

# Senate Transportation Committee

Minutes  
2005



MINUTES

**SENATE TRANSPORTATION COMMITTEE**

**DATE:** January 13, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, Marley, and Langhorst

**ABSENT/  
EXCUSED:** None

**GUESTS:** See the attached sign-in sheet.

**RS 14533**      **RS 14533 Relating To Motor Fuels:**

This legislation was presented by **Senator Stanley Williams** and relates to motor fuels. It will amend Chapter 2, Title 71, Idaho Code, by the addition of a new Section 72-241A, to provide legislative intent and ethanol-blended fuel standards.

The legislation will amend Idaho Code to implement a renewable fuel standard, and provide that beginning on April 1, 2010 gasoline for motor vehicle use sold in Idaho must be blended with at least 10.0 percent by volume, agriculturally derived, denatured ethanol. Use of ethanol-blended fuel will significantly reduce emissions from motor vehicles and minimizing the adverse impacts of air pollution in Idaho. Using ethanol-blended fuel in motor vehicles in Idaho will reduce the dependence on imported fuels, and will significantly strengthen the economy.

There is no fiscal impact to the General Fund.

**MOTION:** A motion was made by **Senator Shawn Keough** that RS14533 be **introduced for print**. The motion was seconded by **Senator Jack Noble**, and was approved by a **voice vote**.

**ADJOURN:** 1:40 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

MINUTES

**SENATE and HOUSE TRANSPORTATION COMMITTEE  
JOINT MEETING**

**DATE:** Tuesday, January 18, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 412

**MEMBERS PRESENT:** Senate: Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, Marley, and Langhorst

House: Chairman Wood, Vice Chairman Roberts, Representatives McKague, Cannon, Skippen, Wills, Moyle, Hart, Nonini, Shepard (2), and Ringo

**MEMBERS ABSENT/ EXCUSED:** House of Representatives Members: Representatives Smith (24), Bedke, and Mitchell

**MINUTES:** The minutes of this joint legislative committee were prepared by the secretary of the House Transportation and Defense Committee. See attachment #1 (3 pages)

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE and HOUSE TRANSPORTATION COMMITTEES JOINT MEETING

**DATE:** Thursday, January 20, 2005

**TIME:** 1:35 p.m.

**PLACE:** Room 328

**MEMBERS PRESENT:** **Senate:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Marley, and Langhorst

**House:** Chairman Wood, Vice Chairman Roberts, Representatives McKague, Smith(24) Bedke, Cannon, Skippen, Wills, Moyle, Hart, Nonini, Shepherd(2), Mitchell, and Ringo

**MEMBERS ABSENT/  
EXCUSED:** Senator Noble

This joint educational meeting, presented by the Idaho Transportation Department (ITD), is to provide information about the department's programs and projects and to update both the Senate Transportation Committee and the House Transportation and Defense Committee. The meeting was conducted by both Chairman Brandt and Chairman Wood.

**GUESTS:** ITD presenters, and see the attached sign-in sheets.

**Idaho Transportation Board Chairman Charles (Chuck) L. Winder**, outlined the ITD's power point presentation explaining topics such as who we are and what we do, transportation in Idaho, federal reauthorization, sources and uses of funds, and a budget overview would be presented today.

Mr. Winder introduced other ITD board members present, as well as the scheduled presenters. ITD board members are John McHugh, District 1, Post Falls; Vice Chairman Jack Combo, District 6, Idaho Falls; Monte McClure, District 3, Meridian; Gary Blick, District 4, Castleford; and John Combo, District 6, Idaho Falls. Board members absent today are Bruce Sweeney, District 2, Lewiston; and Neil Miller, District 5, Pocatello. Mr. Miller is being reappointed by Governor Kempthorne. [Hearing scheduled with the Senate Transportation Committee on Thursday, February 3, 2005].

The ITD executive team members were introduced: Director David Ekern; Planning/Programming Deputy Director Charles Rountree; Administration Division Administrator Susan Simmons; Aeronautics Division Administrator Bob Martin; Highway Division Acting Chief Engineer Steve Hutchinson; Motor Vehicle Division Administrator Pamela Lowe; Public Transportation Division Administrator Larry Falkner; and, Office of Budget, Policy and Intergovernmental Relations Manager Julie Pipal.

**Division of Aeronautics - Aeronautics Division Administrator Bob Martin** introduced members of the Board of Aeronautics: Roger Sorensen, Soda Springs; Kathy Poston, McCall; Bob Hoff, Idaho Falls, and two absent members are Scott Patrick, Boise, and Ralph Stout of Lewiston.

The Division's focus areas are:

- Encourage development of commercial and general aviation.
- Support improvement of airports and air navigation facilities.
- Promote safety in aviation.

Mr. Martin discussed the focus areas of the division such as encouraging development of commercial and general aviation, support improvement of airports and air navigation facilities, promote safety in aviation.

The division supports airport planning and development planning, safety development, matching funds, and supporting Idaho's economy. This area has great economic development value for the state. Our focus is in attracting additional air services in promoting community support for small airports, and encouraging continuation of back-country airstrips.

We also support improvements of airports and their navigation facilities. This responsibility is both safety and economic development related. Our focus is safe aircraft operations, and developing facilities that will attract visitors and businesses into Idaho. In addition, we promote safety in aviation.

Airport Planning and Development is our largest program. During the life of the federal program, we expect \$100 million in federal money to be directed to Idaho's airports which are eligible for federal funding. Additional money from the state's aeronautics fund is used to help communities with their match requirement. The state currently furnishes one-half of the local match-requirement.

The division also funds up to 90 percent of airport projects for those airports that are not eligible for federal funding. In addition, technical assistance is offered for airport planning and safety projects and development projects.

Our objective is having landing and support facilities in our communities that attract both corporate aircraft and businesses that use aviation. Studies show that airports and aviation related businesses contribute a significant benefit to our economy, with an estimated annual output of \$1.5 billion and 27,000 jobs. Many non aviation businesses rely on Idaho's airports to support and extend their activities such as airline travel, charting aircraft, moving customers, moving supplies using express and cargo services.

A recent study of Idaho's businesses indicates that in addition to the 27,000 aviation related jobs previously mention, and there are more than 30,000 additional jobs in Idaho that in some way benefit directly from the

operations of our airports. Idaho has seven commercial airports, 31 general aviation airports, 30 community airports, and 125 private airports, 30 state-managed airstrips, 26 Forest Service airstrips, and six private airstrips. The division provides workshops on aviation safety and education, and relies heavily on volunteer groups for airstrip maintenance.

**Chairman Wood asked about upcoming legislation related to search and rescue operations.** Mr. Martin explained the legislation transfers the responsibilities of supervision and coordination of Search and Rescue to the Bureau of Homeland Security. The Bureau of Homeland Security coordinate with local areas for emergency services.

**Representative Mitchell asked about two airports - what is the status of offer of land at Sun Valley for that airstrip change, and what is planned as it relates to the future development of Tamarack.** Mr. Martin explained a group of people is studying that issue, and has focused on three locations they plan to study further. Those areas include the borders of Lincoln County and Camas County. There has recently been surface improvement to the airstrip at Cascade.

**Senator Geddes asked about the struggle with federal agencies regarding our back country airports. Is this improving or how are we managing those airports at this time?** Mr. Martin explained those are some of the Forest Services airstrips, and a lot of progress has been made in that area. A recent meeting was held with the Forest Service, and they stated they realize those airstrips are not going away and they need to pay attention to them.

**Division of Highways - Acting Chief Engineer Steve Hutchinson** presented an outline about the division's operations. He reported he is representing the 1,300 plus men and women working in the division. Our primary responsibility is 5,000 centerline miles and 1,752 bridges that are part of the system.

There are many more needs than available funds in dealing with the governments' services; therefore, the Division of Highway has prioritized focus areas. These priorities are:

- Safety
- Operations
- Preservation
- Rehabilitation, and
- Improvements

Highway Safety - safety is included in all we do. We use various tools to determine how best to respond to the roadway. These identify high accident locations, prioritize railroad crossing treatments (high accident potential), and make appropriate changes to a facility to enhance safety. We administer a community grant program to modify drivers' behavior, all in order to reduce the facility and injury rate on Idaho's highways.

Operations - well know activities include snow and ice control, drainage

maintenance to preserve the roadbed, signing and striping to assist motorists in safely and using highways. In addition, Operations include providing traveler information about road conditions, and placing road signs around the state.

Incident Management - places an important safety and mobility role by clearing crashes and related congestion more quickly.

Preservation - protects the initial investment of the transportation system and extends its useful life. There are many types of maintenance activities performed to meet this goal. Preservation includes patching, pothole filling, cracks sealing, seal coats, bridge and drainage maintenance, and thin overlays.

Rehabilitation and Improvements - rehabilitation and improvements to our highways are part of the capital improvement program. There are 800 plus projects in the five-year program that are in various stages of development. These range from planning and environmental studies to major reconstruction and new interchanges. Last fiscal year, the division awarded 124 construction projects, as well as perform quality assurance on those contracts.

Highways are only one of the modes of transportation provided to the people of Idaho and the nation, such as travel on public transportation, bicycles and pedestrian facilities, access to the Port of Lewiston, commercial airports, and other recreational facilities throughout the state.

The division has set certain goals to measure our success in product delivery and community acceptance, which means that those who live, drive, and work along the highway is agreeable that the facility meets the expectations set through the public involvement process. Other measures include environmental compatibility, sound engineering, and are on time and within budget.

**Division of Public Transportation - Public Transportation Division Administrator Larry Falkner** introduced Public Transportation Advisory Council Vice Chairman General Jim Brooks.

Mr. Falkner outlined the activities of the division, and how they look toward the future for public transportation in Idaho. Public transportation in Idaho is provided by local agencies, either local government or nonprofit agencies. The state does not directly operate transit services, so we rely on partnerships with agencies within your communities where we are able to provide funds from the Federal Transit Administration. Our primary focus is to administer federal transit administration grant funds available to Idaho. These include the elderly and persons with disabilities, rural public transportation, statewide planning, and the consolidated planning grant for the metropolitan planning organization.

There is increasing emphasis nationally on fiscal responsibility. We are working to make sure that publicly funded providers are recording their fully allocated costs associated with contracting. The division sponsored

financial management training to help train providers on federal requirements.

This past year we saw changes in the U.S. Department of Transportation, where there is increasing emphasis on bus safety and security. We are working in Idaho to develop individual system plans to address emergency preparedness, using national experts to help us with the training and planning development. Public transportation works in communities where agencies, governments, and local groups support having services available such as interagency working groups, coordination projects, and United-We-Ride projects.

Growing Access to Services - The census survey shows that an estimated 16,000 Idaho households have no access to vehicles, and must rely on others for transportation. We continue working with local leaders, elected officials, and providers to identify transit dependent populations and the services needed to provide access to jobs, child care, and basic shopping for those relying on public transportation.

Census numbers show that Idaho's senior population increased 25% from years 1990 to 2000. This number is expected to grow to 350,000 by year 2020. These seniors may come to rely on public transportation for medical appointments, senior centers, and shopping. We are focusing on this group and the Department of Transportation has committed funding to wheelchair accessible vehicles, throughout the state, to help meet the transportation needs of those no longer able to drive. Commuter services are working to establish car-pool matching and van-pool services.

**Division of Motor Vehicles - Motor Vehicle Division Administrator Pamela Lowe** presented an overview about the focus areas of the division including driver licensing and identification, vehicle registration, title issuance, dealer licensing, motor carrier/truck registration, and mileage audits. Also, the Port of Entry weigh stations. The division strives to improve our services, serving our customers more conveniently, streamlining business processes, and making each customer's experience positive.

Ms. Lowe outlined upcoming proposed rule-changes for manufactured homes, modular buildings, and office trailers that relate to the restrictions on depth of eaves.

Also outlined was the process of electronic title affidavits, a published newsletter to the auto dealerships, *The Idaho Dealer's News*, the email version that goes to Idaho's trucking industry. The division's web site, [trucking.idaho.gov](http://trucking.idaho.gov), is for commercial drivers, and an audio version of the driver's manual is online.

**Senator Brandt asked about mailing follow-up notices for expired drivers licenses, such as when a driver is eligible to renew their license by mail, they are sent a renewal notice. Is notification of expiring licenses followed-up with additional notices?**

Ms. Lowe explained she is new to the job, and learning additional things

daily, but she believes notification is mailed only once. She will check and get the information to Senator Brandt.

**Representative Bedke, District 27, asked is the drivers' manual printed in another language other than standard English? What is the additional cost of printing the manual in another language?** Ms. Lowe explained the manual is printed in English and Spanish, but she is unaware of the cost. She will send Representative Bedke the fiscal data.

**Division of Administration - Administrator Susan Simmons** explained the division provides the guidance, oversight, and administrative services to all areas of the Department of Transportation. This includes direct service to individual employees, all levels of management, and the Board of Transportation. The division's goal is to provide a proactive, efficient, safe, healthy work environment through a variety of services.

There are five main focus areas: employee services, business and support management, information technology, financial services, and facilities' management. The division works in partnership with Idaho State Police, we maintain and continually refine a telecommunication network which connects to all 44 counties in Idaho. The main focus of this network is to deliver motor vehicle services, along with a statewide law enforcement system, that is accessed 24-7 by all local police and sheriffs' departments. We further collaborate with other state agencies who have a need for communication services in these county locations. Currently, entity partners include judicial, the secretary of state offices, tax commission, and juvenile corrections. We also partner with the Ada County Highway District for communication needs throughout the valley.

The division also houses the financial services section for the Department of Transportation. This section provides the accounting for all the dollars receipted into or spent by the Department. This includes the federal aid billing process for recovery of federal funds which makes up more than 50% of the Department's revenue. Financial services ensure timely payments for contractors and supplies. In addition, we produce a biweekly payroll for 1,800 plus employees. We ensure financial accountability to continually review and update internal controls and procedures.

Another area of emphasis within the Department and within the division is the business and support management. This section, among its other services, performs all the purchasing functions of ITD. We purchase and distribute all the vehicle licenses to all the county outlets as well as other supplies and services needed by ITD. Business and Management Support also develops and distributes all the board's and administrative policies and manuals for ITD.

Facilities Management - this section is responsible for maintaining buildings across the state. Over the last several years, we have concentrated on upgrading sand-sheds. It is now time to begin examining the aging structures that house our employees throughout the state. We are researching alternative ways to modernize facilities in order to provide ITD employees with safe and environmental friendly work places. A study

is currently in process at all district sites to determine where it may be feasibility for ITD and Idaho State Police to share buildings, technology and other services.

**Senator Brandt requested a list of the aging facilities as discussed.** Ms. Simmons will send a list of ITD facilities. [Facility information at <http://itd.idaho.gov/planning/gis/maps/StateMaps/Buildings.pdf>]

**Representative Mitchell asked about the success of the department's satellite emergency telephone system. Is anything being done in the near future to take care of the White Bird to the New Meadows Valley, a dead air space?** Ms. Simmons explained ITD was experimenting with systems for the U.S.12 area, and will continue to experiment with different types to try to find the best solution to the problem.

**Representative Roberts asked about the ITD budget and how the 2% CEC increase from last session was distributed throughout the department. He requested a breakdown of how the salaries and revenue sharing were disbursed within the department.** Ms. Simmons will send a breakdown of merit increases to him.

**Representative Ringo asked about ITD technology support being contracted or does ITD have their own employees?** Ms. Simmons explained ITD is in the process of evaluating when it is best to use the outsourcing within our technology.

**Division of Transportation Planning and Programming - Deputy Director and Chief Planning Division Administrator Charlie Rountree** explained the basic for success in an efficient transportation system begins with planning. The Planning and Program Division directs the statewide planning program and research process that includes data collection, analysis and programing of investments to support a sufficient transportation system. Our core focus areas, the divisions manage programs for air quality improvement, transportation enhancement, and scenic byways. These are all beneficial to local communities, the economy, and quality of life.

We develop transportation plans and programs such as the statewide transportation improvement program. This program represents the involvement of many partners who contribute to transportation within Idaho including citizens, highway districts, counties, cities, and other public entities.

We work closely and assist metropolitan planning organizations and other local jurisdictions as they develop transportation plans to meet their future transportation needs.

The division uses an extensive traffic accounting system to provide information to planners, designers, and others who need traffic account information. We also do traffic forecasting.

We also measure pavement conditions around the state annually on every mile of road that is operated by the state transportation department to identify which sections require the greatest need. Decisions on highway investments are based on objective, reliable, and consistent information. Geographic information tools are used to produce maps and analysis to assist our decision-makers, and we are developing means to make this data online on the Web, to make us more efficient in answering questions and data requests we get.

The office of Transportation Investments provides the department and the public with a reliable five-year schedule for development and implementation of transportation projects which utilize transportation funds.

Idaho's highways, all jurisdictions, have 38,250 centerline miles, 289 agencies responsible for roads, and 14.4 billion vehicle miles are traveled annually. The state highway system has 5,000 centerline miles, 1,752 bridges, and eight billion vehicles' miles are traveled annually.

Other transportation facilities in the state are the Port of Lewiston and the major rail providers as well as the short-line operators for rails. The annual vehicle miles of travel have grown more than 47 percent since 1990. The fuel index figure is the gallons of fuel consumed in Idaho is up 45 percent since 1990 which indicates a growing use of transportation.

The aeronautics system has 249 airports, 56 back-country airstrips, 530 commercial flights per week in six commercial airports.

The public transportation system has 10 fixed transit routes, more than 100 vehicles are used in van-pool services, with more than five million passenger boardings annually.

Mr. Rountree presented a brief update of what ITD knows is going on with reauthorization of the Federal Transportation Bill. The 108<sup>th</sup> Congress adjourned last year and they did not pass a federal transportation act. The reauthorization of T21 died. Both the House and Senate Transportation Committees did come to some agreement in the final hours about a budget level for consideration and that was \$300 billion for a six-year bill, and that compares to a \$218 billion which was part of the T21 bill which has been extended and we are working under right now.

The 109<sup>th</sup> Congress we anticipate in the first quarter will be introducing reauthorization bills which we think will begin showing up in committees in late February. We continue to be optimistic even though we do not see delivery.

Some things that have happened nationally as it relates to reauthorization, last year the Congressional Budget Office was looking at a potential reduction in their estimate of revenues coming into the federal trust fund, but as a result of the Tax Refund Act of 2004, which transferred the 2.5 cent gas tax on ethanol to the general fund and repealed the 5.2 cents a gallon ethanol tax exemption, putting those monies into the federal highway trust account. This has resulted in an increase in revenues coming into the trust fund in anticipation of some \$24 billion or

more within the next six years. We are looking at something in the range of a 25 percent increase over a T21 federal bill.

**Representative McKague asked about public transportation boardings, how many million and where did most of those occur - in what part of the state?** Mr. Rountree reported the number is five billion people (boardings) in Idaho. Mr. Rountree will send additional information relating to statewide locations where boardings occur.

**Senator McGee asked about the anticipated amount for the federal reauthorization increase in percentage.** Mr. Rountree explained the bills left from last year were about \$300 billion for a six-year bill. We anticipate we will see similar numbers, but we have not heard anything from Congress to change that and that would result in about a 25 percent increase over T21.

**Representative Roberts asked questions about projects currently on the five-year plan. In dealing with a change in the way we may fund highway projects in the state of Idaho, specifically through the grant application or anticipation of revenue vehicle bonds, how many projects in the state of Idaho would be ready to be funded through that type of funding source that indeed was approved by the Legislature this year?** Mr. Rountree asked for clarification - is the question "how many would be ready this year or how many could be included in the program?"

**Representative Roberts wanted to know how many projects would be ready to go, if the funding was made available. How long it may take to get additional projects online?** Mr. Rountree explained we anticipate that if the GARVEE bonding program is in place, which would run for a minimum of nine years. In terms of what could be ready, we would anticipate issuing bonds to fund projects in 2006 with projects going into construction in year 2007, and that would ramp-up over that nine-year period, specifically the number of projects in the first couple of years we would probably be looking at two or three projects. The rest would then have to be developed.

**Representative Roberts asked, in addition to programing, does that include environmental studies and alternate route studies that are required for the environment?** Mr. Rountree explained that is correct. We program funds and projects to handle project development, costs which would be environmental, engineering, right-of-way, and actual construction.

**Representative Roberts questioned about full-time positions (FTP) needed within ITD to handle the influx of \$1.6 billion capital construction projects - do we have any estimation of how many additional staff will be needed to implement these?** Mr. Rountree reported it is our anticipation, at this point in time, if that program was in place we would get projects developed into construction with our current staff. We fully recognize that with the number of lay-miles that would be added to the system, there would be additional requirements for maintenance, equipment and full-time employees.

**Representative Roberts clarified his understanding that, at this time, there is no need for additional staff to implement new funds for road projects funded through the GARVEE bonds, is that correct?** Mr. Rountree reported that is what we expect utilizing consulting forces and an outsourcing a good share of the work, but not an increase in our staff level.

**Representative Roberts asked, that, at this time, if you use consulting, could you put a number on that.** Mr. Rountree responded, no.

**Senator Brandt informed the committee members that we will have hearings on the GARVEE issue. In requesting the information presented today, we did not ask for any detail information pertaining to that aspect. We will have further hearings on this subject.**

**Representative Nonini, District 5, asked about how the department addresses congestion at State Highway 41 and Seltice Way, and addressed his concerns relating to Highway 41 and Interstate 90 intersections. He asked for an explanation pertaining to the planning that went into developing the project. He realizes there has been rapid growth in the area, and it is a very congested area. It is very frustrating to use that intersection. He asked, can you speak to the planning and the department's opinion on where the situation currently is?** Mr. Rountree explained he is not involved in this level of planning. The type of planning Representative Nonini is talking about is project designing planning, and he cannot speak to the engineering involved in that particular interchange. He will discuss this question with Chief Engineer Steve Hutchinson and contact Representative Nonini later.

**Chairman Wood asked if truck registrations are now revenue neutral?** Ms. Lowe will address the revenue neutral figure and contact Representation Wood later.

**Idaho Transportation Department Director David Ekern** briefly presented an overview of the ITD budget that will be presented to JFAC (Joint Finance-Appropriations Committee) on February 11, 2005. The budget is built around three themes that have been consistent between the Board, the Legislature, and the Governor's State-of-the-State address over the last several years.

- 1) A recognition the state's economy is strong and we believe, as characterized in the Governor's State of the State, is poised for some great opportunities.
- 2) Agencies, like ours, need to focus their investments in support of the economy and to improve our infrastructure to make that economic growth happen.
- 3) We shape our proposals that we bring before the Legislature to ensure we improve services without increasing taxes.

These themes are the themes that the executive team and department staff use as we put together our proposals for consideration in advancing Transportation and are again reflected in this year's budget request.

Transportation in Idaho is an important business and we intend to approach it from that perspective. This year will generate revenues of \$760 million across all levels of government. (See a chart, pg #618 of power points - Attachment #1)

**Representative Bedke as about funding sources for construction enhancement.** Senior Budget Analyst Joel Drake explained the fund sources for program enhancements are dedicated, federal, and local funds.

Other Idaho Transportation Department data relating to the FY06 Governor's recommendation, total FY06 transportation revenue sources (\$760.6 million), revenue forecast, FY06 budget request, and FY06 projected outputs for ITD will be maintained in the Senate Transportation Committee office, room 432, until the end of the first regular session of the 58<sup>th</sup> Idaho Legislature. (See Attachment #1).

**ADJOURNED:** There being no further business to come before the committees, the meeting was adjourned at 2:40 p.m.

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Senator Skip Brandt  
Chairman

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Representative JoAn Wood  
Chairman

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Betty Osborn, Senate Secretary

MINUTES

**SENATE TRANSPORTATION COMMITTEE**

- DATE:** Tuesday, January 25, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, Marley, Langhorst
- MEMBERS ABSENT/ EXCUSED:** None
- GUESTS:** See the attached sign-in sheets.
- S 1011** This legislation relating to pedestrians and bicycles was presented by **Senator Joyce Broadsword, District 2**. She explained this legislation will provide a correct code reference relating to rights and duties that will apply to persons on bicycles and other human-powered vehicles. This amendment corrects the reference to Chapter 8, Signs, Signals, and Markings, Section 49-714, Idaho Code. All bicyclists must also obey these codes. Chapter 7 is referred to in Section 49-714 by the words "except as otherwise provided in this chapter."
- There will be no impact to the state General Fund or local governments.
- Kootiani County Sheriff Captain Ben Wolfingar** testified this proposed legislation does not restrict bicyclists more, but is more of a housekeeping issue.
- MOTION:** A motion was made by **Senator McKenzie** to send S1011 to the Floor with a do pass recommendation. The motion was seconded by **Senator Marley**, and the motion **was carried by a voice vote**.
- RS 14669** **Senator Joyce Broadsword** also presented this proposed legislation, RS14669. This legislation relating to pedestrians and bicycles amends Section 49-720, Idaho Code, to provide stopping requirements at a traffic control signal, light or device for persons operating a bicycle or human-powered vehicle.
- This amendment clarified that a bicycle must obey a red traffic light unless they are making a right-hand turn or that they may make a left-hand turn after stopping and yielding to other traffic if turning onto a one-way street.
- There will be no impact to the state General Fund or local governments.
- MOTION:** A motion was made by **Senator Keough** to send RS14669 to Print. The motion was seconded by **Senator Marley**, and the motion was **carried by a voice vote**.

**RS 14667**

**Senator Broadsword** presented RS14667, relating to pedestrians' right-of-way. She requested, and received permission, to revise the Statement of Purpose (SOP) to ~~strikeout the second sentence: Additionally, to ensure the safety of bicyclists who are opting to be treated as pedestrians in riding their bicycles in pedestrian areas by requiring them to walk their bicycles across through crosswalks across the highway.~~

The **revised SOP** will read: "The purpose of these proposed amendments is to clarify when a vehicle must yield to a pedestrian who is utilizing a marked or unmarked crosswalk at an intersection."

There will be no fiscal impact to the state General Fund or local governments for this change, with the exception of possibly reducing time in courts for people who are cited for violation of this statute.

**Kootiani County Sheriff Captain Ben Wolfingar** testified to support RS14667. This proposed change clarifies the Idaho Code.

**MOTION:**

A motion was made by **Senator Keough** to send RS14667 to Print. The motion was seconded by **Senator Marley**, and the motion was **carried by a voice vote**.

**S 1004**

This proposed legislation, SB1004, relates to motor fuels; amends Chapter 2, Title 71, Idaho Code, by the addition of a new Section 72-241A, Idaho Code, to provide legislative intent, to define a term, to provide an ethanol-blended fuel standard and to provide an exemption to the ethanol-blended standards. **Senator Stan Williams, District 28**, presented SB1004 (commonly known as the ethanol-blended bill), and explained that the basic intent of this legislation is that by the year 2010, we will have implemented in Idaho a 10% ethanol blended gasoline and, hopefully, would improve our air quality and reduce our dependency on imported fuel. He reported there would be a "trailer" bill following SB1004.

This legislation will amend the Idaho Code to implement a renewable fuel standard, and provide that beginning on April 1, 2010, gasoline for motor vehicle use sold in the state of Idaho must be blended with at least 10.0 percent by volume, agriculturally derived, denatured ethanol. Use of ethanol blended fuel will significantly reduce emissions from motor vehicles, thus minimizing the adverse impacts of air pollution in Idaho. Using ethanol blended fuel in motor vehicles in Idaho will reduce our dependence on imported fuels, and will significantly strengthen our economy, particularly in rural areas.

There is no fiscal impact to the general fund of the state of Idaho. By adoption of the companion piece of legislation, which repeals the current fuel tax deduction for ethanol blended fuel on April 1, 2010, there will be an increase in the state fuel tax revenues of \$750,000 in FY2011. Without adoption of the companion piece of legislation, this bill would result in a \$15.5 million reduction in state fuel taxes in FY2011 when the renewable fuel standard is fully implemented. There is a possibility that there will be gasoline retailers who voluntarily use ethanol blended fuels prior to the implementation date of April 1, 2010, which would reduce the state fuel tax revenues by 2.5 cents per gallon of ethanol blended fuel.

**Senator Curt McKenzie, District 12**, testified he is a cosponsor of this bill based on the testimony he heard at the Public Transportation and Air Quality Interim Committee. The committee was formed in response to a Concurrent Resolution passed by the Senate and House to try and look at some of the ways to address issues around public transportation and air quality. We were particularly worried about population growth in areas that could potentially lead to non attainment designation by the EPA (Environmental Protection Agency), and the effect that would have on the economy of the state, as well as the air quality on the citizens of those areas.

One of the issues we looked at, in regards to air quality, was what Minnesota has done, which is the same thing as proposed in this bill. They had particular problems related to air pollution around the Twin-Cities, significantly caused by the number of vehicles on the road. They looked at this as a way, first of all, to help with air quality to avoid non attainment designation, and also help the economy in their state. They found, after implementation, they added an additional million of the cars traveling that area and lowered the pollution in the air significantly based on going this route.

The committee looked at that, and looked at other issues relating to air quality. The committee made two recommendations related to air quality, and one of them related to this issue. Senator McKenzie read the interim committee's recommendation to the Senate Transportation Committee, that being: "the committee endorsed the concept utilization of the 10% ethanol blended gasoline for use in automobiles statewide, and development and use of an alternative fuel in the state."

The committee looked at this issue at three (3) meetings during the summer, and felt this was a feasible and effective way to address air quality. They hope this committee will give the recommendation careful consideration.

**Russell Hendricks**, regional Manager, Southwest Idaho, for the Idaho Farm Bureau, testified and presented a written outline of three (3) reasons the members of Idaho Farm Bureau support SB1004. Basically, all SB1004 will do is to implement renewal fuel standards in this state as has Minnesota, Hawaii, Providence of Ontario in Canada, has already done. In this legislative session North Dakota, Montana, Oregon and Washington, and other areas are also considering the same type legislation.

The reasons our members support SB1004 include the following:

1. Significant clean air benefits:
  - A) 10% ethanol blend adds oxygen - fuel burns more completely.
  - B) Compilation of studies and science:
    - i) Up to 35% reduction in CO.
    - ii) Up to 50% reduction in Primary PM2.5.
    - iii) 25% reduction in Benzene, a known carcinogen.
    - iv) 21% reduction in total Toxic emissions.

C) Ethanol used in dozens of metro areas around the country as part of their EPA approved plan to meet Clean Air Act standards.

D) EPA fully authorizes and endorses use of ethanol blended fuels.

2. Stimulate Rural Economic Development (IDWR economic analysis).

A) A 65 million gallons per year ethanol industry in Idaho would provide:

i) 88 full-time good paying production jobs in rural areas.

ii) More than 1,100 support services jobs.

iii) Nearly \$37 million in annual payrolls.

iv) More than \$100 million in capital investment.

v) Nearly \$2 million in local property taxes in cash strapped rural counties.

vi) More than \$200 million in increased economic activity each year.

B) Provide additional markets for locally produced agricultural products, i.e., wheat, barley, corn, cheese whey, even straw or wood chips.

3. Reduce dependence on imported fuels.

A) Every drop we consume in Idaho is imported, whether from Wyoming, Texas or the Middle East.

B) Idaho dollars are flowing out of the state.

C) Buhl instead of Baghdad; Rathdrum rather than Riyadh, and Notus, not Nigeria.

4. Review the Idaho Transportation Department (ITD) vs. JFAC (Joint Finance Appropriations Committee analysis of fiscal impact):

A) ITD is totally a guesstimate, no data to back up, problematic to base policy decisions on.

B) JFAC analysis finds that there is no way to get any idea how much use may occur.

C) Route Slip has not been introduced, can be adjusted to phase out blenders credit, if needed.

i) Work with ITD and Tax Commission to draft legislation.

D) If there is any significant loss before 2010, the Legislature could always adjust as necessary.

Mr. Hendricks explained, S1004 is the only proposal that actually addresses the increasing concerns about air quality in a meaningful way which does not cost the state or consumers additional money, and also provides additional benefits of increased economic development and improved fuel security. He urged the committee to send S1004 to the floor with a do pass recommendation.

**Martin Bauer**, the Air Administrator for the Department of Environmental Quality (DEQ), testified that DEQ feels that fuels can be good for the environment if done correctly. In fact, EPA requires this in a lot of areas that do not meet the national air quality standards. Mr. Bauer will check

into the questions relating to the long-term effects of ethanol on storage tanks, and will send the information to the committee.

The basics of his testimony, is that DEQ is in support of the ethanol bill, if it is done correctly. Although through the use of ethanol 10, there are reductions in air emissions from the tail pipes of cars splash-blending ethanol with a high Reid Vapor Pressure fuel will increase the volatility of the fuel during handling. This can increase volatile organic air emissions which contribute to ozone problems, specifically in the Treasure Valley.

The potential solutions to this situation are to require a lower Reid Vapor Pressure fuel for Idaho, and require Stage 1 Vapor recovery on bulk stations and gas station storage tanks. Blending ethanol 10 with this solution would be acceptable year round. If this solution is not attainable, then splash-blending ethanol 10 during the non ozone season is also acceptable (generally May to September).

**Steve Thomas**, an attorney for Chevron/Texaco, testified in opposition to S1004. He explained his client is not against alternative fuels, in fact they use ethanol in certain places in the country where it is mandated. Their concern is the mandate, not ethanol. Presently, the state has a 2.5 cent per gallon tax rate with roughly a 52-cent federal tax rate per gallon of ethanol. He stated, that already we have substantial subsidies.

The particular reasons why Chevron/Texaco oppose S1004 is that the air quality picture is much more complex than the proponents would like to have it portrayed. As Mr. Baurer previously explained to you, there are benefits for burning ethanol in the winter time, but everything flips in the summer time. When he says ozone and the use of ethanol through that engine turns out more elements we call smog.

California is currently fighting the EPA in the 9<sup>th</sup> Circuit Court of Appeals, asking the EPA to reconsider and let California find others ways to deal with clean air problems as there are new technologies coming on line. The bottom line is that the mandated locks up the market.

The commerce clause does not permit a state to mandate all the product materials to come from within Idaho, and this bill is not drafted that way. Thus, we might have a subsidy on the back of motorists to help farmers in Nevada, Oregon, Washington, or who knows. There is no mandate in the bill to require that ethanol in Idaho's cars come from ethanol plants in Idaho.

The vast majority of gasoline that is used in southern Idaho is from crude in the rocky mountain states such as Utah, Wyoming, and Montana. That crude goes into refineries, and there are five in Salt Lake City. They produce and ship it mostly north to Idaho; Baker City, Oregon; Tri-Cities in eastern Washington, and to Spokane. In addition to passenger cars, that gasoline is also used for aviation fuel for the Boise airport, the Air National Guard, the Mountain Home Air Force Base, and Fairchild Air Force Base in Spokane. That fuel comes here in a pipeline that is a common carrier and is owned by Chevron.

If we mandate a 10% ethanol blend, you will force the people in Utah to create a formula that is unique to Idaho, that creates more costs. Chevron does supply ethanol to those non attainment areas in states. Mr. Thomas requested the committee to not mandate ethanol.

**Dave Carlson**, director of Public and Government Affairs for AAA Idaho, representing approximately 70,000 members in a territory that includes 34 counties in Idaho testified. I'd like to share AAA's perspective regarding Senate Bill 1004. In our capacity, specifically representing motoring interests in the state, we have taken an interest in ethanol for many years.

I'd like to use an analogy today between prescription medications and the prescription to consider an ethanol mandate for the state of Idaho. I recently was prescribed a medication for a condition. When I read the fine print for the contra-indications or side effects that came with the prescription several weeks later, I was somewhat relieved to learn that two of the troubling contrary indications I'd been experiencing sometimes happen to users of this particular prescription.

It may be, at minimum, that SB1004 includes a number of troubling contrary indications or side effects that outweigh the benefits of a mandate for ethanol. It may also be that someone has selected the wrong medicine because the diagnosis has been incorrect. Built largely around two major arguments - notably that mandated ethanol would benefit air quality in the Treasure Valley and that it would provide economic vitality in our rural areas. This fix does poses lots of contrary debate. As a senior producer of a 2004 MSNBC segment entitled Ethanol: Boon or BoonDoggle? wrote: "...over the past 25 years, the issue has been so politicized that impartial research or neutral opinions on the alternative fuel have all but evaporated."

Following the announcement late in the year that the Farm Bureau would advance legislation, we responded to several media interviews. Our position, at the time, was that while we had concerns about ethanol, we at least said the topic warranted some discussion. Well, Mr. Chairman, after studying the issue for the past month, and looking at the arguments for and against ethanol, we have come to believe that while ethanol holds some promise as an oxygenated blend-stock, those who stand to benefit most from its development now believe the only way this prescription will work in Idaho is with a mandate. If you guarantee the market, the builders' and financiers' will come, seems to be the argument.

We're aware that the idea was first floated this past September at a hearing of the legislative interim committee on public transportation and air quality. In reviewing the hearing minutes, it appears that the mood of the committee was not simply to forward a motion for an ethanol mandate. It sounds as if the committee was voting on a recommendation that would encourage development of alternative fuels, including ethanol in Idaho, not a mandate, and not one particular fuel.

There was also discussion about air quality, including comments about ozone and particulate matter, though we do not read any request by COMPASS, the DEQ or any other agency in the minutes to suggest that

the Treasure Valley must address new air quality compliance mandates. We're left to believe that the two issues were considered separately, and that the committee did not endorse a mandate for ethanol or oxygenated fuels. If our analysis is incorrect, we would like to know.

As we searched the existing data about ethanol's capacity to improve air quality, we have found conflicting data, some contrary to positions expressed by the ethanol proponents. I've provided a handout that cites some of this information and the sources. I'd like to refer you to the front page of that handout. (See Attachment #1). AAA delegates were in attendance at a national October 2004 meeting where a handout included references to the contrary indications of ethanol. The chart shows graphically, that after ten straight years of decline, those ozone exceedences skyrocketed 100 percent between 2003-2004 when ethanol replaced MTBE in the South Basin Area of California. Ethanol, it seems, may reduce carbon monoxide, but the huge California market experienced a major turnaround in the number of smog days.

The second page of our handout cites additional sources that concede ethanol can reduce carbon monoxide, but that it also releases more nitrogen oxide, a key element of smog. Cited also is a source that states ethanol degrades more slowly in groundwater, and that toxic chemicals such as benzene in ethanol blended gasoline disperse more widely and take longer to degrade. You may know that growth in the ethanol market has resulted directly from the ban of MTBE in California several years ago. MTBE is a petroleum derived oxygenate, which like ethanol, is used in reformulated fuels. When MTBE was linked in groundwater supplies and linked as a possible carcinogen, states moved to ban its use. We have to ask whether a hasty prescription for the ethanol mandate might pose similar or even more ill-advised problems than it solves.

Mr. Chairman, I'd like to redirect you and your committee to the second item on page one of our handout. The promise is that gasoline prices do not go up where ethanol is used. As the text notes, that statement is true in some cases, particularly in the Midwest where ethanol plants are concentrated. But transportation and shipping costs are another issue, particularly in states far from the corn producing states of the Midwest. Look at three separate charts. Each shows what happened to gasoline prices this past year when ethanol replaced MTBE in three states outside the farm belt. The comparisons show each state's average regular unleaded gasoline prices, compared to the national average.

California's average regular gasoline peaked at \$2.45, averaging nearly 50 cents higher than the national average price. You'll note the independent Connecticut Petroleum Association states that state's gasoline prices showed increases of between 20 and 40 cents as a result of the mandated use of ethanol. In each case, whether it was the lone factor or married to other causes, gasoline prices skyrocketed well above the national average.

AAA has no argument with ethanol per se. In fact, one of our national policy declarations states a national alternative energy strategy should be

implemented. We do challenge the wisdom in subsidizing and mandating commodity markets for fuel or agricultural products. Idaho may never be a player in bigger ethanol markets, but we are concerned that the cost to truck ethanol in Idaho could unnecessarily raise our already high gasoline prices. Last year, Idahoans paid \$1.92 on average for the whole year for regular grade gasoline, 8 cents more than the national price. There's no guarantee that sources could secure funding or find it financially worth the risk to create ethanol plants throughout Idaho, even if there is a subsidy. The result is Idaho gas prices could be much higher depending where you live, and how far you are from ethanol sources.

That brings us to a third argument from the Farm Bureau, one that presumes that if it has worked elsewhere, it will work here. Our research indicates that ethanol production and market exposure is growing, partly due to mandates and partly by the market change brought on by the MTBE market departure. We believe there is sufficient evidence to suggest that mandates tend to eliminate competition and are more likely to result in increased costs to consumers. Mandates foster market protections and monopolies and often result in unanticipated side effects, such as supply curtailments and higher prices.

One of the factors' AAA believes has had a major impact on regional gasoline price hikes is the implementation of separate air quality standards. Resulting from these judgments have been the development of 15 or more boutique fuels that serve small markets primarily in the eastern U.S. When a single refinery goes down for repairs, has a fire, or switches over from winter to summer grade fuel, there is sufficient pressure that often results in huge regional gas price spikes. The Idaho mandate would require refineries to produce Idaho specific blendstocks that would create the same situation in Idaho. Again, Idahoans would pay more.

I've discussed just a few of our concerns. There are many others, including:

1. Transportation - Cannot ship ethanol by pipeline with fuel; more expensive.
2. Terminal retrofitting costs and blending equipment costs will be higher.
3. Cellulose industry is more speculative, other crops more likely to succeed.
4. Federal tax subsidy once part of the Highway Trust Fund is now applied against the General Fund. That likely will be challenged by Congress.
5. Corn producers get more direct farm support payments than any commodity. Should subsidies equalize the market potential between ethanol blendstocks?
6. Idaho's DEQ in 2000 discussion paper advises further study, suggests that fuel costs could rise, and cautions against actions that could create monopoly markets.

Mr. Chairman, committee members, AAA is not opposed to ethanol, farmers or clean air. AAA is not opposed to alternative fuels. However, we

oppose prescribing the wrong medicine, particularly by mandate, when it does not address the problems it says it will solve. Let's not create a mandate that could exacerbate air quality problems that will raise the cost of gasoline, or that will lead to less efficient use of our resources.

SB1004 is a bad prescription. We encourage you to hold SB1004 in committee. AAA is in opposition to SB1004.

Other information distributed included: The Ethanol Mandate - Good Promises or Bad Prescription for Idaho? (See Attachment 2)

**Charley Jones**, president of Stinker Stations and a business owner, testified to support SB1004. Stinker stations have been selling ethanol blended fuels for more than 20-years in Idaho. Our gas is superior to our competitors and is cleaner burning. Omissions from the tailpipe are cleaner when a car burns ethanol, and reduces dependency on foreign oil. Stinker stations sell ethanol blended fuels at a competitive prices, and ethanol is readily available around the state. Mr. Jones stated that mandates are, at times, a necessary thing.

**Trent Clark**, representing the Monsanto Company, testified to support SB1004. He explained that Monsanto supports the development of ethanol as one part of a national energy strategy. S1004 sets a commendable standard for cleaner, renewable fuel to be used in Idaho by the year 2010.

Much attention has been focused on the cost and impact of requiring ethanol use in Idaho fuel five years from now. I would respectfully suggest that the technology driving increased, and more cost-effective ethanol production is improving rapidly, with major strides forward occurring almost daily. In the face of such technological breakthroughs, the marketplace, if allowed to operate free of hidden and institutional constraints, will make ethanol as a motor fuel in 2010 so easy and intuitive that the requirements of this legislation will be no-burden.

As you know, ethanol is a liquid transportation fuel made from renewable resources that can replace petroleum products. The existing ethanol industry utilizes primarily the starch from coarse grains as a feedstock for well-established fermentation technologies (similar to the production of alcoholic beverages). Ethanol can also be produced from cellulosic feedstocks, such as agricultural residues, dedicated energy crops, municipal wastes, and forest residues. Near-term technology involves an acid hydrolysis of feedstocks to produce sugars, coupled with fermentation. Current research is developing improved enzymes for a more cost-effective biochemical hydrolysis to pair with fermentation.

Allow me to share with you a technology that Monsanto is developing that will also change the dynamics of ethanol production. Through conventional plant genetics, Monsanto has developed the Processor Preferred line of seed traits. These traits are currently being marketed in high-fermentable corn hybrids, but the traits are potentially transferable to other crops and crop residues. Hybrids were selected for their solid agronomic characteristics and ethanol yield potential. Simply put, we have identified the genes that make a plant produce more starch and less oil,

making it ideal for ethanol production.

In order to develop this technology, Monsanto had to first construct one of the few labs in the world with ISO 17025 accreditation for grain analysis, providing data that is repeatable, reliable and consistent. We then developed measurement tools that help specific ethanol plants determine the most effective hybrids for producing ethanol.

Monsanto currently has four Processor Preferred hybrid varieties that have been bred with Category 2 drought resistance and 89-day growing seasons. Our target market for these varieties is Idaho and other northern tier states.

As Secretary of Energy Spence Abraham said in October of 2002, "Renewable energies must play a large role in meeting our challenging future energy needs and reducing our dependence on foreign oil. For every improvement in renewable energy technology we develop, for every new megawatt of electricity or gallon of alternative fuel that is produced, we make our nation a little more secure."

I strongly encourage you to look at the rapidly improving technology in ethanol production as you determine whether it has any role in solving Idaho's energy and environmental challenges in the future.

**George Dillard**, representing the Idaho State Good Sam Club and all other recreational vehicle enthusiasts, presented written testimony to oppose S1004. His comments include:

I have not talked to anyone who pulls an RV or big heavy trailer that likes the idea of ethanol in fuel, particularly in the summer time. The biggest complaint is vapor locking. I know the sponsors have furnished a lot of data about federal standards and all that, but we are dealing with man-made mechanical machines. Quite often, these machines do not listen to specifications and other criteria like that. Ethanol tends to vapor lock at high temperatures much more than regular gasoline. Try pulling a 35-foot trailer or 5<sup>th</sup>-wheel weighing about 13,000 pounds up Banner Summit, or up and over Horseshoe Bend hill, or up Whitebird Hill or even up Lewiston Hill when the outside temperature is running above 90 degrees, and sometimes more than 100 degrees. Vapor locking an engine on any hill is not fun, and you might be there for a few hours, thereby creating additional congestion and headache.

A number of people from the northern part of our state say their snowmobiles do not run good on ethanol. I know I never run it in my snowmobiles when I had them. For clarification, I had to quit that fun two-years ago because of a knee injury at work. I was asked to remind you that winter sports, such as snowmobiling, is a vital part of the economy. A big part of that economy is from people from Washington state who come to Idaho to buy fuel free from ethanol.

Another problem is small engines. There are a lot of small engines out there are still being used today that the manufacturer states, do not use ethanol. I can only guess that a lot of those small engines will be around here with us for another 10-years or more. How often do you replace a log-splitter; a chain-saw; a lawnmower, particularly a riding mower?

Portable generators that are used for recreational use, as well as on the job-sites by contractors and rancher who need power while repairing fences, as well as powering up branding irons that use electricity instead of a bonfire. These are some of the items you need to consider. What kind of impact will this have to our state?

As for pollution, I think that during the winter it would be a very good idea. You have valleys like we have here, the Treasure Valley, Lewiston Valley, Magic Valley, and Pocatello where inversions are a common occurrence during the winter. The next best thing you could do besides using ethanol in the winter time would be to require everyone to have vehicle emissions testing. Doing both just might make our air quality even better. Have you seen the smoke coming our of some of the cars coming from Canyon County?

With everyone that has signed onto this bill, I urge you do not jump on the bandwagon too soon. Do some homework first. IF they want to build a new plant in southeaster Idaho, let them, but think first before you start requiring ethanol in all fuel by 2010. Even if this is enacted, I strongly urge you to have some regular fuel available for the items that I have just mentioned, for at least 5-years or more.

- MOTION:** A motion was made by **Senator Noble** to send S1004 to the Floor with a do pass recommendation. The motion was seconded by **Senator McKenzie**.
- SUBSTITUTE MOTION:** A substitute motion was made by **Senator Langhorst** to hold S1004 until additional information or testimony is heard. The motion was seconded by **Senator Little**. A roll call vote of 5 Ayes, 3 Nays, and 1 abstention to **hold S1004 in the committee until February 10, 2005 carried.**
- ADJOURNED:** Due to other committee commitments, the Senate Transportation Committee adjourned at 3:00 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, January 27, 2005

**TIME:** 1:35 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, and Marley

**MEMBERS ABSENT/ EXCUSED:** Senator Langhorst

This Rules Review committee meeting was conducted by **Vice Chairman McGee**.

**Docket No.** **Rules of the Idaho Transportation Department (ITD).**

**35-0105-0401**

This rule, Docket 35-0105-0401 was presented by **Randy Nelson**, a Tax Policy Specialist for the State Tax Commission. This rule, motor fuels tax administrative rules, relates to written interpretations, office hours, deductions, calculation of refunds, documentation for IFTA licensee reporting, Idaho International Registration Plan and full-fee registrants; Idaho Clean Water Trust Fund Transfer Fee. This is a pending rule and no public comments were received.

House bill 684, in year 2004, amended Section 63-2401 and 63-2423, Idaho Code, to not allow special fuels consumed while idling as an activity eligible for a special fuel tax refund. The rule is being amended to comply with that change.

House bill 474, in year 2003, amended Section 49-202 and 49-439, Idaho Code, to give the Tax Commission the authority to conduct audits of motor vehicle registration applications for the ITD. This rule is needed to set out the recordkeeping requirements for certain registrants of motor vehicles in Idaho.

**MOTION:** A motion was made by **Senator Brandt** to approve Docket No. 35-0105-0401. The motion was seconded by **Senator Marley**, and the motion was **carried by a voice vote**.

**39-0306-0401**

This rule, Docket 39-0306-0401, was presented by Idaho Transportation Port of Entry Manager **Alan Frew**. This rule, governing allowable vehicle size, allows awnings to be excluded when measuring the overall width of recreational vehicles. It is a pending rule.

There is no fee or charge imposed or increased with this rule-making. Negotiated rule making was not conducted because this rule making has been proposed at the request of the recreational vehicle industry.

**MOTION:**

A motion was made by **Senator Little** to approve Docket No. 39-0306-0401. The motion was seconded by **Senator Keough**, and motion was **carried by a voice vote**.

**39-0311-0401**

Rules governing over legal permittee responsibility and travel restrictions was also presented by Port of Entry Manager **Alan Frew**.

In developing these rules, we worked closely with the Idaho Manufacturing Housing Association, the Grain Producers, and the Governor's Motor Carrier Advisory Committee. No other public comments were received.

Due to ever increasing traffic volumes on the interstate highways, this rule is being modified to restrict over-width permitted vehicles from operating on certain sections of interstate highways during the hours of high-commuter traffic (6:30 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m.). There is a minimal impact to industry since they are already subject to high commuter traffic restrictions on non-interstate state highways.

At the recommendation of the Legislative Services Office, Subsection 200.06 has been amended, pursuant to Section 67-5227, Idaho Code, to provide clarity and consistency in the language.

**Senator Keough** asked Mr. Frew if he is aware of the actions the House Transportation and Defense Committee took regarding this rule? He explained, he is aware of the concerns the House Committee has about the rule in Subsection 200.06, but he believes the agency already has the authority, and displayed a map outlining what the areas considered as high commuter traffic restrictions such as location, highway and direction in the Treasure Valley, Coeur d'Alene and Pocatello areas. A lengthy review pertaining to Docket No. 39-0311-0401, Section 200.06 was held. Section 200.06 reads as follows:

**200.06 Heavy Commuter Traffic Restrictions.** The movement of oversize vehicles or loads which are in excess of twelve (12) feet in width, ~~in excess of eighty-five (95) feet in length, or in excess of sixteen (16) feet in height~~ may be prohibited from movement on all state and Interstate highways within the urban limits of the following cities: Boise, Caldwell, Coeur d'Alene, Idaho Falls, Lewiston, Nampa, Pocatello, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., ~~11:30 a.m. to 1:30 p.m.~~ and 4 p.m. to 6 p.m. ~~This restriction may not apply to sections of completed Interstate Highway within the above listed cities. Such a restriction of oversize load travel to avoid conflict with heavy commuter traffic volumes shall appear on the face of the permit. Restrictions for the operation of overlegal oversize vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. (4-5-00)(11-1-04)T~~

Committee members asked numerous questions and discussed concerns such as:

- Slowdowns and impeding traffic situations which could result in vehicle citations being issued by Law Enforcement.
- Urban areas.
- What doesn't constitute an implement of husbandry that someone in an agricultural venture would be concerned about, i.e., running a combine in one of the restricted routes during traffic congestion? Implements of husbandry exempted?
- Restriction of width - 12 feet. More than 12 feet wide would restrict the lane plus adjacent lanes and could cause a slow down.
- People hauling large items, and get caught in traffic due to equipment failure during those time, pulling them over would only cause further traffic delays.

Idaho Farm Bureau Assistant Director of Public Affairs **Dennis Tanikuni** testified that the bureau has been concerned for sometime about the language in this pending rule. In October 2004 discussed the concerns with ITD. The Farm Bureau has never raised the issue of abuses by law enforcement. The bureau is concerned about this width issue.

**MOTION:** After a lengthy review of Docket 39-0311-0401, a motion was made by **Senator Keough** to **reject** Docket 39-0311-0401. The motion was seconded by **Senator Geddes**.

**SUBSTITUTE MOTION:** A substitute motion was made by **Senator Little** to delay a vote until time certain on Docket 39-0311-0401, until a final disposition of the rule being discussed has been made. No second was made.

**MOTION:** **Senator Keough** restated her original motion to **reject** Docket 39-0311-0401. The motion was seconded by **Senator Marley**.

**DISCUSSION:** **Senator Keough** explained, rejecting the rule leaves in place the ability to restrict heavy commuter traffic in those areas that are most difficult, where they probably need to have that tool. It leaves that rule in place, and provides the department the opportunity to sit down with the people that could be impacted, and come-up with something that would give the department the flexibility they need to address the high commuters' areas in the state, but does not prohibit commerce or fighting fires or some other natural disaster.

Other concerns addressed included designated emergency vehicles; some strikeout language in the rule; the displayed map by ITD (See Attachment #1); Highway 16; closing off areas around Boise; can this rule be reworked and returned to the committee prior to the Legislature's adjournment, and temporary rule requirements.

**RESTATED SUBSTITUTE MOTION:** **Senator Little** restated his substitute motion to delay a vote until time certain on Docket 39-0311-0401, until the final disposition of the rule being discussed. The substitute motion was seconded by **Senator Marley**.

**RESTATED ORIGINAL MOTION:** **Senator Keough** restated her original motion to **reject Docket 39-0311-0401**. The motion was seconded by **Senator Marley**. The motion was **carried by a voice vote**.

Department of Administration Administrative Rules Specialist **Michelle McMullen** explained the process for rejecting a rule, reworking the rule and coming back as a temporary rule to the committee during the current legislative session.

**39-0317-0401**

Rules governing permits for manufactured homes, modular buildings, and office trailers was also presented by **Alan Frew**. This rule making removes the restriction on the depth of eaves on manufactured homes and office trailers being towed and on manufactured homes, modular buildings or offices being hauled, as long as the eighteen (18) foot maximums' overall width limitation is not exceeded. This results in a positive and immediate economic impact on the industry in being able to contract to build manufactured homes that meet subdivision requirements for the depth of eaves. The previously set eave-depth placed an unnecessary restriction on the transport of these structures which inhibited their sale and delivery. This is a temporary rule.

**MOTION:**

A motion was made by **Senator Little** to adopt Docket 39-0317-0401. The motion was seconded by **Senator Noble**, and the motion was **carried by a voice vote**.

**39-0341-0401**

This pending rule, Rules governing traffic control devices, was presented by Idaho Transportation Traffic and Highway Safety Manager **Lance Johnson**.

Adopting, by incorporation by reference, the most recent publication of the MUTCO (Manual on Uniform Traffic Control Devices), including Revision One, dated July 21, 2004, with specified exceptions, as noted in the rule making. All changes and exceptions have been reviewed and approved by FHWA, ACHD (Ada County Highway District) and LHTAC.

The exceptions are necessary to bring the MUTCD into conformance with Idaho Code, correct errors and accommodate the operations of the department and local transportation agencies. However, unlike previous years, the exceptions are not substantive but necessary due primarily to formatting changes in the 2003 MUTCD.

**MOTION:**

A motion was made by **Senator Brandt** to adopt Docket No. 39-0341-040. The motion was seconded by **Senator Noble**, and the motion was carried by a **voice vote**.

**39-0241-0401**

Rules governing provisions applicable to fees, a temporary rule, was presented by Idaho Transportation Driver Services Manager **Ed Pemble**. This rule allowed bulk sale of the driver record database (more than 925,000 records). Concerns related to privacy and re-dissemination of personal information made continuation of bulk sale of driver records questionable.

The rule change removes the provision for bulk sale of driver records. Individual record access to driver information would continue to be available to authorized requesters as provided in Section 49-203, Idaho Code.

This rule was first published in December 2004 as temporary and proposed with an effective date of December 1, 2004. This rule will be presented as a pending rule during the 2006 legislative session.

**MOTION:** A motion was made by **Senator Geddes** to adopt Docket No. 39-0241-0401. The motion was seconded by **Senator McKenzie**, and the motion was carried by a **voice vote**.

**ADJOURNED:** There was no further business to conduct; therefore, the committee adjourned at 2:53 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, February 1, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, and Marley

**MEMBERS ABSENT/ EXCUSED:** Senator Langhorst

**RS 14715** This proposed legislation, RS14715, was presented by **Senator Tim Corder, District 22**, and the legislation relates to vehicle lighting equipment; amends Section 49-909, Idaho Code.

It is the purpose of this act to provide for the placement of reflective devices on the front of trailers for easy identification by oncoming vehicles. The current statute does not address the reflective markings on the front of trailers less than 3000 pounds GVW. Trailers, such as snowmobile trailers, are often pulled during conditions with less than optimum visibility. Without reflective markings on the front of the vehicles the opportunity for collision with oncoming traffic is unnecessarily great. This amendment will provide consistency throughout the act for all classes of trailers.

There is no fiscal impact to the state. Fiscal impact to the citizenry is minimal for the placement of reflectors on the front of trailers.

**MOTION:** A motion was made by **Senator Little** to send RS14715 to Print. The motion was seconded by **Senator McKenzie**, and the motion was carried by a **voice vote**.

**RS 14398C1** Idaho Transportation Department (ITD) Vehicle Services Manager **Amy Smith** presented RS14398C1, and explained this legislation relates to the Plate Manufacturing Account.

This legislation will amend Sections 49-450 and 49-450A, Idaho Code, to allow all costs associated with the production and distribution of license plates (including postage costs currently paid by the consumer) to be paid from the Plate Manufacturing Account. By Idaho Code, ITD is required to implement a license plate reservation program every seven years. This legislation will allow the actual postage and packaging costs associated with the reservation program to be deposited in the plate manufacturing account, which is continuously appropriated. This action will alleviate the need for ITD to ask for additional spending authority to cover the actual costs paid to

Correctional Industries for the packaging and distribution of plates under the plate reservation program. The program accounting will be significantly improved by consolidating all financial activity in a single fund which is continuously appropriated.

Fiscal Impact: This legislation will allow ITD to reduce its base budget by approximately \$41,700 which is currently used to pay the cost of mailing specialty plates. If this legislation does not pass, ITD would need to request an enhancement to increase the base budget to pay the additional postage costs from the standard operating budget.

**MOTION:** A motion was made by **Senator McGee** to send RS14398C1 to Print. The motion was seconded by **Senator Marley**, and the motion was carried by a **voice vote**.

**RS 14436** Idaho Transportation Department Acting Design Engineer **Gary Moles** presented this proposed legislation, relating to highway contracts and bids.

The purpose of the proposed legislation is to amend Idaho Code Section 40-902, to allow for bids and bid bonds on State highway projects to be submitted in an electronic form, with valid electronic signatures.

There is no fiscal impact to the General Fund.

**MOTION:** A motion was made by **Senator Little** to Send RS14436 to Print. The motion was seconded by **Senator Geddes**, and the motion was carried by **voice vote**.

**RS 14440** Idaho Transportation Department Assistant Traffic and Highway Safety Engineer **Carl Main** explained RS14440. The proposed legislation relates to rules of the road and maximum speed limits.

This legislation would amend Sections 49-201 and 49-654, Idaho Code, to raise the maximum speed limit on the State highway system from 65 miles per hour to a maximum of 75 miles per hour, on those sections of the system which qualify for a higher limit according to engineering studies and established speed limit procedures.

There are many sections of the State highway system that are posted at the statutory limit of 65 mph (miles per hour), despite the fact that standard speed limit establishment procedures would select a higher speed to post. Changing the maximum speed limit for State highways from 65 mph to 75 mph would allow more roads to be posted according to established procedures, while still keeping sections that do not qualify for higher speeds posted at 65 mph or lower.

There will be no impact to the General Fund or ITD dedicated funds. There will be a short-term change in workload priorities for Traffic Engineers to do speed studies, and for the sign shop and sign crews to produce and install new speed limit signs. For the estimated 400 miles of roadway, one sign every 5 miles and \$150 per sign, the estimated cost is \$12,000 which will be covered by the ITD normal budget.

**MOTION:** A motion was made by **Senator McKenzie** to send RS14440 to Print. The motion was seconded by **Senator Noble**, and the motion was carried by a **voice vote**.

**RS 14461C1** Idaho Transportation Department Right of Way Manager **Leonard Hill** presented RS14461C1, which relates to surplus real property of ITD.

Idaho Code 58-335A requires that Idaho Transportation Department surplus properties be sold for not less than its appraised value. The Department has the option of transferring surplus property, at no cost, to other government entities if it will be used for a transportation purpose. Local government taxes supported entities, sometimes desire to acquire surplus Department property located in their jurisdiction for a public purpose, other than one related to transportation. Because of budgets, the difficulty of governing entities making financial commitments beyond their term of office, and the timing of sales by the Department, local government entities may not have funds to purchase property at the appraised value.

If they could acquire surplus Idaho Transportation Department property at a negotiated price less than the appraised value, it would provide an opportunity to convert surplus Idaho Transportation Department land and buildings to a public purpose unrelated to transportation. Examples include parks, playgrounds, public infrastructure, and municipal parking. If property is purchased for less than the appraised price, a reservation clause in the deed would prevent it from being sold or used for other than a public purpose.

Fiscal Impact: Assuming 10% of parcels presently sold or traded by ITD, which have netted \$1.53 million per year over the past eight years, were claimed by local government entities at a negotiated price averaging 50% of the appraised price, the revenue returned to the State Highway Fund would be reduced by \$76,500 each year.

**MOTION:** A motion was made by **Senator Marley** to send RS14461C1 to Print. The motion was seconded by **Senator McGee**, and the motion was carried by a **voice vote**.

**ADJOURNED:** There being no further business to discuss, the committee adjourned at 1:56 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, February 3, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Little, McKenzie, Noble, Marley, and Langhorst

**MEMBERS ABSENT/ EXCUSED:** Senator Geddes

**GUESTS:** See the attached sign-in sheet.

**MINUTES:**

A motion was made by **Senator McGee** to accept the minutes of January 20, 2005, as written. The motion was seconded by **Senator Little**, and the motion was carried by a voice vote.

A motion was made by **Senator Marley** to accept the minutes of February 1, 2005, as written. The motion was seconded by **Senator Little**, and the motion was carried by a voice vote.

A motion was made by **Senator McKenzie** to accept the minutes of January 25, 2005, as written. The motion was seconded by **Senator Marley**, and the motion was carried by a voice vote.

**RS 14763C1** This proposed legislation, RS14763C1, was presented by **Senator Bunderson, District 14**. The purpose of this legislation is to promote Idaho as a science and technology state, and generate funds for Office of Science and Technology programs.

The industries that will underpin Idaho's economy in the 21st century will consist of businesses that produce or effectively use science and technology.

In 2002-2004, the Idaho Department of Commerce and Labor reports that 70% of Idaho's exported goods were high tech. Food and agriculture exports comprised 15% of the total. The balance was wood, building materials, fertilizer and other. If the value of exported intellectual assets, such as that produced by several thousand Idaho research scientists and engineers were known and added to the high tech exported goods number, the high tech percentage would be substantially higher. Consistent with other special license plates, those purchasing the license plate will pay \$35 initial program fee, and \$25 upon each succeeding annual registration. Twenty-five dollars (\$25) of each initial fee and \$15 of each renewal fee, will go to the Office of Science and Technology. The Idaho Transportation Department (ITD) charges plate programming costs to the not-for-profit entity of up to

\$10,000. One high-tech business has already pledged to pay up to half of the cost (up to \$5,000).

Fiscal Impact: No negative fiscal impact as ITD will realize some revenue by proceeds from license plate sales. On the other hand, passage of this legislation will likely have a significant positive effect on revenues for Office of Science and Technology.

There is considerable interest in the science and technology business community to have their own license plate. In fact, upon passage of this legislation certain science and technology businesses will initiate and finance a statewide contest in schools and industry for the winning license plate design (all in conformity with ITD standards).

**MOTION:** A motion was made by **Senator Langhorst** to send RS14819 to Print. The motion was seconded by **Senator Keough**, and the motion was carried by a **voice vote**.

**Gubernatorial Reappointment:** **Neil J. Miller, of Blackfoot, Idaho, has been reappointed by Governor Dirk Kempthorne to the Idaho Transportation Board, to serve a term commencing January 31, 2005 and expiring January 31, 2011.** Former Senator Miller served one term in the Idaho State Senate, and two terms in the Idaho House of Representatives. In 1996, he was appointed to the Idaho Transportation Board by Governor Phil Batt. He has owned and operated Miller's Honey Farms in Blackfoot, Idaho, but has retired and his two sons now operate the family business. The honey production business has facilities, including honey packing and distribution, in the states of Idaho, Florida, North Dakota, Mississippi, California, and Washington state. Mr. Miller is married and has five children. His political affiliation is Democratic.

**Gubernatorial Reappointment:** **Roger Lee Sorensen, of Soda Springs, Idaho, has been reappointed by Governor Dirk Kempthorne to the Aeronautics Advisory Board to serve a term commencing January 31, 2005 and expiring January 31, 2010.** Mr. Sorensen is owner and operator of Star 'S' Ranch and Airstrip in Custer County, Idaho. He is a former commercial pilot and has accumulated more than 24,700 flight hours. He is highly qualified to operate numerous types of aircraft. He has a Mechanical Engineering degree from BYU. He is married, and his political affiliation is Republican.

**Gubernatorial Appointment:** **Ralph E. Stout, of Lewiston, Idaho, has been appointed to the Aeronautics Advisory Board by Governor Dirk Kempthorne to serve a term commencing April 23, 2004 and expiring January 31, 2009.** Mr. Stout is owner and operator of the Stout Flying Services, Inc., in Genesee and Lewiston, Idaho. He began his flying career in 1975 and has worked as a cropduster. He is licensed, including commercial, instrument, multi engines, type-rated in Grumman TBM and Lear Jet 20-30 series. He has accumulated more than 15,547 flight hours. He is married with two children. His political affiliation is Republican.

**Adjourned:** There being no further business to conduct, the committee adjourned at 1:58 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 8, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, Marley, and Langhorst
- MEMBERS ABSENT/ EXCUSED:** None
- GUESTS:** See the attached sign-in sheets.
- MINUTES:** A motion was made by **Senator Langhorst** to approve the minutes of February 1, 2005, as written. The motion was seconded by **Senator Marley**, and the motion was **carried by a voice vote**.
- A motion was made by **Senator McGee** to approve the minutes of January 27, 2005, as written. The motion was seconded by **Senator McKenzie**, and the motion was **carried by a voice vote**.
- MOTION:** A motion was made by **Senator McGee** to confirm the gubernatorial **appointment of Neil Miller**, of Blackfoot, Idaho, to the Idaho Transportation Board to serve a term commencing January 31, 2005 and expiring January 31, 2011. The motion was seconded by **Senator Langhorst**, and the motion was **carried by a voice vote**. **Senator Stan Williams** will sponsor Mr. Miller.
- A motion was made by **Senator McGee** to confirm the gubernatorial **appointments of Roger L. Sorensen**, of Soda Springs, Idaho, and **Ralph Stout**, of Lewiston, Idaho, to the Aeronautics Advisory Board to serve a term commencing January 31, 2005 and expiring January 31, 2010. The motion was seconded by **Senator Keough**, and the motion was **carried by a voice vote**. **Senator Geddes** was assigned as sponsor for Mr. Sorensen, and **Senator Brandt** as sponsor for Mr. Stout.
- RS 14819** **Relating to Pedestrians and Bicycles**, was presented by **Captain Ben Wolfinger** of the Kootenai County Sheriff's Department. He explained, currently, there is some confusion regarding the rights and responsibilities of persons who use a human powered device on a sidewalk, and what their rights and responsibilities really are. If you choose to operate in the vehicle travel lane, then your rights and responsibilities are the same as any other vehicle, if applicable. That is already in our law.
- What is not clear, and what this bill will clarify, is that if you are using an area that is intended for the use of pedestrians, then you must have the

same rights and responsibilities of any other pedestrian.

This amendment clarified that a bicyclist must obey the same rights and duties as pedestrians on sidewalks and crosswalks. The proposed legislation amends Section 49-715, Idaho Code.

Fiscal Impact: There will be no fiscal impact to the state General fund or local governments for this change, with the exception of possibly reducing time in courts for people who are cited for violation of this statute.

**MOTION:**

A motion was made by **Senator Keough** to send RS14819 to **Print**. The motion was seconded by **Senator McGee**, and the motion was **carried by a voice vote**.

**S 1059**

**Relating to Motor Vehicles**, was presented by **Deputy Attorney General Melissa Moody**. This proposed legislation will amend Section 49-808, Idaho Code, relating to when motorists are required to signal. Specifically, this bill amends that portion of Section 49-808 to clarify the signaling requirement when motor vehicles are moving right or left upon a highway or merging onto or exiting from a highway.

Senate Bill 1059 does not change the substantive law at all. It merely clarifies the language of the statute in response to criticisms raised by some members of the judiciary.

The current language of the statute, without this additional clarification, leaves too much room for creative interpretation. Criminal defendants have argued that they do not have to signal when pulling out of a parking lot onto a highway or when merging from one road onto another road or when turning off a highway onto another road. These types of arguments have been unsuccessful, but have led to a great deal of litigation over this one simple traffic statute. Examples of this litigation are:

State v. Presley (Court of Appeals, 1998) State v. Dewbre (Court of Appeals, 1999), State v. Woodall (Court of Appeals, 2004), and State v. Brooks (Valley County, 2005).

This proposed amendment seeks to clarify that drivers must signal their movements in all circumstances:

- When merging,
- When entering a highway,
- When leaving a highway, etc.

The most significant thing about this amendment is that it will not change the law as it currently exists in Idaho, and it is being applied by police officers, prosecutors, and judges.

Fiscal Impact: The fiscal impact is neutral. This amendment simply clarifies the statute as the Legislature intended it to be interpreted in the first place.

**MOTION:**

A motion was made by **Senator Keough** to send S1059 to the Floor with a **do pass recommendation**. The motion was seconded by **Senator Little**, and the motion was **carried by a voice vote**. **Senator McKenzie** agreed to sponsor SB1059.

**S1057**

**Relating to Pedestrians' Right-of-Way in Crosswalks**; amends Section 49-702, Idaho Code, was presented by Kootenai County Sheriff's Department **Captain Ben Wolfinger**, on behalf of Senator Broadword who was absent due to a previous commitment.

Mr. Wolfinger explained, late last summer, I was invited to attend an informal meeting of law enforcement officers' traffic engineers and other highway safety people from around the state to address some concerns dealing with pedestrian and bicycle safety. This issue was the number one Issue.

This incident originated in the City of Sandpoint. He explained, Sandpoint, Idaho, prides itself as a walking community, and has had several car-pedestrian accidents during the past year. When the police department did an emphasis patrol to ensure that motorists were yielding to pedestrians in crosswalks, they found that the courts had varying interpretations of what "yielding" really is. Some even believed that basically, if the pedestrian had passed the front of your vehicle, then the motorist could proceed as long as there was not a collision between the two. Others believed that all vehicles must stop and yield anytime that the pedestrian was between the curbs. For a slow walker crossing a wide street, this can seem like a very long time.

This bill clarifies that a motorist must yield to a pedestrian that is in the motorist's lane or any adjacent lane. That is clearly defined for motorists, pedestrians, law enforcement, and the courts. This is easy to understand and safer for pedestrians.

Fiscal Impact: There will be no fiscal impact to the state General Fund or local governments for this change, with the exception of possibly reducing time in courts for people who are cited for violations of this statute.

**Steve Maurer**, a Captain from the Sandpoint Police Department, testified to support SB1057. He reported he had discussed the legislation with many judges, and they all approved the proposal.

**Mark Lockwood**, Chief of the Sandpoint Police Department, testified to support S1057. He explained the proposed legislation clarifies Idaho Code. In response to questions from **Senator Langhorst** and **Senator Little**, Mr. Lockwood explained the definition of an unmarked crosswalk and handicapped curb cutouts.

**Clyde A. Lockhart**, a traffic officer for the City of Boise Police Department, testified to support SB1057. He explained this legislation will help clarify questions and confusions about responsibility if a cyclist is hit at a stoplight. This proposed legislation requires cyclists to follow the same rules and provides better understanding of each

individual's responsibilities.

**MOTION:**

A motion was made by **Senator Keough** to send S1057 to the Floor with a **do pass recommendation**. The motion was seconded by **Senator Marley**, and the motion was **carried by a voice vote**.

**S 1058**

**Relating to Pedestrians and Bicycles** was also presented by Kootenai County Sheriff's Law Enforcement **Captain Ben Wolfinger**, on behalf of **Senator Broadsword** who was unavailable at this time.

Captain Wolfinger reported, there has been a great deal of confusion dealing with this bill. Let me clear it up right now. This bill addresses one aspect and only one aspect of a bicycle at a traffic light. It deals only with bicyclists who approach a red traffic light and plan on traveling through the intersection instead of turning right or left. All it does is require the bicyclist to obey the traffic light just like any other vehicle using the road.

Traffic lights are put up at intersections in lieu of STOP signs due to traffic volume, and for safety. Due to that volume, and the safety concerns, we believe that bicyclists must also obey the same signal.

Since this bill was printed, I have received some input and some recommendations for an amendment that would help bicyclists with the vehicle responsive traffic lights when they do not respond to the bicycle. I must give Mr. Dwight Tovey, and his friends, the credit for researching a great number of other states' laws dealing with inoperative or unresponsive traffic signals. I have brought draft language for that amendment, if you so desire to amend it here in the committee.

This is a good bill that will help to protect the bicyclist of all ages. I ask for either your do pass vote or for your vote to send this to the amending order or the addition of the clause dealing with inoperative or unresponsive traffic signals. The amendment is:

**(5) If a traffic control signal is unresponsive or is not functioning! properly. traffic facing a:**

**a. Green or yellow signal may proceed with caution as indicated in 49-802. Idaho Code.**

**b. Red or completely unlighted signal shall stop in the same manner as at a stop sign, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign as provided in 49-807. Idaho Code.**

**c. A traffic signal shall be deemed unresponsive when:**

**1. The traffic-control signal continues to show a red light for an unreasonable time; or**

**2. The traffic-control signal is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a vehicle, the signal has apparently failed**

**to detect the arrival of the vehicle;**

Fiscal Impact: There will be no impact to the state General Fund or local governments.

**Kurt Holzer**, an attorney and active bicyclist, testified to oppose SB1058. He asked the committee to vote no on SB1058, or hold the bill in the committee. He outlined problems when a cyclist cannot trip a stoplight.

**Walter V. Ronk**, testified and provided written testimony to oppose SB1058, as the law is unnecessary. He reported he is a person who has commuted long-distance by bicycle to and from work on many occasions in the last several years. In 1998, I rode my bicycle to Caldwell and back to Boise, to go to and from work. This trip covered somewhere in the neighborhood of 45 miles round-trip; coming from Caldwell back to Boise was covered on my bicycle in an hour and five minutes. I was following all traffic laws of the state of Idaho.

I also drive this entire valley and share the roads with bicycles, not only while driving my own vehicles but also those of my customers as well. Hence on occasion, when I'm driving a vehicle I'm unfamiliar with, which is wider or may have different blind spots, and many other differences than the one I'm most used to, I'm always aware of where the bicyclist or motorcyclist I share the road with is, and am mindful to their safety at all times too.

I am now 43-years-old and have been riding bicycles since I was about 6-years-old. During all that time, I have only had three incidents where I was hit by a motor vehicle. All three times it was a motor vehicle that failed to yield to my right-away that caused the accident. Two with vehicles traveling at low speed, i.e., they were doing less than 10 mph and the driver was being inattentive at the wheel.

The third time, in 1999, the driver committed felony hit-and-run with a two and ½ ton 1946 Chevy truck, towing a trailer with a large toolbox for a generator on the back.

In all three incidents there was no negligence on my part, and these accidents were entirely the faults of the drivers of these motor vehicles. I, like every bicyclist I know, am concerned and careful about my own safety, especially when it comes to sharing the roads with motor vehicles. I personally do not know anyone who will want to pick a fight with a 4000-pound motor vehicle.

This bill is senseless. Bicyclists already watch out for their own safety. This bill places an impermissible penalty on long-distance riders and commuters, as well as those with disabilities where they use this as their sole means of transportation. Furthermore, it places the bicyclists at greater risk in certain instances, i.e., when at a traffic light waiting for the light to change and to proceed straight through the light, vehicles are being allowed to make right turns on red lights.

Because of the "Me" generation that we now have driving the roads across the states, they often do not yield the right-of-way to bicyclists. In fact, I have found many motorists think that bicycles have no right to be on the road, period. This attitude seems to be most prevalent among young people under the age of 30. It also seems to stem from a lot of people entering the state through other surrounding states.

On many occasions, while commuting, especially by people in vehicles near traffic lights, I have been harassed even though on my bike I was doing within 8 miles an hour of their vehicle's speed and the speed limit posted.

I challenge anyone to ride their bicycle to and from Caldwell and Boise, stop at each and every traffic signal or light at an intersection, and keep track of how long it takes to make that trip. Also, I ask that to wait at every traffic light, control signal, or intersection, and wait for the light to change from red to green, many do not change for bicycles or detect them at all.

This bill was obviously written and composed by people who drive cars, and do not ride bicycles on a consistent basis or use them for commuting. Another thing, while on this subject, is for the time it takes to propel a bicycle from a dead stop, up to 25 miles between the next stop and the next one. Now consider doing that, traveling 30 miles in one direction to your destination, stopping at every stop sign, traffic light, intersection, or any other obstruction coming your way.

This can bring, and will place, a very heavy and unacceptable burden upon someone that is handicapped or disabled, that uses their bike for transportation. This policy also discourages those who have DUIs on their record, and/or a suspended driver's license, from using a bicycle as their legal form of transportation.

I, personally, think this is a position that the state of Idaho does not want to take on this issue, of this deterring someone from using alternative transportation in lieu of driving a motor vehicle. I would think that the state of Idaho would want to encourage those who opt to use bicycles for transportation. Encourage, rather than discourage, those with a situation in their legal background, by making it as easily as possible for those with this sort of situation, to travel using such means without complex laws or unnecessary burdens.

This legislation actually reminds me a lot of the helmet law for motorcycles in the state of Idaho, years ago. Only after long sessions in the Legislature, with many discussions over how and what should be written into the bill, etc., and what should be left out or deleted from the bill, etc. until they finally came up with an acceptable, written helmet law which allows for adults to use their discretion as to whether they want or not, but a restriction was placed on minors of mandatory helmet usage until they reached a certain age. I see no reason why a sensible solution could not be hit upon in this instance as well for this bill.

I, personally, feel we have too many laws on the books, as well as ones that are not enforced appropriately, etc. Adding more laws makes those we already have less likely to be properly enforced, and in my experience, most law enforcement officers are so confused about the number of laws on the books, and which one to use and which one not to use, and making the proper decision, boggles their mind to the point

where it ties things up in the courts. Cases often end being dismissed, because the officer wrote the improper law on citation.

And, on occasion, laws are perhaps used for an unintended purpose and misused, i.e., the law used by the intent of law enforcement vs the legislative intent of those who originally wrote the law. I'm all for giving law enforcement the necessary tools they need to do their job, however, I do not think this bill is one of those said tools, at this point in time, and as written.

Please, legislators, be sensible and reach a reasonable solution to what you're trying to accomplish, without placing a further hardship on those already struggling to get their life together, or perhaps just to enjoy our state at the slower pace of a bicycle which allows them to enjoy the sounds of birds and nature around them as well.

**Nick Wieber**, a chemist, testified to reinforce that SB1058 is unnecessary, and asked the committee to hold SB1058.

**Kevin Bayhouse**, a representative of the Idaho Green Party, testified that upon learning of Senate Bill 1058, I found myself in full agreement with the intentions of increasing safety for both bicyclists and motorists in regards to the adherence of cyclists to red traffic lights. As stated, the new law would amend Idaho Statute 49-720 to clarify as to when a cyclist can proceed through an intersection, after coming to a full stop at a red traffic light controlling an intersection. The cyclist could only proceed through the intersection after the signal indicates that it is legal to proceed. I use the word legal only because the system cannot know when it is truly safe. It is left to both the cyclist and motorist to judge whether or not a traffic situation is really safe, depending on the circumstances. The signals are merely aids that define parameters for the two parties to operate within.

This brings us to the concerns that I, and even other cyclists I have spoken with, have regarding this bill. I feel that while the clarification helps establish a clear directive of when cyclists can proceed through an intersection after stopping, we are also now essentially "trapped" by the signal when it does not react to our presence for the lack various features that the control system relies on for triggering rotating cycles of signaling. Most bicycles cannot trip a light because they lack enough ferrous properties that a magnetically triggered system requires, or enough overall weight that a scale-based system needs in order to trigger the system to cycle. While there are many camera-monitored intersections in the region present, it is not enough for the total of routes traveled by cyclists as they seek and commute to their destinations. Also, there are no assurances that the traffic center operators will see everyone at the monitored intersections for override assistance through the intersection.

For these reasons, I would hope that additional language could be inserted that would address this issue of non-reactive traffic systems that both continue to provide proper safety parameters without ensnaring the careful cyclist in a legal conundrum.

**Robert McMinn** briefly testified to oppose SB1058. He asked, "what is a reasonable amount of time," and asked the committee to consider this definition.

**Kip Burden**, a Boise bicyclist, testified to oppose SB1058. He stated he works for the Highway Transportation Department, but is appearing as a private citizen just for himself. He discussed safety issues and

intersections and traffic passages. He believes SB1058 will make the situation for bicyclist and motorists even more dangerous. He feels safer riding his bicycle than traveling in a car. He believes that cyclist and vehicle drivers should follow the same rule of fairness, but that should not determine the law. He explained that the current law allows cyclists to pass through an intersection before the flow of traffic, and this is safer. It can be more dangerous to force a cyclist to leave an intersection at the same time as other traffic.

**George C. Knight**, a professor at Boise State University, testified to oppose SB1058. He travels by bicycle several thousand miles each year. He also expressed his concerns about the proposed amendment and fiscal impact, and what is considered "reasonable time" during the 8:30 a.m. rush hour traffic.

After a lengthy discussion, a compromise was proposed by **Senator Langhorst** to draft new legislation requiring a cyclist to stop at lights and yield to oncoming traffic.

**Amy Coyle**, a chemist, testified to oppose SB1058. She explained that as a female cyclist, she is harassed and most vulnerable when she is stopped at a traffic light.

**MOTION:**

A motion was made by **Senator McGee** to **hold** SB1058 in committee, with the understanding a new RS (Route Slip - proposed legislation) will be forthcoming. The motion was seconded by **Senator Noble**, and the motion was **carried by a voice vote**.

**Chairman Brandt** requested all of the parties, i.e., law enforcement and cyclists, get together and draft a new proposal to bring to the Senate Transportation Committee on Monday, February 14, 2005. The committee will hold a special hearing on Monday, February 14, at 1:00 p.m., in Room 426, to review final proposed legislation to come before the 2005 Legislature.

**ADJOURNED:**

The committee adjourned at 2:43 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, February 10, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, Marley, Langhorst

**MEMBERS ABSENT/ EXCUSED:** None

**RS 14836** This proposed legislation, RS14836, relating to special public college and university motor vehicle license plates, was presented by **Senator McGee**, District 10. He explained that this legislation would allow for Albertson College, Northwest Nazarene University and Brigham Young University-Idaho, to participate in the specialty license plate program. There are more than 50,000 alumni from the three institutions that live in the state of Idaho. Albertson College alumni are 10,000; Northwest Nazarene alumni are 4,000, and BYU-I alumni are 36,665.

This legislation does not create a new category. It merely expands the current college and university category. It is a question of fairness. Through their accomplishments and graduates, these three institutions have brought great pride to the state of Idaho.

This bill would allow these institutions to provide additional scholarships for Idaho students to attend their respective institutions. Typically a special plate program has an introductory period of three years, after which in any two consecutive years if plate sales are below 1,000 plates, then by Idaho Code 49-402C(6), the department is authorized to discontinue the special plate.

Also, under Idaho Code 49-402C(2), requires all new special plates introduced after July 1, 1998 to conform to the standard red/white/blue background on the license plates.

With the proposed legislation to create additional collegiate plates under the existing Idaho Code 49-418A, these plates will fall into the entire number of plates issued under this Code. This means, that in the overall program of all colleges participating, they need a collective number of 1,000 plate sales to continue the program. In 2004, that number was close to 2,000 plates.

Typically, new plate programs are responsible for the plate design and programming costs, and in this particular category, each college is responsible for providing the agreed upon design decals to the department for the actual license plates.

A program contact from each participating school will work with a department representative on the acceptability and readability of the design, and the department will gain approval from the Department of Law Enforcement and the Governor's Office.

All efforts will be made to have the plates available after the effective date of the passing legislation.

**MOTION:**

A motion was made by **Senator McKenzie** to send RS14836 to **Print**. The motion was seconded by **Senator Noble**, and the motion was **carried by a voice vote**.

**DEQ  
PRESENTATION  
E-10 FUEL**

Department of Environmental Quality (DEQ) **Director Toni Hardesty** explained DEQ is testifying today at the request of the committee. The E-10 (ethanol-blended fuel) missions consist of tailpipe emissions and fuel handling emissions. Tailpipe emissions are the emissions emitted directly from the tailpipe, fuel handling emissions are due to the splash-blending and distribution of the fuel.

E-10 will decrease tailpipe emissions for carbon monoxide, carbon dioxide (a green house gas), sulfur dioxides, direct PM2.5 and benzene. E-10 will increase tailpipe emissions for NOX. E-10 will increase VOC emissions from fuel handling.

E-10 will not adversely impact air quality outside the Treasure Valley as it will have a reduction for many pollutants as noted, and the increase of NOX and VOC are not a concern outside of the Treasure Valley.

The Treasure Valley has unique air quality issues. The use of E-10 is acceptable in the Treasure Valley as long as VOC and NOX issues are addressed.

Carbon monoxide concerns have already been addressed in Idaho. The Treasure Valley, however, has wintertime inversions that cause high levels of PM10 and PM2.5, summertime heat and pollutant emissions (VOC and NOX) that cause high levels of ozone.

Although E-10 will decrease most tailpipe emissions, E-10 will increase tailpipe NOX emissions. In the Treasure Valley, due to the large amount of NOX emissions from vehicles, even a small increase in NOX emissions, such as 5%, could cause an increase as much as 500 TPY. This will cause an increase in PM2.5 formation. The fuel handling systems may also cause increased VOCs due too splash-blending of fuel. This is especially critical during the summer time and may increase ozone levels.

Potential solutions to address the Treasure Valley concerns would be to require E-10 in combination with a lower Reid Vapor Pressure requirement and/or Stage 1 Vapor Recovery which would result in a decrease in VOC emissions.

Another possible solution would be to require E-10 only during the winter months in the Treasure Valley, and this would address the summer ozone issues.

Neither of these solutions addresses NOX impacts. However, new federal fleet tailpipe standards should offset the increased NOX emissions. These emissions and their effects need to be monitored to ensure no adverse effects on attainment status or transportation emission budgets.

In summary, is E-10 a critical strategy to Treasure Valley air quality protection? No. Could it work in the Treasure Valley? Yes, if these issues are addressed.

**Martin Bauer** and **Mike McGown**, both employees of the Department of Environmental Quality, also answered questions about the E-10 impact on air quality, pipeline fuels, premium fuels, and fuel storage tanks.

**Loren McLean**, a representative of the Idaho Conservation League, testified and submitted written testimony to oppose SB1004. This legislation is not a perfect fit for Idaho.

This bill mandates the use of ethanol in fuel by 2010 without providing the framework that makes it work for Idaho. Its proponents cite clean air benefits, economic benefits, and oil dependence benefits. The deeper you look, the less likely this holds true for Idaho. Ethanol mandates are not an appropriate Idaho solution.

Clean Air - Ethanol, like other oxygenates, can provide certain clean air benefits. However, these benefits are not the improvements that Idaho needs at this point. Ethanol can actually make ozone worse - something that could be drastic for the Treasure Valley in particular, but other regions as well.

On July 10, 1997 in an article entitled Push Ethanol Off the Dole by Stephen Moore, he cites a GAO report on ethanol and air quality, On the alleged environmental benefits from ethanol, the GAO says, "Available evidence suggests that the ethanol program has little effect on the environment." Getting rid of ethanol subsidies would slightly increase carbon monoxide emissions . . . but slightly reduce emissions of ozone precursors.

It goes further: On reducing alleged global warming, the GAO says that the "change in greenhouse gas emissions that would occur if ethanol fuel were not subsidized is likely to be minimal."

The California Air Resources Board, in a study on the use of ethanol in California found in it's executive summary that "Ethanol-containing gasolines may lead to increases in evaporative emissions because rubber, plastics, and other materials are permeable to ethanol, and ethanol may reduce the working capacity of the charcoal canisters used to control evaporative emissions on board motor vehicles." In addition, it wrote that States without these safeguards (i.e., non-Federal Reformulated Gasoline areas, such as Idaho) may have significant air quality impacts from replacement of MTBE with ethanol or aromatic compounds.

Economics - There is no way to ensure that Idaho will benefit from this.

There are several issues associated with economics.

Gas prices - Some say gas prices rise, others say it stays the same. However, Climate Solutions experts and proponents of ethanol use tell me that a 10% ethanol blend reduces car mileage by 10%. Idaho residents will have to buy more gas to get to the same places. This presents potentially large fiscal impacts for government fleets.

Subsidies - The Cato Institute writes "Ethanol currently receives two subsidies: a tax credit for companies that blend ethanol and an exemption from federal excise taxes at the gas pump. Representative Archer wants to close the loopholes and save taxpayers a half billion dollars a year. Those loopholes were created on the grounds that ethanol use would help reduce pollution and U.S. dependence on foreign oil. But an ethanol study the General Accounting Office released this spring should be required reading for every member of Congress."

Idaho Markets - There is no guarantee that Idaho products will be used. Corn is grown elsewhere, and can be hauled in (using diesel to get it to Idaho). The Cato Institute writes that "Almost 70% of ethanol is produced by America's premier agri-giant, Archer Daniels Midland, ADM, the self-proclaimed supermarket to the world, has spent a small fortune on farming Capitol Hill over the past 20 years. Through programs like ethanol and sugar price supports, it has reaped a profitable harvest from taxpayers. In fact, an estimated 40% of ADM's profits come from government-subsidized products."

Foreign Oil Dependence - The GAO concludes that on reducing petroleum imports, "Ethanol tax incentives have not significantly enhanced U.S. energy security." Ethanol reduces U.S. gasoline consumption by "less than 1 percent."

Conclusion - The use of ethanol and its prevalence in the market is an inherently political decision. There can indeed be benefits, however, without the right types of ethanol that can guarantee a net energy benefit, without the right types of requirements that guarantee Idaho's air pollution doesn't get worse, this just doesn't work for Idaho. An Idaho solution to protect our clean air, and provide opportunities for our rural communities must be tailored to our needs, and this bill doesn't cut it.

This bill, if passed, could impact our air quality to the extent that regions lose opportunities to get highway funds and to grow. If passed, it will pass on increased costs to government agencies that maintain vehicle fleets, and it will pass on costs to consumers because we will get less mileage to the gallon.

It is true that we need to take steps to clean our air and to use renewable fuels. This mandate just isn't the right answer.

**Pam Eaton**, President of the Idaho Retailers Association, testified to oppose SB1004. She explained members of the association have various issues with the legislation, and distributors are also opposed to E-10.

**Sid Freeman**, a farmer, testified to support SB1004, and explained, in my testimony today I plan to appeal, to your patriotism, and to your intellect, as it applies to economics. I will share with you, a profound understanding of the importance of the role that agriculture plays in the development of our society, past, present, and hopefully the future.

I am a third generation Canyon County farmer, a sixth generation American farmer, and it said through our family tree that I am a ninth generation farmer on this continent. Three generations were prior to the end of the Revolutionary War. Each generation has basically stood on its own, nothing having been past onto the next, except, for the blood that has created the desire, to sow and reap the land. My wife's ancestry is deeply rooted in agriculture as well; she is a fourth generation Canyon County farm wife. With the mix of blood that runs through the veins of our two sons, undoubtedly one, or both of them, will also have this desire. But with the current economic adversities that exist in the agricultural industry today, I cannot, and will not encourage them to be farmers, possibly ending a legacy that has lasted for more than 370 years.

I would like to recite to you this quote, as fuel for thought, no pun intended; "Since the beginning of time, mans ability to provide food, fiber, and fuel, for himself and his companions, has determined his independence and freedom."

As man began to colonize, the strength of each and every colony was directly related to man's ability to provide, for his people, a safe and reliable source, of food, fiber, and fuel.

As nations formed, only the ones that had this ability would rise to the top, and since then, many have fallen, because they lost this ability. We simply cannot allow this to happen here in the United States of America. A strong, and viable, agricultural industry is one of the most important corner stones in the foundation of our national security. Some things do go beyond economics. What is our continued freedom, independence, and national security, worth?

With the technological advances that we have in today's world, there are more products made from agricultural commodities, and they're by products, than ever before. As a result of the plant breeding techniques used today, we have the ability to produce tremendous yields that could, net us a descent profit, if only we had a local market! In 2004, an Idaho farmer in, Parma, produced the third highest yield in the nation, in a corn contest held by Pioneer Seed Co. He produced, an amazing, 293.4 bushel per acre, almost doubling our state average. Right now, I personally know of four separate efforts by farmers across this great state of ours, that are in different stages, of trying to get ethanol plants built, or feasibility studies done.

In Eastern Idaho, there is an effort that I believe is still in the feasibility stage, to build a cellulosic ethanol plant. The planned feedstock for this plant is straw, which is a by-product derived from the wheat and barley crops.

In Cassia County, there is a farmer group looking at doing a feasibility study on building an ethanol plant in that region.

In Canyon County, I am involved with a group of row crop farmers and dairymen that has worked with the Caldwell Economic Development Council, and applied for a USDA value-added Grant last July. We received notification in November, that our application did not receive enough points to be awarded the funding to do our feasibility study. We appealed the scoring of our application, but found out in January that we lost our appeal. One of the biggest complaints that we received on our application was that "we did not have a very well defined market for our ethanol." In our plan, we purposed to build, very large, centrally located, anaerobic digesters that would hold the dairy waste from 25,000 heads of dairy cattle. These digesters would turn the manure into methane gas, which in turn would be used as fuel to fire the boilers in the ethanol plant that would be built right next to the digesters.

This proposal would do several things; it would allow for a new local market, for approximately 9.5 million bushels of corn; it would eliminate the need for using natural gas for the boilers in the ethanol plant, saving millions of dollars per year; it would give the dairymen an environmentally friendly way to dispose of their manure, tremendously reducing the odors of their operations, and possibly allowing them to go ahead with expansion plans; it would allow for the dairymen to purchase wet distiller grains, locally, at prices far below what they are paying now for the dried distillers' grains, that are 100% imported, from Minnesota, Nebraska, Colorado, and Wyoming. And wet distiller grains are far better in feed value than the dry distiller grains that they are forced to use now.

In Ontario, Oregon, farmers from Idaho and Oregon are going to be breaking ground very soon on a 15 million gallons per year ethanol plant.

That plant will be using a combination of food grade corn, wheat, and barley for their feedstock. The by-products, or distiller grains from this plant will be used to make energy bars and other health foods, pharmaceuticals, and vitamins.

I have been told, that Snake River Sugar Co-op, of which I am a member, and who owns Amalgamated Sugar Co., is looking for alternate crops that could possibly be processed through the sugar factories. We all know the severity that the sugar industry is facing, and with CAFTA hanging over our heads, the outlook for almost 200,000 acres of land in this state, is not very good at all. The by-products, or pulp, from the crops that have been talked about, would be excellent, for the use in the production of ethanol.

At this time, I would like to bring your attention to the last page of the copies that I handed to you. As you will see, there are three pictures on this page. At the top, to the left, is a picture of Major. Kenneth Jay Markwell, who is my wife's brother. (**See Attachment #1**)

At the top, to the right, is a picture of Private First Class, Casey Allen Markwell, who is my wife's sister's son. These two very brave men are

with Idaho's 116th division. They are in Iraq right now as we speak, and are putting their lives on the line every day, in the name of freedom and security. We owe them, and all of our soldiers, no matter where they are located, every effort that we can possibly put forth, to assure them, that their efforts are worthwhile.

The picture at the bottom, is a picture of my two sons. On the left is Justin age 16, on the right is his younger brother, Wesley, age 12. I assure you Mr. Chairman; the reason for this picture is not to show off the blue ribbons won at the county fair, but it is to simply put a face with a name. These two boys represent the future of this state. We owe it to them, and all of our youth, to do what is right for the long-term, best interest of this state.

Not pictured on this page, are the faces of these two boy's grandparents, my wife's parents, and my parents. They represent the rapidly growing population of retiring farmers. Because of their strong belief, that it is better to be a producer for society, than to be a consumer in society, they have endured decades of hardships that go beyond the comprehension of most people. We owe it to them, and the generation that they represent, to prove, that government does care about the future of this nation, and this state.

In conclusion Mr. Chairman, I would like to address Steve Thomas's comments last week. During his testimony, Mr. Thomas said, "He wasn't sure that the economic benefits to the rural areas would be all that great." I could not disagree with him more, I feel that the future of the agricultural industry in this state, could be very bright, and exciting, if we can just get there. I believe, that this bill, holds a tremendous amount of economic potential for this great state of ours. And it can be the bridge that gets us there.

**George Dillard**, representing the Idaho State Good Sam Club and all other recreational vehicle enthusiasts, briefly testified to oppose SB1004. He presented written testimony to oppose S1004 on January 25, 2005. (Refer to minutes of January 25, 2005 for complete comments.

He again urged committee members to not jump on the bandwagon too soon. Do some homework first. If they want to build a new plant in southeaster Idaho, let them, but think first before you start requiring ethanol in all fuel by 2010. Even if this is enacted, I strongly urge you to have some regular fuel available for the items that I have just mentioned, for at least 5-years or more.

**W. Wayne Patton**, of Boise, submitted written testimony to oppose Sb1004, and about his several concerns about mandating the use of gasohol.

1. Gasohol use results in lower mileage. Stinker gasohol reduces mileage in my fleet Ford F-150 pickup from 20 mpg to 17 mpg which means I have to purchase and use 15% more gasoline. I have four years (50,000 miles) of data on this one!
2. More gasoline purchase means that I pay 15% more taxes. Taxes are

already too high in Idaho.

3. Additional gasohol use (15% more) could mean more air pollution, not less, as claimed by the Farm Bureau. More independent study is needed on this!

4. Gasohol plugs up and shortens engine life for some older cars as well as small engines on chainsaws, lawn mowers, snowmobiles, boat motors, trimmers, etc. I know this from hard experience, also.

5. Alcohol blends (gasohol) are available now, but are not favorites of motorists because of poor mileage and concerns about increased maintenance costs. The market takes care of public concerns and legislative rule making should not.

6. Reducing people's choices at the gas-pump is pure Communism and will be remembered by Idaho voters. In the old Soviet Union, most tries to force the public to do something that was of questionable value, resulted in higher prices. And here in Idaho, higher prices means higher taxes.

7. The Farm Bureau and the gasoline industry have too much influences as lobby organizations. It's time for Idaho Legislators to do what all the taxpayers of Idaho want.

**Due to time limits, Chairman Brandt could not accept additional testimonies, but did allow written testimony to be submitted for the record. Sponsors of SB1004 were allowed too quickly wrap-up their presentation. Written testimony follows:**

**Paul Martin**, submitted written comments as time restrictions did not allow other testimonies. His comments are: I represent an organization (United Street Rods of Idaho) who oppose this bill. We have membership throughout Idaho and our interests lie in preserving the use of old timer, classic, and street rod type vehicles. I was gone during the first testimony on this matter; however, will be at the hearing on Feb 10, 2005 and hope to be able to testify at that time.

Some issues/concerns that have been brought up by members include:

1. Ethanol has been found to cause problems with gaskets, rubber materials, and fuel systems in older vehicles. This can lead to failure of the vehicle and severe repair costs. This also applies to not only cars considered classics, but also to cars driven in everyday situations by many Idahoans who cannot afford new vehicles. It might be a practical fuel for new injected vehicles, but not for older ones.

2. There is some evidence that ethanol causes water vapor accumulation in two cycle type engines when left in a stored capacity for an extended period of time. This might include chain saws,

lawnmowers. Motorcycles, etc., any two cycle motor that requires the mixture of gasoline with oil for lubrication. This possible adversity might affect nearly every Idahoan.

3. There is a lot of evidence on the Internet and elsewhere that contradicts the ethanol claims that it is a clean burning fuel. Ironically, nobody who produces the product to produce the fuel is required to use ethanol in the production process. They still primarily use diesel (and not the clean type), and economic studies have shown that the cost of production is more than the benefit realized.

4. There isn't any bill before the Legislature to require the burning of clean diesel fuel. It is in use now and proven to be a benefit to clean air. Why force ethanol - an unproven commodity - upon the people of Idaho without clear evidence that it is what the ethanol industry claims. There is evidence to the contrary.

5. Technology changes rapidly. To require the people of Idaho to use this product without any infrastructure in place within five years is not fair to anyone except the people who stand to make money. That is the ethanol industry and the farmers. In five years when this proposal is scheduled to be forced upon us, fuel cell technology or perhaps other technology will supersede the practicality of ethanol.

These comments are just a few of the many that our members have provided and what I hope to discuss during the hearing today. This is not a good bill for the people of the State of Idaho and only represents the interests of a few compared to the many who might be adversely affected by such a measure.

In the interest of solid and factual information in this regard, we at least recommend that you hold the bill in Committee pending further review. Nothing will be lost to wait one more year to give time for all of us to gather evidence in this regard and present a complete package during the next session. It would also be advisable for this committee to appoint a chair and have a subcommittee formed with proper representation of all parties involved to bring back to this committee a formal recommendation as to how to proceed without the pressure of special interests.

**Steve Ahrens**, President of the Idaho Association of Commerce and Industry (IACI), submitted written testimony.

Mr. Chairman, two weeks ago, in the Jan. 28 edition of IACI's Legislative Report, we wrote that there were at least three central questions about 51004:

- Will exclusive uses of ethanol-blend gasoline improve air quality in Idaho?
- Will ethanol-blend gasoline cost more than today's gasoline?

- Is it fair to mandate that no Idaho motorist can buy anything other than ethanol-blend gasoline?

After two lengthy meetings on this issue by our Public Affairs Committee, we still have concerns with all three issues. As a result, IACI members have voted to oppose S1004.

Air Quality - Ethanol blended fuels helped solve air quality problems produced by cars from the 1970's and 1980's, when carbon monoxide was the pollutant driving parts of Idaho and the nation into "non attainment" of air quality standards. Ethanol blends were effective in reducing those emissions. Today, however, new cars run more efficiently, and carbon monoxide is no longer a serious problem in Idaho. According to the Idaho Department of Environmental Quality, the "risk of non attainment" today comes from ozone in the summer and particulate matter in the winter. Ethanol increases nitrogen oxide emissions which are precursors to ozone and particulate matter. Another serious air pollution problem of today is volatile organic compounds (VOC). Even though ethanol reduces VOC from tail pipe emissions, it *increases* releases of VOC when mixing the ethanol with gasoline.

So - While ethanol fuels are beneficial in reducing some pollutants, the environmental benefits do not merit mandating their use; especially when a large body of scientific evidence shows that ethanol could make air quality worse in certain circumstances. Ethanol solves an air pollution problem of the past, not of today or tomorrow.

Cost of fuel - Ethanol blends have been sold in Idaho for many years, assisted by reduced state and federal fuel taxes. With those subsidies, ethanol fuels are price competitive with other motor fuels, and give motorists an additional fuel option. However, as we all have experienced, fuel prices are volatile. In our market economy, a combination of limited consumer choices and reduces competition is a recipe for increased prices.

Most gasoline now is shipped to Idaho in pipelines. With current technology, ethanol blends cannot be piped, so they are "splash blended" here in Idaho. Since most ethanol is shipped to Idaho from out of state, increased transportation costs - and increased gas prices - are a real possibility.

Mandates - Before Idaho state government mandates that all consumers must use ethanol blended fuels, it must demonstrate a strong public policy benefit that overrides the market system that is the backbone of our economy. Mandated ethanol fuels fall short of that standard.

Ethanol blended fuels;

- Do not improve public health and do not reduce today's pollutants from automobile exhaust.
- Do not lower prices of fuel at the pump, and must rely on subsidies to be competitive.
- Do not support rural economic development because most ethanol is shipped to Idaho from other states, produced from

farm products grown by farmers in those states.

Russ Hendricks from the Idaho Farm Bureau (an IACI member) has done an outstanding job of presenting this legislation. Unfortunately, we respectfully disagree with his position of this issue. We ask that you hold S1004 in the committee.

**Walter V. Ronk**, submitted a lengthy written testimony to oppose S1004. In summary, he wrote, I am Walter V. Ronk, an upper 10 percentile graduate of Arizona Automotive Institute with an Associated Degree in Auto/Diesel technology. I am a lifetime resident of Idaho of 42 years, ASE certified auto technician since 1988, former Ada County Emissions Tester from 1999 to 2001, and small business owner of Wizard Works Automotive, Boise.

In regards to the proposed mandatory ethanol fuels mandate for the state of Idaho, I hope you will strongly and closely consider it using my testimony on this highly controversial issue.

Please, I urge you do not make the very drastic mistake of passing this ridiculous piece of legislation. In my brief testimony, I will try to give you brief but valid competent reasoning as to why this legislation must not be passed, due to the negative impacts by far out weighing the positive impacts.

Many have already tried to testify on the negative effects of the water absorbs ion issue with the alcohol to make the issue clearer in your minds. I will try to give you why alcohol fuel is only a band-aid solution vs. a permanent solution.

Alcohol blended fuels' cause many special problems with today's engines . . . first as the silt in tanks (both storage and vehicle fuel tanks) condensation occurs which adds water that alcohol already tries to attract and absorb, but once the alcohols absorb ion level is reached excess water cannot be kept in suspension or absorbed to be burned.

Something which very little has been said on the issue is how Idaho's weather being unique to Idaho in certain ways than that of other parts of the country. Idaho's weather temperatures run a greater variance than other places where usage has proven effective . . . Idaho's extreme variance in temperature means that condensation is going to have more of an impact as a factor here than in other places.

Needless to say, water condensation will be a greater factor here and would be a reason why what worked elsewhere, won't work here, and that doesn't even cover the issues of our inversions which happen frequently here . . . Legislator's, one thing you cannot change is Idaho's weather, so you must work with it - not against it, to resolve any air quality problem.

As injectors open and close many times a minute, each time they do it causes minute wear as does any mechanical working part over a period of 2-4 years approximately that wear when coupled with the use of alcohol fuel due to the water that cannot be eliminated from the picture,

works in those wear spots along with the other additives in the fuel which causes the injector parts to build corrosion in those worn areas.

That corrosion occurs with far less propensity with non alcohol fuels. Anyway, when that corrosion happens is not while the vehicle is operating, but when the vehicle is stopped, engine shutoff, waiting for its next trip. Fuel residing under pressure in the fuel lines and the injectors sit at a standstill with water in it when ethanol fuel is in the vehicle, constantly working at corroding between its next uses. Soon the corrosion is sufficient to start causing the injectors spray pattern to be altered reducing fuel economy, horsepower and raising tailpipe emissions. Then the problem only worsens until either the driver gets the vehicle fixed, engine failure occurs due to oil dilution, or perhaps the vehicle is sold by owner to avoid the costly repairs of replacing and/or rebuilding of the injectors.

For some temporary period emissions would clean up, but only until the wear/tear factor of neglect caught up to the fleet in service. Ethanol fuel will mask many emissions problems which straight gasoline will not. A vehicle running straight gasoline will fail emissions sooner, meaning it will be fixed sooner rather than later. An ethanol blend using vehicle will mask the problem for a period of time, until such time that the problem is really a big one.

Another thing Idaho cannot afford to lose is another industry that no one else has mentioned here, our state per capita has a very large number of car enthusiasts who also will be affected by this legislation, every weekend in the Treasure Valley from April thru October, that are three car shows every weekend between Boise and Fruitland and Payette areas . . . with turnouts ranging in the 300 vehicles/participants being very common at these events.

Make mandatory emissions testing statewide to make the emission program fair to all taxpayers in the state of Idaho . . . this will meet or exceed the same goals with the same or greater numbers as this fuel mandate without any downside, it creates hi-tech jobs, while protecting the environment. Statewide emission testing for all motor vehicles in the state is the solution, not an ethanol fuel mandate.

**Senator McKenzie** distributed and briefly explained a report from Tom Gjeltén about the world's oil problem. (See attachment #2).

**Senator Williams** briefly testified that the summer interim committee hoped to improve air quality in the Treasure Valley and improve Idaho's economy with this legislation.

**Russ Hendricks**, Regional Manager, Southwest Idaho, Idaho Farm Bureau, distributed a publication titled *Homegrown for the Homeland, Ethanol Industry Outlook 2005*, published by the Renewable Fuels Association (RFA). (See attachment #3).

He also distributed a publication *Welcome to California* - an annual report about the ozone summaries for selected California regions (See attachment #4)

Mr. Hendricks also shared a list about misrepresented facts presented about S1004 to the committee. (See attachment #5).

After a lengthy review and discussion about S1004, the following motion was made:

**MOTION:** A motion was made by **Senator McGee** to hold in committee S1004. The motion was seconded by **Senator Langhorst**.

Discussion: No guarantee any Idaho products will be used; ways to use water and ethanol; usage in winter months; support Idaho agricultural, by-products from other states, and the 2010 mandate.

**SUBSTITUTE MOTION:** A substitute motion was made by **Senator Noble** to send S1004 to the Floor with a do pass recommendation. The motion was seconded by **Senator McKenzie**.

A Roll-Call vote was taken: 4 Ayes, 4 Nays, 1 abstention

Chairman Brandt announced the bill has died in the committee.

**ADJOURNED:** The committee adjourned at 3:00 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Monday, February 14, 2005 - Special Print Hearing
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Little, McKenzie, and Langhorst
- MEMBERS ABSENT/ EXCUSED:** Senators Geddes, Marley, and Noble
- GUESTS:** See the attached sign-in sheet.
- RS 14857** This proposed legislation relating to highway district meetings was presented by **Stuart O. Davis**, executive director of the Idaho Association of Highway Districts. The legislation, RS14857, amends Sections 40-1306A and 40-1306B, Idaho Code, relating to open meetings and executive session of Highway District Boards of Commission.
- This legislation deletes references in Title 40, Chapter 13, to open meetings. The reason for the deletion is that there is duplication in Idaho Code, between this chapter and the more standard references in Title 67, Chapter 23.
- There is no fiscal impact to the General Fund.
- MOTION:** A motion was made by **Senator McKenzie** to send RS14857 to Print. The motion was seconded by **Senator Keough**, and the motion was **carried by a voice vote**.
- RS 14903** RS14903 was presented by **Elizabeth Criner**, representing Boise Airport, a division of the city of Boise.
- She reported, the proposed legislation before you today would amend Section 21-401 of the Idaho Code. The authority granted in this section of the Code was established by the Legislature in 1929. At that time, an acreage limitation for airports was established at 640 acres. In 1937, the Legislature amended this same section of code to increase the acreage limitation to 1,280 acres, where it has remained since.
- As you can imagine, aviation in Idaho has changed dramatically since 1937. In recognition of those changes and the current size and needs of airports in Idaho today, the proposed legislation, RS 14903 would eliminate the acreage limit imposed in this statute.
- Airports today provide a variety of aviation services and transportation links for Idaho's economy. Currently, the Boise Airport is composed of five thousand two hundred (5,200) acres. 2000-plus acres are currently

under a long-term lease agreement with the Idaho Air National Guard. Boise Airport also provides space for air cargo companies like Federal Express, space for general aviation services and space for the National Interagency Fire Center.

All of these agencies and companies require aviation facilities and all benefit from the current space and facilities that have developed at the Boise Airport property.

In addition, as we look at new economic development opportunities for the future, Boise Airport's property can continue to support a growing number of jobs with the development of an air cargo hub and aircraft maintenance facilities.

As airport services and needs have grown, so have concerns about noise. Boise Airport and other airports around the state have purchased or maintained property around airport developments to minimize noise concerns.

In addition to Boise Airport, there are a number of other facilities around the state that either exceed the property limit or are nearing it. For example:

- Pocatello Airport has three thousand two hundred fifteen (3,215) acres;
- Twin Falls Airport has approximately one thousand five-hundred (1,500) acres;
- Idaho Falls Airport has one thousand two-hundred (1,200) acres; and,
- Lewiston Airport has nine hundred fifty (950) acres.

In addition, an effort is currently underway to locate and construct a new airport to service the Hailey/Sun Valley area. Recent reports indicate that private donations of land for this effort will exceed one thousand (1,000) acres.

We've heard from all the major airports in Idaho. They have indicated either their support or neutrality on the legislation.

As Idaho continues to grow and develop, this proposed legislation is needed to respond to the changes and expansion of aviation services in our state.

**MOTION:**

A motion was made by **Senator McGee** to send RS14903 to Print. The motion was seconded by **Senator Keough**, and the motion was **carried by a voice vote**.

**RS 14914**

This proposed legislation was presented by Executive Director of the Idaho Association of Highway Districts, **Stuart O. Davis**.

This legislation relating to Inverse Condemnation amends Title 40, Idaho Code, by the addition of a new Chapter 25, Title 40, Highway Inverse Condemnation Act. This legislation is intended to reduce the need for litigation and speed the process of resolution of claims by property owners against governmental entities for the taking of a

property interest. It provides that such claims are such claims first filed with the government entity [in a process similar to how tort claims against government entities are now filed] who must then, in a 90-day period, determine whether it agrees that an interest in property was taken has occurred.

If the government entity determines it has not taken a property interest the claimant may then file an action in a court of law for inverse condemnation. If the government entity determines, it has taken a property interest it shall then have an additional 90 days to try and settle the taking claim. If the claim is not then resolved, the claimant may bring an inverse condemnation action for damages or the government entity may bring an eminent domain action in a court of law.

This legislation will have no fiscal impact to the General Fund.

**MOTION:** A motion was made by **Senator Keough** to send RS14914 to Print. The motion was seconded by **McGee**, and the motion was **carried by a voice vote**.

**RS 14946** **Senator Langhorst**, District 16, presented RS14946, relating to recreational activities and noise abatement. The legislation will amend Section 67-7125, Idaho Code, to remove from Code an existing correction factor to make Idaho noise abatement laws consistent with other states and the national standard recommended by the American Motorcycle Association.

There is no fiscal impact to the General Fund.

**MOTION:** A motion was made by **Senator McGee** to send RS14946 to Print. The motion was seconded by **Senator Keough**, and the motion was **carried by a voice vote**.

**RS 14947** This proposed legislation, relating to motorcycle safety helmets, was also presented by **Senator Langhorst**. This legislation will amend Section 49-666, Idaho Code, to require that all persons less than eighteen (18) years of age who are permitted to operate a motorcycle or an all-terrain vehicle (ATV) on or off any highway shall wear a safety helmet.

There is no fiscal impact to the General Fund.

**MOTION:** A motion was made by **Senator Keough** to send RS14947 to Print. The motion was seconded by **McGee**, and the motion was **carried by a voice vote**.

**RS 14956** **Senator Broadsword**, District 2, presented RS14956, relating to pedestrians and bicycles. The legislation will amend Section 49-720, Idaho Code, to clarify that a bicyclist must stop at a red traffic light and yield to oncoming traffic. It does not change the current law regarding making a right-hand turn or making a left-hand turn onto a one-way street. This proposed amendment is designed to make the road safer for bicyclists.

There will be no impact to the state General Fund or local governments.

**MOTION:** A motion was made by **Senator Langhorst** to send RS14956 to Print. The motion was seconded by **McGee**, and the motion was **carried by a voice vote**.

**RS 14971** This legislation relates to investigation of reported violation of failing to obey school bus warning devices, was presented by **Senator McGee, District 10**.

The legislation amends Section 49-1423, Idaho Code, relating to investigation of reported violation of failing to obey school bus warning devices; to provide that the registered owner is prima facie the driver of the vehicle at the time of the alleged violation if the investigating peace officer is unable to establish the identity of the driver of the vehicle involved in the violation.

**MOTION:** A motion was made by **Senator McKenzie** to send RS14971 to Print. The motion was seconded by **Senator Keough**, and the motion was **carried by a voice vote**.

**RS 14990** Idaho Transportation Department Assistant Traffic Engineer **Carl Main** presented RS14990, relating to the rules of the road and maximum speed limits. This legislation would amend Sections 49-201 and 49-654, Idaho Code, to raise the maximum speed limit on the Interstate and State highway system from 65 miles per hour to a maximum of 75 miles per hour on those sections of the system which qualify for a higher limit according to engineering studies and established speed limit procedures. There are many sections of the Interstate and State highway system that are posted at the statutory limit of 65 MPH despite the fact that standard speed limit establishment procedure would select a higher speed to post.

Changing the maximum speed limit for Interstate and State highways from 65 mph to 75 mph would allow more roads to be posted according to established procedures while still keeping sections that do not qualify for higher speeds posted at 65 MPH or lower.

There will be no fiscal impact to the general fund or ITD dedicated funds. There will be a short-term change in workload priorities for Traffic Engineers to do speed studies and for the sign shop and sign crews to produce and install new Speed Limit signs. For the estimated 400 miles of roadway, one sign every 5 miles and \$150 per sign, the estimated cost is \$12,000 which will be covered by our normal budget.

**MOTION:** A motion was made by **Senator McGee** to send RS14990 to Print. The motion was seconded by **Senator McKenzie**, and the motion was **carried by a voice vote**.

**ADJOURNED:** There being no further business to come before the committee, they adjourned at 1:10 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, February 15, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, McKenzie, Noble, and Marley,

**MEMBERS ABSENT/ EXCUSED:** Senators Langhorst and Little

**GUESTS:** See the attached sign-in sheets

#### **S 1091**

**Relating to Special Motor Vehicle Plates** was presented by **Senator Bunderson**, Chairman of the Senate Local Government and Taxation Committee. The purpose of this legislation is to promote Idaho as a science and technology state, and generate funds for Office of Science and Technology programs. He underscored the important aspect of our economy, and stated he has received strong support for the legislation. He outlined a statewide effort to collect designs for the license plate.

The industries that will underpin Idaho's economy in the 21<sup>st</sup> century will consist of businesses that produce or effectively use science and technology.

In 2002-2004, the Idaho Department of Commerce and Labor reports that 70% of Idaho's exported goods were high tech. Food and agriculture exports comprised 15% of the total. The balance was wood, building materials, fertilizer and other. If the value of exported intellectual assets, such as that produced by several thousand Idaho research scientists and engineers were known and added to the high tech exported goods number, the high tech percentage would be substantially higher. Consistent with other special license plates, those purchasing the license plate will pay \$35 initial issuance of plates, and \$25 upon each succeeding annual registration. Twenty-five dollars (\$25) of each initial fee and \$15 of each renewal fee will go to the Office of Science and Technology. The Idaho Transportation Department (ITD) charges plate origination costs to the not-for-profit entity of up to \$10,000.

Fiscal Impact - No negative fiscal impact as ITD (Idaho Transportation Department) is reimbursed by proceeds from license plate sales. On the other hand, passage of this legislation will likely have a significant positive effect on revenues for Office of Science and Technology. There is considerable interest in the science and technology business community to have their own license plate. In fact, upon passage of this legislation, certain science and technology businesses will initiate and

finance a statewide contest in schools and industry for the winning license plate design (all in conformity with ITD standards).

**Senator Bunderson** presented several letters of support to this proposed legislation, SB1091. They are as follows:

**Billy D. Shipp**, Ph.D., Chairman and Advisor to the Governor's Science and Technology Advisory Council, wrote: I'm writing in support of your proposed legislation for a technology-themed specialty license plate.

As you know, technology is an increasingly important component of Idaho's economy. This industry currently represents nearly a quarter of the gross state product as well as 63% of the value of Idaho's annual exports. In addition, technology jobs pay nearly twice as much as the average state wage.

A license plate recognizing and celebrating technology's role in Idaho's economy is very appropriate. The revenues generated will also further the mission of our new Office of Science & Technology.

Thank you for your efforts in promoting technology in the state of Idaho.

**George Mulhern**, Senior Vice President of Imaging and Printing Group, Hewlett-Packard Company, wrote: I'm writing in support of your proposed legislation for a technology-themed specialty Idaho license plate.

This new plate would help support the Idaho Office of Science & Technology's strategy to establish a national image for Idaho as a leading technology center. This industry currently represents nearly a quarter of the state's gross state product, as well as a significant percent of the value of Idaho's annual exports.

A license plate recognizing technology's role in Idaho's economy is a terrific idea. Thank you for your efforts in promoting technology in the state of Idaho.

**Jason L. Crawford**, President and CEO of Treetop Technologies, wrote: I'm writing you to express my enthusiastic support for your "tech license plate" concept. It is a small, but much appreciated, step to help promote and begin to fund the advancement of the technology industry here in Idaho. With science and technology representing over 25% of the State's revenue, and over 70% of all the State's exports, I think it is important for our community, our executive branch AND our legislative body to stand behind and help encourage and endorse the State's leading industry.

Idaho is at a crossroad in its economic history. The competitive market is no longer just the company across town or across the country . . . it has become a global market. Idaho must do everything it can to help position its current and emerging companies to compete more efficiently and effectively in the marketplace. There is mounting pressure and incentives for technology-based companies to move our operations offshore. We need not only a positive business environment and a quality of life to attract and retain talent, but we also need a local

government that is supportive of our efforts.

Treetop Technologies is the 18th fastest growing technology company in America, and the number one fastest growing company in Idaho. Treetop and its employees paid over \$800k in state taxes last year, purchased over 60 houses, and our average employee makes more than \$60k/year. We wish to continue to have our business and its employees reside in the Great State of Idaho. Please, ask your legislative colleagues to show that they support and recognize companies like Treetop Technologies and the industries, people, and future they represent.

As a third-generation Idahoan, I feel the technology sector is so important to Idaho's future that I will personally commit to paying up to half the costs (up to \$5k) to manufacture the license plate. I will also provide economic incentives to my 70+ Idaho-based employees to encourage the purchasing of the customized license plate. Thank you for your time.

**Linda Hansen**, Chair, Idaho Section of the American Nuclear Society (IANS), wrote: I am writing to express our organization's support for your proposed legislation that would authorize the issuing of a license plate that promotes Idaho as a science and technology leader in the U.S.

Our organization represents a large number of those science and technology professionals who work and live in Idaho, mostly in Eastern Idaho. The Idaho National Laboratory and the many technology companies that support activities on the Site are the work locations for most of our members. They are encouraged with the progress represented by the expanding nuclear and energy research missions at the Idaho National Laboratory, but also key technology developments and innovations in other areas of our state. We can see that Idaho is making significant headway in expanding the scientific and technology communities and in creating the conditions that facilitate that growth.

Your effort to recognize this advancement and create additional awareness that Idaho is growing its technology and innovation communities are to be commended. Thank you for your effort and know that IANS supports this important legislation.

**Brooklin J. Gore**, wrote: As Chair of the Boise section of the IEEE, I am generally supportive of the addition of a new specialty license plate focused on promoting technology in our great state of Idaho.

I am comfortable with funds from this program being managed by the State D.O.C.'s Office of Science and Technology, but expect to see an annual report of exactly how those funds were used. My preference is that about 60% of the funds be used to attract new technologies and technology companies to the state, with the remaining 40% focused on retaining technology professionals within the state-activities such as K-12 and continuing education.

I strongly believe that the "look and feel" of the plate will be critical to sales volume, so encourage you to ensure its design is a collaborative

effort.

**Jan W. Rogers**, President of the Idaho Economic Development Association, wrote: This letter confirms the Idaho Economic Development Association's (IEDA) support of your proposed legislation for a new technology specialty license plate. Our organization represents over 40 economic development professionals throughout the state.

IEDA's marketing thrust is primarily directed at supporting the Office of Science & Technology's (OST) strategy to promote Idaho, both nationally and internationally as a leading technology center.

The Science and Technology industry is a significant contributor to our gross state product. We believe that growth in this diversified industry sector will help provide Idaho with a healthy and vibrant economy.

The revenues generated will also further the mission of the OST to market our state providing opportunity for new business development.

Thank you for your efforts in bringing this legislation forward to help promote science and technology in Idaho.

**Arlen Wittrock**, AMI Semiconductor, Inc., wrote: On behalf of AMI Semiconductor headquartered in Pocatello, I write to express our support for your legislation creating an Idaho technology license plate.

The timing is right for this important symbolic step. Idaho is far more than great potatoes! We are the technology state. At AMI, we produce "chips" of an entirely different variety!

Best wishes as this legislation progresses through the process.

**Steve Simpson**, Chairman of the Boise Angel Alliance, wrote: I'm writing in support of your proposed legislation for a technology-themed specialty license plate.

As you know, technology is an increasingly important component of Idaho's economy. This industry currently represents nearly a quarter of the state's gross state product as well as 63% of the value of Idaho's annual exports. In addition, technology jobs pay nearly twice as much as the average state wage.

A license plate recognizing and celebrating technology's role in Idaho's economy is very appropriate. The revenues generated will also further the mission of our new Office of Science & Technology, and will heighten awareness of technology industry's importance to Idaho.

Thank you for your efforts in promoting technology in the state of Idaho.

**MOTION:**

A motion was made by **Senator Marley** to send SB1091 to the Floor with a do pass recommendation. The motion was seconded by **Senator Noble**, and the motion was **carried by a voice vote**.

**GARVEE  
BONDING:**

**Charles (Chuck) L. Winder**, Chairman of the Idaho Transportation Board, and **David S. Ekern**, Director of the Idaho Transportation

Department, presented an update pertaining to the federal GARVEE-bonded (Grant Anticipation Revenue Vehicle) projects. They provided an outline about *Connecting Idaho*, GARVEE investments; economic benefits; financial analysis; general information about maps; experience of other states; states that have used bonding to finance highway construction; Utah's centennial highway program, and Idaho's history of bonding for roads. They also provided a paper about the *Idaho Smart Growth Position* on "Use of GARVEE Bonds to Construct Highway Projects" (HB0179).

If used wisely, GARVEE bonds can be a useful way to fund large transportation projects that can not be efficiently completed using the traditional "pay-as-you-go" approach. Unfortunately, Idaho's proposed GARVEE bond enabling legislation (HB 0179) leaves out several important protections used by every other state to: (1) limit financial liability in the context of the increasingly unpredictable nature of federal transportation funding, (2) maintain the flexibility to respond to unforeseen transportation needs in the future. Additionally, the bill ignores other needed transportation reforms.

We believe Idaho's GARVEE bond enabling legislation should be amended to achieve these objectives and we have specific ideas about how this can be done in a fair and accountable manner. We advocate incorporation of the following:

**1. The legislation should specify that GARVEE bonding should not be approved for a given transportation project until it is part of the approved statewide Transportation Improvement Program (STIP) and until the project has completed all environmental analysis required by the National Environmental Policy Act (NEP A).**

To minimize risk and expedite project delivery (the very purpose of GARVEE bonding!), GARVEE bonds should only be used to fund ready-to-go projects. "Ready-to-go" means the project has gone through the same public involvement and prioritization process that all transportation projects must go through in order the part of the Statewide Transportation Improvement Program (STIP) and the project has a high level of certainty regarding design elements, mitigation measures, benefits, and total cost. These questions are best answered through the NEPA process. It is foolhardy to prematurely commit future transportation funding to a project that has unknown environmental constraints, costs, and public support. We are not suggesting that design must be completed and right-of-way purchased prior to bond issuance.

**2. The legislation should specify that total GARVEE bond debt service costs should not exceed 10-20% of Idaho's total annual federal allotment of transportation funds.**

We have not found any state with a GARVEE program that does not have such a cap or debt limit. The "*Connecting Idaho*" briefing book assumes 48% of our federal funding would be committed to GARVEE debt service from approximately 2012-2025, but the legislation doesn't even include this percentage as a cap. All other states have caps or

debt limits in the range of 10% in the case of Florida and 50% in the case of Colorado (though in Colorado, the use of GARVEE bonds was initially approved by the voters and their program includes short bond backstops HB0179 is silent about).

**3. The legislation should specify the maximum term of debt on any single GARVEE bond is limited to 12 years.**

If we take the document published by the ITD in January 2004 for the "Forum on Transportation Investment" at its word, future federal transportation funding levels are anything but certain. The document states; "With current inflation (2.5% avg.) and population growth in Idaho (2%), federal funding would be required to increase approximately 5% per year to keep federal revenue current. Federal funding has not increased in the last 4 years, and is very likely to remain the same or decrease in constant dollars over the next 6 years" (\*see weblink below for the full report). This analysis is echoed by organizations as diverse as the Surface Transportation Policy Project and the CATO Institute, who calls for a complete elimination of the federal gas tax (the very source of funding upon which GARVEE debt service is dependent).

\*<http://itd.idaho.gov/info/ti.forum/docs/Combined%20Information%202%20.pdf>

As a "donee" state that gets back \$1.38 in federal revenue for every \$1.00 we pay via the federal gas tax (Source: CATO Institute), the future of federal transportation funding is particularly unpredictable for Idaho as donor states continue to pressure Congress to increase their share of gas tax distribution by 5%. In other words, we agree with ITD's January 2004 analysis that Idaho's federal funding will remain flat or decrease for the foreseeable future. The longer the term of GARVEE bonds, the more we expose Idaho taxpayers to the uncertainty of federal funding levels. This is why most states are issuing bonds with terms ranging from 7-14 years. Only two states allow bond terms as long as 18 years (New Mexico, Nevada). According to a soon to be published report by the Brookings Institution, risk is compounded when the debt extends across multiple 6-year federal transportation bill re-authorization cycles. (Source: *"Paying for Today's Roads with Tomorrow's Dollars: The Use of GARVEE's to Finance Transportation Projects"*, unpublished)

**4. The legislation should specify that all GARVEE bonds issued should have at least one stable source of funding in the event federal funding can not be used to cover all debt service obligations.**

Nationwide, 35 transportation projects are being funded with GARVEE bonds for a total value of \$7.5 billion. Ninety-seven percent (97%) of these GARVEE bonds have been issued with some form of financial contingency or "backstop" to increase their bond rating, obtain a more attractive interest rate, and protect the state in the event future federal transportation funding is not able to cover GARVEE debt service obligations. Bond insurance, a portion of state gas tax revenue, a portion of sales tax, or the "pledge of full faith and credit of the state" are examples of backstops that nearly all GARVEE bonds in other states include. (Source: *Brookings Institution, FHWA*)

## **Final Thoughts About Idaho's Transportation Needs.**

HB 0179 bill has been touted a visionary way to bring Idaho into the 21st century Idaho does have an opportunity to be a truly visionary leader in the United States, but to do so the state needs to consider a complete and integrated package of transportation funding reforms that includes support for transportation modes that serve all users, not just highways users. This kind of an approach will allow us to use the most appropriate transportation improvement for each situation. We will be able to protect our air quality in major urban areas, to enhance our economy all over the state and to protect the culture and livability in all of Idaho. With these integrated reforms Idaho will be poised as a leader in the new economy of the 21st century.

Many have pointed out the most notable failure of the "Connecting Idaho" proposal; to address transit needs. GARVEE-like instruments can be used for capital investment in transit, but only if there is local funding to match federal funds and use for operation and maintenance. This funding does not currently exist, nor can the residents of an area needing improved transit vote to create a source of such funding at local option. They need the legislature to pass enabling legislation. It is disingenuous to allow the creation of regional transit authorities, but not allow residents within their boundaries the ability to decide whether or not or to what extent they should be funded. It is likewise disingenuous to enable a tool for needed improvements on the highway system without an accompanying tool for needed transit improvements.

Why should we increase investment in transit? Though there are many excellent environment, economic, and social reasons, we leave you with this one: the people of Idaho are asking for it. In February 2003 the Idaho Transportation Department published findings of their random sample of Idaho residents. In all regions of the state, survey respondents express general satisfaction with the state highway system and satisfaction with transportation in their community. "Lack of transportation options" and "insufficient public transit" were cited as the #1 and #2 transportation problems in the state according to 60% of the correspondents. When asked what remedies they favored to address transportation problems, 50% favored more public transit; only 25% favored making driving easier. In short, Idahoans envision and are asking for a more sustainable, livable, and resilient transportation system that reduces our dependency on foreign oil.  
(see <http://www.idahofuturetravel.info/PDFs/ITD%20Report.pdf>).

## **Idaho Smart Growth's Top Questions About GARVEE Bonding:**

In a document prepared for the Forum on Transportation Investment in January 2004, ITD says federal funding coming into the state has decreased by 0.8% from 2001-2005 and "is very likely to remain the same or decrease in constant dollars over the next 6 years." What has happened in the last 12 months to now give the Department reason to believe federal funding coming to Idaho will increase by at least 3.3% every year for the next 25 years?

In the same publication prepared for the Forum on Transportation Investment (Jan. 04) and in other publications, the ITD has expressed concern about projected declines in state gas tax revenue. How will the State pay for the increased project administration and maintenance costs of 700 new lane miles of state highway that will be constructed with GARVEE bonds in a relatively short period?

What happens if a project funded with GARVEE bonds ends up costing 3-4 times the original estimate? If another GARVEE bond is issued so an underestimated project can be completed, will that not mean that another project elsewhere in the state will not be funded with GARVEE bonds?

In states that the program can be stopped at any time if it is deemed in the interest of the state to do so. What if the program is stopped in 2010 or 2012, by which time nearly all the proposed GARVEE bonds will have been issued? Even if the state decides to stop the program, it still has to pay the debt service on all bonds issued prior to that date. So why should the ability to stop the program at any time give us reason for comfort?

Why do the graphs labeled "Investment Impact Analysis" in the Connecting Idaho briefing book not account for inflation, while the graph labeled "Total Payouts for \$100 Million Project" assumes a 5.56% inflation rate? On what is the 5.56% inflation rate based? (NOTE: an earlier version of the "Connecting Idaho " briefing book used an assumed inflation rate of 4.48% for this same graph, the change to 5.56% makes the traditional 'pay-as-you-go " scenario appear much more costly.)

About Idaho Smart Growth Idaho Smart Growth is a statewide non-profit organization created by Idaho citizens in 2000 to promote sensible growth through education and technical assistance for Idaho's rapidly growing urban and rural communities. We advocate for fiscally sound growth that increases housing, employment, and transportation choices and protects important open space and farmland.

The GARVEE investments include 258 miles with a total investment of \$1.6 billion. The projects include SH-16, I-84 to South Emmett and South Emmett to Mesa; U.S.20, St. Anthony to Ashton; U.S.30, McCammon to Soda Springs; SH-75, Timmerman to Ketchum; I-84, Caldwell to Meridian; Orchard to Isaacs Canyon; U.S.95, Twin Falls alternate route and new Snake River Crossing; U.S.95, SH-1 to Canadian border; Garwood to Sagle; Worley to Setters; Thorn Creek Road to Moscow, and Smokey Boulder to Hazard Creek.

Investment benefits - the investment can create an additional \$4.3 billion benefit to the Idaho economy, including 75,200 jobs, \$2.9 billion in additional sales, and the improved system will be a major selling point to companies looking for a cost-effective environment.

Since 1998, 16 states have leveraged their federal highway money using GARVEE bonds. The 40 GARVEE transactions accounted for almost \$10.4 billion.

Committee members want to see the legislation, and asked when will the legislation be available to review? **Lance Giles**, Policy Advisor to Governor Kempthorne, explained the legislation will only be one (1) bill, and is forthcoming. Committee members wanted to know if the legislation will come to the Transportation Committee for consideration. At this time, **Senator Geddes** believes the GARVEE legislation will be sent to the Senate State Affairs Committee.

*Connecting Idaho*, a 24-page book published by the Idaho Transportation Department on January 31, 2005, will be retained in the office of the Senate Transportation Committee for the remainder of the 58<sup>th</sup> Idaho Legislature's session, and will be available for review upon request.

**ADJOURNED:** There being no further business to conduct, the committee adjourned at 2:58 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, February 17, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, McKenzie, Noble, Marley, and Langhorst

**ABSENT/EXCUSED:** Senators Geddes and Little

**GUESTS:** Former Senator Kent Bailey, District 3, Hayden, Idaho. Also, see the attached sign-in sheet.

**FAREWELL and WELCOME:** **Chairman Brandt** expressed the committee's appreciation to Page Sheryl Tubbs for the exceptional services she provided to the committee during the past six weeks. He also introduced and welcomed the committee's new Page Daniel Grad, a home schooled student from Cascade, Idaho. Daniel has been assigned to the Senate Transportation Committee, and will provide support services for the next six weeks.

**H 51** **Dan John**, State Tax Commission, presented HB51, relating to the motor fuel's tax, and repeal's Section 63-2406A, Idaho Code.

This bill makes two technical corrections to the motor fuels tax statutes.

Section 1 of the bill repeal's Section 63-2406A, Idaho Code, relating to an incentive for electronic filing of fuel distributors' tax reports. The incentive expired on December 31, 2003; therefore, the section is no longer needed.

Section 2 of the bill amends Section 63-2421, Idaho Code, to correct an error. The change clarifies that vehicles from other jurisdictions are covered by the same fuel use tax provisions that apply to motor vehicles licensed or required to be licensed in Idaho.

There is no fiscal impact.

**MOTION:** **Senator McKenzie** moved to send HB 51 to the floor with a Do Pass recommendation. **Senator Keough** seconded the motion. The motion was passed by a unanimous voice vote. Senators Geddes and Little were absent from the vote.

**S1080** **Amy Smith**, Vehicle Services Manager at the Idaho Transportation Department (ITD), presented Senate Bill1080. This legislation will amend sections 49-450 and 49-450A, Idaho Code. These changes are needed due to the department's requirement in code, that the department implement a license plate reservation program every seven

years. These provisions have been put into place beginning January 1, 2005, which allows consumers the option of reserving (reordering) their same county plate number when it is required to be replaced at the end of seven years.

There is additional manufacturing and packaging costs associated with the production of special requested plates by Correctional Industries, due to the additional labor required to make plates out of sequence and packaging these plates to be sent to the consumer. This bill will allow all costs associated with the production and distribution of license plates (including postage costs currently paid by the consumer) to be paid by the Plate Manufacturing Account, which is continuously appropriated. Currently, these costs are paid by the State Highway Account, by annual budget appropriation. The amendments will allow the actual postage (which is already paid by consumers) and packaging costs associated with the reservation program to be deposited directly into the plate manufacturing account.

Further, it would allow the \$1.00 per plate reservation fee, set by the Idaho Transportation Board, under Idaho Code 49-443, to be deposited in the Plate Manufacturing Account, to cover the additional expenses of producing and packaging reserved license plates requested by consumers.

The benefits of this bill will allow the department's program accounting to be significantly improved by consolidating all financial activity for plate production and distribution into a single fund. This will also eliminate the need to subsidize costs from the State Highway Account.

This legislation will allow the department to reduce its base budget by approximately \$41,700, which is currently used to pay for the clerical preparation and postage costs of mailing specialty plates. This legislation will provide for the funds received for these purposes to be deposited into the plate manufacturing account.

If this legislation does not pass, ITD would need to request an enhancement to increase the base budget to pay the additional distribution costs from the standard operating budget.

Because the plate reservation system was put into place on January 1, and an emergency exists to implement this bill upon passage.

**MOTION:** **Senator Keough** moved to send SB1080 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion. The motion was passed by unanimous voice vote. Senators Geddes and Little were absent from the vote.

**S 1081**

**Gary Moles**, the Acting Roadway Design Engineer for the Idaho Transportation Department, presented SB1081. This legislation would amend Section 40-902, Idaho Code, to provide that when a contracting

agency allows bid documents to be submitted electronically, an electronic bid bond with valid electronic signatures shall accompany the electronic bid documents.

Idaho Code currently allows contracting agencies, at their discretion, to accept electronically submitted bids. In the case of State highway projects, however, bids must be accompanied by a bid security in the form of a cashier's check, certified check or (physical) bid bond.

This legislation would allow for the acceptance of electronically submitted bid bonds, and removes the only remaining roadblock to future implementation of electronic bidding on State highway projects.

The highway construction industry is moving toward electronic bidding. The Department needs to be ready to implement electronic bidding when the industry is ready to do so in Idaho.

There is no fiscal impact to the General Fund or ITD dedicated funds.

**MOTION:** **Senator Langhorst** moved to send SB1081 to the floor with a Do Pass recommendation. **Senator Noble** seconded the motion. The motion was passed by unanimous voice vote. Senators Geddes and Little were absent from the vote.

**S 1082** **Julie Pipal**, Manager, Office of Budget, Policy and Intergovernmental Relations for the Idaho Transportation Department, requested the committee hold SB1082, relating to rules of the road and maximum speed limits.

**MOTION:** **Senator Keough** moved to hold SB1082 in the committee, because the Idaho Transportation Department requested. **Senator Marley** seconded the motion. The motion passed by a unanimous voice vote. Senators Geddes and Little were absent from the vote.

**S1083** **Leonard Hill**, Right of Way Manager for the Idaho Transportation Department (ITD), presented SB1083 that will amend Section 58-335A, Idaho Code. Speaking first to amending language offered in lines 15-23.

The chief purpose of the amendment is to allow ITD to sell surplus property to local government entities for less than the appraised value. Presently, surplus property is offered first to other government entities at the appraised price. If they do not elect to purchase the property, it is offered to the public and sold to the highest bidder with the minimum bid established by the appraised value. An existing exception allows ITD to transfer surplus property to other governmental entities at no cost, if it will be used exclusively for a transportation purpose.

Local government entities because of budget cycles, limitations on making long-term financial commitments and the inability to know when surplus ITD properties will be offered for sale are sometimes not able to find funds to meet the established appraised value for

property which they could put to a public purpose. Examples of how property might be used include parking lots, public infrastructure, recreation areas, parks and playgrounds. Most of the anticipated uses for surplus ITD property by local government entities would have a collateral benefit to the traveling public.

General fund state agencies have the ability to sell or exchange property with local government entities for a negotiated price less than the appraised value. ITD, because it is a dedicated fund agency, has not been covered by the statute that allows this. (Idaho Code 58-332). Amending existing law governing disposal of surplus property by ITD, would bring ITD into conformance with existing law regarding disposal of surplus property by state agencies too local government entities. It would permit the sale of surplus ITD property to local government entities for a negotiated price not to exceed the appraised value.

In order to avoid speculative acquisition at less than the appraised price on the part of local government entities, there are two controls on the transfer of surplus ITD property. Property can only be purchased within the acquiring entities area of jurisdiction. And the property must be used exclusively for a stated public purpose which is set out in the deed.

It is anticipated, the loss of revenue to ITD of selling surplus properties to local government entities, for less than the appraised price, will be minor as a percentage of ITD's budget. We estimate it will average \$76,000 each year.

One additional amendment made by the proposed legislation is contained on line 14 which adds the words, or exchanged. This clarifies that when property is sold or exchanged to the public it must be for at least the appraised value. The proposed legislation adds the words or exchanged to establish the minimum value for ITD property as the appraised value, when property is traded and not sold.

**MOTION:** **Senator Marley** moved to send SB1083 to the floor with a Do Pass recommendation. **Senator McKenzie** seconded the motion. The motion passed by unanimous voice vote. Senators Geddes and Little were absent from the vote.

**ADJOURNED:** There being no further business, the committee adjourned at 1:57 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, February 22, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Vice Chairman McGee, Senators Keough, Geddes, Little, and Langhorst

**ABSENT and EXCUSED:** Chairman Brandt, Senators McKenzie, Marley, and Noble

**GUESTS:** See the attached sign-in sheet.

This meeting was conducted by Vice Chairman McGee. A silent roll call was taken.

**MINUTES:** **Senator Langhorst** moved to accept the minutes of Tuesday, February 8, 2005, as written. **Senator Keough** seconded the motion. By unanimous voice vote the minutes were approved.

**Senator Keough** moved to accept the minutes of Tuesday, February 15, 2005. **Senator Geddes** seconded the motion. By unanimous voice vote the minutes were approved.

**H 53** **Greg Laragan**, Idaho Transportation Department (ITD) Assistant Chief Engineer for Operations, explained HB53 is a Highway Quick Clearance law.

This legislation is intended to help get traffic flowing normally as soon as possible after non injury accidents, to reduce motorist inconvenience, and minimize secondary accidents. Secondary accidents are those that occur in the traffic back-up from a previous crash.

The proposed law applies only to interstate highways, and controlled access highways on the state highway system.

Please refer to page 2 of the bill. The paragraph (5) in lines 5-15, authorizes peace officers or transportation department employees to require removal of vehicles, cargo or debris caused by a motor vehicle accident, provided that:

- The peace officer or transportation department employee is involved in the management, control or maintenance of the highway.
- The accident occurs with no apparent serious personal injury or death.
- The move can be accomplished safely by the drivers of the motor vehicles involved or with the assistance of a towing or recovery vehicle.

- The move will result in the improved safety or convenience of travel on the highway.

Paragraph (6) protects peace officers or transportation department employees or others, acting under their direction, from liability for damage resulting from reasonable removal efforts.

Paragraph (7) makes it clear that this law is not changing any of the current requirements for law enforcement to conduct an accident investigation.

The proposal requires drivers of vehicles involved in non injury accidents to safely move the vehicle from the roadway before stopping. Drivers removing their vehicle in such a manner will not be found liable for moving the vehicle. This is covered on page 2, paragraph (2) in lines 33-48.

On page 3, we've again added the same language from the previous section to make it clear that the legal requirements to conduct an accident investigation are not changed.

This bill was reviewed by the Idaho State Police and their comments were included. In fact, the language in lines 20-23, page 2, and lines 2-5 on page 3, is their exact wording.

**Mr. Laragan** was asked numerous questions by **Senators Keough, Little, Langhorst,** and **Geddes,** such as:

- Was the Motor Carrier Advisory Committee involved in this piece of legislation? Mr. Laragan - Yes, this was discussed before the Motor Carrier Advisory Committee, but they took no action on it.
- Does this legislation apply to all vehicles regardless of size, i.e., cars and trucks? Mr. Laragan - Yes.
- Regardless of confidence in peace offices, pertaining to page 2, line 5, are department employees in a position to make a determination if something ought to be moved that has been involved in an accident? Mr. Laragan explained the additional following language (lines 12b - 15) explains the move can be accomplished safely by the drivers, etc.
- Beyond the liability issues, sometimes, as much as it may impeded traffic, you will need to keep vehicles in place until a determination can be made as to the cause of the accident, and who might be liable to pay for damages. Who would make the decision that it is okay to move a vehicle, and what training and qualifications do they have, particularly since we are removing them from liability? Mr. Laragan - this is clarified in language provided by the Idaho Police, page 2, paragraph 7, lines 20-23,

and page 3, lines 3-5, "Nothing herein shall be construed to interfere with the duty of any city, county or state police officer."

- In some areas of the state, it takes a longer time for a peace officer to arrive on the scene of an accident, and a transportation employee might arrive quicker, what would happen in that incident? Would this give the transportation employee the ability for him/her to make a decision, yet a police officer had not arrived on the scene? What would happen? Mr. Laragan explained, employees are well aware of their role relative to an accident scene. We are secondary in nature regarding what we call "response to an accident," that is, we have a supporting role, such as traffic control, making certain people traveling are safe at the scene, and also that people involved in the scene are safe. It is not the ITD's responsibility to take on any investigative or decision role.
- Regarding the language on page 2, lines 20-23, and page 3, lines 2-5, what conversations were held between ITD and Idaho police when drafting this legislation? Mr. Laragan explained, no problems or objections during discussions.
- Committee members expressed a need to hear opinions from the Idaho Police about actual investigative habits, and if this legislation will have an effect upon them. At this time, no one from the Idaho Police was present to testify about HB53.
- Why is this proposed legislation needed? It appears the flexibility is in place to do what ITD is trying to accomplish with this new language, that is, is it safe to move vehicles out of the way? That can now be done by a peace officer making that determination. The new language adds in "a department employee"; therefore, why does ITD need this legislation? Mr. Laragan explained, it has to do with the liability of the person involved in the accident. At the current time, we have some people who are afraid of moving their vehicle simply because they are afraid that if they do move it, they will somehow incur additional liability on themselves.

Mr. Laragan also explained, the other issue the legislation addresses is the ability to be able to move cargos and debris that are scattered across the road, or disabled vehicles, to be able too more quickly clear them out of the way, and not have liability associated with the removal.

Other questions and assessments included:

- Are ITD employees trained in medical procedures? Mr. Laragan - Employees are trained about procedures, but, typically, do not treat unless they deemed it to be a life threatening situation. They realize that is not their role.
- Regarding page 2, line 10 - it appears that if an accident occurs,

with no apparent serious injuries, the department employee can take action to allow traffic to take its normal course. In most accidents, if you ask people are you okay, they respond "yes, I am fine," then when they stand up they collapse. It would seem that this would put a huge potential liability on the department for employees to make that medical assessment. That should be considered as we consider this legislation.

- What happens now? Mr. Laragan referred to page 2, line 42, basically it reads, "a stop as required by this sections shall be made without obstructing traffic more than is necessary." He explained, one area this legislation clears up is people hesitate because they are afraid of occurring liability. The people driving their vehicle do not want to move the vehicle for fear that by doing so they may occur some liability, or possibly be charged with leaving the scene of an accident. We are trying to clarify that situation, and make it clear, just by the act of having moved their vehicle they would not be found liable.
- Could a Fish and Game officer, being a peace officer, also move a vehicle? Mr. Laragan deferred to Idaho's statute about what a peace officer is. This legislation wording is consistent with Idaho Code.
- Regarding page 2, line 10 - reads "no apparent injury." If there is an injury, what happens? Mr. Laragan reported a situation regarding an injury, as he understands it, any injury accident has to be treated that it could involve into a criminal case; therefore, the accident investigation is handled differently than a non injury accident. He referred to lines' 12-15, page 2.
- Committee members determined they needed additional information from the Idaho Police, before making a final decision on HB53.

**MOTION:**

**Senator Little** made a motion to Hold H53 until a time certain, anytime between now and Thursday, March 3, 2005. **Senator Keough** seconded the motion. The motion carried by unanimous voice vote.

Senators Brandt, McKenzie, Marley and Noble were absent from the vote.

**S1084**

**Senator Tim Corder**, District 22, presented S1084, relating to vehicle lighting equipment. He explained, this is a simple bill, and the purpose of this act is to provide for the placement of reflective devices on the front of trailers for easy identification by oncoming vehicles. The current statute does not address the reflective markings on the front of trailers less than 3,000 pounds GVW. Trailers, such as snowmobile trailers, are often pulled during conditions with less than optimum visibility. Without reflective markings on the front of the vehicles, the opportunity for collision with oncoming traffic is unnecessarily great. This amendment will provide consistency throughout the act for all classes of trailers.

There is no fiscal impact to the state. Fiscal impact to the citizenry is minimal for the placement of reflectors on the front of trailers.

**MOTION:**

**Senator Keough** made a motion to send S1084 to the floor with a Do Pass recommendation. **Senator Little** seconded the motion.

Discussion: The committee was briefly at ease to review and clarify costs and usage of reflector tape. No quorum was involved in the discussion.

The motion carried by a voice vote. **Senator Langhorst** voted against S1084.

Senators Brandt, McKenzie, Marley and Noble were absent from the vote.

**S1110**

**Senator John McGee**, District 10, presented S1110, relating to a special public college and university motor vehicle license plates. He explained, this legislation would allow for Albertson College, Northwest Nazarene University and Brigham Young University-Idaho to participate in the specialty license plate program. There are more than 50,000 alumni from the three institutions that live in the state of Idaho-many of them have expressed their desire to participate. The administrations from all three colleges support the passage of this legislation.

He stated, we heard comments from a certain Senator yesterday asking where do the license plates end? This legislation does not create a new category, but it merely expands the current college and university category. It is a question of fairness. Through their accomplishments and graduates, these three institutions have brought great pride to the state of Idaho.

This bill would allow these institutions to provide additional scholarships for Idaho students to attend their respective institutions.

Typically, a special plate program has an introductory period of three years, after which in any two consecutive years if plate sales are below 1,000 plates, then by Idaho Code 49-402C(6), the department is authorized to discontinue the special plate. Also, under Idaho Code, 49-402C (2), requires all new special plates introduced after July 1, 1998 to conform to the standard red/white/blue background on the license plates.

With this proposed legislation to create additional collegiate plates under the existing Idaho Code, 49-418A, these plates will fall into the entire number of plates issued under this code. This means that in the overall program of all colleges participating, they need a collective number of 1,000 plate sales to continue the program. In 2004, that number was close to 2,000 plate sales.

This program is not in any danger of being discontinued at this time, nor do individual colleges have to each sell 1,000 plates. New plate programs are responsible for the plate design and programming costs,

and in the particular category, each college is responsible for providing the agreed upon design decals to the department for the actual license plates.

A program contact from each participating school will work with a department representative on the acceptability and readability of the design, and the department will gain approval from the Department of Law Enforcement and the Governor's office. This legislation gives the colleges the opportunity to participate if they choose.

All efforts will be made to have the plates available after the effective date of the passing legislation.

Fiscal Impact - The entities are responsible for programming costs of up to approximately \$4,500, performed by the Idaho Transportation Department (ITD). The institutions designated in this bill will see some positive fiscal impact from the sale of license plates bearing their decal. ITD will also realize some revenue as proceeds from license plate sales.

**Matt Ellsworth**, a lobbyist and alumni of Albertson College, testified to support S1110.

- The state of Nevada has more than 56 different license plates, such as, the Masons or you can even obtain a license plate indicating you are a member of the Press.
- Oregon has just more than 35 plates, and they honor private groups such as Lions, Grange, Masons and Elks, and two private institutions.
- The license plates in the states of Washington and Montana do not use the legislative process.
- The state of Washington has more than 36 plates, and are appointed by the Department of Transportation.
- The state of Montana charges \$4,000 or 440 prepaid orders. They honor such private groups as Planned Parenthood and colleges, even athletics.

**Mr. Ellsworth** requested the committee for a Do Pass recommendation.

**MOTION:**

**Senator Keough** moved to send S1110 to the floor with a Do Pass recommendation. **Senator Langhorst** seconded the motion. The motion carried by a voice vote. **Senator Little** voted against S1110.

Senators Brandt, McKenzie, Marley and Noble were absent from the vote.

**S 1127**

**Elizabeth Criner**, reported she is representing Boise Airport, a division of the City of Boise, and presented S1127. The proposed legislation would amend Section 21-401 of the Idaho Code. The authority granted in this section of the Code was established by the Legislature in 1929.

At that time, an acreage limitation for airports was established at 640 acres. In 1937, the Legislature amended this same section of code to increase the acreage limitation to 1,280 acres, where it has remained since.

As you can imagine, aviation in Idaho has changed dramatically since 1937. In recognition of those changes and the current size and needs of airports in Idaho today, the proposed legislation, S1127 would eliminate the acreage limit imposed in this statute.

Airports today provide a variety of aviation services and transportation links for Idaho's economy. Currently, the Boise Airport is composed of five thousand two hundred (5,200) acres. Two Thousand (2000)-plus acres are currently under a long-term lease agreement with the Idaho Air National Guard. Boise Airport also provides space for air cargo companies like Federal Express, space for general aviation services, and space for the National Interagency Fire Center.

All of these agencies and companies require aviation facilities, and all benefit from the current space and facilities that have developed at the Boise Airport property. In addition, as we look at new economic development opportunities for the future, Boise Airport's property can continue to support a growing number of jobs, with the development of an air cargo hub and aircraft maintenance facilities.

As airport services and needs have grown, so have concerns about noise. Boise Airport and other airports around the state have purchased or maintained property around airport developments to minimize noise concerns.

In addition, to Boise Airport, there are a number of other facilities around the state that either exceed the property limit or are nearing it. For example:

- Pocatello Airport has three thousand two hundred fifteen (3,215) acres;
- Twin Falls Airport has approximately one thousand five-hundred (1,500) acres;
- Idaho Falls Airport has one thousand two hundred (1,200) acres; and,
- Lewiston Airport has nine hundred fifty (950) acres.

In addition, an effort is currently underway to locate and construct a new airport to service the Hailey/Sun Valley area. Recent reports indicate that private donations of land for this effort will exceed one thousand (1,000) acres.

We've heard from all the major airports in Idaho. They have indicated either their support or neutrality on the legislation. As Idaho continues to grow and develop, this proposed legislation is needed to respond to the changes and expansion of aviation services in our state.

This legislation will have no fiscal impact on the state General Fund.

**MOTION:**

**Senator Little** made a motion to send S1127 to the floor with a Do Pass recommendation. **Senator Geddes** seconded the motion.

Discussion: **Senator Keough** asked **Ms. Criner**, how many times airports she represents have used the condemnation process to acquire land? Ms. Criner explained . actually, the city has condemnation rights, not the airport facility. Those rights are not special, or in addition to, or anything more powerful than what any city would have to condemn property. It has not been used in the last 15-years for airports.

**Senator Langhorst** questioned the amount of acreage or acreage caps placed on airports.

A call for the vote, and the motion carried by voice vote.

Senators Brandt, McKenzie, Marley and Noble were absent from the vote.

**Senator Keough** voted against S1127, and explained she needs to take a closer look at a related issue in her district. She may resolve the issue before the legislation comes to the Senate Floor, but, at this time, she would have to vote No.

**ADJOURNED:**

There being no further business, the committee adjourned at 2:30 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, February 24, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Geddes, Little, McKenzie, and Langhorst
- ABSENT/EXCUSED:** Senators Keough, Noble, and Marley
- GUEST:** See attached sign-in sheets.
- S 1128** **Chairman Brandt** explained that S1128 would not be presented today as the presenter, Stuart Davis, could not be present. If time allows, this bill may be added to the committee's agenda for consideration on Tuesday, March 1, 2005.
- MINUTES:** **Senator McKenzie** moved that the minutes of February 14, 2005, be approved. **Senator Little** seconded the motion. The minutes were approved by a unanimous voice vote.
- S 1132** **Senator McGee**, District 10, presented this legislation, and explained it relates to the investigation of reported violation of failing to obey school bus warning devices. Senate Bill 1132 will amend Section 49-1423, Idaho Code. It will provide that the registered owner is *prima facie*, the driver of the vehicle at the time of the alleged violation, if the investigating peace officer is unable to establish the identity of the driver of the vehicle involved in the violation.
- Senator McKenzie** stated that most vehicles are co-owned, by husband and wife, and asked, who would be issued the citation? Who's record would be shown as receiving the citation? Citations are issued to a specific person, would it be given to the husband or the wife?
- Senator McGee** explained the citation would be sent to the address of the registered owner. He explained, whenever a violation occurs, a school bus driver is busy monitoring the children riding the bus, watching the mirrors, trying to obtain the vehicle license number, and also obtain a description of the vehicle driver. Many times, a valid description of a driver is not readily available to give to law enforcement. The police do a good investigating job, but this legislation will give them more leverage to investigate violators. This is a statewide problem.
- There is no fiscal impact to the Idaho Transportation Department, but there may be some nominal costs to law enforcement.
- Rick Vertrees**, co-owner of the Caldwell Transportation Company and a

member of the Idaho School Bus Association, testified to support SB1132. He described the process law enforcement uses for investigation of violations involving school buses. This bill allows the police more leverage to use for those violations. He reported student safety is the main priority and, hopefully, this bill will help stop some violators from running a stop sign. He is very much in favor of this legislation. It is the best thing we can do for the school bus industry, and for our children. This is statewide problem and needs to be addressed.

**Senator Langhorst** asked if there is any precedence in Idaho law for a citation to be issued to someone who is the owner of a vehicle, without proving them to actually being the violator?

**Michael Kane**, an attorney for the Idaho Sheriffs Association, testified that he had just become aware of a problem with the language used in SB1132. He explained, this legislation is a great idea, but there is a problem with the language. You cannot use the term "*prima facie*" for this type of legislation, per the Idaho Supreme Court. He is willing to work with the sponsor of the legislation to try and make a correction, but, as written, the *prima facie* of the legislation will not be upheld by the Idaho Courts. [Reference Case No.14507, Court of Appeals of Idaho, March 25, 1985, Idaho v. Hebner, Cite as: 108 Idaho, 196, 697, P.2d 1210 [4] Constitutional Law - 268(11)]. (See attachment 1 ).

**Rodney McKnight**, State Department of Education, testified to support S1132, and reported this language is used by other states. He believes this is a national problem,, and we do need to protect our children. He asked: How do we educate the public? How do we correct this problem? Other states also have this problem, and have used this approach.

**Senator McGee** explained he was unaware of a question about the language used in this legislation, i.e., *prima facie*.

**MOTION:**

**Senator McGee** moved to hold SB1132 in the committee to study this issue. **Senator McKenzie** seconded the motion. The motion was passed by unanimous voice vote, and SB1132 will remain in the committee's office.

Senators Keough, Noble, and Marley were absent from the vote.

**ADJOURNED:**

There being no further business, the meeting was adjourned at 1:59 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, March 1, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Noble, Marley, Langhorst

**MEMBERS ABSENT/ EXCUSED:** None

**GUESTS:** See attached sign-in sheets.

**MINUTES:** **Senator Marley** moved to approve the minutes of Thursday, February 17, 2005, as written. **Senator Little** seconded the motion. The motion was carried by unanimous voice vote.

#### S 1129

**Senator Langhorst** introduced both SB1129 and SB1130. He explained, this legislation represents the efforts of the riders themselves, the Idaho Trail Machine Association. During the past ten years there has been a rapid increase in registration and the use of ATVs and riders. There is a greater potential for conflicts among ATV users, injuries, and fatalities.

He requested SB1130 be sent to the amending order to add amendment language that this does not apply to private property. This is an effort to ensure we are not requiring this of the farmers or ranchers who send their children out to do irrigation on their property.

**Brett Madron**, President, Idaho Trail Machine Association, also known as the ITMA, presented SB1129, and explained the ITMA is a statewide off-highway motorbike club that was formed in 1964. Currently, the ITMA represents six chapters consisting of more than 850 families and approximately 3,000 members across our state. The ITMA has a long history of trail riding advocacy and recreation stewardship. At our board of directors meeting last August, the ITMA representatives voted unanimously to support and introduce this legislation.

Off-highway vehicle use has exploded in the last few years. The number of registered motorbike and ATVs has increased from 16,916 in 1993 to 81,936 in 2003. This represents a 481 percent increase (481%) in just ten years. This growth is expected to continue in the next few years. More and more Idahoans are choosing to access the back country of Idaho on an off-highway vehicle. In addition to this mechanized increase, other non-mechanized recreation is also increasing. This results in more traffic on our trails, in the parking lots and campgrounds, and requires recreation users to share the outdoors and respect each other's rights. We feel one of these rights is the right to a quiet outdoor experience.

We feel that motorcycles and ATVs must be limited to a reasonable sound limit. This helps prevent conflict and reduces the impact OHV (off highway vehicle) users have on other outdoor recreationists. Our proposed legislation seeks to revise the current Idaho Code to eliminate the error bounds of three (3) decibels (3d). Currently, Idaho Code limits the sound emission from OHVs to 96dB, with an error allowance of three (3)dB. The decibel scale is not linear, so a three (3) decibel change actually represents a noticeable change in the sound level. Currently, the American Motorcyclist Association, requires OHVs in amateur events held on public lands to meet the requirement of 96 decibels. Most other states have also adopted the 96dB limit. Idaho is the only one, to our knowledge, includes the three (3) decibel error in the legislation. Including this 3dB error limit in the law basically raises the perceived legal sound limit to 99 decibels. Most riders that we encounter target a sound emission from their OHV of 99 decibels, rather than 96. We believe that eliminating the stated error bound will help to lower the perceived sound limit.

This revision will not result in any cost to the General Fund of the State of Idaho. There will be a slight cost to replace informational brochures printed by the Idaho Parks and Recreation. This cost is estimated at \$10,000 and will likely be funded from the ORMV (on road motor vehicles) sticker fund or OHV Fund. In your packets, I have included information from Idaho Department of Parks and recreation on the increase in OHV users. I have also included information from the American Motorcyclist Association, and California on other sound requirements. I have also included various letters of support from other user groups and concerned groups and individuals, and they are:

**David Griffiths**, President, Panhandle Trail Riders Association in Post Falls, wrote: Off highway vehicle use has exploded in the last few years. The number of registered motorbike and ATVs has increased from 16,916 in 1993 to 81,936 in 2003. This represents a 481% increase in just ten years. This growth is expected to continue in the next few years. More and more Idahoans are choosing to access the back country of Idaho on an off-highway vehicle. In addition to this mechanized increase, other non-mechanized recreation is also increasing. This results in more traffic on our trails, and in the parking lots and campgrounds and requires recreation users to share the outdoors and respect each other's rights. We feel one of these rights is the right to a quiet outdoor experience.

**Mark Alexander**, Public Lands Director, Magic Valley Trail Machine Association (MVTMA), Twin Falls, wrote: I am writing this letter of support in behalf of the Magic Valley Trail Machine Association. MVTMA is in support of the Senate Bill No. 1129. (Sound abatement). Our membership believes that this would improve the experience for all of its members and others that enjoy our forests. MVTMA also supports Senate Bill No.1130. (Helmet bill). MVTMA is urging our legislature to act on these bills S1129 and S1130 without hesitation.

There were numerous other letters of support from organizations. (See attachment #1).

A chart was reviewed detailing the number of registrations of Idaho off-highway motorbike and ATVs from 1973 to 2003. (See attachment #2).

**Chuck Wells**, a 37-year employee with the Idaho Parks and Recreation Department (IDPR), and currently is the Outdoor Recreation Program Supervisor for the Idaho Parks and Recreation Department, testified to support S1129. He encouraged legislation restricting the noise levels for motorcyclist and ATV operators. He reported this is a very good bill.

**Senator Little** expressed his concern about the \$10,000 estimated cost to OHV to replace printed materials. He asked, "Can the older materials be used in an effort to save funds?" Mr. Wells explained, it is his understanding that Parks and Recreation print these materials on an annual basis. If materials are left over, perhaps an updated sticker could be placed on those materials, but he believes the materials on-hand will all be used by July 1.

**Senator McKenzie** asked, "What are the enforcement mechanism and the penalty for exceeding the allowable sound level?" Mr. Wells reported, we rely upon other agencies, such as the county sheriffs' departments. We proved them with training and decibel meters. He believes the penalty is about \$50. We have not had a lot of enforcement on violators. The Forest Service and the Department of Lands do help with enforcement.

**MOTION:**

**Senator Noble** moved to send SB1129 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion. The motion was carried by a unanimous voice vote.

**S 1130**

**Brett Madron**, also presented SB1130 and explained, currently Idaho Code requires children under the age of 18 riding upon Idaho's roads on a motorbike to do so with a helmet. This law, however, fails to address those same children when they are riding upon on ATV, or when riding on one of Idaho's many trails, with either an ATV or motorbike.

This is especially alarming when we look at the ATV/motorbike fatality information I have provided to you. We feel it is imperative to protect our youth regardless of where or what they are riding. While I don't think it is generally the responsibility of the government to tell people how to tend to their children, I also don't think the penalty for failing to do so should be death or serious injury to a child. This is a situation where common sense should prevail, but sadly it is all too common to see children across Idaho riding without a helmet, and often without supervision.

In 2003, three of the twelve ATV fatalities in Idaho were children under the age of 18. As sad as this was, we were actually fortunate that the numbers weren't higher.

The Consumer Product Safety Commission shows that roughly 32 percent (32%) of the national fatalities were operators 16 years-of-age and under, yet ATV operators under the age of 16 only constitute about 14 percent (14%) of the total number of ATV operators.

The rate of injuries has and will continue to rise as OHV use increases, but enacting a helmet law that encompasses all children will help to prevent the death toll from rising at the same alarming rate.

This revision to the law will not have any impact to the General Fund of the State of Idaho. There will be a slight cost to replace informational

brochures printed by the IDPR. This cost is estimated at \$10,000 and would be funded from the ORMV sticker fund or OHV Fund.

In your packets, I have included information from Idaho Department of Parks and recreation on the increase in OHV users. I have also included various letters of support from other user groups and concerned groups and individuals. (See comments on page 3, letters from Griffith and Alexander and attachments #1 and #4).

**Katie Whither**, a representative of the Association Students of the University of Idaho, briefly testified to support S1130.

**Po Huang, M.D.**, an emergency medical physician from Saint Alphonsus Hospital, testified to support the legislation, and he distributed a summary relating to ATV and motorcycle crash data for 2003-2004. The summary chart outlined the total ATV crashes, and the total motorcycle/motorcross crashes in Idaho. (See attachment #3).

**Judy Bartlett**, Director of Public Affairs, Idaho Farm Bureau, testified the agency is aware of the proposed amendment and would be happy with the amendment. The agency does not believe the bill, as written, is practical nor enforceable on private property. She urged the committee to amend S1130.

**Allyn Dingel**, a representative for State Farm Insurance, testified to support S1130.

**Lyn Darrington**, a representative of Regence Blue Shield of Idaho, testified to support SB1130.

A general discussion was held about the specific intent language pertaining to farmers and ranches, and requirements for helmets for children, private property, good education and enforcement presence, re-authorize Forest Services employees to enforcement traffic laws.

**MOTION:**

**Senator Keough** moved to send S1130 to the 14<sup>th</sup> Order with a Do Pass recommendation. **Senator Marley** seconded the motion.

Discussion: **Senator Noble** stated he has not seen the amended language, but he would ask that any and all agricultural activities be eliminated from the bill. **Senator Brandt** explained that **Senator Langhorst** would be responsible for the amendment. **Senator Noble** agreed to work with **Senator Langhorst** pertaining to the amendment.

The motion was carried by unanimous voice vote.

**S 1131**

**Senator Broadsword**, District 2, presented S1131, relating to pedestrians and bicycles. This legislation will amend Section 49-720, Idaho Code, to provide stopping requirements at a steady red traffic control light for persons operating a bicycle or a human-powered vehicle. The amendment clarifies that a bicycle must stop at a red traffic light and yield to oncoming traffic. It does not change the current law regarding making a right-hand turn or making a left-hand turn onto a one-way street. This proposed amendment is designed to make the road safer for bicyclists. There will be no impact to the state General Fund or local

governments.

**MOTION:** **Senator Langhorst** moved to send S1131 to the floor with a Do Pass recommendation. **Senator Keough** seconded the motion. The motion was carried by unanimous voice vote.

**HCR 11** **Representative Roberts**, District 8, presented House Concurrent Resolution No.11. This legislation states the findings of the Legislature and rejects a pending rule of the Idaho Transportation Department governing overlegal permittee responsibility and travel restrictions, that is not consistent with legislative intent and should be rejected. The effect of this resolution, if adopted by both Houses, would be to prevent the agency rule from going into effect. HCR11 relates to IDAPA 39.03.11, Section 200, subsection 06 only, pertaining to heavy commuter traffic restrictions. There is no fiscal impact.

**MOTION:** **Senator Keough** moved to send HCR11 to the floor with a Do Pass recommendation. **Senator Geddes** seconded the motion. The motion was carried by unanimous voice vote.

**H 144** **Representative Roberts**, District 8, also presented HB144. This legislation related to highway construction danger zones, and will amend Sections 49-104 and 49-657, Idaho Code. This amendment is to remove the term "CONSTRUCTION DANGER ZONE" and replace it with "work zone." Section 49-657, Idaho Code, is being interpreted as requiring the installation of signs with the nonstandard logo "CONSTRUCTION DANGER ZONE" with "work zone" will bring the signing into conformity with the Manual on Uniform Traffic Control Devices (MUTCD) and standards of the Idaho Transportation Department. There is no fiscal impact to the General Fund.

**MOTION:** **Senator Langhorst** moved to send H144 to the Consent Calendar with a Do Pass recommendation. **Senator Marley** seconded the motion. The motion was carried by unanimous voice vote.

**H 181** **Representative Roberts**, District 8, presented H181, relating to size of motor vehicles and load restrictions. This legislation will amend Section 49-1010, Idaho Code, to conform Idaho law with federal regulations regarding dromedary tractor/trailer combinations transporting munitions for the U.S. Department of Defense and regional standards for measuring rear overhangs.

**Alan Frew**, Port of Entry Manager for the Idaho Transportation Department (ITD), submitted the following information relating to HB181.

This legislation addresses two issues:

**1. Dromedary Tractor/Trailer Combinations in Munitions Transportation:**

Currently, Idaho restricts non-stinger steered dromedary vehicle combinations to 65 feet overall length. In June 2003, the Federal Highway Administration issued a final rule (FHWA Docket #FHWA-2001-11819) that defined "dromedary unit" and

specified that, in the case of munitions carriers using dromedary equipment, "No state shall impose an overall length limitation of less than 75 feet on the combination while in operation." This proposal will legalize dromedary tractor/trailer units, up to 75 feet overall length, when transporting munitions for the U.S. Department of Defense.

## 2. Measurement of Rear Overhang:

Idaho participates with other western states in a Western Regional Permit Program. The other states that are our partners in this process use a different standard for measuring a rear overhang, that is: from the end of the vehicle rather than from the center of the last axle as Idaho specifies. Consequently, when a carrier wishes to permit vehicles with overhang in other jurisdictions the overhang must be re-measured using our non-conforming standard. This proposal will modify vehicle overhang restrictions to bring us into uniformity with other western states. By harmonizing Idaho's rear overhang measurement with that of other jurisdictions we will improve customer service by streamlining the process to obtain overlegal permits from those jurisdictions.

There is no fiscal impact to the state or to motor carries.

A letter from the Governor's Motor Carrier Advisory Committee Chairman **Jack A. Buell**, dated January 24, 2005, was submitted, as follows:

On December 16, 2004, a quorum of the Governors Motor Carrier Advisory or Committee met and considered proposed legislation presented by the Idaho Transportation Department. The committee unanimously approved the following proposed legislation:

Port of Entry "Cleanup" Legislation: This legislation is drafted to amend section 49-511, Idaho Code, to clarify those vehicles required to stop at ports of entry; amend Section 49-434A to provide consistent penalties for commercial vehicles that fail to register; amend Section 49-1013 to further clarify that weight penalties apply to vehicles that fail to register or exceed registered weight; amend Section 49-1010 to legalize dromedary tractor/trailers up to 78 when transporting munitions for the Department of Defense; and amend Section 49-1010 to modify vehicle overhang restrictions.

The Motor Carrier Advisory Committee believes that these changes to Idaho Code will positively affect motor carrier safety and compliance while enhancing our nation's security. We respectfully request that you and your Transportation Committee accept and approve this legislation as proposed by the Idaho Transportation Department. (See attachments 5, 6, and 7)

### **MOTION:**

**Senator Keough** moved to send H181 to the Consent Calendar with a Do Pass recommendation. **Senator Little** seconded the motion. The

motion was carried by unanimous voice vote.

**S 1128**            **Senator Brandt** announced the sponsor of S1128 requested it be held in the committee. This legislation related to inverse condemnation.

**MOTION:**        **Senator Keough** moved to hold S1128 in the committee. **Senator McKenzie** seconded the motion. The motion was carried by unanimous voice vote.

**ADJOURNED:**    There being no further business to discuss, the committee adjourned at 2:29 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, March 3, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman Brandt, Senators Keough, Geddes, Little, McKenzie, Noble, Marley, and Langhorst
- MEMBERS ABSENT/ EXCUSED:** Vice Chairman McGee
- MINUTES:** **Senator Little** moved to accept the minutes of Tuesday, February 22, 2005. **Senator Geddes** seconded the motion. The motion was carried by unanimous voice vote.
- S 1159** **Chairman Brandt** announced this legislation, SB1132, would be held in the committee at the request of the sponsor. **Senator Langhorst** explained they have developed improved language; therefore, a new RS (Route Slip) will be printed soon.
- MOTION:** **Senator Langhorst** moved to hold S1159 in the committee. **Senator McKenzie** seconded the motion. The motion was carried by unanimous voice vote.
- H 102** **Representative Wood**, District 35, presented House Bill 102. This legislation relates to the Department of Parks and Recreation seeking an agreement with the Idaho Transportation Department on legal crossings of all-terrain vehicles and motorcycles over state highways on designated trail routes.
- She referred to page 3(4) of H102 for a summary description, which reads:
- (4) The Idaho transportation board may designate sections of state highways over which all-terrain vehicles and motorcycles not registered under this chapter 4 may cross. The requirements of title 18, and chapters 6, 8, 12, 13, and 14, title 49, Idaho Code, shall apply to the operation of unregistered all-terrain vehicles and motorcycles when using designated crossings on state highways.
- MOTION:** **Senator Langhorst** moved to send H102 to the floor with a Do Pass recommendation. **Senator Marley** seconded the motion.
- Discussion:** **Senator Geddes** asked, "By designating specific crossing points for ATVs that are unregistered, does that make it illegal for an unregistered ATV to cross at other locations?" *Representative Wood explained, No, not to her knowledge. That matter had been talked about,*

but it had to be a specific type vehicle and would only involve state highways.

**Julie Pipal**, Manager, Office of Budget, Policy and Intergovernmental Relations for the Idaho Department of Transportation (ITD), explained that anyone wishing to designate a specific crossing should contact the ITD board. The intent of this legislation is to allow ITD to work with the Idaho Department of Parks and Recreation to establish specific locations. This will amend Idaho Code.

**Senator Brandt** asked, "Is it currently illegal for an unlicensed off-road vehicle to cross a state highway?" Ms. Pipal explained there is one exception, a section of code pertaining to snowmobiles. Snowmobiles do have different sections of code.

**Senator Geddes** stated he is uncertain how this legislation will be enforced. His family owns a farm and has property on both sides of Highway 91. He does not know if those ATVs are registered, or if they have to be, as they are operated on private property. Ms. Pipal explained those (ATVs) are not registered for roadways. They are registered through the Department of Parks and Recreation. She believes those ATVs would be exempt.

**Senator Geddes** has several concerns about this legislation. After reviewing this legislation, he does not see those exemptions listed in this proposed legislation. He again emphasized several concerns about this legislation as those unregistered vehicles will be crossing state highways.

**Representative Wood** explained, this legislation was done as a group of ATV riders have planned a trip in the Big Horse area, and during the trip ATVs would need to cross a highway. They wanted to ensure ATVs could legally cross roads so the riders would enjoy the trip.

**Robert Meinen**, Director, Department of Parks and Recreation, explained there are exemptions for animal husbandry, and other related agricultural activities, elsewhere in Code that does exempt those vehicles. That, basically, is a wide-ranging exemption, and this legislation only identifies those registered for recreational purposes.

**Ms. Pipal** reported that ITD does not register a vehicle used for agricultural use. They would be able to conduct work, and would not have to be registered through the Idaho Parks and Recreation. ITD does not register those vehicles for road use. She explained that ITD worked more than a year with Parks and Recreation on this legislation, and part of what ITD is trying to do is improve safety by directing people to designated areas for crossing.

**MOTION VOTE:** A vote was taken on the motion made by **Senator Langhorst** and seconded by **Senator Marley**. The motion was carried by voice vote. **Senators Geddes and Little** voted "No."  
**Senator Langhorst** agreed to sponsor S102.

**H 146**

**Representative Wood**, District 35, presented House Bill 146. This

legislation is to correct a segment of an original route of the trucking pilot project map. It was designated five (5) miles south, and should have been 2.5 miles north in Bonneville County. This legislation corrects that mistake. There is no fiscal impact to the General fund.

**Senator Brandt** informed the committee he had been heavily involved in putting together a one-time 10-year pilot trucking project, He does see where the road description is in error. He explained, this bill deals with the original pilot project, but other legislation will soon be following.

**Senator Langhorst** explained, in this bill, in the SOP (statement of purpose), it seems to be reducing the total number of miles. Is that true? *Representative Wood explained the only change is to add the 2.5 miles north. This is only to correct the original mistake she made.*

**Senator Keough** explained she is pleased the committee continues supporting the original 10-year trucking pilot project.

**MOTION:** **Senator McKenzie** moved to send H146 to the floor with a Do Pass recommendation. **Senator Marley** seconded the motion. The motion was carried by a voice vote.

**Senator Geddes** voted "No."

**Senator Davis** had previously agreed to sponsor H146.

**H 147**

**Representative Wood**, District 35, also presented House Bill 147, relating to the Multi-State Highway Transportation Agreement (MSHTA). This legislation would amend Idaho Code 49-1901, a section that has been in law since 1975, to conform with a change in bylaws regulating the Multi-State Highway Transportation Agreement of eleven (11) western states. The change is to provide for two votes from each state in the "cooperating committee." The Senate chairman of Transportation and the House chairman of Transportation and Defense, or their "designated representatives," would be the voting members. This legislation would further the objective of uniformity in transportation laws and regulations for the western states in pursuit of efficient, safe, and increased productivity of moving goods across state boundaries.

**Representative Wood** referred to page 3, section 1 and read: Each participating jurisdiction shall have two (2) designated representatives. Currently, Idaho only has one vote. She also described each state's annual published report, and the Highway Watch Program that is part of Homeland Security. Homeland Security has the trucking industry on a highway-watch for contraband or a threatening nature.

Representative Wood outlined several topics the committee discusses at the meetings, i.e., fuel tax evasion; trucking security, especially those carrying explosives; wild life warnings on vehicles; weigh-in motion and what different states are doing, such as special fuel tracking, etc. Things that we can do in a cooperative effort, to help move our goods across state lines more efficiently and most cost-effective.

She requested the committee to pass this legislation to amend Idaho's

statute, and have those statutes be the same as other states in the agreement.

**Senator Keough** asked about the reason for deleting the language on page 1, lines 36-39. What is the effect of deleting that language?

~~(e) The 1956 provision of federal law, (23 U.S.C. 127), though long outmoded, remains in effect depriving states of interstate matching money if vehicle weights and widths are increased, even though the interstate system is more than eighty per cent (80%) completed. and~~

**Representative Wood** explained, that language is addressed in another area of the bill. Also, it was originally understood this was one of the recommendations, and not the only sentence that we would take out.

**Senator Marley** explained he has no problem increasing the voting to two voting members, but there seem to be all sorts of change that do not follow the idea that we are just adding two voting members to the committee. He is confused about this bill as it is written.

**Senator Brandt** explained he was not initially involved, but Chairman Wood has been educating him about the MSHTA program. **Senator Marley** explained he has no problem with the program - his problem is with this legislation. He asked, "Why are there so many changes?" There are changes in funding, and things being deleted and crossed-out, yet all we are trying to do is get an extra voting representative added to this agreement.

**Representative Wood** reported that after we did the study, it was recommended changes for the statutes in each state, in order to be uniformed in the suggestions on the proper way we should operate. The law has not been changed since 1975; therefore, we have more into the future-type changes that should be made as to how we operate on the highways.

She stated, if the chairman could not attend the meeting, he could designate one of his committee members to go as his representative to make the vote. She also referred to and read about the statutory weight of 80,000 pounds (page 4(b)).

She also read on page 4(1), line 54 of the bill, Establish transportation laws and regulations to meet regional needs and to promote an efficient, safe and compatible transportation network; (2) Develop standards that facilitate the most efficient and environmentally sound operating of vehicles on highways, consistent with and in recognition of principles of highway safety; (3) Establish programs to increase productivity and reduce congestion, fuel consumption and related transportation costs, and enhance air quality through the uniform application of state vehicle regulations and laws.

**Senator Marley** clarified, basically, this is a transportation agreement between the states, and what we are trying to do is to make all these agreements look alike, as much as possible, in all eleven (11) states.

**Representative Wood** agreed, and also to give Idaho two votes.

**Senator Keough** and **Representative Wood** held a lengthy discussion about several sections of H147, such as, page 1, line 21, “do mutually agree as follows;” page 3, line 52, “objectives of the participating jurisdictions;” and on page 4, “those objectives include.”

**Senator Keough** asked, “Does this bind Idaho inappropriately?”

**Representative Wood** stated, “not any more than the present law does now.” She read, on page 4, line 49, The cooperating committee may recommend that the participating jurisdictions jointly secure congressional approval of 129,000 pound trucks. **Senator Keough** asked, “could that happen without the full Legislature of Idaho weighing in on whether or not that is appropriate policy - to be going to seek congressional approval?” **Representative Wood** stated, not unless we, as the participating voting members of our state, would bring that message from our state. We would not have to agree to that, if we did not agree with it. It would not be a compact agreement.

**Senator Keough** asked, “What would happen if Idaho was the minority vote?” **Representative Wood** reported, it cannot be a designated agreement, if we do not all agree.

**Representative Wood** explained the membership is only \$45,000 per year. This compact agreement only asks \$5,000 as a participating member.

**Senator Geddes**, as well as other committee members, again emphasized numerous concerns and questions about this legislation, such as:

- The relevance between how much the state of Idaho pays to the members of the NCSL (National Conference of State Legislators) and MSHTA.
- Page 3, line 37-38, section 2, “No action of the committee shall be approved unless a majority of the total”- where does it say they will not go to Congress excepting where all members agree?
- What would happen if this legislation did not get approval? (Idaho would be under represented in the MSHTA, and would not have the voice that other states have and enjoy).
- Previously, this committee did vote not to support the compact because of all the bylaws not being followed.
- Article IX, section 1, page 5, lines 39-42, require actual costs. Funds for the administration of this agreement, including participation in the cooperating committee and the actual expenses of the designated representatives, shall be budgeted or expense as determined appropriate. The fiscal statement reads “no increased cost to the general fund.” It appears there could there be some cost to the state of Idaho.
- Article VI, page 5, provides participating jurisdiction may withdraw from this agreement at any time, and previously the

- Senate did vote to withdraw from the MSHTA.
- Article IX, line 41 reads, “shall be budgeted or expensed as determined appropriate.”
- Article III, section 5, lines 55, and page 3, lines 1-3, “Interpretation” - The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.
- Page 3, section 6, lines 4-8, “Amendment - This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to the requirements of section 4, article III. Any amendment shall be placed in writing and become a part hereof.

**Representative Mary Lou Shepherd**, District 2, briefly testified to support House Bill 147, and she urged the committee to support the bill to increase the voting members for Idaho.

**Skip Smyser**, an attorney, testified on behalf of his client the Idaho Trucking Association, to support H147.

**Senator Geddes** asked about the outcome if this legislation does not pass. Mr. Smyser explained, Idaho would continue with only one voting member.

**Senator Keough**, as well as other members, again emphasized concern about this legislation as it does more than just increases the number of voting members.

**Representative Wood** explained that each year leadership of the committee changes from state-to-state, and this year she will be the MSHTA committee secretary. Year-to-year, different states host the annual MSHTA meeting, and the committee has asked Idaho to host the annual meeting next year. She hopes the Senate will help be the host to the MSHTA. The Couer d’Alene Resort has been contacted and asked about reservations, and what type of programs would be offered. She asked the committee to give us the opportunity to be full voting members, and to make this work to the benefit of the state of Idaho by helping amend Idaho’s statutes. She would truly like to have the Senate be part of the committee, and for Idaho to have two voting members.

**Senator McKenzie** explained that Idaho is a small populated state among other states that are members with larger populations, and having two votes will give us a larger vote than we would have based on population. It seems this organization will be making decisions and recommendations regardless of whether or not we have two votes or not. Nothing that it does can bind us to allocate money or to change laws in our state, or that would bind our congressional delegates to pass laws or raise budgets irresponsible to us. He believes it could be worthwhile for Idaho to have another voice at the table.

**Senator Geddes** reported that if we participate we should pay our

share, but he is concerned that “our fair share” may be determined by others rather than the Joint Finance Committee. The fiscal impact statement is correct - it will not increase costs to the general fund. This will be paid out of the Senate budget. He asked, “Who determines the costs - us or the cooperating committee?”

**Skip Smyser** stated he believes it would be an unlawful delegation of legislative authority to give spending authority to any other group other than yourself. Therefore, the plain and clear intent is, as with any other committee or national entities, it would go through the Office of the Pro Tem, and have to be authorized by the Senate Pro Tem as an appropriate expenditure, on behalf of the Idaho State Senate.

**Representative Wood** explained that everyone attending a meeting pays their own expense for lodging and registration, etc. The House does reimburse her for her expenses, and the Senate would determine if to reimburse their senator. There is no binding on the reimbursements.

**MOTION:**

**Senator Marley** moved to send H147 to the floor with a Do Pass recommendation. **Senator Geddes** seconded the motion.

DISCUSSION: **Senator Geddes** explained he has grave concerns about this legislation, what we are getting into and what it obligates the state of Idaho to be involved in. This organization, MSHTA, has been operated very loosely, but he does believe there have been some improvements made through a total reorganization of the structure. We need to make sure they follow parliamentary procedures, making sure those people who are authorized to attend are the only ones who vote.

He seconded the motion as he is willing to provide another opportunity for Idaho to participate, but this committee, the Senate Transportation, should be very diligent in reviewing the report provided to us annually. If and when we find this is not representing the interest of Idaho, we could expect support from this committee. Our voice should be heard in organizations like this, and he seconded the motion in an effort and willingness to allow a probationary period to be established.

In hosting the MSHTA committee's function next year, the state of Idaho will not be responsible for any expenditures impacting the Senate budget, without prior approval and authorization.

**MOTION VOTE:**

The motion was carried by a voice vote. **Senator Keough** voted “No.”

**ADJOURNED:**

There being no further business, the committee adjourned at 2:45 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

MINUTES

**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, March 8, 2005  
**TIME:** 1:30 p.m.  
**PLACE:** Room 426  
**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Marley, One Seat Vacant  
**MEMBERS ABSENT/ EXCUSED:** Senator Langhorst

No regular business meeting was conducted on Tuesday, March 8, 2005.

The committee members, along with members of the Idaho House Transportation and Defense Committee, toured the Boise Airport (BOI) facility for an update about security issues, the new Air Traffic Control Tower, and the new terminal construction that allows a state-of-the-art baggage security system. They were also provided a first-hand look at the current air traffic control tower concerns, and a view of the future plans when the construction on the tower has been completed.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, March 10, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Marley, Langhorst, and One Vacant Seat

**MEMBERS ABSENT/ EXCUSED:** None

**GUESTS:** Retired Idaho Secretary of State Pete Cenarrusa and his wife. Also, see the attached sign-in lists.

**MINUTES:** **Senator McKenzie** moved to accept the minutes of Tuesday, March 1, 2005. **Senator Keough** seconded the motion. The motion was carried by unanimous voice vote.

**S 1180** **Carl Bianchi**, Director of Idaho Legislative Services, presented S1180. This legislation relates to the Special Capitol Restoration Motor Vehicle License Plates created in 2001, to help fund the restoration of Idaho's Capitol building. The special Capitol restoration plates were to have been retired when the Capitol restoration was completed.

This bill would not create any new license plates. Since renovation of the Capitol building has been delayed, there is a need to extend the duration of the special Capitol restoration license plates. The bill simply would allow individuals to continue to purchase these existing license plates until December 31, 2012. The special restoration plates have proved to be very popular with the public, and have produced needed revenue to carry out interim repairs to the Capitol building. More than 1,500 people a year are contributing voluntarily to the Capitol restoration effort by purchasing restoration license plates. These continuing revenues will be needed when the full restoration of Idaho's Capitol goes forward.

This bill has no fiscal impact on the general fund or any local government funds. Sales of special Capitol restoration license plates are producing more than \$30,000 each year in dedicated funds that can be used for Capitol building repairs. Fees for special plates are entirely voluntary on the part of purchasers. There are no additional expenses for producing the special plates as a result of this bill, and the current statutory plate fees include the cost of administration of the program by the Idaho Department of Transportation.

**MOTION:** **Senator Keough** moved to send S1180 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion. The motion

was carried by a voice vote. **Senator Little** voted "No."  
**Senator Keough** will sponsor the bill.

**S 1179**

**Ronald Shepard**, who currently works for the State Department of Education, presented S1179. He explained that I am the coordinator of the Motorcycle Safety Program; known as STAR (Skills Training Advantage for Riders), which is located under agreement with the Department of Education, at Boise State University.

I am here in support of S1179, which would provide a much needed increase in funding for the STAR program.

The STAR program was created in 1996, and since then has grown almost 600 percent, or an average compounded rate of 22 percent per year, with no increase in the base funding. Our expenses, during the same period, have increased by an average compounded rate of only 7 percent, which reflects the efficiencies and belt tightening that the program has experienced. In 2004, it cost the program an average of \$221 to train each student, while the tuition is only \$75 for the 2.5 day basic course. In addition, this training is required for those less than 21 who wish to ride. The more successful we are, the more broke we become.

Since its inception, the STAR program has trained more than 11,000 Idahoans to ride a motorcycle safely and/or improve their skills. More than 2,000 Idahoans were trained in 2004, in 191 classes, by 46 part-time instructors at 10 locations throughout the state.

Additional funding is desperately needed to meet our ever increasing demand as well as allow us to keep the tuition at a reasonable level, while allowing the program to expand to meet future needs. Specifically, additional funding is required for the following:

- I. A total of 168 training motorcycles is needed to meet our training demand. Our current fleet of 92 state-owned training motorcycles is almost 10 years old and needs to be replaced, and added to, in an organized motorcycle replacement program.
2. Staff for the program (one coordinator and one administrative staff) has remained the same since the birth of the program. The incredible growth of this complex program is exceeding the ability of the program staff to keep up, with no backup staff to assist with the ever increasing workload, or take over in the event of illness.
3. In the past, all operating facilities were provided free of charge. With the tightening of school budgets across the state, we are now being asked to pay rent for the property we use. In addition, we have been unable to pay market rates to rent private property. Yesterday, we agreed to pay a discounted rate of \$275 a day to rent a portion of the dog track in Post Falls. Our only alternative was to not offer training north of Lewiston. In addition, flat, paved areas, free of obstacles and hazards that meet our training needs of 200' x 300' are increasingly difficult to locate and secure for rider training. If we had the financial ability to pave dedicated training ranges on state property, we could

meet all future demands for rider education.

4. Section 33-4902 (3) of Idaho code states "The program shall include activities to increase motorcyclists' alcohol and drug effects awareness, motorcycle rider improvement efforts, program promotion activities, and other efforts to enhance motorcycle safety through education, including enhancement of public awareness of motorcycles." Currently, the STAR program has neither the staff nor funds to comply fully with this section.

The average annual income from driver licenses over a four-year period is approximately \$278,000 (our base funding). Income from other sources (tuition and license plates) totals an additional \$158,000 annually, for an average total income of \$436,000. Our base operating budget for 2005 is anticipated to be \$472,000, which does not include the funding of the four points mentioned earlier. Clearly, the program is financially challenged, and something must be done to ensure its continued success and growth.

The motorcyclists of Idaho have indicated that they are willing to step up to the plate and support the increase in registration fees to support the STAR program, since the motorcyclists will benefit the most from additional training opportunities.

In addition, we feel that we have made a significant impact in the reduction of fatalities and injuries. A review of all 2,530 motorcycle crashes statewide from 1996 through 2003 revealed that 92 percent (92%) of those involved had not attended a STAR training class. Further evaluation of this data indicates that STAR training is associated with a 64% reduced crash risk. There was also a 69% reduction in the risk of a fatal crash. It is estimated that if the 108 "untrained" fatalities had received STAR training, 75 would not have died. Using Federal Highway Administration (FHWA) collision cost estimates, and those 75 lives saved would equate to a savings of almost \$235 million. That's a lot of bang for the buck.

The STAR program was created by legislation signed on March 30, 1994, and a coordinator was hired September 1, 1995. Prior to the program startup, 28 novice students and 40 experienced riders were trained statewide in 1995.

#### 1996-2004 Facts:

- Eleven training sites have been established and maintained.
- A total of 79 training motorcycles is owned by the state.
- An average of 45 motorcycles are lent to the STAR program each year.
- The program is funded through a dedicated fund (\$1 per driver's license); we have grown an average compounded rate of 22 percent (22%) per year since 1996 without an increase in our base funding.
- Twenty-three and one-half percent (23.5%) of the registered motorcycle owners in Idaho (based on 47,000 registrations) have received training during the first nine years.
- During the first nine years, 11,067 students have been trained in

- 1,155 classes by an average of 41 STAR instructors.
- The STAR program now has a specialty license plate to enhance motorist awareness and provide additional income to the program.
- A review of 2,530 motorcycle crashes statewide from 1996 through 2003 revealed that 92% of those involved had not attended a STAR training class. Further research of this data indicated that STAR training is associated with a 64% reduced crash risk. There was also a 69% reduction in the risk of a fatal crash. In addition, it is estimated that if the 108 "untrained" fatalities had received STAR training, 75 would not have died.

#### 2004 Facts:

- The STAR Program successfully launched online registration on the website, [www.idahostar.org](http://www.idahostar.org).
- STAR instructors trained 4.3% of Idaho's registered motorcycle owners (based on 47,000 registrations) during the year, setting a new training record for the program.
- A total of 2,016 students were trained in 191 classes by 46 STAR instructors who gave up their weekends to teach.
- Fifteen instructors taught 10 or more classes during the year.
- More than 5,000 calls were handled by our answering service. This does not count the thousands of calls handled by the program staff.

**Chuck Colter**, the legislative liaison for the Idaho Coalition for Motorcycle Safety (ICMS), testified to support S1179. He explained the ICMS has been here for 20 years. It was motorcyclists themselves who put together the Idaho Motorcycle Safety Program, and lobbied the program into law in 1994. The ICMS took the lead then and now.

The STAR Program has grown, rated as one of the best in the nation. The program is so successful that the funding is not adequate to keep up with the growth. Motorcyclists are electing to carry this requested funding. An admittedly unscientific survey of motorcyclists statewide recently shows that overwhelmingly the riders are in favor of this. Those who are aware of the program are totally in favor of it.

The funding of this program in this way continues to make it affordable to all. With the funding, the tuition stays at \$75.00 for the beginner course. Without this funding, the tuition would approach \$250.00. What we are asking is for you to provide the vehicle by which the motorcyclists can fund this for the benefit of all who want or need to take the training.

He submitted a package of letters of support to the committee. He also submitted a petition which included signatures of 96 citizens supporting motorcycling as a safe activity, and supporting SB1179.

#### **MOTION:**

**Senator Langhorst** moved to send S1179 to the floor with a Do Pass recommendation. **Senator McKenzie** seconded the motion.

DISCUSSION: **Senator McKenzie** informed the committee that he had participated in the STAR program while living in Maryland. It is a great program, and makes riders so much safer on the road. We, as a state, should do all we can to keep the cost of the program as low as possible to encourage participation.

The motion was carried by unanimous voice vote.

**PRESENTATION** **129,000 Trucking Pilot Project:**

**Roy Eiguren**, a representative of the Amalgamated Sugar Company, met with the committee to discuss the progress of the 129,000 Trucking Pilot project. Two years ago, the Idaho Legislature adopted legislation to establish a pilot test project throughout the state for 129,000 pound trucks. This pilot project was designed to get information on 129,000 pound trucks.

Project routes were selected based upon various commodity groups and others that indicated their use for those particular routes. He is pleased to report the project has been successful in gaining statistical data, as well as providing an economical form of transportation.

Three handouts relating to the Idaho pilot project were reviewed. Attachments #1 and #2 are the US Ecology Idaho Report: *Benefits of 129,000 Truck Routes* by Steve Romano and Simon Bell. Attachment #3 is the *Amalgamated Sugar Company Key Operating Statistics for Idaho Pilot Project*.

**Ralph Burton**, President and Chief Executive Officer, Amalgamated Sugar Company, and **Ryan Whipple**, Transportation Manager for the company, informed the committee about the success of the trucking pilot project.

The largest expenditure of Amalgamated Sugar Company is the purchase of sugar beets, and the second largest expenditure is for transportation. Last year, the company spent just less than \$93 million for transportation. Of that, about 57 percent (57%) was for shipping via rails and the rest for trucking freight.

**H 183**

**Representative Bob Nonini**, District 5, presented H183, relating to licensing of motor vehicle dealers and salesmen. The purpose of this legislation is to expand the requirement options of providing documentary evidence of vehicle ownership, for vehicles which are being held in inventory for resale by a licensed motor vehicle dealer.

The legislation amends Section 49-1613, Idaho Code, to provide that it is unlawful for a dealer to display for sale, exchange, or sell any vehicle unless the dealer has documentary evidence of his right of possession of every vehicle in his possession.

There is no fiscal impact to the General Fund.

**MOTION:**

**Senator Little** moved to send H183 to the floor with a Do Pass

recommendation. **Senator McGee** seconded the motion. The motion was passed by unanimous voice vote. **Senator Little** agreed to sponsor H183.

**H 184** **Representative Bob Nonini**, District 5, also presented HB184. The purpose of this legislation is to bring Idaho in line with all other jurisdictions practices relating to notification requirements placed upon a vehicle in which the odometer has been converted from kilometers to miles. There is no fiscal impact to the General Fund.

**MOTION:** **Senator McGee** moved to send H184 to the floor with a Do Pass recommendation. **Senator Marley** seconded the motion. The motion was carried by unanimous voice vote.

**H 187** **Representative Carlos Bilbao**, District 11, presented HB187. This legislation relates to special motor vehicle license plates; amends Section 49-402, Idaho Code, by the addition of a new Section 49-416B, Idaho Code, and establish a Basque Heritage special license plate program.

There will be no fiscal impact to the state of Idaho. The cost of design and printing will be paid by a private donor.

**MOTION:** **Senator McGee** moved to send H187 to the floor with a Do Pass recommendation. **Senator Marley** seconded the motion.

DISCUSSION: Concerns about the direction of the special license plate program, and the number of special plates being made.

The motion was carried by voice vote. **Senators Geedes and Little** voted "No."

**H 56** **Representative Kathy Skippen**, District 11, presented HB56, relating to snowmobile search and rescue. This legislation establishes a sub-account of the search and rescue funds administered by the Idaho State Police to provide a perpetual fund to defray costs of search and rescue operations which are conducted by a county sheriff's office to assist or recover lost individuals riding snowmobiles. The current \$20 fee to number a snowmobile will be increased to \$21 to fund the account. Once the fund account reaches \$30,000, the excess of the funds collected will be set aside in equal parts for the training sub-account of the search and rescue fund, and for the Department of Parks and Recreation for the purpose of snowmobile trails groomed replacement.

There will be no impact to the General Fund.

**Tom Glass**, Idaho State Sheriffs Association, briefly testified to support HB56.

**MOTION:** **Senator Keough** moved to send H56 to the floor with a Do Pass recommendation. **Senator McKenzie** seconded the motion. The motion was carried by unanimous voice vote.

**ADJOURNED:** There being no further business to conduct, the committee adjourned at

2:31 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, March 15, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Marley, Langhorst, and One vacant seat

**MEMBERS ABSENT/ EXCUSED:** None

**GUESTS:** See the attached sign-in sheets.

**MINUTES:** **Senator McGee** moved to accept the minutes of Thursday, February 10, 2005. **Senator Keough** seconded the motion. The motion was carried by unanimous voice vote.

**Senator McGee** moved to accept the minutes of Thursday, February 24, 2005. **Senator McKenzie** seconded the motion. The motion was carried by unanimous voice vote.

**S 1189** **Greg Laragan**, Assistant Chief Engineer for Operations at the Idaho Transportation Department (ITD) presented S1189, and explained this is a Highway Quick Clearance law. This legislation will amend Sections 49-662 and 49-1301, Idaho Code. There is no fiscal impact to the General Fund.

This legislation is intended to help get traffic flowing normally, as soon as possible, after non-injury accidents to reduce motorist inconvenience and minimize secondary accidents. Secondary accidents are those that occur in the traffic back-up from a previous crash.

He explained, you may recall that a similar bill was previously before you as House Bill 53. By working with the Idaho State Police, we believe we have addressed your concerns with that bill.

He referred to page 2 of the bill, paragraph (5), lines 8-14, authorizes peace officers to require removal of cargo or debris caused by a motor vehicle accident provided that:

- The accident occurs with no apparent serious personal injury or death.
- The removal can be accomplished safely.
- The removal will result in the improved safety or convenience of travel on the highway.

Paragraph (6) authorizes transportation department employees to assist in the removal of cargo or debris caused by a motor vehicle accident when directed by a peace officer.

Paragraph (7) protects peace officers or transportation department employees or others acting under their direction from liability for damage resulting from reasonable removal efforts.

Paragraph (8) makes it clear that this law does not change any of the current requirements for law enforcement to conduct an accident investigation.

The proposal requires drivers of vehicles involved in non-injury accidents to safely move the vehicle from the roadway before stopping. Drivers removing their vehicle in such manner will not be found liable for moving the vehicle. This is covered on page 2 in paragraph (2) in lines 35-49.

On page 3 we've again added the same language from the previous section to make it clear, that the legal requirements to conduct an accident investigation are not changed.

**MOTION:**

**Senator McGee** moved to send S1189 to the floor with a Do Pass recommendation. **Senator Little** seconded the motion. The motion was carried by a unanimous voice vote. **Senator McGee** agreed to sponsor this legislation.

**H 182**

**Representative Mike Mitchell**, District 7, presented House Bill 182. This legislation addresses issues relating to truck registrations. Currently, Idaho Code specifies that owners that fail to register their trucks shall have committed an infraction punishable by a fine.

Section 18-113A, Idaho Code, specified that infraction penalties shall not exceed \$100, which was an adequate penalty several years ago when vehicle registrations did not typically exceed \$120. Today, an 80,000 pound gross vehicle weight (GVW) truck is required to pay registration fees ranging from \$494 to \$3,460, so an infraction penalty provides little deterrence to companies that refuse to register their vehicles.

This proposal will specify that truck registration violations are misdemeanors, and provide consistent penalties to owners of vehicles that fail to register.

Fiscal Impact: Providing consistent penalties for registration violations will encourage greater motor carrier compliance, thereby, allowing the department to collect revenues lost to a noncompliance of registration laws. The department estimates that this change will collect approximately \$400,000 annually from revenue owed for truck registrations. The revenue would be deposited to the Highway Distribution Account as follows:

State Highway Account	57%	\$228,000
Law Enforcement	5%	\$ 20,000
Locals	38%	\$152,000

Some examples of penalties for failure to pay operating fees:

Example I: A trucking company registered its vehicle at 80,000

pounds but is found to be operating at 105,500 pounds after adding a trailer. The annual registration fees paid were \$3,360, but the carrier should have paid annual fees of \$4,660. At the discovery of a first and second offense the vehicle is temporarily permitted for the additional weight at a cost of \$50 for five days and issued a warning card to correct the violation.

At the discovery of a third and subsequent offense, the vehicle is temporarily permitted for the additional weight and cited under provisions of section 49-438 for exceeding the registered weight by 25,500 pounds. According to the provisions of Section 49-1013, Idaho Code, the judge may impose a maximum penalty of \$4,150 and six months in jail. Typically, the judge suspends all or part of the penalty and the jail time if the defendant shows proof that the vehicle is properly registered at the time of the court hearing.

Example 2: A trucking company operates its trucks on temporary registration on an occasional basis, but more frequently operates without any type of registration. Annual costs to register a commercial vehicle range from \$223 to \$5,860. At the discovery of a first and second offense, the vehicle is temporarily registered at a cost of \$90 for five days and issued a warning card to correct the violation.

At the discovery of a third and subsequent offense, the vehicle is temporarily permitted for the additional weight and cited under provisions of Section 49-434A, Idaho Code, for failure to pay operating fees. According to the provisions of Section 49-1013, Idaho Code, the judge may impose a maximum penalty of \$300 and six months in jail. Typically, the judge suspends all or part of the penalty and the jail time if the defendant shows proof that the vehicle is properly registered at the time of the court hearing.

**MOTION:**

**Senator Marley** moved to send H182 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion.

**Senator Keough** explained that she may have a conflict of interest with this legislation, because she works for the Associated Logging Contractors and some of those members may be impacted by this legislation. She also has a high number of constituents that also fall in this category, however, it is unlikely that a conflict of interest exists under Idaho's ethic codes and laws. She stated she wanted to bring this information to the attention of the committee, and for its records. This possible *conflict of interest* was duly noted by **Chairman Brandt**.

The motion was carried by a voice vote. **Senator Keough** abstained. **Senator Marley** agreed to sponsor the legislation.

**H 193**

**Representative Leon Smith**, District 24, presented House Bill 193. This legislation addresses issues relating to trucks stopping at Ports of Entry (POE). The Ports of Entry were established to ensure compliance with various sections of Idaho Code, rules, and regulations.

Currently, Idaho Code requires that vehicles with a maximum gross

weight in excess of 26,000 pounds must stop at Ports of Entry and checking stations for inspection/weighing 26,001 pounds is, therefore, the threshold weight at which vehicles are required to stop at Ports of Entry or weigh stations.

Maximum gross weight is defined in section 49-114(6) as ". . . the scale weight of a vehicle, equipped for operation to which shall be added the maximum load to be carried as declared by the owner in making application for registration . . . ."

The term "maximum gross weight" is linked to the registration of a vehicle. The Idaho Transportation Department is finding that some owners of commercial vehicles are not registering their vehicles, and using this as a loophole to bypass Ports of Entry.

This legislation will amend Sections 40-510 and 511, Idaho Code, to make a technical correction and further clarify those vehicles required to stop at Ports of Entry for inspection/weighing.

This legislation is a simple clarification of our current threshold weight at which vehicles must stop at Ports of Entry or weigh stations. The department believes that failure to correct this language will result in continuing confusion on the part of motor carriers, prosecuting attorneys, and the courts. The department has worked closely with Idaho's Deputy Attorney General and POE Supervisors statewide in developing this legislation.

**Senator Little** explained he believes his pickup truck is registered for 26,001 pounds, and has a "T" on the license. When he is pulling his trailer, does this mean he will need to stop at Ports of Entry or checking stations?

**Regina Phipps**, Vehicle Size and Weight Specialist for the Idaho Department of Transportation, emphasized that 26,000 pound registration is not for a commercial vehicle. She discussed registered gross weight, and if pulling a trailer with weight more than 26,000 pounds, the vehicle would need to stop at checking stations. She does not believe Senator Little's pickup would meet the weight requirement.

**Hal Putnam** with the ITD's Driver Services, testified that registered weight does not fit this definition. This is manufactured gross vehicle weight.

**Senator Keough** requested additional information and requested a clarification on the section of Idaho Code where this applies. She explained that Senator Little has raised an issue that needs clarification, and we need to ensure we are on target with this legislation.

After discussion by committee members about the need for additional clarification, **Chairman Brandt** rescheduled H193 for an additional hearing on Thursday, March 17, 2005.

**H 178**

**Bob Wells** presented HB178 on behalf of Representative Richard Wills who could not be present today. Mr. Wells also represented the AAA

Idaho, as well as the Child Safety Seat Coalition. The purpose of this legislation is to help prevent further personal injury and/or death to young children as they travel our highways.

It is the Coalitions opinion that all children should be secured in an age-appropriate child restraint system. House Bill 178 has no fiscal impact to Idaho, it corrects terminology and makes one technical change, which is to increase the age from 4-years of age to 6-years, and removes the weight requirement.

The reason for the removal of the weight requirement has been driven by the language in the current law, and has been interpreted to mean that no violation can take place unless the child meets both standards of age and weight. And with the data collected since the current law was enacted, we feel it important to increase the age and awareness of the importance of all children being secured in an age-appropriate child restraint system.

The data collected nationwide would suggest that motor vehicle crashes rank as the number one killer of children in America today. Aside from the agony of the loss of those children killed or injured, there is the financial cost to consider which unfortunately we all end up paying in increase insurance premiums, taxes etc.

Education and the proper use of the seats is the key. Currently, statewide through the good works of such groups as seven (7) Public Health Districts, Safe Kids Coalitions, Law Enforcement, AAA, Fire Departments, EMS units, Hospitals, Retailers, and many other safety advocates, Idaho citizens are taught how to properly use a child safety restraint system.

The Idaho Department of Transportation has developed a Child Safety website, and works to provide information and access to child safety seat checkup sites statewide.

Nationally recommended standards from NHTSA (National Highway Traffic Safety Administration) include four stages for effective restrains for children:

Rear-Facing Infant Seats (birth- 20 lbs)

Forward-Facing Toddler Seats (up to 4-40 lbs)

Booster Seats (up to 8-40 lbs and 4' 9")

Vehicle Seat Belts (8 and 4' 9")

The cost of seats retail approximately \$40.

A survey conducted by the Moore Information Group in 2003 of 403 registered voters states that more than 2 to 1 surveyed support an increase from 4 to 6 years of age.

**Jeannette Risch**, a representative for the Car Seat Coalition, testified to support HB178.

**Kyle Wills**, A police officer for the Boise Police Department, testified to support HB178.

**Po Huang, M.D.**, Saint Alphonsus Hospital, an emergency room

physician, testified to support HB178.

**Jerry Hirschfeld, M.D.**, representing Saint Luke's Hospital, testified to support HB178. (See attachment #1)

**Idaho Transportation Department (ITD)** supports this bill as a step in the right direction. It provides our youngest citizens protection by encouraging adult drivers to appropriately restrain them in motor vehicles.

#### WHAT ARE OTHER STATES DOING?

There are currently 28 states who have implemented booster seat laws, including our neighboring states-Nevada, Montana, Wyoming, Oregon and Washington.

CURRENT LAW - Idaho was one of the last states to pass a child restraint law. The law was enacted more than twenty years ago, on January 1, 1985. The law was recodified in 1988, and amended in 1995. It currently protects children up to their 4th birthday, or until they reach 40 pounds. Once they meet either one of those criteria, they are then subject to Idaho's secondary seat belt law, which requires a law enforcement officer to find another traffic violation in order to enforce the law. The first state to implement a child restraint law was the state of Tennessee in 1978.

CRASH DATA - (1999-2003) for children 4-6 shows that 9 children were killed, 80 were seriously injured, and 352 had visible injuries. Of those killed, 56 percent were not restrained at all. Of those seriously injured, 47 percent were not restrained at all. ITD's Office Traffic of Highway Safety estimates Idaho would have recorded 3 fewer fatalities, 19 fewer serious injuries, and 120 visible injuries had all these children been restrained in child safety restraints.

#### WHAT IS ITD DOING TO EDUCATE PARENTS CONCERNING CHILD PASSENGER SAFETY?

CHILD SAFETY SEATS - ITD continues to supply child safety restraints to our low income population through the Public Health Districts. COST = \$70,000 annually.

CHILD SAFETY SEAT TECHNICIANS - ITD has funded the training and support of more than 300 child safety seat technicians statewide. COST = \$35,000-\$45,000 annually.

EDUCATION USING PAID MEDIA - ITD funds an annual media campaign in conjunction with Child Passenger Safety Awareness Week each February focused on the need for booster seats. The campaigns included radio, television and billboard advertising statewide in each of the last three years. Cost = \$45,000 in 2004.

**Jim Manion**, President, AAA Idaho, submitted written testimony to support HB178. House Bill 178 would increase the age for children to be safely secured in age-appropriate car safety seats and booster seats. It

addresses weaknesses and gaps in Idaho's child restraint law. AAA and a coalition of interested companies, safety groups, citizens and law enforcement officials encourage you to vote YES on this important legislation.

About 60 percent of all states have already moved to address gaps in 20-year-old safety restraint laws. When all states enacted safety restraint laws in the mid 1980s, less was known about the nature of collisions involving small children. More than one-third of child restraint laws in this country, including Idaho's, protect children only to age 4 and 40 pounds. Unfortunately, those limited and dated laws give parents the false impression that after this age children are safety when restrained in an adult lap/shoulder belt.

Collision data prove that small children restrained in adult restraints are four times more likely to suffer serious head injuries, as well as injuries to the abdomen and spine. Parents are also less likely to restrain children at all after age 4. Between 1999-2003, Idaho recorded 9 fatalities, 80 serious injuries and 352 visible injuries involving children between 4 and 6 years old. The data reveal that nearly six in ten fatalities for children in this age group involved children who were not restrained at all, and clearly 50 percent of the children seriously injured were not restrained at all. Idaho's current law using weight and age criteria are difficult to enforce and prosecute. Its wording also leads parents to believe that children older than 4 do not need to be restrained. Clearly, that wasn't legislators' intent when the law was enacted.

Once children reach age 4 and 40 pounds, they should graduate to booster seats, which provide protection to children up to age 8 and 80 pounds. HB178 falls within the federal recommendations, prescribing age-appropriate restraints for children 6 and younger. HB178 is perhaps the most conservative, simple-to-understand approach to deal with the gaps in Idaho law. Our coalition works tirelessly throughout the year to educate parents about the proper use of child safety restraints. Millions of dollars have been spent and 300 volunteers man 100 sites throughout the state to inspect safety seats, but a key educational component must also include a better state law. We encourage you to give HB178 the GREEN LIGHT so we can reduce this needless loss of life and injuries.

**MOTION:**

**Senator Langhorst** moved to send H178 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion. The motion was carried by a voice vote. **Senator McKenzie** voted "NO." **Senator McGee** agreed to sponsor this legislation.

**H 185aa**

**Representative Bob Nonini**, District 5, presented H185, as amended in the House. The purpose of this legislation is to allow neighborhood electric vehicles to be licensed, and titled for operation on certain public roads. He has received many letters of support. (See attachment #2)

The printed bill was amended in the House of Representatives as follows:

- Page 6, line 25, delete “state”
- Page 9, line 9, delete “STATE”; line 11, delete “state”; in line 14, delete “state”; and delete lines 16, 17 and 18.
- Page 1, line 2, delete “MOTOR VEHICLE LAW AND”; and in line 12, delete “STATE.”

Operation of a low-speed vehicle on certain roadways:

- A low-speed vehicle may be operated only on streets where the posted speed limit is 25 miles per hour or less.
- A low-speed vehicle must be equipped with: Headlights, brake lights, turn signal lights, taillights, reflectors, parking brake, rearview and side mirrors, the windshield, windshield wipers, the speedometer, the odometer, braking for each wheel; seat belts, and vehicle identification numbers.
- A low-speed vehicle must be registered and insured and must display a license plate.
- Any person operating a low-speed vehicle must have in his or her possession a valid driver's license.

Definition of a low-speed Vehicle:

- A "low-speed vehicle" is any four-wheeled electric vehicle whose attainable speed is not greater than 25 miles per hour and which complies with the federal safety standards established in 49 CFR. 571.500.
- 30 of the 50 states have adopted these standards in some shape or form.
- Idaho's neighboring states include: Washington, Oregon, Utah and Nevada.

**MOTION:**

**Senator Little** moved to send H185aa to the floor with a Do Pass recommendation. **Senator McKenzie** seconded the motion. The motion was carried by a unanimous voice vote. **Senator Little** agreed to sponsor this legislation.

**H 40**

**William P. (Bill) Statham**, Project Manager, Airport Planning and Development Section, Division of Aeronautics, Idaho Transportation Department (ITD), presented HB40. There is no fiscal impact from this legislation. Mr. Statham outlined the principal points relating to HB40 as follows:

1. Amends existing law to clarify aeronautics technology by expanding the definition of "airport," changing the definition of an "airport hazard" to an "aviation hazard," changing the term "obstruction" to "hazard," and removing the specific reference to "one hundred fifty feet above the ground or water level."
2. These amendments correct current definitions to conform to Federal Enactments, Rules, and Regulations as called for in Idaho Code. (Section 21-111 )
3. The current inconsistent definition of an airport and the use of popular terms; promotes confusion in the law, provides a poor distinction between a 'public use' and 'private use' airport, and creates

confusion regarding the enforcement of some sections of Idaho Code.

4. The proposed definition of 'airport' clearly states that an 'airport' is public owned and open for public use, and should clarify enforcement of some aeronautics laws. Also, popular terms currently in use are properly included under the term 'airport.'

5. The term "airport hazard" does not potential hazards located between airports and as such does not conform to Federal Enactments, Rules, and Regulations.

6. The proposed definition of an "aviation hazard" includes potential hazards that are not close to an airport, will allow evaluation of structures in the airspace between airports, and conforms to Federal Enactments, Rules, and Regulations.

7. The term "obstruction" is undefined and can be replaced by "hazard" which is used consistently throughout this bill.

8. The requirement to evaluate structures "which obstruct the air space more than one hundred fifty (150) feet above the ground or water level" limits hazard evaluations below that level and does not conform to Federal Enactments, Rules, and Regulations.

9. Idaho regulates objects higher than 150 feet above the ground whereas the Federal Aviation Administration (FAA) regulates objects higher than 200 feet above the ground between airports. Persons wishing to build tall structures are often confused when confronting these separate requirements.

10. The Federal Aviation Administration (FAA) regulates objects shorter than 200 feet near airports whereas Idaho Code does not address hazards below 150 feet. The removal of the 150-foot limit will allow the analysis of potential hazards near airports below the 150-foot level.

11. A recent legal opinion by the Idaho Attorney General's Office states that in the case of conflicting determinations issued by a state and the FAA, cases law would support "a court ruling that the conflicting state law would be of no legal effect." Additionally, recent research has not found a compelling reason for regulating objects below the 200-foot height except those near an airport.

12. If the Bill passes, Idaho Code will have a single, consistent, definition of the terms an "airport" and "aviation hazard"; clearly define airports as a public use facility; provide the analytical flexibility needed to ensure airspace safety throughout the State; and preserve Idaho's enforcement authority to regulate hazards; eliminate potential liability from conflicting determinations; provide greater conformity with federal enactments, rules, and regulations.

**MOTION:**

**Senator Marley** moved to send H40 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion. The motion was carried by unanimous voice vote. **Senator Brandt** agreed to sponsor this legislation.

**H 54**

Due to committee members' commitments to other afternoon committee meetings, **Chairman Brandt** rescheduled HB54 to be heard on Thursday, March 17, 2005.

**ADJOURNED:**

The committee adjourned at 3:00 p.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, March 17, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Marley, Langhorst, and One seat vacant,

**MEMBERS ABSENT/ EXCUSED:** None

**GUESTS:** See the attached sign-in sheets.

**MINUTES:** **Senator Marley** moved to accept the minutes of Thursday, March 3, 2005, as written. **Senator McKenzie** seconded the motion. The motion was carried by unanimous voice vote.

**S 1190** **Senator Langhorst** presented SB1190. This legislation related to public transportation policy, and amends Chapter 5, Title 40, Idaho Code. Idaho law does not currently provide for a policy on public transportation. Public transportation includes, among others, vans, buses, and other modes of public conveyance. This legislation establishes a public transportation policy for the state of Idaho that states that public transportation services are to be provided by local or regional public and private entities. This legislation was unanimously recommended by the 2004 Interim Legislative Committee on Public Transportation and Air Quality.

There is no impact to the general fund. Services to be provided by the Idaho Transportation Department are already funded from the gasoline excise tax and federal funds.

**James S. Brooks** testified to support S1190. He explained that I am a retired public servant and live in Eagle. I have been involved with public transportation (PT) issues in Idaho for the past 14 years -first as Chairman of then Boise "Mayor" Kempthorne's Transit Advisory Committee, and for the past 11 years as a member of ITD's Public Transportation Advisory Council. Some have called me "the institutional memory of PT issues in Idaho," I'm not sure I'd go that far, but I have been directly involved in every legislative consideration involving PT -except one-since the "first" Interim Legislative Committee addressed PT in 1991. I appear today in support of S1190 as a member and representative of the statewide task force formed in 2003 to address PT challenges.

He reported that the issue of PT policy is not new. It was first raised 14 years ago when an Interim Transportation Committee, including six

members of this committee at the time, said Idaho should have a state PT policy. But it hasn't been easy as PT in Idaho is not well understood. It has been seeking its proper path for many years. But one thing we all do understand is that personal mobility in these times is almost a "civil right" for everyone, young and old and regardless of whether or not they drive.

As the state does not offer PT services on its own, you might ask: why is a state PT policy necessary? The answer is 3-fold: first-to guide the administration of PT funds passing through the Transportation Department. Secondly, to recognize that PT is largely a local planning and service responsibility with the state in support. And thirdly, to foster a partnership effort between all agencies involved to eliminate duplications in effort, enhance safety, and improve services.

I said that the issue of policy is not new. This is the fourth time it has been brought to the Legislature. After a year-long effort with statewide input from all the PT stakeholders, a recommendation on PT policy was developed by ITD and its Advisory Council, and submitted to the Legislature in 1997. Unfortunately, it was coupled with a funding provision that did not set well, and for that reason the total effort failed. In 1998, the same policy proposal was again submitted as a separate, stand-alone bill. The measure passed the House quite comfortably, and was sent to the Senate where it failed to receive a hearing-ostensibly because there was insufficient time remaining in the session. So, in early 1999 the identical bill that passed the House the year before -was again brought to the Senate Transportation Committee. It was introduced, but again never received a hearing.

So now we come to S1190 under consideration today. The proposal you have is similar to past efforts, but it has been updated to be more specific and reflect lessons learned over the years. It recognizes that Idaho is growing, that air quality and mobility are important to people and to commerce, that the needs for PT services vary throughout the state, and that they are best determined by local elements of government, business, and the public. One size does not fit all. (This provision was not in earlier versions.) The Bill says that the planning for and providing of the needed services also belongs at the local level. And it says the state-through ITD is to be in a "proactive" support role to assist local efforts and service providers. Specific support functions, some of which ITD already provides, are listed but the department has the flexibility to determine how it will carry out its support role. These functions are not "unfunded mandates" as ITD is allowed funding to support their efforts.

It is my considered opinion that PT in Idaho has simply existed too long without an officially sanctioned direction. (In the military, we used to call that "an azimuth too nowhere"). The "who does what for whom" needs to be answered. Those involved throughout the state work hard to meet PT needs, but leadership is required as with any successful venture, and the greatest assist the state can offer at this time is direction and support. PT in Idaho does not need to be regulated, but it does need local planning, some of which is being done, particularly in

the urban areas, and it needs coordination coupled with support and effective partnerships.

In conclusion, the report of the most recent Interim Transportation Committee, upon which two members of this committee sat, unanimously supports policy legislation. The PT family as represented by the Community Transit Association of Idaho supports this legislation. The Advisory Council I sit on, representing all districts of the state, has recommended adoption of policy legislation for eight years. I know of no agency that opposes this legislation. S1190 has no fiscal impact on the state general fund.

**Nancy Merrill**, Mayor of the City of Eagle, testified to support S1190.

**Fred Riggers**, representing himself, testified to support S1190.

**MOTION:**

**Senator Little** moved to send S1190 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion. The motion was carried by unanimous voice vote. **Senator Little** will sponsor this legislation.

**H 54**

**Edward Pemble**, Driver Services Manager, Idaho Transportation Department, presented H54. This legislation was scheduled for a hearing on Tuesday, March 15, but was rescheduled for today.

Some of the principal points of this legislation include the following:

Code changes are being made to bring Idaho into conformance with federal regulations as required by the Motor Carrier Safety Improvement Act of 1999. These changes were designed to enhance highway safety by ensuring that commercial motor vehicles (CMVs) are operated by safe drivers.

A new "S" endorsement is created for school bus drivers, requiring specialized skills tests, knowledge tests and application changes.

For CDL drivers, certain convictions are a consideration for determining disqualification from CMV operation, regardless of the type of vehicle being driven when the violation occurred. Disqualification periods are as required by 49-CFR (Code of Federal Regulations) part 383.

- Operation of a motor vehicle while under the influence of alcohol or a controlled substance. (disqualification)
- Leaving the scene of an accident. (disqualification)
- Refusal to submit to B.A.C. (blood alcohol content) testing. (disqualification)
- Use of a motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense of such controlled substance. (disqualification)
- Reckless driving. (Serious moving violation)

Two new disqualifications are being added as required by 49-CFR-383

for the following convictions:

- Driving a CMV while the driver's CDL is suspended, revoked, cancelled or disqualified as a result of prior CMV violations
- Driving a CMV while the driver's CDL is suspended, revoked, cancelled or disqualified as a result of prior CMV violations.
- Causing a fatality through the negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.

FISCAL IMPACTS - If not implemented:

- No further increase in Federal Motor Carrier Safety Administration (FMCSA) grant funding to the Motor Carrier Safety Assistance Program.
- Permanent loss of federal aid highway funds; 5% the first year (approximately \$6.6 million) and 10% in subsequent years approximately \$13.2 million)
- Interstate Maintenance funding.
- National Highway System funding.
- Surface Transportation Program funding.
- Substantial noncompliance can lead to decertification of Idaho's CDL program.

If implemented, programming will be completed by Transportation Department staff programmers within existing budget constraints. This legislation will have an effective date of July 1, 2005.

A copy of a letter, dated February 10, 2005 to Governor Dick Kempthorne, from Annette M. Sandberg, U.S. Department of Transportation was submitted for review. This letter relates to 15 new provisions aimed at improving the overall effectiveness of the Commercial Driver's License (CDL) program. (See attachment #1)

**Lamont Johnston**, Idaho State Police, testified to support HB54.

**MOTION:**

**Senator Geddes** moved to send H54 to the floor with a Do Pass recommendation. **Senator Marley** seconded the motion. The motion was carried by unanimous voice vote. **Senator McGee** will sponsor this legislation.

**HB 68aa**

**Dean Sandgry**, Deputy Director, Department of Parks and Recreation, presented H 68aa. This legislation was amended in the House, and relates to the governance of utility type vehicles. Idaho Code currently defines all terrain vehicles (ATVs). Recreation vehicle manufacturers have started providing larger versions of ATVs called UTVs. Because they do not meet the Idaho definition of an ATV, they cannot be registered as on off-highway-vehicle in Idaho.

Similarly, the Idaho Transportation Department will not license them for use on public roadways as they do not meet all legal requirements for highway operation. This has created an untenable situation for an ever-increasing number of users, vendors and dealers. By creating a new

class of OHV, Idaho Department of Parks and Recreation can provide a registration and a legal recreation opportunity on certain unpaved state and federal roads for this type of vehicle.

In conjunction with this change, it will be necessary to address several issues related to titling of the UTVs so as to provide protection for the owner and proper guidance for dealers and retailers that sell the vehicle.

This amendment will have no impact on the General Fund. The estimated costs of \$7,000 associated with developing this new registration program will be borne by the dedicated OHCV Recreation program.

Utility type vehicles in general are designed to carry two people, have seat belts and are equipped with roll bars. They are manufactured in two, four and six wheel drive version, and most implement a truck-type bed. They are designed to use low pressure type tires, and use regular gasoline with some designed to burn diesel. The top speed for most are 45 miles per hour.

The major uses are for recreation, hunting, farming and industrial use. Due to the number of vehicles sold in Idaho, most enforcement agencies do not know how to identify their classification. This bill would establish a classification and identify designated areas for us.

**William A. Jones**, a former state policeman and sheriff, testified to support H68aa.

**Jim Kulm**, representing himself, testified to support H68aa.

**MOTION:**

**Senator Langhorst** moved to send H68aa to the floor with a Do Pass recommendation. **Senator Keough** seconded the motion. The motion was carried by unanimous voice vote.

**H193**

**Representative Leon Smith**, District 24, presented HB193. This legislation was previously presented to the Senate Transportation Committee on Tuesday, March 15, 2005. At the request of committee members, additional clarification was needed. This is the second hearing for HB193.

**Regina Phipps**, Vehicle Size and Weight Specialist for the Idaho Department of Transportation, emphasized that, currently, Idaho Code requires that vehicles with a maximum gross weight in excess of 26,000 pounds must stop at Ports of Entry and checking stations for inspection and weighing.

This legislation amends section 40-511, Idaho, Code. It clarifies that the following vehicles are required to stop at open Ports of Entry, unless otherwise specified:

- Those registered in excess of 26,000 lbs
- Those wWeighing/hauling in excess of 26,000 lbs
- Those with manufacturers rating in excess of 26,000 lbs

Vehicles required to stop at open Ports of Entry include all vehicles in excess of 10,000 lbs hauling livestock or hazardous material. (40-511(2)), all vehicles registered in excess of 26,000 lbs, all vehicles weighing/hauling in excess of 26,000 lbs, and all vehicles with a manufacturer rating in excess of 26,000 lbs.

Vehicles not required to stop at open Ports of Entry are all vehicles not in excess of 26,000 lbs, all vehicles on passenger plates, all moving vans rented by an individual to move their own personal belongings

The Ports of Entry were established to ensure compliance with various sections of Idaho Code, rules and regulations. Our mission is to ensure consistent and uniform compliance with motor carrier laws, rules, and regulations; to provide quality assistance and information; and to assist in the preservation of the highway system and safety of the traveling public.

**Alan Frew**, Idaho Transportation Port of Entry Manager, explained that weights are rounded-off to the nearest even point, i.e., 26,000 pounds. No vehicles are registered as 26,001 pounds.

**MOTION:**

**Senator Little** moved to send H193 to the floor with a Do Pass recommendation. **Senator McGee** seconded the motion. The motion was carried by unanimous voice vote.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, March 22, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Langhorst, and one vacant seat

**MEMBERS ABSENT/ EXCUSED:** Senator Marley

**MINUTES:** **Senator McKenzie** moved to accept the minutes of Thursday, March 17, 2005. **Senator McGee** seconded the motion. The motion was carried by unanimous voice vote.

**Senator Langhorst** moved to accept the minutes of Thursday, March 10, 2005. **Senator Keough** seconded the motion. The motion was carried by unanimous voice vote.

**Senator Keough** moved to accept the minutes of Tuesday, March 15, 2005. **Senator McKenzie** seconded the motion. The motion was carried by unanimous voice vote.

**H 101aa** **Representative JoAn Wood**, District 35, presented H101, as amended, stating findings of the Legislature, and authorizing an interim committee to study human trafficking in Idaho. This legislation is to prevent further expansion of the special license plate program beyond its present status as described in Idaho Code, Chapter 4, Title 29, by adding a new Section 49-402D.

This bill, H101, was amended in the House of Representatives as follows:

On page 1 of the printed bill, line 17, delete "first" and insert "Second." in lines 18, 20 and 21, delete "2005" and insert "2006."

On page 1, delete lines 24, 25, and 26 of the printed bill.

On page 1, delete line 5 and insert "PROGRAM."

**Senator McGee and Julie Pipal**, Budget, Policy and Intergovernmental Relations Manager for the Idaho Transportation Department (ITD), briefly discussed costs and decals for collegiate special plates.

**Amy Smith**, Vehicle Services Manager, Idaho Transportation Department, submitted written testimony in regards to special plate information. She provided a package of information relating to production costs, program special plates for year 2004, special plate

programs-in-development, and Idaho's license plate categories. (See attachments #1, 2, 3, 4, and 5)

Attachment #1 - Summary of Plate Production Costs - this reflects the actual costs of production of license plates, including additional charges for special request plates, and packaging and distribution costs. The Plate Manufacturing Account receives \$3.00 per plate.

Attachment #2 - Program Special Plates, Counts and Fees for Calendar Year 2004 - this reflects the special program plates, counts and revenue amounts generated for the administrative costs going to the State Highway Account, and the revenue going to the special program accounts.

Attachment #3 - List of Persons Interested in Special Plate Development - current list of persons who have been sent the special plate development information.

Attachment #4 - Idaho License Plate Categories - this is a list of all plate programs that the department produces, including standard plates, special program plates, special requirements/eligibility plates, and those that can be personalized.

Attachment #5 - Idaho License Plate Graphics - this is a color chart of all plates that were available prior to January 1, 2005. It does not include the new Historic Lewiston Plate, the School Bus Safety Transportation Plate or the motorcycle Veteran Plate.

**Cindy Stella**, Meridian, submitted written testimony to oppose H101aa. She wrote: I am asking that you say NO to H101a, and this is why.

The Specialty License Plates have successfully generated funding for many state wide organizations, and should continue to be available for other organizations.

I as a citizen, voter, mother, and volunteer feel that this is very important, and could assist in educational funding for districts and organizations in need of additional funding.

I have been fortunate enough to have a choice as to whether or not I would like to support organizations, and feel that we as citizens should have the choice of continuing with Specialty Plates, and creating origins for them as well.

I believe that the costs for these plates have been minimal, and the rewards phenomenal. I polled a few of the organizations that already have these plates, and found that the wildlife plates depicting the Bluebird and Elk have generated more than \$2 million, and that the Trout they introduced would generate approximately \$375,000 for the non game program EACH YEAR. The Lewis and Clark plates generate approximately \$30,000 a year, and the Capitol plates generate approximately \$50,000 a year.

I feel that Senator Wood's changes, in the changes in the laws, are more personal because of the statements made in the Idaho Statesman "The

plates take up too much space at the county assessor's offices, and she's tired of seeing so many different plates." Well, there are many who view this quite differently. Just take a look at the revenues that have been generated.

I went to the ITD web page and the first thing I saw on The Idaho Publications 2004 was this:

Transforming Idaho Transportation 2004 - Idaho Transportation Department Annual Report 2004, Annual Report 2.

Idahoans are passionate about their transportation system. It is the crucial link that keeps them connected to their workplace, to commerce and service, to education and recreation, to each other, and to a global community.

When asked for input about the future of their transportation system, Idaho citizens readily respond. They have a strong vision of what that system should be and become today and tomorrow.

An inclusive and extensive vision process conducted in 2003, and adopted by the Idaho Transportation Board in 2004, provides principles that will guide the transformation of the transportation system to a new era. Idaho Transportation Future: Getting There Together, is the culmination of public meetings held in every region of Idaho that included a broad cross-section of Idaho citizens. What do Idahoans want?

1. A state-of-the-art transportation system that offers choices.
2. A system that improves Idaho's quality of life.
3. Participation in transportation decisions.
4. Achieve goals within reasonable funding.

In 2004, the Idaho Transportation Department (ITD) continued to live that vision by providing tangible products and services, operational building blocks for the system of the present and future.

So in conclusion to my point of view, I feel that this bill is taking away our choices! Just remember there is a majority out here who do enjoy seeing the different plates, and enjoy having the choice of them!

**Monica L. McKinley**, Meridian, submitted written comments to oppose HB101aa. She reported she agreed wholeheartedly with the email from Cindy Stella. Residents have the right to choose if they do or do not wish to participate in this program. If it is generating so much revenue, why should we even be discussing the loss of the plates. I think Senator Wood is being selfish, and it is not up to ONE person to decide what is best for the rest of the state. Please take this into consideration when you vote on this matter.

**Beverly Sherman**, Meridian, submitted written comments to oppose HB101aa. She wrote: As I understand it, the specialty license plates seem to be a nuisance for the county assessor's office, yet they generate plenty of extra funds for the non-profits and other organizations through which they are sponsored. It seems to me a painless way to assist

programs that need the extra funds.

How will these funds be generated if this program is discontinued? I humbly suggest that the County Assessor purchase some extra shelves or be assigned an additional closet for their office. Thank you for allowing me to express my opinion.

**Kim Hickman**, submitted written comments to oppose HB101aa. She wrote: I like the license plates and believe in the funds they generate.

**MOTION:**

**Senator Little** moved to send H101aa to the floor with a Do Pass recommendation. **Senator Geddes** seconded the motion.

DISCUSSION: A brief discussion was held about the following:

- A policy issue change should be voted on by the full Senate.
- Impact, if any, upon law enforcement officers to view special license plates. Is it harder to read a special license plate than a four or eight digit plates?
- The program is a good way to voluntarily raise funds for good organizations without using taxpayer dollars.
- The need to determine who will benefit from the special license plate program, and how special license plates are done.
- Several aspects of the program may need to be reviewed.

A Roll-Call vote was taken, and the motion to send H101aa to the floor with a Do Pass recommendation passed with a vote of 5 Ayes, 2 Nays, 1 absent, 1 vacant seat. **Senator Little** will sponsor this legislation.

**H 322**

**Charlie Jones**, co-owner of Stinker Stations in Idaho, presented HB322 on behalf of **Representative Mike Moyle**, District 14. This legislation relates to the taxation of motor fuels, and amends Section 63-2401, Idaho Code, to revise the definition of "gasohol" and declare an emergency.

The original definition of "gasohol" contemplated up to, but no more than 10% anhydrous ethanol blended with gasoline. With the advent of advanced technological design, some vehicles being produced today can run on 85% ethanol blends. Burning this fuel (E85) in vehicles designed for use of E85 provides greater environmental air quality benefits than vehicles burning the 10% ethanol blends. Increased production of E85 vehicles and use of E85 fuel will provide benefits to air quality.

This legislation provides the same intent as originally drafted with the inclusion of E85 fuel being eligible to receive the same tax credit as 10% blended fuel. E85 will still be limited to the 10% cap, but will be eligible to receive the same credit as 10% blended fuel. In addition, the state and federal fleet of vehicles using E85 fuel will be in compliance with federal law.

Finally, the credit will allow E85 fuel to be priced the same as, or near the same as, 10% blended fuel at the fueling station. Currently, there is only one station providing E85 fuel in Idaho. As demand increases, there will be additional stations.

Fiscal Impact - the fiscal impact to the state will be the same as providing one additional 10% blended fuel pump, around \$600 per year to the general fund.

**Julie Pipal**, Budget, Policy and Intergovernmental Relations Manager for the Idaho Transportation Department (ITD), responded to a request from Chairman Brandt for information pertinent to HB322.

Under current Idaho law, gasohol must be a blend of 10% ethanol and 90% gasoline. When blended at the 10%/90% rate, the ethanol portion of gasoline is not subject to 2.5 cents of the 25 cents per gallon Idaho fuel tax. Blends of greater or less than 10%/90% are subject to the full gas tax of 25 cents per gallon.

This bill would change the definition so that blends of more than 10% ethanol would be allowed the same fuel tax break as the 10%/90% blend. This would mean that the E85 fuel (85% ethanol/15% gasoline) would pay the same rate of Idaho fuel tax as the 10% ethanol/ 90% gasoline now sold in the state.

The Tax Commission has estimated a loss of fuel tax on about 100,000 gallons per year from the two stations (one in Boise and one in Eastern Idaho) selling E85 fuel. This would mean a total loss of about \$25,000 per year to the Highway Distribution Account. ITD would be impacted by about \$14,250 per year at current levels. There is the potential for a greater loss, but we are unable to estimate the possible shifts to E85 vehicles.

Please note there is an error in the fiscal note. It shows that the impact would be to the general fund. The impact will actually be to the Highway Distribution Account and the recipients of those funds, ITD, the Local Jurisdictions, and ISP.

Although this bill will not have a tremendous monetary impact on the department, we will continue to monitor its status and answer any questions, as needed.

**MOTION:**

**Senator McKenzie** moved to send H322 to the floor with a Do Pass recommendation. **Senator Little** seconded the motion. The motion was carried by unanimous vote.

**ADJOURNED:**

There being no further business to discuss, the committee adjourned at 2:00 p.m. The committee will reconvene at the call of **Chairman Brandt** or at the start of the second regular session of the 58<sup>th</sup> Legislature, January 2006.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, March 29, 2005

**TIME:** 8:00 a.m. **Please Note Time Change**

**PLACE:** Room 426

**MEMBERS PRESENT:** Chairman Brandt, Vice Chairman McGee, Senators Keough, Geddes, Little, McKenzie, Marley, Langhorst, and Fulcher

**MEMBERS ABSENT/ EXCUSED:** None

**GUESTS:** Representative Janice McGeachin and Senator Mel Richardson. Also, see the attached sign-in list.

**HJM 8** **Representative Janice McGeachin**, District 32, presented this legislation, House Joint Memorial 8. The purpose of this memorial is to endorse the language presented in the Congress of the United States regarding a blending bias for ethanol derived from agricultural byproducts. If this proposal passes Congress, Idaho's agricultural community will stand to benefit. There is no fiscal impact to the general fund.

HJM is a statement from the state of Idaho to Congress to support the Energy bill. She presented a letter of written support as follows:

**Kipp Hicks**, executive director of Grow Idaho Falls, Inc., dated March 21, 2005, wrote: Grow Idaho Falls, Inc. would like to show our support for the Joint Memorial regarding a blending bias for cellulose ethanol.

As we all know, the state of Idaho has a rich history in agriculture related industries. The cellulose ethanol industry could help to build on our existing agriculture assets, and at the same time help to create a new industry that doesn't already exist in this state. One project alone could help to create an estimated \$320,000,000 capital investment, create more than 500 direct and indirect jobs, and help to add to the tax base for the state.

An incentive at the national level to use agriculture waste instead of the grain portion of plants for ethanol production is a step in the right direction. It would also help reduce the United States' dependence on foreign oil, and become more self-sufficient with our energy needs.

We appreciate your tireless and dedicated support for this truly unique opportunity, and we stand ready to support your efforts. Please do not hesitate to contact us if you have any questions or concerns. We look forward to the impact that your continued support for these types of projects will have on the state, and the long-term benefits that it will bring for the citizens of Idaho, family farmers, business people and communities across the United States.

**Russell A, Hendricks**, Idaho Farm Bureau Regional Manager, Southwest Idaho, testified to support HJM8. He explained, Congress has proposed for several years now, as part of the comprehensive Energy Bill, a national renewable fuel standard.

The proposed national Renewable Fuel Standard (RFS) would require a specific amount of ethanol to be utilized as a part of nationwide fuel consumption. It does not specify that each gallon of fuel consumed contain a certain percent of ethanol, but rather that a certain number of gallons of ethanol be utilized nationwide at the discretion of the oil companies.

The past levels that have been recommended were 5 billion gallons by year 2012. Recent proposals have been for 6 billion gallons by year 2012. (Current projections indicate that we will reach 4 billion gallons of production by the end of year 2005.) The way the RFS would work is:

Oil companies would be required to cumulatively use the specified amount of ethanol somewhere in the U.S. It would be left up to the fuel companies to determine which markets used ethanol blended fuels based on air quality needs, proximity to supply, pricing, and other considerations. And, conversely, which markets the fuel companies would keep ethanol out of. As long as the minimum number of gallons are consumed, Congress does not particularly care where it is used under the RFS as proposed.

Traditionally, ethanol has been produced using grain, or other starchy or sugary food items such as potatoes, whey, sugar beets, etc. New enzyme technology has now advanced to the point where ethanol can be cost effectively produced from the residue portion of crops such as wheat and barley straw, corn stalks, switch grass, wood chips, card board, and other agricultural, industrial and municipal wastes. This is called cellulosic ethanol, or ethanol produced from the cellulose portion of plants, rather than the starch portion of plants.

Because the new technology is just now passing the pilot production facility stage, and will soon be starting into the first commercial size applications, Congress has seen fit to provide a market based incentive within the RFS to stimulate and encourage this new technology. Cellulose ethanol has the promise to provide fuel for our nation using residues left over from crop production.

The RFS, as proposed in the past, contained language that would provide incentives for oil companies to use cellulosic ethanol under what is termed a "blending bias." Under the blending bias language, if an oil company blends cellulosic ethanol produced from industrial waste or municipal landfill waste, it is credited 1.5 gallons against the RFS for each gallon it blends into the fuel supply.

If the oil company blends cellulosic ethanol produced from agricultural residues, it is credited with 2.5 gallons against the RFS for each gallon it blends into the fuel supply.

Therefore, it gets 2 and ½ % times the credit for each gallon of

agricultural cellulosic ethanol it blends into the fuel they supply, compared to using regular grain based ethanol. The blending bias provides incentive for the oil companies to use cellulosic ethanol and, therefore, creates a market for these emerging new technologies so they can gain a foothold as their technology continues to evolve and improve.

The reason Idaho is interested in this technology is that IOGEN, a leader in the field of cellulosic ethanol, is interested in siting the world's first commercial cellulose ethanol plant in eastern Idaho. IOGEN has a test facility in Ottawa, Canada that has been turning 40 tons of straw a day into ethanol for the past year. They have conducted a nationwide search in the U.S. for the best site to locate a commercial size plant, and Eastern Idaho came out at the top of the list because of the number of acres of contracted barley under irrigation which gives them a stable supply of straw upon which to depend for their process.

This proposed facility would provide jobs, tax base, increased farm revenues, and enhanced economic activity in the eastern Idaho area. It would be a fantastic signal to IOGEN Corporation for the Idaho Legislature to show support for their industry by asking Congress to continue to include the blending bias language in any future versions of an Energy Bill.

Mr. Hendricks presented two handouts for review. (See attachments #1 and #2).

**Dar Olberding**, a representative of the Idaho Grain Producers Association, testified to support HJM8. He presented a sample contract of *Idaho Straw Purchase Option Agreement*. He also distributed a publication, *Cellulose Ethanol: Clean Fuel for Today and Tomorrow*. (See attachments #3 and #4).

**MOTION:** **Senator Little** moved to send HJM 8 to the floor with a Do Pass recommendation. **Senator Geddes** seconded the motion. The motion was carried by unanimous voice vote. **Senator Richardson** will sponsor this legislation.

**ADJOURNED:** There being no further business to come before the committee, they adjourned at 8:17 a.m.

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Senator Skip Brandt  
Chairman

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Betty Osborn  
Secretary