boise. **Mr. Hesslan** stated he is an active member of the cycling community and resident of Boise and voiced support for this legislation as a fair approach of fund raising for those who wish to participate.

Representative Cronin stated that this money would go to the Department of Parks and Recreation that has been hit hard this year and asked that this be sent to the floor with a do pass recommendation.

MOTION:

Senator Heinrich made a motion to send **H 486** to the floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote** with **Senator Corder** voting no.

H 540

Chairman McGee introduced **Representative Ringo** who brought **H 540**, relating to Special Motor Vehicle License Plates. **Representative Ringo** explained that this legislation would create a special license plate depicting a moose for the Selway-Bitterroot Foundation. **Representative Ringo** explained that the Selway-Bitterroot Foundation works next to the

Forest Service on projects keeping trails in shape and promoting good stewardship of the land. The Selway-Bitterroot Foundation has offices in both Montana and Idaho, but special care has been taken to ensure funds raised in Idaho will be returned to Idaho. She introduced **Ron Mason**, the Executive Director of the Selway-Bitterroot Foundation to continue the discussion.

Ron Mason, the Executive Director of the Selway-Bitterroot Foundation explained that this plate would generate fees to assist with existing wildlife. This would help with work and maintenance, cabin lookout maintenance and public education in wild lands. The Selway-Bitterroot Foundation is a non-profit organization whose mission is to connect citizens to the wild lands. Last year the foundation provided over 10,000 hours of volunteer hours whose work benefits not only the general public, but also guides for hunting and wildland activities. The Foundation is constantly raising funds to bring money and funds into the county. Two concerns were expressed in the House was that Selway-Bitterroot has two offices - one located in Missoula, Montana and whether this money would be spent in Idaho. **Mr. Mason** referred to "A Resolution" handout, attached with the minutes, specifying that there will be a separate bank account specifically for money coming into this account directly from the specialty plate. There would be full disclosure on that bank account. The foundation works closely with Idaho Central Recreation and the money must be disclosed. Although several partners in the Foundation are politically active, the Selway-Bitterroot Foundation is in no way politically active. The Idaho County commissioners voted in support of this bill.

Senator Broadsword stated that she received a lengthy phone call from a constituent who praised the good work of the Selway-Bitterroot Foundation and expressed support of the legislation.

Vice Chairman Hammond asked **Amy Smith** whether there is any difference in revenue to ITD in regard to the number of specialty plates. **Amy Smith** stated that there are 42 plates. Two plates will be cancelled this year for not selling 1000 plates in 5 years. **Vice Chairman Hammond** followed his question asking if there is significance in cost increases in creation of these plates and if there have been complaints from Police regarding difficulty to read the plates. **Amy Smith** replied the cost of administration is the same. She further explained that the only request from law enforcement was the background and placement of the graphic.

MOTION:

Senator Broadsword moved to send **H 540** to the Senate floor with do pass recommendation. **Senator Heinrich** seconded the motion.

Senator Corder stated that if those wishing to raise funds through establishing specialty plates had just donated the money directly to their cause, it would have saved the state a lot of work.

Vice Chairman Hammond asked **Senator Corder** if, following the questioning line completed with **Amy Smith**, why **Senator Corder** was not okay with specialty plates. **Senator Corder** responded that his most sincere objection is from the law enforcement perspective. **Senator**

Corder stated that the State Highway Fund does not receive enough money from this program.

The motion carried by **voice vote**, with **Senator Corder** voting no.

H 445 **Chairman McGee** introduced **Dawn Peck**, Chief of the Bureau of Criminal Investigations, who brought **H 445**. **Ms. Peck** stated that this legislation would update the process required for reporting and tracking stolen vehicles by updating technology used by law enforcement to report stolen vehicles to other law enforcement entities throughout the State.

MOTION: **Senator Broadsword** made a motion to send H 445 to the consent calendar. The motion was seconded by **Senator Bilyeu**. The motion carried by **voice vote**.

H 564 **Chairman McGee** introduced **Tana Cory** who brought **H 564** which relates to driving businesses. **Tana Cory**, the Chief of the Bureau of Occupational Licenses, reviewed a piece of legislation passed in 2009, **S 1133**, which created the Business Licensor Board. **H 564** is clarifying language dealing with background checks and disciplinary action for licensees. The bill will also require an applicant for an instructor's license to possess a high school diploma, its equivalent, or a degree in higher education. It clarifies that a medical certificate is required for renewal of a license and it adds a continuing education requirement. Finally, it requires a copy of the driving record from the state in which the applicant is licensed.

Senator Heinrich questioned **Ms. Cory** concerning the requirement of a high school diploma and wondered if any instructors currently do not have a high school diploma. **Ms. Cory** deferred to **Mike Riles** who is the Chairman of the Drivers Licensure Board. **Mr. Riles** indicated that this is just a good requirement to have for those who are educating youth and to his knowledge, no one at this time does not have a high school diploma.

MOTION: **Vice Chairman Hammond** moved to send **H 564** to the floor with a do pass recommendation which was seconded by **Senator Winder**. The motion carried by **voice vote**.

H 457 **Chairman McGee** introduced **Senator Cameron** who brought **H 457**, which relates to fuel tax distribution. **Senator Cameron** stated that this legislation came as a result of some of the struggles which the Idaho Transportation Department had with funding during the last year. The Governor's Task Force Committee for Transportation created this bill which postpones the effective date of Sections 2, 3 and 4 of Chapter 333, Laws of 2009 from July 1, 2010 to July 1, 2011. Furthermore, the task force recommended that gas tax revenues for Parks and Recreation be permanently reinstated and that an ongoing dedicated funding source be found to replace those funds shifted away from the Idaho State Police.

Chairman McGee asked if there were questions for **Senator Cameron**. There were none.

MOTION: **Senator Winder** made a motion to send **H 457** to the Senate floor with a do pass recommendation. **Vice Chairman Hammond** seconded the motion.

Senator Winder stated that he made this motion because he believed this to be such a bad idea last year, that he is happy to see it postponed.

Senator Kerby asked if this bill would be a good candidate for the consent calendar. **Chairman McGee** responded that it does deserve an introduction on the floor from **Senator Cameron** and it would not be a good candidate for the consent calendar.

Vice Chairman Hammond added to the commentary that the Parks and Recreation funds generated for the gas tax they use for their off-road vehicles, be put back into maintenance of trails. He further added that this is a clean line of how the funds were appropriated to how they were spent and that portion of the funding needs to remain in place.

Chairman McGee added that because this was passed last year and a committee was set up, and the committee postponed this legislation illustrates how serious this funding issue is and that the legislature is going to have to face this issue in the near future.

The motion carried by **voice vote**.

ADJOURNMENT **Chairman McGee** adjourned the Committee at 2:42 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: March 16, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Kerby, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the regular meeting of the Senate Transportation Meeting to order at 1:30 pm and the secretary took a silent roll.

H 542: **Chairman McGee** introduced **Representative Hart** to present **H 542**, a follow up bill on last years **S 1053**, dealing with trying to create one record per driver. To do so required a Social Security Number or employer identification number when registering. **S 1053** created an exception for those who don't have a Social Security Number. At that time, ITD missed that there are some entities that don't have an employee identification number. **H 542** allows the same type of exemption for an artificial entity that does not have an employee identification number. For the last year, ITD has been allowing individuals to sign a paper stating that they do not have an employee identification number.

Senator Broadsword asked for a Department view from **Amy Smith**, Vehicle Services Manager at ITD. **Ms. Smith** stated that ITD did work with **Representative Hart** to draft this legislation. ITD has been practicing not needing an employee identification number as a result. **Senator Broadsword** asked why some entities are not required to use a Social Security Number. If entities use a Social Security Number, then why does ITD not require Social Security Numbers for artificial entities. **Ms. Smith** replied the answer is because the State would have two entities, a person and a company for one Social Security Number. **Senator Broadsword** asked why does the department not use the DBA, Doing Business As and then use the Social Security Number. **Ms. Smith** replied that ITD does use that language, but in this circumstance, it would still qualify as doing business as two people because a man or woman is doing business and himself and also as another entity.

MOTION: **Senator Heinrich** made a motion to move **H 542** to the Senate Floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**, with **Senator Broadsword** voting no.

H 398: **Chairman McGee** introduced **Lieutenant Bill Reese** of the Idaho State Police to bring **H 398**, relating to vehicle equipment. **H398** updates Idaho Code dealing with refrigerant gasses and vehicle air conditioning systems. The code currently conflicts with EPA standards and motor vehicle rules. The code has not been updated and restricts the automotive industry on refrigerant gasses, restricting refrigerant gasses that are currently allowed by the Environmental Protection Agency (EPA). Idaho is one of three states that have not updated their code. If passed, this language will make Idaho more friendly to the industry. There will also be new federal tax incentives for using some of the alternative refrigerant gasses on the EPA list.

Vice Chairman Hammond asked if the EPA governs this, why is the State of Idaho also governing this within code. **Lt. Bill Reese** replied that all states have code for the use of refrigerants and the EPA simply has a list of authorized refrigerants. The current language in Idaho's code is restrictive enough that it doesn't allow use of some of those refrigerants.

MOTION: **Vice Chairman Hammond** made a motion to send **H 398** to the Senate Floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

H 438: **Chairman McGee** introduced **Captain Lamont Johnston** of Idaho State Police to bring **H 438**, relating to hazardous material, hazardous waste transportation enforcement. **Captain Johnston**, Captain of Idaho Police Vehicle Safety, stated this bill would increase the hazardous endorsement fees from \$3 and \$5 to \$10. He stated that ISP has five hazardous material specialists. Currently the State funds two positions. The other three hazardous materials specialists are paid by student funds. A fee increase is justified by the necessity for public safety. This is a user fee.

The documents in the folders are descriptions of some hazardous materials and activities carried out. These highlight how important the hazardous materials officers are. The legislation deals only with hazardous material endorsements. These documents are attached with the minutes.

Senator Broadsword asked when was the last time this fee was increased. **Captain Johnston** replied that it was in 1986. **Senator Broadsword** followed her question asking why, since it has been so long since there has been a fee increase, there isn't a request for more, such as \$15 or \$20. **Captain Johnston** replied that a higher increase was discussed, but a flat \$10 fee was reasonable and enough to fund the additional hazardous materials specialists. **Senator Corder** disclosed a possible conflict of interest with this legislation and stated that he intends to participate in debate and vote.

Senator Corder asked whether these will be available online now and **Captain Johnston** replied that they would.

Senator Corder mentioned that **Captain Johnston** will be retiring in September and this will likely be his last time testifying before the Committee.

Vice Chairman Hammond asked if we know why endorsements sold dropped from almost 72,000 to 63,000.

Captain Johnston replied that he does not know why.

Senator Corder offered that there are fewer carrier hauling more weight and less factories with hazardous waste within the last year.

MOTION:

Vice Chairman Hammond made a motion to send **H 438** to the Senate floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

Chairman McGee also commented that he is very grateful for the time **Captain Johnston** has spent serving the State of Idaho.

H 574:

Chairman McGee introduced **Bradley J. Dixon** who presented **H 574**. **Mr. Dixon** stated that there is a practice of charging a cost recovery vehicle licensing fees which rental car companies have as a result of titling and licensing their vehicles. 48 States have laws and regulations regarding these fees. Alaska and Idaho are the last two states to not have these regulations on their books. The purpose of this bill is as follows: under Idaho law, a rental car company may charge through the vehicle licensing fees (VLF). Second it provides that the VLF has to be a separately stated item on the agreement. Third, the VLF has to be a good faith estimate of the actual cost. The VLF may not be a profit center, but must be an actual cost recovery. There has been no opposition to the bill from the car rental industry, nor any groups representing the industry.

Vice Chairman Hammond clarified that **Mr. Dixon** represents Enterprise Rent-a-Car.

Senator Winder asked whether the cost stops once the costs are recovered or whether it continues. **Mr. Dixon** stated that the cost continues. The rental car company has to make a good faith estimate of their actual costs. At year end, the rental car company has to determine the actual cost versus the collected cost. If they overshoot the actual cost, then they have to refigure their costs for the following year. Rental car companies, however, charge a percentage less than what their actual costs will be so that there is never any situation of having made money on a cost recovery.

Senator Corder asked why airport access fees and airport concession fees are also included and all applicable taxes are included. **Mr. Dixon** replied this is something the industry has struggled with for some time. Many companies have businesses next to an airport. There are different elements that go into cost recovery. There have been concerns in the industry throughout the country in terms of the elements of the rates. One of the elements of the rates is the cost recovery law. **Senator Corder** followed his question by asking if there is a competitive advantage or disadvantage because his company competes with a company that is

next to the airport. Mr. Dixon replied that there is not. The way the cost recovery works gives each company the means to calculate its costs and establish its costs with an understanding of the different clientele.

Senator Bilyeu stated she would like another explanation of the airport exemption fees. **Mr. Dixon** stated that airport concession fees are fees that some companies have to deal with and others do not, depending on their location. Each rental car company located at an airport has to pay a concession fee for being located in that airport. The VLF has concluded that these airport fees may be included in the costs that may be recovered.

Senator Corder asked why the State should be engaged if there is no competitive advantage or disadvantage. Why is this worth the trouble when companies can adjust their business plan and business management to accommodate this. **Mr. Dixon** said that these are national companies and have had experiences in other states in which it is important to identify these specific fees.

Senator Kerby asked whether the reason for this legislation is to avoid the potential for bait switch. If you have a fee out for renting a vehicle and when a consumer shows up to rent the vehicle, they find that there are a bunch of fees out there that weren't advertized. **Mr. Dixon** stated that is one of the ramifications being referred to.

MOTION:

Vice Chairman Hammond made a motion to send **H 574** to the floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

PRESENTATION:

Chairman McGee introduced **Ted Spangler** to give a presentation of an update on dyed fuel in the state. **Mr. Spangler** passed out a handout, which will be attached with the minutes. The red line shows the consumption of dyed fuel over the span of time shown on the handout. In 2008 those lines actually cross. That was the reason for legislation for penalties for dyed fuel usage on the highway. The use of clear fuel dropped about 7%. The use of dyed fuel went up a fraction of a percent. Page two gives a comparison between 2008 and 2009 use of dyed fuel. In 2007 dyed fuel usage increased and in 2008 the numbers increased into 2009 even with the economic turmoil. This brings us to enforcement of this law. The IRS does have 15 to 20 citations that have not been forwarded to ITD. During the last 18 months, ITD has followed up on 36 citations on Idaho registered vehicles using dyed fuel. That has resulted in the collection of \$35,517.00 in back taxes, not penalties. Understand that these numbers may be lower than they might have been had we not undergone turmoil within the department as far as budget and having temporary workers let go.

Senator Corder asked about the fact that the graph does not have the variation expected because of seasonal uses of dyed fuel during planting and harvest time. **Mr. Spangler** stated that **Senator Corder** put his finger on the anomaly that raised concern for ITD.

Vice Chairman Hammond asked if there are other states which more aggressively go after illegal use of dyed fuel. **Mr. Spangler** stated that there are. Other states have people out checking fuel tanks. These thirty-six instances which the IRS have yet to reveal to ITD are mostly circumstances in which surrounding states found people with Idaho plates using dyed fuel. These are not highway trucks because they use way too much fuel to be using dyed fuel on a regular basis on the highways. These are smaller vehicles which use diesel fuel. **Vice Chairman Hammond** asked about figures gained as a result of enforcement. He asked if the cost of enforcement is substantially less than the fines and charges assessed against those in violation of using dyed fuel. **Mr. Spangler** replied that the average for 36 cases for collection activity was almost \$1,000.00. He didn't know the administrative costs on the part of the Tax Commission to be able to collect that, but that is within the range of a lot of enforcement actions. This is well above the threshold that the Tax Commission finds as a matter of business efficiency that is not worth pursuing.

Senator Corder stated that at one time he remembers paying a tax on every gallon of fuel he bought and then filed for a deduction at the end of the year. He requested clarification that Idaho does it the opposite way now. **Mr. Spangler** clarified that **Senator Corder** is correct. ITD used to collect taxes and people filed for deductions at the end of the year, then ITD had stickers for tax exempt gasoline purchases. In the late 80s Idaho became a part of the international fuels tax so that now there is a tax on clear diesel sold at the pump. Really it just reallocates where fuel was purchased versus where fuel was used.

Chairman McGee thanked **Mr. Spangler** for his presentation.

PRESENTATION:

Chairman McGee introduced **Nate Helm** to give a presentation on wildlife vehicle collision. He gave a powerpoint presentation which will be included with the minutes. He spoke on behalf of the Sportsman for Fish and Wildlife (SFW) Foundation which is a non-profit organization working to decrease the number of Idaho's wildlife killed in vehicle collisions. The powerpoint presentation attached with the minutes explains how SFW does this, studies SFW is using for data, and the areas in Idaho in which they are focusing their attention.

Senator Bilyeu asked about the situation around Black Rock and the Pocatello area. There is a lot of support and interest in that area. She stated that she is pleased that there is communication taking place among the State and Fish and Game. **Mr. Helm** agreed that there is a lot of support in that area. He gave the impact of insurance companies because of the trouble in that area regarding wildlife vehicle collisions.

Senator Broadsword asked if SFW is the group which wanted to create a bridge over Highway 95. **Mr. Helm** stated that he doesn't remember having anything to do with that specific bridge, but has looked at bridges and natural covered overpasses as solutions in other locations. SFW has advocated for those.

Chairman McGee reminded the Committee that Thursday will be a joint meeting in the auditorium.

Chairman McGee adjourned the meeting at 2:46 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

JOINT SENATE TRANSPORTATION COMMITTEE

AND

HOUSE TRANSPORTATION AND DEFENSE COMMITTEE

DATE: March 18, 2010

TIME: 1:30 p.m.

PLACE: Room WW02

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Kerby, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

MINUTES: **Chairman McGee** called meeting to order at 1:34 pm and the secretary took a silent roll.

PRESENTATION: **Chairman McGee** introduced **Stephanie Kane** a project manager from the Social Science Research Unit from University of Idaho. **Ms. Kane** referred to the power point presentation which is attached for the record and summarized an Idaho Transportation Department Customer Service Satisfaction Survey. She explained that the study was a result of ITD's strategic planning efforts. She reviewed the methodology which included telephone surveys of 1,609 individuals. Survey questions were asked including ITD customer service, satisfaction with highway Maintenance, quality of highways following construction, whether the project was the right solution for the region, satisfaction with the DMV, importance of alternative transportation, public involvement and ease of obtaining information from ITD's travelers' services. **Ms. Kane** also reviewed the conclusions and recommendations based on survey results included in the powerpoint presentation.

Chairman McGee opened discussion for Local Highway Jurisdiction Transportation Issues. **Lance Holmstrom** an Administrator with LHTAC, **Stuart Davis** with the Idaho Association of Highway Districts, **Ken Harward** with Idaho Association of Cities, and **Tony Poinelli** with the Idaho Association of Counties formed the panel which answered questions posed by the Governor's Task Force on Transportation. Those questions and answers on which the presentation are based were distributed to the Committees and handed out in written format. That list

of questions and answers being referred to during the presentation is attached with the minutes. In regard to the first question concerning the setting of local property tax levies, **Senator Heinrich** asked **Mr Poinelli** to review what steps are required of a county to levy property tax. **Mr. Poinelli** replied that if an entity is not currently levying a property tax for road purposes, they either have a vote or establish a road fund from other funds and then increase property taxes by 3%.

Senator Kerby asked **Mr. Poinelli** how dollars that are levied for a road and bridge tax from a property tax collected by a county are returned back to the municipality and if he knew how many counties do return the funds to the cities. **Mr. Poinelli** answered that dollars that are levied by counties for road and bridge purposes are supposed to be shared with the cities within the jurisdiction. **Mr. Poinelli** also stated that to his knowledge, all counties were returning money to the cities.

Senator Corder asked if **Mr. Poinelli** had knowledge of what the levy rate was in each county. **Mr. Poinelli** did not have those numbers with him at the committee meeting but planned to forward those figures to the committee.

Mr. Poinelli answered question number 2 asking how the revenue is balanced with the Highway Fund Apportionment. In answering this question, he stated that the Craig Widen funds are being used. It is approximately \$30 million dollars appropriated to the local jurisdictions for roads and bridges, which may be eliminated, creating a significant hole.

Senator Corder asked how many counties submit their PILT funds to the cities and if there was a school or safety component included. **Mr. Poinelli** answered that no PILT dollars are shared with other jurisdictions. **Mr. Poinelli** clarified the fund **Senator Corder** was referring to for a school or safety component was the Craig Widen Funds, not the PILT. **Senator Corder** asked if PILT funds could be shared with the school through decisions made at the county commission level and **Mr. Poinelli** replied that they are.

Senator Kerby asked how many years PILT has been funded by Congress. **Mr. Poinelli** answered PILT has been funded since 1976 but just been fully funded within just the past few years.

Regarding question number three, **Mr. Poinelli** stated that the local budgeting process is accomplished and dovetailed into an adjacent district and state needs and budgets by a review in February at the County level to determine budget requirements for the next fiscal year.

Chairman Wood asked why the State does not do budget training for city, county and school board members when they are first employed by the state. **Mr. Poinelli** answered that every general election year, the Association of Counties conduct a newly elected official training and a major component of that training is the budgeting process. Attendance, however, may not be required.

Mr. Holmstrom stood to address the question #4, stating that only federal aid projects are required to be reflected in the STIP. Question number 5 was answered, stating that the planning process is not entirely completed in the same way across all districts because of the different needs of the local jurisdictions. Most local road jurisdictions do use best management practices. **Senator Corder** explained that some of the members of the Committee wondered about how local jurisdictions proceed with planning, hoping it would be patterned after ITD. **Mr. Holmstrom** indicated that compliance with their points system is almost 100%.

Chairman Wood recalled the audit had indicated the need for a pavement management system and asked for an update on that wondering whether it encompassed the local jurisdictions as well. **Mr. Holmstrom** answered that only three thousand miles are not currently part of a pavement management system and ITD management indicated locals could participate but wondered if that was most cost effective. **Chairman Wood** followed her question asking if LHTAC is part of the pavement management system and whether the vehicles they are responsible for should be included in the cost allocation study questioning the type of vehicles using the roads. She further questioned if a pavement management system would help manage what vehicles are causing wear and tear on the roads. **Mr. Holmstrom** responded that it would be useful to know that. Currently 55% of the commercial trips are concentrated on a small number of principle arterials. **Mr. Poinelli** added that the planning process for local jurisdictions is done in the early stages of the year during the budget process. Counties also need the flexibility that if something dramatic happens, plan can change. **Senator Heinrich** then reviewed **Mr. Holmstrom's** assertion that incentives are given to those using best management practices, asking if a local jurisdiction has a project that can be done within the confines of their district and they elect to get help from ITD, wondering how much does help from ITD increase the cost of a project. **Mr. Poinelli** replied that occasionally requests have been made to assist on a local project. In those occasions funds from LHTAC rural funds go to local highway jurisdictions partnering with ITD indicating this has occurred three times. **Senator Hammond** further added to **Mr. Poinelli's** remarks indicating that significant planning has gone into local projects.

Senator Corder stated that every single district has a pavement management system, but it may not be an electronic one. **Mr. Holmstrom** indicated agreement with **Senator Corder's** statement but stated local districts are encourage to modernize with an electronic format. **Senator Corder** questioned how much the cost of a project is increased when partnering with ITD. **Mr. Holmstrom** indicated that an analysis has determined that it cost \$0.61 cents on the dollar to use local funds to do similar projects. The cost of doing federal projects are higher because of laws that need compliance.

Mr. Holmstrom then explained question #6 concerning consistency in moving projects to the STIP across all local jurisdictions with the answer being yes. **Senator Heinrich** inquired as to forest highway funds being on

the STIP. **Mr. Holmstrom** answered that was the case.

Question #7 was then explained by **Mr. Holmstrom** concerning the measurement criteria for need and priority being consistent across all districts, answering that it is not consistent because local elected officials are responsible for spending the money in the most efficient and effective manner, almost universally using best management practices.

Question #8 concerning coordination of local jurisdictions was explained by **Mr. Holmstrom** indicating some are formal and some are informal. **Mr. Poinelli** added that a number of local highway districts work together.

Mr. Holmstrom presented question #9 focusing on the process for sharing capital equipment or leased equipment resources between locals and between locals and the state. He stated that multi jurisdictional committees also handle these issues. He encouraged the committee to find out when multi jurisdictional groups meet so they could attend.

Chairman Wood asked what the process would be if you needed a bid to be done by local jurisdictions. What would the process be. **Mr. Holmstrom** answered that there is a process for local jurisdictions.

Senator Kerby asked what is the bigger impediment that prevents more cooperative agreements between jurisdictions. **Mr. Holmstrom** indicated that geographic limitations are the main problems. Also problems may be distance to gravel sources, and to mobilize and get equipment to people from one area to another. Mobilization is costly, particularly in rural areas. **Mr Poinelli** remarked that there may be a concern among locals regarding using federal funds and requirements.

Senator Kerby also asked if there is any impediment regarding liability and who the liability would fall upon for personal injury claims or other accidents. **Mr. Poinelli**, if a shared entity, it would be written to be a shared liability. There may a clause in which if it is a certain area, one entity would be responsible and the other forgiven. **Senator Heinrich** stated that local jurisdictions are insured such that they would be covered.

Question #10 and #11 were reviewed with no questions from the committee.

Question #12 focused on reporting requirements for the local jurisdictions with **Mr. Holmstrom** explaining that annually each local highway district must submit a Road and Street Finance Report and reviewing the content of those reports. He suggested outputs be reported through an additional performance measure tracking how close they are getting to the 1/20th of the local road system. **Senator Corder** stated that he appreciates the effort to tie funding to performance. **Chairman Wood** stated her Committee wanted to know what is happening and how well it is done. **Senator Heinrich** attested to the fact that the financial report is very thorough.

Mr. Holmstrom addressed #13 concerning performance measurements commenting it had been answered.

Questions #14 through #17 were then reviewed with a specific question by **Chairman McGee** on question #16 wondering if legislation is needed to help make the proposals happen. **Mr. Holmstrom** said a slight modification to the compliance report was made last year, and that nothing could preclude that from happening again with out legislative action. **Mr. Poinelli** indicated no legislation is needed, but a recommendation would be more than is needed from the joint committee or task force. **Senator Werk** asked about efficiency and local jurisdictions wondering if there was a method to measure movement toward efficiency. **Mr. Holmstrom** indicated that good planning is the key and using the best management system. How to measure is efficiency is challenging because of the differences in local jurisdictional needs.

Senator Hammond cautioned the Committee that snow removal costs by jurisdiction doesn't denote an efficiency.

Stuart Davis gave closing comments recognizing the wealth of experience on the committee and thanked the committee for the time allowed for the presentation today. **Chairman McGee** reiterated the importance of the committee understanding the local process. **Chairman Wood** apologized for the absence of her committee indicating they were still on the floor in session and thanked the members of the panel for the presentation.

Chairman McGee adjourned the meeting at 3:00 pm

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: March 23, 2010

TIME: 1:30 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Kerby, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the regular meeting of the Senate Transportation Committee to order at 1:32 pm and the secretary took a silent roll.

MINUTES: **Senator Heinrich** stated that he has read the minutes from February 2, 2010 and has found them to be in order.

MOTION: **Senator Heinrich** made a motion to approve the minutes from February 2, 2010. **Vice Chairman Hammond** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Senator Bilyeu** stated that she has read the minutes from February 16, 2010 and has found them to be in order.

MOTION: **Senator Bilyeu** made a motion to approve the minutes from February 16, 2010. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Senator Corder** stated that he has read the minutes from February 23, 2010 and has found them to be in order.

MOTION: **Senator Corder** made a motion to approve the minutes from February 23, 2010. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

H 609 **Chairman McGee** introduced **Representative Wills** to bring **H 609**, relating to choice and the Idaho State Police. **Representative Wills** said that **H 609** started last year with a conversation with the Gentleman on the second floor. He felt that a lot of agencies were seeing discrepancies for what the pay schedule was for some non-uniform individuals in the Idaho State Police Department versus the rest of the state agencies. A number

of years ago, **H 602** was passed, which gave a \$3 registration fee for Idaho State Police to get the provision of comparable agencies for hiring practices because it was a drain on the system to hire a number of state police officers and spend about \$100,000.00 each to have them trained by Idaho State Police and then have them go to other agencies because of salary differences. The \$3 fee has been very successful. It was designed to have everyone in the agency have that same type of competition because even the non-uniform personnel have to go through different hiring practices than other departments such as polygraphs, a couple months of interviews and follow-ups on resumes. Originally it was believed that entire agency needed to be on board. Then, it was found that other agencies who hired for similar job practices has different hiring practices and there was inequality. Perhaps those individuals who have met high enough standards that they could be taken out of project choice and be grand fathered in and that is what this bill does. It allows those who have gone through project choice before June of this year to be grand fathered in and those people will have the same salaries that they currently have. There are two exceptions: dispatchers who have much of the same pressures as well as those who work in the laboratories. This shows what we have done with the funding for the last two years and are planning and bringing project choice again as soon as the State can afford to support the agencies without having to let officers go due to the State budget.

Senator Corder asked about project choice in general. Where do the three dollars come from, how does it all originate and how does it all work together. **Representative Wills** replied that it started about four years ago when **H 602** was passed which implemented a three dollar fee for each vehicle registered in the State of Idaho which is used for project choice. The three items in that bill were retention, training and recruitment. Idaho is not currently able to recruit anyone, but has had to use the money to retain employees. **Senator Corder** asked how many dollars are generated each year. **Representative Wills** replied that he cannot say because it varies from year to year because many people register their vehicles for several years at a time and others for one year at a time. He further clarified that even if a person registers their car for several years at a time, there is a three dollar annual fee for project choice.

MOTION: **Senator Broadsword** made a motion to send **H 609** to the floor with a do pass recommendation. **Vice Chairman Hammond** seconded the motion. **Senator Broadsword** commented that this is an important bill because of the loss of Idaho State Police Officers to other state entities and to other organizations due to salary differences. The motion carried by **voice vote**.

H 586aa: **Chairman McGee** introduced **Representative Smith** to present **H 586aa**. This bill has been developed with towing companies, insurance companies, Idaho State Police, the Idaho Sheriff's Association, ITD, cities, counties and the Independent Auto Dealers Association. This bill serves to clarify current Idaho Code by cleaning existing code language and adding two important changes. Current code only requires law

enforcement to notify a vehicle owner as to where their vehicle was taken when abandoned along the roadway or in the case of a suspected stolen vehicle. This bill adds to this notification process owners who have been involved in an accident or have been arrested. This notification includes location of vehicle and any storage charges accruing. Next, under current code, any vehicle with an appraised value greater than \$200 that has remained unclaimed by its owner for 30 days must be sold by law enforcement through the towing agency being a lean sale. A lean against the vehicle by a towing agency typically runs at about \$1000.00. This process is a burden for law enforcement for vehicles that have no real value and these vehicles are typically scrapped. The \$200 limit has not changed in several years and this bill would change that limit to \$750. Thus, only vehicles appraised at \$750 or above would require a process for a lean sale. Any vehicle lower than this value could be disposed of in any manner.

Barry Takeuchi, Programs Supervisor, ITD Department of Motor Vehicles, stated that abandoned vehicles is something that people aren't widely aware of. Under existing law, an abandoned vehicle is a vehicle left roadside on private property without proper consent for 24 hours or longer. When an officer identifies one of these vehicles, he tags with a notice of intent to remove. If the owner doesn't remove the vehicle within 48 hours, it will be towed. Within a 48 hour period, law enforcement makes an attempt to contact the owner by telephone or in person. If the vehicle remains 48 hours later, law enforcement calls for it to be towed and then makes an appraisal to determine whether it is worth at least \$200. Regardless of the appraisal, a notice goes to owners and lean holders. For low value vehicles, which is a majority of the vehicles, there is also a notice of intent to dispose sent to the owner telling the owner that if he or she doesn't claim the vehicle within ten days, it can be disposed of. Realistically, it cannot be disposed of earlier than 50 days from that notice. Typically it is disposed of through a scrap processor, a crusher, or a salvage yard. For a high value vehicle, there is a more involved process. A notice of sale has to be sent out by certified mail to owners 30 days in advance and has to be advertized in the legal section of a newspaper in the general vicinity two times prior to sale. These vehicles are typically sold at auction to the highest bidder. Extraordinary circumstances, in which the vehicle is creating a hazard or blocking emergency traffic, potentially emergency vehicles or snow removal vehicles. Those can be towed without a 48 hour notice. Notice of intent to remove is bypassed, but the 48 hour notice does still go out following the tow. The rest of the procedures occur after the tow. An accident/arrest procedure is different; many of those vehicles could be classified by extraordinary circumstance, but law enforcement often classify those as "courtesy tow." Law enforcement calls a tow company as a courtesy to the owner. After calling for the tow, there is no notification that occurs. If a vehicle goes unclaimed, it is up to the tow company to dispose of the vehicle through a lean sale. Because of that, sometimes owners and lean holders don't see that notification until it's going to be sold, 60 days later. The first notice that an owner or lean holder will get is the notice of sale. At this point the accrued bill at the tow company is quite large. This area is being addressed by **H 586aa**.

Senator Corder stated that a constituent who is a tow truck operator called him and is concerned about the new Section on page 4, line 13, and is concerned about the property that might be in the vehicle when it is towed. The concern was regarding the fact that the inventory taken by a police officer when the vehicle was towed didn't include the things in the vehicle. His concern was that a reputable tow truck operator would make sure everything stays in the vehicle and a disreputable one may not. **Mr. Takeuchi** stated that there was discussion of this issue. Initially language indicated that there would be an inventory notice, but law enforcement didn't want an inventory requirement for every accident and arrest. **Senator Corder** followed his question asking for the inventory to be done by the tow truck operator and not law enforcement. **Mr. Takeuchi** yielded to **Mike Kane** representing both the Property and Casualty Insurance Associations of America.

Mr. Kane stated that he is going to back up and lead into **Senator Corder's** question. This bill is the product of the work of a year and a half and involved all people **Representative Smith** mentioned, including the towing industry. This bill is designed to bring order into what is currently chaos. There is a different set of rules for vehicles abandoned, as opposed to vehicles on arrest, as opposed to stolen, as opposed to being in an accident. There are different rules for the police, there are different rules for the towing company. On the insurance end of things is that we don't want to pay 60 day storage fees when the owner can be notified of where the vehicle is. Among the most important changes is to require certain things to happen all of the time when a vehicle is towed. The best place to begin is on page 4, line 13 and going down. Any time there is an arrest, and accident and a vehicle towed for extraordinary circumstance, this is going to happen. On page 4, line 23-34, this information is given to the owner when the vehicle is being towed either at the scene through a form that law enforcement signs off on, or if there is no one there, then the form is put into the mail within 96 hours of the tow. In regard to **Senator Corder's** question, there is a proposed notice/inventory, but law enforcement doesn't need to be going into vehicles and doing an inventory every time there is an accident. However, when there is an arrest situation and a vehicle is towed as a matter of investigation, law enforcement will always inventory a vehicle. That is for law enforcement protection as well as the protection of the person being arrested. An inventory will otherwise be done when deemed appropriate by a police officer. There is also a section in the bill that requires a tower to keep property in the vehicle when it is towed.

Senator Kerby asked when a vehicle has been recovered following an auto accident, the vehicle has been towed and an insurance adjustment has been made for damage of the vehicle, does the cost of storage and the tow reduce the actual cash value of the vehicle or is that in addition to the value of the vehicle in that adjustment process. **Mr. Kane** yielded to **Rod Thayer**, claimant manager for Farmer's Insurance in the State of Idaho. The answer: it is an addition. It is part of the coverage. He stated that this bill has been a long process and Representative Smith has done a great job of getting a lot of disparate parties together. The towing code has been the subject of modification for about twenty years, off and on

because various parties seem to have a problem with it. This is the first year there has been successful input among all parties.

Representative Smith gave closing thoughts by thanking all different entities for working together. She urged the Committee to send the bill to the floor with a do pass recommendation.

Senator Werk asked about section 17 and whether there is any flexibility for local authorities in case they want any part to be more stringent for certain time periods. **Mr. Kane** responded that the reason for this last section is because, not only is it chaotic between law enforcement, towing companies and different entities, but it is also chaotic between city to city and county to county. Everybody seems to have a different take on how to be involved. If it doesn't exactly fit into a current category, law enforcement may call a courtesy tow. There is nowhere in the law that doesn't obligate them then to notify individuals being towed which bring chaos. That's why we want consistency within State law. There is wiggle room for individual agencies.

MOTION:

Vice Chairman Hammond made a motion to send H 586aa to the floor with a do pass recommendation. **Senator Werk** seconded the motion. **Senator Kerby** stated that he has a possible conflict. The motion carried by **voice vote**.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: March 29, 2010

TIME: 1:00 p.m.

PLACE: Room WW53

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Kerby, Corder, Heinrich, Broadsword, Winder, Werk and Bilyeu

MEMBERS ABSENT/ EXCUSED:

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.

Chairman McGee called the regular meeting of the Senate Transportation Committee Meeting at 1:00 pm and the secretary took a silent roll.

H 729: He handed the gavel to **Vice Chairman Hammond** in order to present **H 729**, relating to texting while driving. **Chairman McGee** stated that the House passed a different texting bill than the Senate Committee passed earlier in the session. The Senate Transportation Committee conducted a meeting which took over an hour and heard several accounts of testimony. **Chairman McGee** announced that it is important to have a hearing on this bill to allow public input. In walking through the House bill, **Chairman McGee** stated that although he may not agree in the way in which this bill approaches the topic of texting while driving, compromise is required and so **Chairman McGee** offered an amendment.

Senator Bock has also joined the Committee and has offered to second the amendment should the bill go to the amending order. **Chairman McGee** read from line 27 to read the definition of texting in the House legislation. With different language, the bill is essentially asking for the same thing. It should not be legal in the state of Idaho to send a text message while operating a vehicle. The difference between the two bills are that the Senate version put this into the inattentive driving statute. The penalties for inattentive driving is a misdemeanor and those penalties are serious and they scared some who felt the original senate bill went too far. The House bill makes texting while driving an infraction as opposed to a misdemeanor. **Chairman McGee** read from page 4, line 29 to make the point that the texting while driving law will include moving vehicles only. The first penalty is an infraction and \$50 penalty. The second and subsequent violations will be an infraction and \$100 penalty. **Chairman McGee** then turned to the drafted amendment, which strikes

lines 37-41, and adds a provision which maintains that a first violation is still an infraction and a \$50 penalty and a second offense is still \$100. Any infraction which does involve injury to property is a misdemeanor and a \$500 penalty.

Chairman McGee noted that he is happy to answer questions and may yield to **Mike Kane** representing the Idaho Sheriff's Association and Property and Casualty Insurance Association of America who has done a tremendous amount of work on this legislation.

Senator Bilyeu asked about the \$500 fine when possible injury. What if it is a severe injury, is the \$500 all that someone will be liable for. **Mr. Kane** stated that the obvious difference is the addition of the language that would include the possibility of the charge when there is damage to property or a person. With infractions, there is a set fine, it is paid and the court cost is paid and that is the end of the matter. With a misdemeanor, law enforcement and prosecutors have the ability to seek restitution from the offender. This is a middle ground, but is urged upon by the Idaho Sheriff's Association by the Canyon County Prosecutor. This makes clear that texting and injury is a misdemeanor.

Senator Broadsword asked if a person is caught texting and causes an accident, would they also be charged with inattentive driving. **Mr Kane** stated they would be charged with texting while driving under this new code. **Senator Broadsword** followed asking would a person have to get SR22 filing coverage, a special kind of insurance needed after a certain amount of infraction points have accumulated on one's driver's license. **Mr Kane** replied that he is not sure if this would get you the amount of points needed to get SR22 coverage.

Senator Werk stated that the amendment doesn't make a distinction between the type of property damage required to meet a standard. Would a scratch on a fender or a broken finger qualify? He asked if language in the bill will provide enough reasonable understanding for law enforcement to enforce appropriately. **Mr. Kane** stated that in doing research he looked at potentially suggesting a property damage limit such as \$100. It was decided a limit was not fair because someone who lost \$99 not be able to receive restitution. Bodily harm would be a pretty severe standard. Any injury such as bruising and cuts would certainly be reasonable. **Senator Werk** commented that we trust law enforcement to appropriately enforce law. In the case of a bruise, law enforcement must trust them to have good judgement.

Senator Broadsword asked if legislation will cause ITD to have to undergo rule making to have to figure out point system and other things. **Chairman McGee** stated that he doesn't believe that it will; in listening to testimony from the House, the existing point systems that current infractions are subject to will be used. In the case of floor debate, he will be sure of an answer.

MOTION:

Senator Corder made a motion to send **H 729** to thr 14th order. **Senator Bilyeu** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Hammond handed the gavel back to **Chairman McGee** who proceeded the meeting.

H 600: **Chairman McGee** then introduced **Senator Winder** to present **H 600**, relating to highways, bridges and contracts. **Senator Winder** stated that this bill is the result of collaboration which has taken place over two sessions. This bill will save conservatively, between three and five percent, and will have a positive impact on the public. This is a fairly lengthy bill, but is the same as a rule discussed last year.

Senator Corder asked if ITD will enact the legislation as is or will it require rule making. **Senator Winder** replied that the bill is lengthy because it includes in code what would normally be required in rule making.

MOTION: **Senator Werk** made a motion to send **H 600** to the floor with a do pass recommendation. **Vice Chairman Hammond** seconded the motion. The motion carried by **voice vote**.

Chairman McGee announced that this will be the last meeting for this session and thanked the Committee for their hard work.

Chairman McGee adjourned the meeting at 1:31 pm.

Senator John McGee
Chairman

Lizzie Kukla
Secretary