

Senate Transportation Committee

Minutes
2007



MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, January 11, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Little, Corder, Heinrich, Malepeai, and Langhorst
- MEMBERS ABSENT/ EXCUSED:** Senator Geddes
- OTHERS IN ATTENDANCE:** The signature sign-in sheet and a copy of each rule docket will be retained with the minutes in the committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** called the meeting to order at 1:40 p.m. He introduced **Paul Blaisdell**, a Caldwell High School student, who has been assigned as the Page to the 2007 Senate Transportation Committee. He outlined several important issues that will come before the committee during the session including GARVEE (Grant Anticipation Revenue Vehicle bonding), mass transit, local option tax, and how to pay for transportation. **Vice Chairman Hammond**, in accordance with the Idaho Administrative Procedure Act (IDAPA), Chapter 52, 67-5201, Idaho Code, conducted the rules review of the Idaho Tax Commission and the Idaho State Police rules.
- RULES REVIEW: IDAHO STATE TAX COMMISSION**
- DOCKET # 35-0105-0601** Rules governing **Idaho Motor Fuel Tax Administrative** rules (IFTA) to amend Motor Fuels Rule 105, 270, 290, 292, and 400 were presented by Tax Policy Specialist **Randy Nilson**. He outlined each change in docket #35-0105-0601.
- Rule 105 - **Licensed Gaseous Fuels Distributor's Reports** - Amended changes will clarify that: 1) Only gaseous fuels delivered into the supply tank of a registered motor vehicle should be reported as taxable gallons on the licensee's gaseous fuels distributor's report. 2) Motor vehicles are registered in Idaho, not licensed. 3) All untaxed gaseous fuels delivered into the supply tank of motor vehicles must be accounted for by a licensed gaseous fuel distributor.
- MOTION:** **Senator Little** moved to adopt Section 35-0105-0601. **Senator McGee** seconded the motion. The motion carried by **voice vote**. [This motion was later withdrawn and the rule was presented in its entirety section by section.]

Rule 270 - **Refund Claims Documentation** - Amended changes include other types of refunds granted on Rule 290 that would exclude consumers from using the proration method in Subsection 06(a) and the multi storage tank method in 06(b) of this rule. The reason these consumers are excluded is because they are required to account for the tax-paid gallons placed in the supply tank of the motor vehicle. To clarify that motor vehicles are registered in Idaho, not licensed in 06(b) and 06(c) to better describe who is an IFTA licensee in 06(b).

Rule 290 **Records Required for Intrastate Special Fuels Users Claiming Refunds for Nontaxable Special Fuels Used in Motor Vehicles**: Amended change will rename "Statutory miles per gallon" to "Presumed miles per gallon" in Subsection 01(d). The miles per gallons for motor vehicles with a weight of 6,000 pounds or less needs to be lowered to reflect the actual miles per gallon this weight class achieves under normal working conditions. **Mr. Nilson** explained that only one person applied for a refund last year.

Rule 292 **Calculation of Refunds for Nontaxable Uses of Motor Fuels in Motor Vehicles** - Amended changes are to rename statutory MPG (miles per gallon) to presumed MPG to match the name in Rule 290. To clarify that motor vehicles are registered in Idaho, not licensed.

Rule 400 **IFTA Licensing and Special Fuels Permitting Requirements for Motor Vehicles Over Twenty-Six Thousand Pounds Maximum Gross Weight** - This change will add a class of motor vehicles to this rule that is currently required to obtain an IFTA license.

Theodore Spangler, Deputy Attorney General for the Idaho State Tax Commission, explained this rule deals only with fuel dispatcher requirements. The rule changes do not deal with registration requirements and do not deal with weight requirements. He discussed the requirements of vehicle licensing and permitting, fiscal impact of fuel refunding, untaxed fuels on Indian reservations, and fuel taxation.

MOTION:

Senator McGee moved to accept docket 35-0105-0601 in its entirety, noting that we had previously accepted one section of the rule, but this motion is to accept the rule in its entirety. **Senator Corder** seconded the motion. **Senator Langhorst** explained this is the first time he has seen this rule. He does not specifically have a problem with the rule except he has not reviewed it; therefore, he voted Nay. The motion carried by **voice vote**.

This rule, docket 35-0105-0601, was published in August 2006 as a proposed rule and as a pending rule in November 2006. No written comments were received.

RULES REVIEW:

IDAHO STATE POLICE (ISP)

**DOCKET #
11-1301-0601**

Rules governing **Motor Carrier Rules** was presented by Idaho State Police **Lieutenant W. L. (Bill) Reese**, Deputy Commander of hazardous materials and commercial vehicle safety. The Federal Motor Carrier Safety Agency issued a final rule August 25, 2005 revising CFR 395 (Code of Federal Regulations) "Hours of Service for Drivers." The Idaho

State Police receives federal grant MCSAP (federal Motor Carrier Safety Agency a/k/a FMSA) Funds.

Lt. Reese explained this rule, 11-1301-0601, was before the committee last year (2006) as a temporary rule and now ISP wants to make it a permanent rule.

The rule was published as a temporary and proposed rule in July 2006, and as a pending rule in September 2006.

MOTION:

Senator McGee moved to accept docket 11-1301-0601. **Senator Corder** seconded the move. The motion carried by **voice vote**. **Senator Langhorst** voted Nay.

**DOCKET #
11-1301-0602**

Lieutenant Reese also presented docket 11-1301-0602, **Motor Carrier rule**. This proposed amendment reorganizes Section 019.01 of IDAPA rule 11.13.01, which adopts motor carrier safety requirements by reference. It retains all existing language, and adds a new subsection (b) to clarify those federal safety regulations applicable only to intrastate motor carriers operating vehicles weighing between 10,001 to 26,000 pounds. This exempts those intrastate carriers from certain federal motor carrier safety regulations previously imposing unnecessary administrative burdens on this class of carriers.

Idaho began adopting the Federal Motor Carrier Regulations by reference in the Idaho Motor Carrier Rules in 1980. The rules as adopted required all intrastate motor carriers in Idaho to comply with all of the applicable regulations. As Idaho has continued to grow, the number of commercial vehicles has boomed. Many of the intrastate commercial vehicles are smaller with a gross vehicle weight rating less than 26,000 pounds. Small business owners who only have a few vehicles and rarely travel far from the town where their business is located, in many of these vehicles. The owners of these companies were required to keep the same records as a company that had larger over the road trucks that travel all over the state. As we contacted more and more of these small carriers and listened to their questions and complaints, we looked at the regulations to see if we could provide some economic relief. We wanted to provide relief from some of the regulations and still regulate safety.

Early in 2006 an Administrative Rule in the Idaho Motor Carrier Rules was modified. This rule change requires the smaller motor carriers that carry only property to comply with certain safety regulations and provides relief from other regulations. This change is beneficial to the state and the regulated community. This change will help the affected businesses economically. It relieves the affected carriers from a record keeping and paperwork burden. The regulations that must be complied with address safety. It will not affect ISP MCSAP funding or Federal highway funds the state receives.

The new rule Section 019.CARRIER SAFETY REQUIREMENTS are:

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356,365,382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one of these federal

regulations (except Section 391.II(b)(1) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3), 49 CFR Part 388.

a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b., subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.II(b)(1) for intrastate carriers).

b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392,393, and Part 396.1, 396.3(a), (a)(I), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material less than 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers).

c. The subject matter of 49 CFR 391.11 (b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code.

A summary of the 49CFR sections are:

Part 390 Subpart A - This Subpart of the regulations includes the definitions used in all Parts that follow. It also includes applicability and some exceptions for certain carriers.

Part 391- 391.15 specifically addresses drivers whose privileges to drive have been disqualified, suspended, or revoked.

Part 392 - This part covers the driving of commercial motor vehicles and the responsibilities of the drivers. It includes rules requiring the driver to secure the load being transported, drug and alcohol violations, railroad crossing requirements for vehicles transporting passengers and hazardous materials, requirements for vehicles stopped or broken down in traffic, and some specific prohibited practices.

Part 393 - This part addresses vehicle equipment and load securement. It addresses required lights, brakes, load securement, coupling devices, emergency equipment, frames, steering, and wheels. Many of the critical inspection items looked at during an inspection are addressed in this part.

The critical inspection items include brake systems, coupling devices, exhaust systems, frames, fuel system, required lights, load securement, steering components, suspension, tires, wheels, rims, and hubs.

Part 396 - Only the following sections are required to be complied with: 396.1, 396.3(a), 396.3 (a)(I), 396.3(a)(2), 396.5,396.7, and 396.9. This part addresses the inspection, repair, and maintenance of commercial motor vehicles. This part requires the owners and operators to keep the vehicle equipment in good working order and make necessary repairs. It prohibits vehicles from being operated that may cause an accident or breakdown due an to unsafe vehicle condition. It also addresses out of service vehicles and requires the carrier to sign off on inspection reports issued to their company, and return the inspection report to the Idaho State Police.

A lengthy discussion was held relating to concerns about legislative involvement and intent, fiscal impact, resources, and numerous concerns about this rule. The rule was published as temporary and proposed in July 2006 and as a pending rule in September 2006.

MOTION: **Senator Corder** moved to reject docket 11-1301-0602. The motion was seconded by **Senator Langhorst**.

SUBSTITUTE MOTION: A substitute motion was made by **Senator McGee** to hold in committee docket 11-1301-0602 and to hold its place on the calendar until a time made certain by the chairman to resolve the issues relating to the rule. **Senator Heinrich** seconded the motion. The substitute motion carried by **voice vote**.

ADJOURNED: There being no further business, Chairman McGee adjourned the meeting at 2:30 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, January 16, 2007

TIME: 1:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai

MEMBERS ABSENT/ EXCUSED: None

OTHERS IN ATTENDANCE: The signature sign-in sheet and a copy of each rule docket will be retained with the minutes in the committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file in the Legislative Services Library. (Basement E).

CONVENED: **Chairman McGee** convened the meeting at 1:45 p.m.

Chairman McGee and **Vice Chairman Hammond**, in accordance with the Idaho Administrative Procedure Act (IDAPA), Chapter 52, 67-5201, Idaho Code, conducted the rules' review of the Idaho State Police and the Idaho Transportation Department rules.

MINUTES: **Senator Keough** moved that the committee's minutes for Thursday, January 11, 2007, be accepted as written. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

RULES REVIEW: **Idaho State Police**

DOCKET NO. 11-1301-0602: Rules governing the **Motor Carrier Rules** was presented to the committee on Thursday, January 11, 2007, by **Lt. W.L. (Bill) Reese**. After discussion on Thursday, **Senator McGee** moved to hold the docket in the committee until all issues were resolved; therefore, the rule hearing was rescheduled for January 16, 2007.

Today, **Vice Chairman Hammond** explained the issues related to docket 11-1301-0602 have been resolved and a motion was now in order.

MOTION: **Senator Corder** moved to approve docket 11-1301-0602. **Senator McGee** seconded the motion. The motion carried by **voice vote**.

Idaho Transportation Department (ITD)

DOCKET NO. 39-0311-0601: Rules governing **Overlegal Permittee Responsibility and Travel Restrictions** was presented by **Regina Phipps**, Vehicle Size and Weight Specialist for Commercial Vehicle Services section with the Idaho Transportation Department. She outlined the two major proposed changes to 39-0311-0601. The first change provides a set of standard criteria that department personnel will use to determine if and when a traffic control

plan will be required, after an overlegal permit request has been made.

The second change regards high commuter traffic restrictions. The width went from 12 feet to 13 feet before high commuter traffic restrictions take affect. It also adds that loads traveling during high commuter traffic time will be required to travel in the furthest right-hand lane.

Due to ever increasing traffic volumes in and around certain urban areas 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.), this rule is being modified to restrict over-width permitted vehicles from operating on certain sections of both state and interstate highways in those specified locations. There is a minimal impact to industry since they are already subject to high commuter traffic restrictions on non-interstate state highways.

Darwin Olberding, representing the Idaho Grain Producers Association, indicated by the sign-in sheet, to support 39-0311-0601.

This temporary and proposed rule was published in August 2006, and published in December 2006 as a pending rule.

MOTION: **Senator McGee** moved that the committee accept docket 39-0311-0601. **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 39-0321-0601: Rules governing **Special Permit Fees** was presented by **Chris Engles**, Permit Program Supervisor for the Commercial Vehicle Services section with the Idaho Transportation Department.

Fees collected by the overlegal permit program are intended to cover the administrative costs associated with permit processing, issuance and enforcement. As stated in this rule (100), and as approved by the Legislature, those costs are to be borne by the permittees and not by the general traveling public. (Tax supported agencies must obtain permits but are exempt from fees). A 2005 cost study determined that administrative costs exceed permit receipts by more than \$800,000. An increase of \$15 per permit issued in this program will increase receipts by approximately \$1,000,000.

Each of the overlegal permits specified in this rule which allow movement of vehicles or loads which are in excess of the sizes or weights allowed in Sections 49-1001, 49-1002, or 49-1010, Idaho Code, will be increased by \$15 to cover the administrative costs associated with permit processing, issuance and enforcement. The majority of annual permits currently issued at \$28 would increase to \$43.

The Transportation Board is authorized to issue permits and set established fees in Sections 49-201 and 49-1004, Idaho Code.

This fee docket was published as a proposed fee rule in October 2006, and as a pending rule in December 2006.

MOTION: **Senator Little** moved to accept docket 39-0321-0601. **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. Rules governing **Milage Use Fee Administration** was also presented by

39-0222-0601:

Chris Engles. She explained the changes are needed because of the elimination of the mileage use fee, and changes references to invalid policies and procedures which are being eliminated or revised, and incorporate processes and systems. **Ms. Engles** distributed a four (4) page handout of charts including a regional costs of oversize single-trip permits, regional costs of overweight single trip permits (143,000 pounds on eight (8) axles for 200 miles), single trip overlegal permits issued, and a fiscal year 2004 permit system cost summary. (**See Attachment Charts - 4 pages**).

Idaho Permit office currently issues approximately 69,000 over-legal permits annually.

FY 2004-Idaho Permit office had \$2,743,905 in administrative costs.
FY 2004-Idaho Permit office had revenues of \$1,938,896.
FY 2004-Idaho Permit office had a shortage of (\$805,009).
Idaho Permits has a 5 year average growth rate of 5 percent (5%).

In a comparison of the surrounding states, Idaho is among the bottom in costs charged to customers for Overweight Single Permits.

In a comparison of the surrounding states, Idaho is in the middle in costs charged to customers for Oversize Single Trip Permits.

Idaho has shown a steady increase of Online annual permit purchases for size and weight.

2004 - 7,719 annual permits issued online.
2005 - 10,562 annual permits issued online.

Overweight Single Trip Permits issued:

2004 - 6,054
2005 - 7,399

Oversize Single Trip Permits issued:

2004 -13,678
2005- 16,515

Annual Permits issued:

2004 - 45,574
2005 - 47,147

The entire rule has been reorganized and updated to recognize the new method of fee payments, based on registration and permit fees, per Senate Bill 1580 (SB1580), 2000. Changes also address quarterly reporting requirements, installment payments, refunds, delinquent or nonpayment of fees, suspension or revocation of a customer account and methods of payment.

A late penalty fee of 10 percent (10%) plus 1 percent (1%) per month for failure to pay installment payments on commercial vehicle registration by the due date, and a \$40 fee to reinstate a suspended payment plan account or reinstate the customer's account for nonpayment authorized per Section 49-439(7), Idaho Code. A \$20 fee for non-sufficient fund check authorized per Section 28-22-105, Idaho Code.

This fee rule was published as a proposed rule in October 2006, and as a pending rule in December 2006.

A lengthy review of rule 39-0222-0601 was held including credit card usage and costs to Idaho, travel authorization, audit inspections, strike-out language in certain sections and paragraphs.

MOTION: **Senator Langhorst** made a motion to hold in committee docket 39-0222-0601, for the chairman's discretion, so the committee gets a chance to see the correct published pending rule, and any other information available before making a final decision on this rule. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Dennis Stevenson**, Administrative Rules Coordinator, reported an error in the publication of this rule. A corrected copy will be given to each committee member, and docket 39-0222-0601 will be reviewed on Thursday, January 18, 2007.

DOCKET NO. 39-0362-0601: Rules governing **Logo Signs** was presented by **Brent Jennings**, Highway Operations and Safety Engineer for the Division of Highways at the Idaho Transportation Department.

The purpose of this rule-making is to incorporate provisions to allow attractions, 24-hour pharmacies and "RV" friendly symbols on logo signs in addition to gas, food, lodging, and camping type sign panels.

The entire fee schedule can be found in the document incorporated by reference. See the logo coordinator contact list on-line to find a contact person: <http://itd.idaho.gov/highways/ops/Traffic/PUBLIC%20FOLDER/Policies/Logo/%20Contacts.pdf>.

This rule was published as a proposed fee rule in October 2006, and as a pending rule in December 2006.

MOTION: **Senator Hammond** moved to accept docket 39-0362-0601. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

Docket No. 39-0364-0601: Rules governing **Tourist Oriented Directional Signs** was also presented by **Brent Jennings** for the Idaho Transportation Department. The purpose of this rule-making is to incorporate provisions for "RV" friendly symbols on tourist oriented directional signs and highway signing for business facilities located in a bypassed community.

The document, incorporated by reference, has been revised to reflect the current edition, including subsequent revisions of the "Manual of Uniform Traffic Control Design" (TODS) sections of this document.

The rule-making will add a \$25 installation fee for TODS trailblazer signs which covers the cost to fabricate the sign, not the labor or materials to install. A \$50 fee for sign relocation (removal and installation). Both of these fees have been added to maintain consistency between the standards for the TODS and Logo programs. When collected, the \$25 fee will be deposited in the State Highway Account.

MOTION: **Senator Corder** moved to accept docket 39-0364-0601. **Senator Langhorst** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
39-0322-0601:**

Rules governing **Overlegal Permits for Extra-Length Vehicle Combinations** was presented by **Regina Phipps**, Vehicle Size and Weight Specialist for Commercial Vehicle Services section with the Idaho Transportation Department. She explained that this proposed rule change is being made to comply with the passage of House Bill 561a (HB561 as amended) in 2006, changing the requirements regarding the usage of single tires on axles. Except for the steering axles and lift axles, single tires will not be allowed on any axles unless the tire is 15 inches wide or wider.

This rule was published in August 2006 with an effective date of July 1, 2006. Published in December 2006 as a pending rule effective upon Sine Die of the Legislature.

MOTION:

Senator McGee moved the committee accept docket 39-0322-0601. **Senator Corder** seconded the motion. The motion carried by **voice vote**. **Senator Keough** voted Nay.

ADJOURNED:

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

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, January 18, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** Senator Langhorst
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), rules, charts or graphs will be retained with the minutes in the committee's office, Room 434, until the end of the legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:30 p.m. **Vice Chairman Hammond**, in accordance with the Idaho Administrative Procedure Act (IDAPA), Chapter 52, 67-5201, Idaho Code, conducted the rules review of the Idaho Transportation Department (ITD) rules.
- DOCKET NO. 39-0222-0601:** **Vice Chairman Hammond** explained that the rules governing **Milage Use Fee Administration**, docket 39-0222-0601, was presented to the committee on Tuesday, January 16, 2007, but an incorrect copy of the rule had been given to committee members. This rule was published as proposed in October 2006, and as a pending rule in December 2006 with approval effective upon Sine Die of the Legislature.
- Today, after committee members had reviewed a corrected copy of the rule, and with no problems relating to the intent of the rule, the following action was held:
- MOTION:** **Senator Keough** moved to accept docket 39-0222-0601. **Senator Corder** seconded the motion. The motion carried by **voice vote**.
- Senator Keough** requested information relating to the ITD audit process. The information will be delivered to her office.
- DOCKET NO. 39-0207-0601:** Rules governing **Titling of Salvage**, specially constructed and reconstructed motor vehicles, was presented by **Amy Smith**, Vehicle Services Manager for the Division of Motor Vehicles at the Idaho Transportation Department.
- She explained, the rule before you today is pending. This rule was presented to the Dealer's Advisory Board, and received the Board's support. No public comments were received on this rule-making. With legislative approval, this rule will become final and effective at the end of this session.

The changes appearing at the beginning of the rule in Section 001 were made to bring this rule into standard formatting as required by the Office of Administrative Rules. The remaining changes made to this salvage vehicle rule bring it into conformity with the changes in law that resulted from the enactment of House Bill 727 (HB727), a salvage vehicle bill from the 2006 session, which became effective July 1, 2006.

With the law change in 2006, totaled vehicles previously exempt due to older age and lower values are now included in the program so insurance companies, salvage pools, and the department are required to issue salvage certificates for these older, less valuable vehicles, and consumers are required to re file them for titles that will carry the brand, "Reconstructed Vehicle."

Prior to the changes, the Salvage Vehicle law and rule addressed only vehicles that were five-year-old or newer at the time they were declared salvage, or had a pre-incident value of more than \$6,000.

With the changes to Idaho Code 49-524 and 49-525 in HB 727, provisions are needed to bring this rule into alignment with code and provide processes for the issuance of salvage certificates and branding of titles on these older vehicles which do not require inspection by a motor vehicle investigator. Further, the changes to the rule also require dealers at the time of sale to disclose title brands such as "Reconstructed Vehicle" to customers.

This rule, 39-0207-0601, was published as temporary and proposed in September 2006 with an effective date of July 1, 2006. It was published in December 2006 as pending, and if approved, will become effective upon Sine Die of the Legislature.

MOTION: **Senator Corder** moved to approve docket 39-0207-0601. **Senator McGee** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 39-0224-0601: Rules governing "**Gray Market**" **Vehicle Registration and Titling** was also presented by **Amy Smith**, Vehicle Services Manager for the Division of Motor Vehicles at the Idaho Transportation Department.

The rule was presented to the Dealer's Advisory Board, and received the Board's support. No public comments were received. With legislative approval, this rule will become final and effective at the end of this session.

The changes appearing at the beginning of the rule in Section 001 were made to comply with the standard formatting required by the Office of Administrative Rules. Amendments made to this rule clarify ownership documentation requirements for gray market vehicles, of which we are seeing an increasing interest among the public. A gray market vehicle is a vehicle that was built in another country for use outside of the United States, and was not originally manufactured to meet federal DOT (Department of Transportation) safety standards or EPA (Environmental Protection Act) emission standards.

Once imported, they need to be brought up to those standards before they can be eligible for titling. Additionally, the applicant must prove

ownership. Legal Counsel for the Idaho Transportation Department has advised that the rule, as previously written, left a possible loophole which may have allowed someone to obtain title with only substandard ownership documents. The change closes that loophole, thereby, limiting the department's liability and protecting consumers by reducing the risk associated with stolen vehicles that can more easily be trafficked with substandard ownership documents.

This rule, 39-0224-0601 was published as temporary and proposed in September 2006, effective August 1, 2006. The rule was published in December 2006 as pending, and if approved will become effective upon Sine Die of the Legislature.

MOTION: **Senator Heinrich** moved to approve docket 39-0224-0601. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 39-0273-0601: Rules governing **Accident Prevention Course** was presented by **Ed Pemble**, Driver Services Manager at the Idaho Transportation Department.

This rule-making is necessary for compliance with Idaho Code changes in House Bill 462 (HB462), effective July 1, 2006, which lowers the age requirement to receive an insurance premium reduction benefit for taking the Accident Prevention Course, from age 65 years or older to read age 55 years or older.

The rule was published as temporary and proposed in August 2006, and published as a pending rule in December 2006. If approved, it will become effective upon Sine Die of the Legislature.

MOTION: **Senator Malepeai** moved to approve docket 39-0273-0601. **Senator Keough** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 39-0343-0601: Rules governing **Utilities on State Highway Right-of-Way** was presented by **Damon Allen**, Roadway Design Engineer at the Idaho Transportation Department.

This rule-making is to update the website address, referenced in the rule, which provides more expedient access for all interested parties to the document incorporated by reference in this rule.

The rule was published in August 2006 as temporary and proposed with an effective date of July 1, 2006. It was published in December 2006 as a pending rule, and if approved, will become effective upon Sine Die of the Legislature.

MOTION: **Senator Keough** moved to approve docket 39-0343-0601. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 1:50 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, January 23, 2007

TIME: 1:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Geddes, Little, Corder, Heinrich, and Malepeai

MEMBERS ABSENT/ EXCUSED: Senators Keough and Langhorst

OTHERS IN ATTENDANCE: The sign-in sheet(s), rules, charts or graphs will be retained with the minutes in the committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library .(Basement E).

CONVENED: **Chairman McGee** convened the meeting at 1:39 p.m. He explained that the committee will vote on the gubernatorial appointments on Thursday, January 25, 2007.

APPOINTMENTS: GUBERNATORIAL APPOINTMENTS:

Mark Sweeney, of Lewiston, Idaho, was appointed to the Aeronautics Advisory Board by Governor James E. Risch, to serve a term commencing June 21, 2006, and expiring January 31, 2009. His employment history includes being the co-owner and operator of the Sweeney Aviation, Inc.; a financial loan officer with two banks in Lewiston, and as a pilot with the Stout Flying Service in Lewiston. Mr. Sweeney is currently employed as a pilot with the Schweitzer Engineering Laboratories in Pullman, Washington.

He is a graduate of the University of Idaho with a Bachelor Degree in Business Finance. His political affiliation is Democrat.

Daniel "Dan" Scott, of McCall, Idaho, was appointed to the Aeronautics Advisory Board by Governor James E. Risch, to serve a term commencing July 12, 2006, and expiring January 31, 2011. His work experience overview is as President of the McCall Aviation, Inc., an air charter and aviation services company with facilities in McCall, Boise, Salmon, and Stanley, Idaho; Vice President, Asia Pacific Operations, a leading provider of Supply Chain Event Management software and services; Director, International Business at Starbucks Coffee Company, developed international strategic expansion plans and managed international supply chain and logistics operations, managed growth from five (5) markets and 50 stores internationally to 15 markets and 500 stores during a two-year period; Senior Manager in Andersen Consulting's (now Accenture LTD) Consumer Products business unity

with recognized expertise designing and managing complex client projects; and responsible for \$7 million P&L and 35 employees, Strategic Planning and Business Development; Director, International Supply Chain Operations; and, Senior Manager, Food and Consumer Packaged Goods. Mr. Scott has more than 22 years experience as a licensed pilot. His political affiliation is Republican.

Darrell Manning, of Boise, Idaho, was appointed as Chairman of the Idaho Transportation Board by Governor C.L. "Butch" Otter, to serve a term commencing January 2, 2007, and continuing at the pleasure of the Governor.

Mr. Manning is a graduate of Utah State University, Idaho State University, and the National Defense University. His employment and service highlights include the U.S. Air Force as a pilot; Director, Idaho Aeronautics Department; Director, Idaho Transportation Department; Adjutant General and Commanding General, Idaho National Guard; Chief, Bureau of Disaster Services; Administrator, Division of Financial Management; Interim Executive Director, Idaho Board of Education; Acting Director, Department of Health and Welfare; Special Assistant to the Governor; Member, Idaho State Board of Education and Board of Regents of the University of Idaho; and a member of the Governing Board, National Research Council of National Academy of Sciences. He has received numerous awards including the Thomas H. MacDonald Award; Transportation Research Board Distinguished Service Award; U.S. Department of Transportation Public Service Award; Federal Aviation Administration Distinguished Service Award, and the U.S. Department of Justice Medallion. He has been listed as Democrat, apolitical, since 1971.

RULES REVIEW: **Vice Chairman Hammond**, in accordance with the Idaho Administrative Procedure Act (IDAPA), Chapter 52, 67-5201, Idaho Code, conducted the rules review of the Idaho Transportation Department (ITD) rules.

RULES REVIEW: **IDAHO TRANSPORTATION DEPARTMENT (ITD):**

DOCKET NO. 39-0407-0601: Rules governing **Aerial Search and Rescue of Lost Aircraft and Airmen**, was presented by **Frank Lester**, Aeronautics Safety/Education Coordinator at the Idaho Transportation Department.

The 2005 Legislature amended Section 21-114, Idaho Code, Registration of Pilots and Aircraft, and Section 46-1006, Idaho Code, Powers and Duties of chief and bureau, by placing the coordination of search and rescue under the direction and supervision of the chief of the Bureau of Homeland Security while requiring aerial search and rescue operations be coordinated by the Idaho Transportation Department, Division of Aeronautics. Those changes are reflected in this rule-making.

The major headings 000 through 009 were reformatted to bring the sections into compliance with the Office of Administrative Rules.

No public comments were received on this rule-making.

MOTION:

Senator Corder moved to accept docket 39-0407-0601. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
39-0345-0601:**

Rules governing **Sale of No Longer Useful or Usable Real Property** was presented by **Leonard Hill**, Right-of-Way Manager at the Idaho Transportation Department.

This rule was first adopted by order of the Governor in 2005 to implement Senate Bill 1083 (SB1083) which amended existing law providing the Idaho Transportation Department (ITD) authority to dispose of surplus property to allow local government entities to acquire surplus ITD property at a negotiated price less than the appraised value. This change was codified in I.C. 58-335A, a copy of which has been provided to you. The highlighted portion of the code is the provision added by SB 1083. During the 2006 legislative session the temporary rule offered was not approved because in ITD's attempt to implement the law the order of priority for offering surplus property based on Idaho Code failed to recognize the highest priority for sale of surplus property as being the contiguous property owner if the property was valued under \$10,000. That error of interpretation is corrected by the rule before you. The rule now gives first priority to purchase surplus ITD property valued under \$10,000 to contiguous property owners. The remainder of the rule establishes the priority for sale based both on value and public or private purpose as established in code.

No public comments were received on this rule-making. The rule was published as a proposed rule in October 2006, and published as pending in December 2006. With legislative approval, this rule will become final and effective at the end of the 2007 legislative session.

This rule, if approved, would set the following priority for disposal of surplus ITD property.

1. Section 301: first, if valued under \$10,000 to the contiguous property owner or owners for the appraised price.
2. Section 302: second, surplus property will be offered at the appraised price to state agencies, then to local government entities beginning with the county, city, highway district, and lastly to other tax supported entities in which the property is located.
3. Section 303: third, if none of these entities purchases the property at the appraised price it is offered to the local government entities in the order previously described at a negotiated price up to the established fair market value. If purchased at less than the fair market value, property comes with the burden that it must perpetually be used for a public purpose.
4. Section 304: If no contiguous property owner or public entity purchases the property then it is offered at a public auction starting at the appraised price.

A copy of Senate Bill 1083 (SB1083) was distributed and reviewed. The legislation, SB1083, reads as shown:

58-335A. **OTHER LANDS EXEMPT FROM ACT.** The provisions of sections 58-331 through 58-335, Idaho Code, shall not apply to surplus real properties of the Idaho transportation department, with the exclusion of office and maintenance yard sites. The Idaho transportation board shall promulgate rules to govern the sale of surplus real properties under this section, provided that in no case shall a property be sold or exchanged for a value less than that established through the appraisal process; and provided further that surplus real property may be offered for sale or exchange to any tax-supported agency or political subdivision of the state of Idaho, other than the state of Idaho or its agencies, in whose jurisdiction the property is located, at a negotiated price not to exceed the appraised value. Such surplus property sold or exchanged for less than the appraised value must be used in perpetuity exclusively for a public purpose which shall be stated in the deed of transfer. If the stated use shall cease, the property shall revert to the ownership of the Idaho transportation department.

For the purpose of acquiring highway rights-of-way, the Idaho transportation board is authorized to exchange surplus real property of the department for other parcels of real property. In exchanging real properties, the board shall cause both parcels of real property to be appraised, and either the owner or the department shall pay to the other the difference in value.

Before the department disposes of surplus property at public sale, if the property is valued at less than ten thousand dollars (\$10,000), the department shall first notify any person who owns real property which is contiguous with the surplus property of the department, that he has first option to purchase the surplus property for an amount not less than the established value. If more than one (1) adjoining owner wants to purchase the property, a private auction shall be held for such parties. If no owner of adjoining property exercises his option to buy, the department may proceed to public sale.

MOTION: **Senator McGee** moved to approve docket 39-0407-0601. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman McGee** announced the Senate Transportation Committee has completed a review of the rules of the Idaho State Police, the Idaho Tax Commission, and the Idaho Transportation Department, for the 59th Idaho Legislature. There being no further business, **Chairman McGee** adjourned the meeting at 2:25 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Thursday, January 25, 2007

TIME: 1:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, and Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Malepeai

OTHERS IN ATTENDANCE: The sign-in sheet(s), charts or graphs will be retained with the minutes in the committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).

CONVENED: **Chairman McGee** convened the meeting at 1:34 p.m.

MINUTES: **Senator Hammond** moved to accept the minutes of Tuesday, January 16, 2007. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

Senator Heinrich moved to accept the minutes of Thursday, January 18, 2007 as written. **Senator Keough** seconded the motion. The motion carried by **voice vote**.

Senator Corder moved to accept the minutes of Tuesday, January 23, 2007 as written. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

VOTING ON GUBERNATORIAL APPOINTMENTS: **Mark Sweeney**, of Lewiston, Idaho, was appointed to the Idaho Aeronautics Advisory Board by **Governor James E. Risch**, to serve a term commencing June 21, 2006, and expiring January 31, 2009. His political affiliation is Democrat.

MOTION: **Senator Hammond** moved to support the appointment of **Mark Sweeney** to the Idaho Aeronautics Advisory Board to serve a term commencing June 21, 2006, and expiring January 31, 2009. **Senator Keough** seconded the motion. The motion carried by **voice vote**. **Senator Hammond**, District 5, will sponsor Mr. Sweeney on the Senate Floor.

Daniel "Dan" Scott, of McCall, Idaho, was appointed to the Idaho Aeronautics Advisory Board by **Governor James E. Risch**, to serve a term commencing July 12, 2006, and expiring January 31, 2011. His political affiliation is Republican.

MOTION: **Senator Heinrich** moved to support the appointment of **Daniel Scott** to

the Idaho Aeronautics Advisory Board to serve a term commencing July 12, 2006, and expiring January 31, 2011. **Senator Keough** seconded the motion. The motion carried by **voice vote**. **Senator Heinrich** will sponsor Mr. Scott on the Senate Floor.

Darrell Manning, of Boise, Idaho, was appointed as Chairman of the Idaho Transportation Board by **Governor C.L. "Butch" Otter**, to serve a term commencing January 2, 2007, and continuing at the pleasure of the Governor. His political affiliation is Democrat, apolitical since 1971.

MOTION:

Senator Keough moved to support the appointment of **Darrell Manning** as Chairman of the Idaho Transportation Board to serve a term commencing January 2, 2007, and continuing at the pleasure of the Governor. **Senator Hammond** seconded the motion. The motion carried by **voice vote**. **Chairman McGee** will sponsor Mr. Manning on the Senate Floor.

RS 16526:

RS16526, was presented by **Regina Phipps**, Vehicle Size and Weight Specialist for Commercial Vehicle Services section with the Idaho Department of Transportation. This legislation relates to **Allowable Gross Loads**; amending Section 49-1001, Idaho Code, to delete provisions allowing for pre-qualification of variable load suspension axles, and to allow variable load suspension axles to be nonsteering when not exceeding five feet from the remaining axle group.

The purpose of this legislation is to clarify when a variable load suspension (VLS) axle must be self-steering, and to eliminate the provision for pre-qualification of VLS axles.

The first proposed change would allow variable load suspension axles to not be self-steering, as long as the VLS axle is within five (5) feet of the remaining axles.

The second proposed change would eliminate archaic language authorizing the pre-qualification of VLS axles.

Currently, Idaho Code, Section 49-1001(11) requires all VLS axles to be self-steering (regardless of the location), in order for the weight on the VLS axle to be calculated into the gross vehicle or axle weight limits of the vehicle.

VLS axles are commonly used in conjunction with tandem drive axles, and on trailers to allow the vehicle to obtain a higher gross weight and/or axle weights when needed.

This proposal would only require those VLS axles more than 60 inches (5 feet) from the remaining drive axles, or trailer axles to be self-steering and harmonize Idaho's provisions with those of the state of Washington. Currently, Idaho Code 49-100(6) contains archaic language authorizing the pre-qualification of VLS axles. This proposed legislation removes that language.

FISCAL IMPACTS: There is no fiscal impact on the Idaho Transportation Department or industry.

MOTION: **Senator Keough** moved to send RS16526 to Print. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

RS 16531C1: RS16531C1, was presented by **Amy Smith**, Vehicle Services Manager for the Division of Motor Vehicles at the Idaho Department of Transportation.

This legislation, RS16531C1, relates to **Vehicle and Vessel Titles and Transitional Ownership Documents**, amending Section 49-121, Idaho Code, to revise the definition of "transitional ownership document" and to make technical corrections; amending Section 49-510, Idaho Code, to revise the process and timing for perfecting a lien, to delete provisions for processing incomplete title applications, to remove exemptions to the notarization requirement and to make technical corrections; amending Section 49-527, Idaho Code, to provide for calculation and perfection of a security interest and to provide correct terminology; amending Section 49-528, Idaho Code, to clarify a transitional ownership document to the department; and amending Section 49-529, Idaho Code, and to provide thirty (30) days to submit a transitional ownership document for acceptance by the department,

Ms. Smith explained that this proposal requests changes in order to comply with Federal Bankruptcy Code, which was amended by Congress in 2005, to allow up to 30 days for lenders to perfect a security interest in a vehicle or vessel title of ownership. This change became effective October 1, 2005.

This legislation proposes to amend Sections 49-121(7), 49-510, 49-527, 49-528 and 49-529, Idaho Code, to remove the current twenty (20) day time limit for perfecting a security interest.

The proposed changes will allow for perfection of a security interest upon proper filing of the title and lien information with the department. Bankruptcy courts will accept the lien perfection if it is made within the 30 days allowed by federal bankruptcy code. Lenders will no longer have to try and comply with differing laws. Other sections of Idaho Code exist to require all title filings to be filed with the Idaho Transportation Department within 30 days.

This proposal changes the transitional ownership document filing time limit from 20 to 30 days as well. Proposed changes also eliminate redundant lien date creation language and clarify processes, making data entry and title examination functions more efficient.

This legislation will bring Idaho Code into compliance with the new federal bankruptcy code for the purpose of perfecting a security interest in a vehicle. Idaho code needs to mirror federal code which is used for the purpose of recognition of liens for bankruptcy filings. Other amendments are also included as cleanup of current codes to match the ITD's current processes.

Currently, under Idaho Code, there is a twenty (20) day time frame from the date of sale in which a lender can perfect a security interest. Federal

bankruptcy code was amended to allow a thirty (30) day time frame to perfect a lien. The amendments eliminate redundant lien creation date language and simplifies processes, thereby, clarifying that the filing time frame for perfection of a lien is the filing date of a properly completed title application with the department. They further change the transitional ownership document filing requirement to thirty (30) days.

FISCAL IMPACTS: There will be no fiscal impact to the Idaho Transportation Department.

MOTION:

Senator Heinrich moved to send RS16531C1 to Print. **Senator Keough** seconded the motion. The motion carried by **voice vote**.

**WELCOME
ELECTED
OFFICIALS:**

Chairman McGee welcomed three distinguished Idaho city mayors who joined the meeting. **Mayor Garrett Nancolas**, the city of Caldwell; **Mayor Tammy de Weerd**, the city of Meridian; and **Mayor Kirk Hansen**, the city of Soda Springs, visited the committee.

Mayor Nancolas expressed his appreciation to the Senate Committee for allowing the cities to be a part of the decision-making process, and for allowing them to comment and participate in government.

He also expressed his appreciation for the comments made by **President Pro Tem Robert Geddes** at the Association of Idaho Cities legislative luncheon. First, on the subject of transportation, he thanked the committee members for their support given to the state for the many highway projects moving forward. Caldwell is a recipient of one of the projects, and it is moving forward. But the project not only benefits the city of Caldwell, but the entire southern Idaho transportation system will benefit by that project.

Second, we all recognize the demand on a statewide transportation system is tremendous. We know there are never enough dollars to go around. It is never an easy process to determine which projects should move forward, and which project should not. Therefore, we really appreciate the fact that the GARVEE (Grant Anticipation Revenue Vehicle) bonding program is in place and projects are being considered to move forward. This is a very, very important item for cities from a development standpoint, and certainly from a quality of life standpoint.

We need to address congestion issues that have a direct impact on air quality, and which have a direct impact on economic development and the quality of life. We appreciate the fact that these projects are being considered. We support GARVEE bonding, and hope those projects continue to move forward. Under your leadership as a committee, we believe we are in good hands.

Mayor de Weerd appreciated the opportunity to thank the committee. Transportation is a critical part in all of our communities and the entire state in moving people, goods and services. Meridian is the host of the two (2) busiest interchanges in the state of Idaho. She can provide a number of stories about how traffic paralyzes a community.

She explained that the Meridian Police Department has been tracking much of our traffic, and about 40 percent (40%) is Meridian and the rest

of the traffic is the valley. We do realize the central role we play in the Treasure Valley. We also experience the cross-traffic. During the past two years in a partnership with the Ada County Highway District and the Idaho Transportation Department, we have taken a study called "Communities in Motion" and have looked at our transportation system in a city-countywide picture. To try and better understand the role we can play in preserving the transportation corridors, looking at system improvements and how we can complement the dollars we get from the Idaho Transportation Department, our Congressional delegation, and from our state. That has been an important and critical exercise for us.

We realize the role we play at the local level. We have impact fees at the Ada County Highway District, and we certainly support other looks at revenues to being an answer to the deficit. It is not just tax dollars, it's more of the growth paying its way so we can continue to move important commerce, people, goods and services, and the impact and cost of traffic congestion and our environment. The committee plays a key and difficult role in the quality of all of our lives. It is a heavy burden, and we appreciate your diligence. We stand ready to help you in any and every way we can.

RS 16617:

RS 16617 was presented by **Senator Tim Corder**, District 22. This legislation relates to Section 49-1002, Idaho Code. This section was amended in 2006, House Bill 561aa (as amended), to enact a limit of 600 pounds per inch of tire width for wide-base single truck tires as well as conventional dual tire assemblies. In terms of this objective, the legislative action was appropriate and successful.

In another part of HB561aa, there was a provision designed to discourage the use of single tires on axles that were built for duals (unless the tires were fifteen inches or more in width) by disallowing them altogether. (Earlier control of such tire configurations employed a lower weight limit per inch of width; this approach was confusing and presented problems in enforcement). Unfortunately, it became clear shortly after the law went into effect that it went to far in that it failed to set forth a vehicle GVW (gross vehicle weight) cutoff in its application. For example, it is currently illegal to equip any vehicle with only two tires on an axle unless the tires are at least fifteen (15) inches wide; this would include a pickup truck and even automobiles. The ITD immediately announced a policy, thankfully, of a phased approach to enforcement utilizing education and warnings during the first year. But a change must be made in this session.

This legislation is consistent with the AASHTO (American Association State Highway Transportation Official) guideline, which sets forth 600 pounds as an acceptable allowable weight per inch of tire width. Furthermore, in terms of an improvement to earlier Code, loading on a tire is limited to 600 pounds or the manufacturer's rating for the tire, whichever is less. This is an excellent feature in the control of tire loading.

FISCAL IMPACTS: This legislation has no fiscal impact to the state's general fund.

MOTION: **Senator Keough** moved to send RS16617 to Print. **Senator Langhorst** seconded the motion. The motion carried by **voice vote**.

RS 16737 RS16737, was presented by **Senator Leland Heinrich**, District 8. The legislation relates to **Snowmobile Registration**; amending Section 67-7101, Idaho Code, to revise the definition of a snowmobile; amending Section 67-7103, Idaho Code, to increase the registration fees for privately owned snowmobiles and snowmobiles used for rental purposes; amending Section 67-7104, Idaho Code, to increase the registration fee for snowmobiles owned by nonresidents not used for commercial purposes; and amending Section 67-7106, Idaho Code, to delete an application process for additional snowmobile program funds, to clarify the source of funds used to defray administrative costs and to provide for distribution of snowmobile registration revenues generated in counties without a bonafide snowmobile program.

This legislation would increase the snowmobile registration fee by \$10.00, and would clarify how monies are handled in the State Snowmobile Fund.

FISCAL IMPACTS: Would increase revenue to the Idaho Department of Parks and Recreation for its administrative fee of \$78,366, and provide \$444,074 to the various snowmobile grooming programs throughout the state.

MOTION: **Senator Keough** moved to send RS16737 to Print. **Senator Hammond** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 2:00 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE JOINT MEETING

- DATE:** Tuesday, January 30, 2007
- TIME:** 1:30 p.m.
- PLACE:** JFAC Room - Third Floor Statehouse
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** This was a joint meeting of the Senate Transportation Committee and the House Transportation and Defense Committee. House Transportation and Defense committee members attending included **Chairman JoAn Wood, Vice Chairman Phil Hart, Representatives Leon Smith, Mike Moyle, Scott Bedke, Richard Wills, Bob Nonini, Dean Mortimer, Marv Hagedorn, Mary Lou Shepherd, Shirley Ringo, Phyllis King, and James Ruchti.**
- The sign-in sheets, charts, graphs, and power point slides will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** The meeting convened at 1:32 p.m. to hear a presentation by the Idaho Transportation Department (ITD). **Chairman McGee** and **Chairman Wood** co-chaired the meeting. **Chairman McGee** introduced **Darrell Manning**, Chairman of the Idaho Transportation Board. Both of the committees are honored and appreciative for having the Transportation board members and the Idaho Transportation Department staff present today.
- INTRODUCTION:** Idaho Transportation Board **Chairman Manning** introduced other members of the Transportation Board in attendance.
- **Hugh McHugh**, District 1, Post Falls
 - **Bruce Sweeney**, District 2, Lewiston
 - **Monte McClure**, District 3, Meridian
 - **Gary Blick**, District 4, Castleford
 - **John Combo**, District 6, Idaho Falls
 - **Neil Miller**, District 5, Blackfoot
- Chairman Manning** explained, collectively, these gentlemen have almost 70 years of service on the Idaho Transportation Board. **Mr. Combo** has served on the board since 1990. **Mr. Manning** thanked the committees for the opportunity to share the board's mission,

accomplishments, and challenges. The board works closely with the ITD staff, and through regular meetings and budget workshops try to understand and set policies for the state, and wisely invest the transportation dollars for the state of Idaho. This afternoon, **Pamela Lowe**, director of the Idaho Transportation Department since January 16, 2007, will introduce the presentation.

Ms. Lowe reported that since the last time the ITD met with the committees, we have had a number of major changes in the executive team at the Idaho Transportation Department, including her self. Recently, **Scott Stokes** was appointed as deputy director of ITD. Mr. Stokes was the District 1 engineer in northern Idaho. She also introduced the department's new administrators.

- **Matt Moore**, administrator, Division of Transportation Planning and Programming
- **Alan Frew**, administrator, Division of Motor Vehicles
- **Susan Simmons**, acting administrator, Division of Aeronautics. Ms. Simmons is also the administrator of the Division of Administration
- **Steve Hutchinson**, ITD Chief Engineer
- **Larry Falkner**, administrator, Division of Public Transportation

Other staff acknowledged were **Rik Hinton**, technical writer, and **Jeff Stratten**, Public Affairs Officer at ITD. These men were involved in developing and operating the power point presentation for today's meeting. Their efforts are greatly appreciated.

Ms. Lowe reported that the ITD has had a lot of accomplishments, and an annual report is being delivered to legislators today. She reported that a new interchange has opened in Nampa and also Idaho Falls, and major work has been done on U.S. Highways 95, 30 and 91. ITD is proud of that work. That information and other data are included in the annual report.

Ms. Lowe acknowledged that a lot of information legislators will require will be included in the presentation today, but some questions would be asked about items not included in the presentation. The department is committed to getting answers to any legislator's questions as soon as possible.

Steve Hutchinson, chief engineer and division administrator for the Division of Highways at the Idaho Transportation Department, reported that the core responsibilities for the employees within the division are planning, designing, construction management and quality assurance, and maintenance and operations of the roads, bridges and appurtenances on the state highway system. These efforts are performed focusing on safety and environmental stewardship.

The Division of Highways budget request for Fiscal Year 2008 is \$434 million. These funds will be used to manage and operate the 12,000 lane-mile highway systems.

In the last year, the division implemented Context-Sensitive Solutions, a statewide Traveler Service System, an electronic bidding procedure to aid contractors, and a Safe Routes to School Program to take advantage of opportunities provided in the latest Federal Highway Act.

Mr. Hutchinson explained that ITD performed extensive community outreach to identify impacts from numerous projects. We assisted the Atlanta Highway District and the Bureau of Homeland Security in repairing flood damaged access to the city of Atlanta. These efforts are examples of our commitment to address the concerns of those whom ITD impacts daily.

There were several major highway projects completed or started during 2006.

Projects completed include:

- I-15 Sunnyside Interchange in Idaho Falls,
- I-84 Karcher Interchange in Nampa,
- I-84 new Blacks Creek rest area (10 miles east of Boise),
- U.S. 91 Preston to the Utah state line,
- U.S. 93 Twin Falls alternate route, Phase 1,
- U.S. 95 Lewiston to Thorn Creek (between Moscow and Genesee),
- U.S. 95 Moyle River Bridge, near Eastport, and
- Idaho 200 Kootenai Cutoff Road Intersection, Sandpoint.

Projects started include:

- U.S. 30 Topaz to Lava Hot Springs,
- U.S. 95 Milepost 536 to Canadian Border,
- U.S. 95 Genesee to Thorn Creek,
- U.S. 95 Long Bridge Pedestrian Underpass, Sandpoint, and
- I-84 Franklin Interchange, Caldwell.

There was significant activity during 2006 to ensure that the facilities, currently in place or planned, continued to provide the services expected by the public. Pavements, bridges, safety, and future project development were all emphasized.

He explained that the ITD continues to emphasize pavement performance throughout the state. This has become an ever increasing challenge due to the extreme inflation in the cost of materials that has occurred over the last two years.

Idaho's fatality trend, the number of deaths annually, has been essentially level for the last 16 years. This comes even with the increased vehicle miles traveled on the system.

The reduction in traffic fatalities and injuries continue to be both an Idaho and national emphasis. While the Idaho fatality rate is higher than the national average, it is typical of rural states and continues to improve.

The use of safety restraints, which improves vehicle occupant safety, continues to improve in Idaho. It is still slightly behind the national

average, and well behind those states with primary seat belt laws.

Of the 275 fatalities in 2005, 126 were not using seat belts. It has been proven that seat belts improved the chances of surviving an accident by about 50 percent (50%).

A Governor's Highway Safety Summit was held last year to increase the focus on highway safety. This effort brought together safety professionals, first responders, interest groups, elected officials, and transportation providers to develop strategies to improve highway safety.

The most recent Federal Act, SAFETEA-LU, (Safe, Accountable, Flexible, Efficient Transportation Equity Act-Legislation) elevated safety to a core federal program. The summit set the ground work for Idaho to respond to this federal change. One of the outcomes of the Safety Summit will be a Strategic Highway Safety Plan. This plan is required by SAFETY-LU in order to access the funding provided in the federal program. The goal of the plan is to identify all opportunities to improve highway safety in Idaho. An ambitious goal to reduce highway fatalities by specific dates is being established. That plan is expected to be in draft form within the next six weeks.

A large part of the Division of Highway's success is the result of collaborating with others, working with all levels of government, the private sector, special interest groups, and the public.

Mr. Hutchinson gave an example of how ITD partnered with federal, state and local agencies, special interest groups, and the Congressional delegation, to remove two culverts that prohibited fish passage on streams flowing under State Highway 87, near Henry's Lake. As a result of this cooperative effort, many additional miles of spawning habitat were opened for this world famous trout fishery.

ITD and our contractors continue to improve the product provided to the public. The awards received for the concrete reconstruction on Interstate 84, between Glens Ferry and King Hill, are an example of these efforts.

The road report has been incorporated into a comprehensive Traveler Information System that is available on the Internet, and by dialing 511 on your telephone. The system is continuing to be improved and enhanced to better serve the customer.

Senator Keough, District 1, asked about the rehabilitated or reconstructed improved pavements. How does this compare to previous years? Are we making progress and getting ahead? She recalled a report in 2004 that showed the number of deficient lane miles we have and pavement conditions. She would like to know if we are gaining or not.

Mr. Hutchinson explained that information will be shown later during this presentation, but he will get any level of details she would like to have regarding pavements. ITD did come up a little bit, but it has leveled off and that is where we are at this time.

Representative King, District 18, explained she has a constituent who

has asked about motorcycle safety. Does ITD keep any separate statistics on motorcycles vs. automobiles vs. pedestrian? **Mr. Hutchinson** reported that the Office of Highway Safety does keep separate records. That information will be sent to her. ITD does keep records on accidents and fatalities for each of the different areas.

Representative Nonini, District 5, asked about the traffic fatality trends. Does ITD have numbers regarding Highway 95, and how it might compare with national averages, or is it just a statewide number? **Mr. Hutchinson** explained that data can be obtained for any highway, any segment of any highway. In fact, ITD does that as they do project planning, early in the planning stage, to establish how we are going to develop the project. **Representative Nonini** would appreciate receiving that information.

Representative Hart, District 3, asked about seat belt usage. How does ITD collect the data in Idaho? **Mr. Hutchinson** reported the data collected is done through surveys, throughout the state. It is a random survey.

Susan Simmons, acting administrator for the Division of Aeronautics at the Idaho Transportation Department introduced **Rodger Sorenson**, Chairman of the Aeronautics Advisory Board. She reported that the Division of Aeronautics strives to provide a high quality, effective, efficient and safe aviation system for all users. The Division assists in airport planning and development through state and federal grants. It also maintains a system of state-supported airports.

Aeronautics has a budget of \$2.9 million, and a staff of 13 full-time employees. This program maintains the state's 30 airports (mostly remote). Promotes safety and education throughout the aviation community, and facilitates search operations for downed and/or missing aircraft across the state. The division operates the state-owned aircraft for government officials and state employees' use.

In addition, the Airport Development Program provides financial assistance to municipal airports in association with federal or other aid in the planning, acquisition, construction, improvements, maintenance and/or operations of airports throughout the state. This support provides local communities with match requirements for federal aid, as well as state grants for airports that do not qualify for federal aid. Dollars are allocated: \$150,000 to seven (7) commercial service airports, \$215,000 to 28 general aviation airports (match for federal funds), and \$276,000 to six (6) or eight (8) community airports (state-aid only grants).

In addition to the funding, the division provides broad-based technical assistance to airports and the aviation community throughout the state.

In Fiscal Year 2006, the division registered more than 2,400 pilots and 2,100 aircraft. Maintained 30 state-owned airports utilized by a variety of individuals for multiple use including recreation, emergency access, and fire suppression. Provided ten safety and training seminars to include instructor refresher and density altitude clinics to 335 attendees.

Susan Simmons also presented a review of the division's services. The division provides a variety of core business functions across the department to include legal, financial, budgeting, information technology, facilities, and employee services including human resources, EEO (employee equal opportunity), and employee safety. This program, through the board and the director's office, sets the overall strategic direction of the department. The \$22.3 million budget provides administrative, legal, and facilities management to all six (6) divisions within the department, and the GARVEE (Grant Anticipation Revenue vehicles) program.

The division provides ongoing day-to-day operations support provided for the entire \$550 million budget. This includes financial accounting, accounts payable, accounts receivable/cash receipting, general ledger, purchasing, inventory, and fixed asset accounting. Also, human resource support for more than 1,800 plus employees, This includes hiring, disciplinary actions', workers' compensation, and safety. Information technology infrastructure and support of 1,800 plus workstations internally, and 300 plus workstations in the county offices, and server support for all 115 major software applications throughout the Transportation Department.

In 2006, the division completed some major projects. ITD implemented a new financial/procurement/human resource management system. Efficiencies accomplished with this new system improved integration of applications, a new federal aid billing module, on-line time sheets and implementation of a cost allocation system.

ITD completed the Information Technology transition, and focused on ITD's projects that are strategically aligned. At headquarters, we consolidated and reduced equipment from 129 stand-alone servers to 57, and are in the process of consolidating the ITD's printing with our print operations. The estimated savings will be \$8,000 per month. We established standards in technical architecture to support communications and ITD infrastructures statewide.

ITD coordinated efforts to improve workforce retention and recruitments. Including pay adjustments that resulted in pay increased to all employees. Additional funds were allocated to targeted positions that were experiencing recruitment and retention difficulties. In reviewing the last nine (9) months' data, these actions seemed to have stabilized turnover in the position targeted.

Ms. Simmons reported the Division of Administration developed several partnerships, particularly in the technology arena. The State Controller's Office now hosts all of the department's mainframe applications. ITD eliminated its underutilized mainframe, saving the department \$35,000 a month, and allowed us to reallocate the duties of three (3) staff positions. ITD renegotiated our software contract with Microsoft and expect to save an additional \$100,000 per year. In a public/private partnership, we deployed secure satellite communications with all maintenance sites. We also co-wrote a successful \$2.3 million grant with the Bureau of Homeland Security and the Idaho State Police to support an emergency managed services.

ITD partnered with the Division of Professional Technical Education to provide instruction for the flagger certification classes.

ITD is also working with the Idaho State Police (ISP) to allow them, if appropriated, to build new offices in Couer d'Alene on the department's District 1 site. Currently, ITD shares sites throughout the state with ISP, and this would continue the partnership the two agencies have had for many years.

The division has one new line-item for FY2008. It is for completion of the ship and supply building at the department's District 4 site in Shoshone. In FY2007, the Idaho Transportation Department was appropriated funds to complete the administration building. This line-item would complete the site renovation. Some of the buildings to be replaced are World War II Quonset huts that were surplus, and originally used as maintenance facilities in Stanley and Arco. In the late 1950s, they were disassembled and moved to the Shoshone District 4 site. The buildings do not have power or heat. This would complete the District 4 site.

Chairman Wood asked about the 565 classes provided to contractors and employees. What kinds of classes are provided to contractors? **Ms. Simmons** explained that ITD provides a training process that basically includes contractors who are required to have certification based on the federal rules.

Chairman Wood also asked about the completion of the magnesium chloride storage tanks - has that program been completed? **Ms. Simmons** did not have the statics available today, but she will send the requested information to Chairman Wood.

Chairman Wood asked about the status of the computer program. Where are we on bringing our computer program up to where we are efficient with outlying providers that do our licensing, do our permits, etc.? **Ms. Simmons** reported that information will be included in the presentation. ITD is basically looking at doing a front-end application which would change the computers and the system that interface to the main-frame at the county location. **Chairman Wood** asked, are we just beginning to do that? What cost is ITD asking in the budget for that project? **Pamela Lowe** explained that ITD has broken that proposed project into several phases. The first phase would replace the interface with the counties. The Legislature gave ITD \$3 million last year for some DMV (Division of Motor Vehicles) upgrade work. ITD believes it can do Phase 1 and all the county interfaces with new equipment, as well as some upgrades, getting rid of those database systems within that \$3 million. In addition, ITD is in the process of getting some grants from various federal sources. With that grant money and the \$3 million, ITD believes it can do that work without requesting additional funding.

Senator Corder, District 22, asked about the ITD's effort to improve workforce retention, recruitment, and turnover. How does that compare with other states? What was the cause for a turnover above normal? **Ms. Lowe** stated that ITD's turnover issues resulted from a lot of the engineering and technical series classes, where we had basically not kept up with the market as far as the salary needs. Our employees were

beginning to think ITD did not support them as employees. By the efforts we took last year, and we did give significant increases to all ITD staff, some areas targeted received bigger increases, and those increases were due as to where they were in-line with the market, how long they had been in their job, and what technical knowledge they needed to have. Therefore, we structured the changes after looking at other states. The workforce is an issue in other states as well, as far as retaining and keeping engineers in that technical field. We took a strong effort when we allocated an additional \$1 million last year in salary to the technicians and the engineers' series.

Senator Hammond, District 5, explained that he hears, both externally and internally and from e-mails he receives, there are still concerns about the turnover rate. He asked are you tracking that in any way to see district-by-district how we are doing? It does matter in areas where unemployment is very low, and where construction on the private side is high. You are competing for those technical positions as well as those engineering positions. He hopes ITD is tracking that area, and will have more responses to the problems that are still occurring.

Ms. Simmons explained that ITD is and will continue tracking those problems. One issue is demographic and where people are located. We have not come up with a solution to address, or whether we should address, those demographic areas that are different. We have discussed that plight extensively. ITD recognizes the fact there are areas more difficult to recruit in, and some of that can be addressed from maybe 50 workloads, but we are concerned about the problem. We have heard them, too.

Representative Smith, District 24, explained he has an unsettling issue that may need to be referred to the ITD's legal division. He has a copy of a decision that was handed down three (3) days ago which takes away all liability for a farmer or a rancher whose cow gets out on the Interstate, in areas which we call "open range" and there is no liability as a result of this decision. There used to be language about when there is a fence on both sides, there was some responsibility for the cattle's owner, but that has now been stricken. He wants Ms. Simmons to pass this decision onto the ITD legal division to determine if they want to promote any legislation that would at least make it illegal with some liability for the landowner. A little Honda Civic doing 75 miles per hour at night and runs into a cow will not do much for the Honda Civic. He asked Ms. Simmons to pass that information on to the legal division. **Ms. Simmons** will be happy to do that.

Representative Hagedorn, District 20, asked about the percentage of the administrative costs for the total ITD budget for 2006, and what it was for 2007? **Ms. Simmons** does not have those numbers with her today, but she will send the information to him.

Representative Hart, District 3, referred back to the question asked by **Senator Corder**, District 22, regarding engineers. What percent salary increase was given? **Ms. Simmons** explained they ranged anywhere from as low as 3 percent (3%) to some as high as 20 percent (20%),

depending upon the technical series. With this targeted position, ITD did give significant raises because they were \$10 or \$11 per hour, and in order to get them where they could compete with the local government. **Representative Hart** asked about the plans for the coming year for those categories. **Ms. Simmons** emphasized that it depends on what the Legislature appropriates to ITD and the CEC (changes in employee compensation) dollars and how we plan to target or utilize that money will determine the result.

Senator Hammond explained that he has asked the fiscal analysts for that information, and he will be glad to share that information with **Representative Hart**.

Matt Moore, administrator for the Division of Transportation Planning and Programming at the Idaho Transportation Department, presented an update regarding the division. The division focuses on serving, supplementing and supporting the work of ITD to meet the objective of the Idaho Transportation partners. The division's core responsibilities include: develop and implement short-and long-term system plans, collect and analyze highway data, partner in planning and technical assistance activities, administer funding programs, establish investment strategy and policies for capital-improvement programs, estimate program funding, manage project budgets, and secure project funding.

The division's scope of planning program and major outputs include managing a project-tracking system for 2,500 transportation projects; process 5,500 transportation-project transactions; assess and analyze the condition of all 12,000 lane miles of the state highway system, count 750 million vehicles to provide data for planning, design, and maintenance activities, meet FHWA (Federal Highway Administration) and FTA (Federal Transportation Act) planning requirements for the short and long-range plan, and increase the quality and diversity of transportation research and technology-transfer projects while ensuring fiscal accountability.

The division partnerships with numerous partners:

- Local Highway Technical Assistance Councils - local roads inventory, update inventory process to provide more accurate data.
- Compass - information from traffic model for forecasts and projections, supply traffic information from permanent traffic counters for input to their planning model.
- Canyon and Ada Counties - congestion monitoring on most arterial and information is used for federally mandated congestion management system, and toward prioritization of projects.
- Payette, Gem, Elmore, and Boise Counties - long-range transportation plans.
- Bannock Metropolitan Planning Organizations - Highway Performance Monitoring System (HPMS), and share data from traffic counts.
- Native American Tribes - State Transportation Improvement Process (STIP) involvement, more emphasis on tribal transportation issues.

- State DOTs and FHWA - work with multiple state transportation departments and FHWA to recover \$200,000 in unspent research funds from multi-state research projects.
- Partners included in the Statewide Transportation Improvement Program - five (5) tribes, six (6) metropolitan planning organizations, 44 counties, 90 highway jurisdictions, and 200 cities.

The transportation planning and programming budget is \$5,948,200 with 45 full-time staff positions. The funding sources include \$4.5 million in federal funds, and \$1.4 million in state funds.

Chairman Wood asked about the budget request for 45 FTPs. Does that include the people who are out in the engineering districts, or is it just in the Boise division? **Mr. Moore** explained that includes headquarters staff and field working staff collecting data.

Chairman Wood asked for an analysis and condition of lane miles completed for last year. The data will be sent to her.

Alan Frew, administrator of the Division of Motor Vehicle (DMV) at the Idaho Transportation Department reported, the business of the division is singular in nature. We deliver customer service. Services are delivered through the core responsibilities including:

- Driver services, in partnerships with counties sheriffs' offices statewide. We provide driver records to private-end users, identification cards, and licensing.
- Vehicle registration, in partnership with county assessors offices statewide. We provide vehicle titles, title issuance, and dealer licensing.
- Motor carrier/truck registration. We provide truck titles and registrations, as well as monitoring the safety dimensions and weights of trucks. Thereby, improving highway safety and prolonging the life of the infrastructure.
- Ports of Entry weigh stations.
- Collect service-related revenue.

The division's Fiscal Year 2008 budget request is \$18,802,700. Idaho now has one (1) million licensed drivers, more than 70,000 overlegal-permitted vehicles, 1.7 million registered vehicles, 2.7 million vehicles monitored through Ports of Entry, and 4.4 million titled vehicles.

Major 2006 program outputs include county public service providers and motor carriers trained, Idaho-based commercial vehicles registered, drivers' licenses and identification cards processed, vehicle titles processed, vehicle registrations processed, and vehicles weighed at Ports of Entry. **Mr. Frew** emphasized that the division's staff work hard every day to improve customer services.

Also, in 2006, the division expanded an on-line registration renewal program. Deployed an automated driver licensing knowledge testing system at sheriffs offices statewide, expanded web-based services, and initiated the DMV modernization project.

Proposed legislation for this year impact variable load suspension axles, refunds of vehicle registration fees, permanent registration option for trailers, temporary vehicle clearance waivers, allow 97-foot saddle-mount lengths, driver education program permits and fees, vehicle titling-federal bankruptcy code, and persons who shall be licensed.

The division is requesting one FY2008 line-item as a result of the supervised instruction permit. This will increase the DMV budget by \$50,000. This will provide spending authority for a supervised instruction photo-permit card for drivers under the age of 17 years. It will also replace the paper-based supervised instruction permits currently used as a driver's license during driver training in the four-month supervised period.

Chairman Wood asked about the new plastic cards. How long before we must do the Real ID? **Mr. Frew** explained the Real ID is kind of a moving target for DMV, because the federal rules have not been established for Real ID. The plastic cards will have to go through the same process that any other Real ID identification card would need to go through, if we get to that point. There have been many states that have opted out such as the state of Maine and possibly New Mexico. We do not know when we could produce a digitized card compatible with Real ID. **Chairman Wood** asked if this card would be close enough that we would not have to do the Real ID card? **Mr. Frew** explained that we would still have to do the Real ID. If Idaho decides to go forward and join with other states and the federal government in this program, it would still be something we would have to scrutinize. **Mr. Frew** believes the final decision will be a joint decision between the legislative and executive branches of government.

Senator Geddes asked for a walkthrough on the procedure we implement to provide driver licenses to undocumented or illegal residents in Idaho. **Mr. Frew** explained that he does not have that process information with him today, but will send the information to **Senator Geddes**. **Mr. Frew** reported that if you are here as a nonresident alien, you will need to have a certified copy of a birth certificate or some other documentation that will authenticate your legal presence. That is not our current process, but is what you would have to do under the Real ID process.

Senator Geddes asked, what is the current process that allows those types of individuals to drive in Idaho, or to even receive a driver's license? **Mr. Frew** explained that it is currently informal. We ask the person to provide documents proving residence and citizenship, if it comes into question. The process is fairly loose as it is right now.

Chairman Wood asked do we ever ask them to show proof or evidence of insurance from whoever gets the license? She understands that undocumented workers can get a driver's license in Idaho, if they show some type of documentation, forged or whatever. Do we require whoever gets the driver's license for proof of insurance? **Mr. Frew** explained that currently, a child of an undocumented alien, an illegal alien living here and their children are in our schools, and they are trying to get a driver's license, they must go through the process. As it is currently, they would

have to have a responsible person present as they apply for their instruction permit to assist them in that process. If they are underage, they must certify there is a liability insurance in place. For others, if you are renewing a driver's license, that is not the requirement, we do not ask for a copy certifying proof of liability insurance.

Representative Nonini, District 5, asked about the expanded on-line registration renewal program, assuming ITD takes credit cards. He requested some numbers about this program. He heard that about \$250,000 in costs to ITD to assume the fees charged by Visa and Master Card. He is uncomfortable with the state paying the fees. Is this something that the department is moving forward to correct? Do we need some legislation during this session? The consumer should pay for that convenience. **Mr. Frew** reported the cost is approximately \$190,000, and is a fee the department assumes. The problem with fees, in Idaho Code we are required to collect a certain amount and does not, currently, allow ITD to collect over and above that amount. So, that would be something that would need to be remedied by legislation. **Representative Nonini** stated to bring him the RS (route slip) and he will sponsor the legislation. In his opinion, ITD should not have to assume thousands of dollars per year, especially as we hear about ongoing shortfalls for the next thirty (30) years.

Representative Nonini also asked about the deployed automated driver licensing knowledge testing system. Is that where people can study for their driver test? **Mr. Frew** reported that is incorrect. What that program does, it allows a person to take the test. It is a testing system, and is essentially a computer touchscreen that allows people to actually touch the correct answer. The tests are graded instantly, and the applicant knows immediately if he failed the test. Some folks do not like computers; therefore, they will have the option of taking a paper test.

Representative Nonini asked if this automated system is in English only? **Mr. Frew** is uncertain if the system is in other languages. He emphasized that we have presently issued guidelines for limited English proficiency, and the department has benefitted by some federal money for this. We used that money for our customer services. Some of the ITD customers speak Spanish or other languages, and we have the driver's test in four (4) different languages. He will followup and get more information to Representative Nonini.

Senator Langhorst asked about the credit card fees. Are there some efficiencies that the department enjoys, and has an analysis been done? Is there a number of FTP (full-time positions) that ITD does not have to employ because of the on-line system, or any other efficiencies that would help to balance the cost of that fee? **Mr. Frew** explained ITD has done some studies. For example, the overlegal program documentation. During the past year, we issued more than 70,000 overlegal permits. We do that with a staff of four (4) people. They are on the telephone a lot, and when not on the telephone they are filing and doing other support things, but we have found with the on-line services we have been able to stave-off having to come to the Legislature and requesting additional full-time employees. There have been some great efficiencies in this system, and we anticipate more.

Senator Langhorst asked about the possibility of an RS to recapture those fees. He would want to know more specifics if ITD decides to pursue an RS; therefore, have those figures available so that legislators would know exactly what we will be voting on.

Larry Falkner, administrator of the Division of Public Transportation at the Idaho Transportation Department reported that while the words “public transportation” usually bring to mind images of buses in larger cities, at ITD we spend most of our time working with rural communities, where the population is less than 50,000 and the vehicles tend to be sized to the needs of the community.

ITD has a minivan used in St. Maries. This vehicle operates in Moscow in a demand response capacity, picking people up at their homes when they cannot access the regular fixed route system.

Overseeing these types of smaller systems is our core responsibility in the division. The state oversees the programs in the rural areas while Federal Transit Administration (FTA) works directly with systems in the six (6) largest urban areas (Boise, Nampa, Caldwell, Idaho Falls, Pocatello, Lewiston, and Coeur d’Alene). This list of activities includes just some of the 19 areas that we are required to oversee.

Our budget request is for \$9,975,000 million. We currently provide federal funding for public transit operations in 29 rural counties provided by 14 operators around the state. We are the primary source of funding for Senior Centers’ vehicles, and currently work with 70 centers to make sure they have safe, reliable transportation for our senior population. In total, with senior centers and rural providers, we annually monitor the use and condition of 255 vehicles in rural Idaho.

He explained that he had talked briefly about the division’s oversight. During this past year, we spent considerable time working with our grantees, making sure all were in compliance when the Federal Transit Administration audit teams visited. We underwent a state management review in June and a drug and alcohol review in July, and received compliments from both federal audit teams for our level of knowledge and compliance with federal requirements.

Some major 2006 highlights for the division include the state management review completed by the FTA, transit plan for Valley/Adams planning partnership, rural drug and alcohol program’s audit by FTA, provided safety and emergency preparedness training to all FTA grantees in the rural program, and we began implementation of new federal requirements in SAFETEA-LU (Safe Accountable Flexible Efficient Transportation Equity Act - Legacy for Users).

The Federal Transit Administration (FTA) continues to release new guidance to be consistent with requirements added by Congress to the reauthorization bill SAFETEA-LU. Our division continues to monitor and comment on these requirements, and has begun implementing the required changes. The division does have a one-line item request for \$591,600 to provide the spending authority for an increase in federal funds that we will be getting from SAFETEA-LU.

We have noticed an increase in the number of community meetings we are asked to attend to discuss how the community can implement transit services. As communities in rural Idaho have experienced a rapid growth during these past few years, and significant increases in housing costs, we continue to work with local economic development groups looking for ways to get service workers to jobs when they can no longer afford to live in the community, or afford to own and operate a car.

Since Idaho continues to be one of a small handful of states that has no dedicated state funding for rural transit, local communities are forced to find funds locally to help fund transit services.

Chairman Wood asked about the rural drug and alcohol program audit. What is the drug and alcohol program that the division oversees? **Mr. Falkner** explained that the division has an extensive, in-depth drug and alcohol program. We do specific training, and in that program all of our drivers can be tested at any time, and we monitor those tests. If they test positive, how that test articulated and is handled. The drug and alcohol arena is a big project for us, and FTA continues to add requirements to that program. We ensure, through our various programs and audits, that these programs are in place, our drivers are trained and regularly tested.

Chairman Wood asked are the division's responsibilities just to the transit drivers with the drug and alcohol program? **Mr. Falkner** responded, that is correct.

Senator Langhorst asked about the federal funds of \$8.9 million for FY2008. He understands we have lost some funds as the area has grown. We reach a certain point and the federal government expects us to assume more responsibility for our public transportation needs. How have those federal funds faired over the years? **Mr. Falkner** explained that growth and the way funds are given by the federal government, once a population center is more than 200,000, it becomes a transportation management area. What happens in that case, is you will lose your operating money. That is basically what has happened here in the Treasury Valley, particularly for our region transit authority, and it is a significant amount of money. The federal government, once you over reach that point, those operating dollars are gone. We will need to come up with a different way, hopefully, to replace those dollars. Another thing, is when you do become a TMA (transportation management area) and you are in that category, they basically have responsibility directly to the Federal Transit Administration. They do not report to the Idaho Transportation Department and are not in our budget.

Senator Langhorst requested some data on the amount of per capita expenditures on public transportation in Idaho, compared to other states similar in population and in geography. The data will be sent to him.

Chairman Wood asked about the metropolitan planning organizations (MPO). What percentage of money is dedicated for transit? **Mr. Falkner** explained the MPOs and the monies they get through both our Public Transportation Division and the Planning Division. The transit part is the smallest piece. The major piece the MPOs deal with is metropolitan planning such as highways, roads, bridges, pathways and so forth. There is a transit element, but it is small compared to the overall picture.

Representative Smith, District 24, asked about the move of the Treasure Valley to create a local option tax for transit authority, if that is successful, would it be administered under ITD or would they form a transit authority for the Treasure Valley that would be completely autonomous? Do you know how the make-up of that is going to come about? **Mr. Falkner** explained, the agency authority that would have the jurisdiction over that would be the Valley Regional Transit, which is the regional transit authority that was voted in several years ago. It was a dual purpose vote. One for Ada County and also Canyon County, and they joined into a single agency. Should legislation pass where the local option tax was approved, it would give a regional transit authority the ability to ask the public for a vote to tax themselves. They would be the authority to administer those funds. They would not go through the Idaho Transportation Department.

Representative Ringo, District 6, explained she has spoken to people in various disability communities, for example the vision impaired, and there are concerns particularly in the Boise area, regarding the delivery of public transit being user friendly to them in terms of the times they could access and so on. Does ITD have jurisdiction over that? What interactions are there with people to see that services do meet their needs? **Mr. Falkner** explained, ITD does not have jurisdiction over that in the urbanized areas. ITD does have programs in rural areas for the elderly, disabled, and 5311 (a rural public transportation grant program). We have vehicles that will pick up those people on a demand response basis. Normally, there is a 24-hour advance time required. All the vehicles that we help fund have wheelchair lift equipment. The regional transit authority has jurisdiction over all the public transit in the valley. They have a service called ACCESS for those people. They will pick up people at their homes and deliver them wherever they need to go. We also work with senior centers. We can get people to and from emergencies, doctor appointments, to work, and to those types of needs, even after-hours and on the weekends.

ITD Director Pamela Lowe discussed the Revenue Plan and the GARVEE Program. She reported, Idaho is growing, and one of the reasons' ITD needs more revenue is to address Idaho's growth. As of 2006, Idaho is the third fastest growing state in the country. Idaho's population is projected to increase by 58 percent (58%) between 2000 and 2030. As we see this explosive growth in revenue, growths in ITD's funding sources are flat. You can see that growth has contributed to an increase of 75 percent (75%) in the general fund, and 85 percent (85%) in the sales tax revenue. A growth in ITD's funding sources has been very modest.

Nationally, the miles per gallon average for passenger cars is better; therefore, vehicle fuel efficiency is having an impact on our revenue. Vehicles have made increasing gains in fuel efficiency over the years. This trend will become increasingly apparent as hybrid and alternative energy vehicles become more popular. And ITD recognizes these trends are good for Idaho. We are not opposed to fuel efficient vehicles or hybrid vehicles. This does support our country's growth of energy independence. But, at the same time, vehicles are getting better gas mileage, we see more and more vehicles on the road.

A chart was reviewed relating to vehicle miles driven vs. gallons taxed. Annual vehicle miles traveled in Idaho increased 94 percent (94%) since 1978. However, the gallons of fuel taxed in Idaho to fund transportation is not keeping pace. The gallons of fuel tax increased 50 percent (50%), and that is largely due to the increase in diesel.

Ms. Lowe also gave a perspective on Idaho fuel tax and inflation. In 1996, the fee had been a flat tax rate of 25-cents per gallon. If the tax rate had been adjusted, using the consumer price index, it would have been 31.3 cents per gallon. If we had adjusted using the National Highway Construction index, it would have been 38-cents per gallon. While net fuel revenues deposited into the Highway Distribution Account have largely flattened out, construction costs have skyrocketed.

She reviewed construction cost comparisons such as the bridge deck concrete for the South Fork Palouse River. That concrete cost \$298 per cubic yard in 2003 for that project. The same material on the Lower Moyie Bridge in 2005 cost \$784 per cubic yard.

Numerous charts were reviewed including:

- Idaho's transportation needs and pavement condition.
- Bridges on the State Highway System are aging. There are 1,761 bridges on the state system. Bridges are designed to last an average of 50 years, and 339 bridges are currently older than 50 years.
- Traffic growth across Idaho, 1996-2005. Traffic, particularly along the I-84 Corridor in the Treasure Valley has grown significantly. But it has grown statewide, on every major corridor.

Idaho is growing fast, but the growth is not solving revenue issues. The revenue is flat and costs are increasing. ITD has less funding to put into our deteriorating and heavily used highways.

Our Transportation Board recognizes those trends. The board organized a 4-month transportation investment meeting that included community leaders and transportation officials from across the state. They participated in multiple meetings, throughout the state, for about a year-long period. They were tasked with identifying funding solutions.

The recommendations to address the funding shortfall include:

- A 7 percent (7%) highway preservation fuel tax.

- Increase annual registration fees for cars and trucks.
- Increase permit fees.
- Eliminate the ethanol exemption.
- Implement a rental car fee.
- Access fees.

These solutions would generate a total additional revenue of \$203.1 million annually. That is the amount identified as the ITD shortfall. These funds impact the State Highway Account, the Highway Distribution Account, the Local Highway Technical Assistance Council (cities, counties, and highway districts), the Idaho State Police, and the Transportation Department.

ITD conducted a study of what other states are doing to address transportation issues, and has compiled a book about the studies. If a legislator would like a copy of the book, they can contact ITD.

Senator Geddes asked about the cost comparisons of construction. Is that construction with materials installed or is that just raw material cost? **Ms. Lowe** responded that would be installed. **Senator Geddes** asked how does that relate based on distance, location, and so forth. **Ms. Lowe** explained the process of comparing rural areas to another rural area, so you would have the same acceptability.

Ms. Lowe presented a report about the GARVEE (Grant Anticipation Revenue Vehicles) bonding programs. In October 2006, the Transportation Board approved a five-year GARVEE plan (FY06 to FY11). Included in this plan are the six (6) corders authorized by the Legislature. The Transportation Board plan recommends extending the Garwood to Sagle corder by two (2) miles, and it also added a Twin Falls alternate route.

This plan limited bonding to \$998 million. That is less than we thought we could bond last year. Federal revenue has flattened, and there has been a change in the Federal Obligation Authority. That has dropped from 90 percent (90%) to 86 percent (86%).

Allocations of the 2006 bond proceeds were discussed. The estimated total was \$200 million and the current cost plan is \$213.2 million. The current plan includes the program management with Connecting Idaho partners fixed fee, and the Idaho Transportation Department program management oversight.

The 2006 GARVEE projects cost for \$213.2 million include:

- U.S. 95 - Wyoming Avenue (Garwood to Sagle), a four-lane divided highway (31.5 miles) - a cost of \$37.8 million.
- U.S. 95 - Worley to Setters, build 4.2 miles of four-lane divided highway with an interchange - cost of \$49.6 million.
- State Highway 16 (SH16) - I-84 to South Emmett, develop a concept for 7 miles of four-lane divided highway from I-84 to SH-44 - a cost of \$5.2 million.
- I-84 - Caldwell to Meridian, rebuilds westbound Eagle Road off-

- ramp. Design an additional lane from Garritty to Meridian (6 miles), build a third westbound lane and repair existing lanes from Garritty to Meridian (6 miles), and design the Ten Mile Interchange - a cost \$75 million.
- I-84 - Orchard to Isaacs Canyon, repair existing lanes from Gowen Road to Issac's Canyon (3 miles), design repairs from Curtis to Gowen road (6 miles), start designing a third lane from Curtis to Broadway (3.5 miles), start designing the Orchard Avenue Interchange, design north sound walls from Curtis to Broadway avenue - a cost \$14.6 million.
 - U.S. 30 - McCammon to Lava Hot Springs, build 3.5 miles of highway from Topaz to Lava Hot Springs, design Topaz and Portneuf bridges - a cost \$31 million.
 - U.S. 93 - Twin Falls alternate route, stage 2, build 5.2 miles of four-lane highway from just west of Grandview Drive to the U.S. 30 Interchange - a cost \$45.1 million.

The FY2008 GARVEE bonding authority is the authority to issue \$264.2 million highway transportation bonds in a principal amount sufficient to finance highway transportation projects. The bonds expected to be issued in calendar year 2007 and be paid from continuing appropriations of federal funds from the State Highway Account.

A GARVEE summary:

- GARVEE bonding allows Idaho to borrow money for projects at less than the cost of inflation.
- Hyperinflation on construction costs reduces our buying power.
- Revenues are flat and not keeping pace with growing demands on the system.
- The ITD Board's revenue plan can generate an additional \$203.1 million annually.

Ms. Lowe reported that through GARVEE we can improve the state highway system, and reduce congestion. We can also mitigate inflation. We can build these needed and important projects now, and not 25-years from now which is what it would take using our traditional pay-as-you-go method. While GARVEE allows us to accelerate these projects, it does not solve our transportation funding problems.

We still need to address growth, inflation, and our flat revenue.

Chairman McGee explained that as we have gone through the GARVEE process and the Legislature has approved the project, three governors have also approved the project, and now the Transportation Board has approved the project, what can we do or what is the department doing to find alternative sources of funding for those areas that were left unfunded? **Ms. Lowe** explained those areas unfunded have been moved into ITD's far horizon category. Those projects, if everything stays as it is right now, would compete for funding in ITD's formula transportation funds as other projects have moved into the horizons. Those unfunded corridors are needed projects, as are some of the projects that are currently in horizons, i.e., like the Dover Bridge. A three (3) foot section of the bridge deck was lost, and that bridge has been on the horizon. It is

going to be tough for a number of years without an infusion of funds such as the revenue proposal.

Senator Corder asked how will ITD better use the funds the Legislature gives them? What plans does Ms. Lowe have as the new director of the Idaho Transportation Department? Will you move the department forward with an evaluation of what has been done wrong? What do you plan to do to change things so that perhaps we can be more efficient going forward? As we look around Idaho, one can drive in any direction blindfolded and know when you cross the border. He stated, I think that is a significant issue. Other states have had, for the most part, the same funding as Idaho. There are some other things that distinguish very real discrepancies between the quality of our neighbor who does not have gambling or some of the other things. What can we do to maximize the dollars that we have?

Ms. Lowe explained many other states use more than just federal and state revenue to fund their transportation projects. Most other states can tap into general funds, have special taxes, etc. ITD is committed to putting items before the board, and they have done a good job of making tough decisions as to whether you fund a project that addresses pavement deficiencies and balance that against it are a constant issues determining priorities.

As she reviews the ITD programs, projects that are being built statewide and the five-year program, she determined there are some very good ITD programs. The bottom line, there is simply not enough funding for all the needs.

Additional issues were discussed including the GARVEE program, the need for additional funding resources, the Garwood to Sagle project, highway problems statewide, needed solutions, local option taxes, prioritizing changes, public transportation, long-range plans, planning, and the activities and goals of the Idaho Transportation Department.

ADJOURNED: Due to the late hour, **Chairman McGee** and **Chairman Wood** adjourned the meeting at 3:30 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, February 1, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:33 p.m.
- MINUTES:** **Senator Keough** moved to accept the minutes of Thursday, January 25, 2007 as written. **Senator Heinrich** seconded the motion. The motion carried by a **voice vote**.
- SB 1049:** This legislation, SB1049, was presented by **Regina Phipps**, Vehicle Size and Weight Specialist for Commercial Vehicle Services Section with the Idaho Transportation Department. The bill relates to allowable gross loads.
- This bill amends Section 49-1001, Idaho Code. The first proposed change eliminates archaic language authorizing the prequalification of VLS (variable load suspension) axles.
- The second proposed change allows variable load suspension axles to not be self-steering, as long as the VLS axle is within 5 feet of the remaining axles.
- There is no fiscal impact to the department or industry.
- MOTION:** **Senator Keough** moved to send SB1049 to the Floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**. **Senator Malepeai** will sponsor SB1049 on the Senate Floor.
- SB 1050:** This legislation, SB1050, was presented by **Amy Smith**, Vehicle Services Manager with the Idaho Transportation Department. The bill relates to vehicle and vessel titles and transitional ownership documents.
- The bill changes Sections 49-121(7), 49-510, 49-527, 49-528 and 49-529, Idaho Code, to remove the current twenty (20) day time limit for perfecting a security interest in a vehicle or vessel title. The changes are requested

in order to comply with changes made regarding the Federal Bankruptcy Code, which was amended by Congress in 2005 to allow up to 30 days for lenders to perfect a security interest in a vehicle or vessel title of ownership. This change was effective October 1, 2005.

The proposed changes will allow for perfection of a security interest upon proper filing of the title and lien information with the department. Bankruptcy courts will accept the lien perfection if it is made within the 30 days allowed by the Federal Bankruptcy Code. Lenders will no longer have to try and comply with differing laws.

The changes also amend the transitional ownership document filing code "time allowance" from 20 days to 30 days. This code exists to allow a lender to file a transitional ownership document with the Idaho Transportation Department, when the title is not readily available for submission. This can typically happen when they are waiting for release of a title from a financial institution, or a duplicate title filing. Amendments also eliminate redundant lien date creation language, and provides clarification in regards to submission of documents to the department. The department's data entry and examination functions for title information will be more efficient by eliminating unnecessary processes that would not be recognized by the federal bankruptcy courts.

Code still exists in other sections to require all title filings within 30 days for both dealer and private party sales. These amendments simply affect the perfection of the security interests.

While drafting this legislation, the department checked with the Idaho Credit Union League, the Idaho Bankers Association, and the Dealer Advisory Board, none of which had any concerns.

Rex Green, Training Specialist at the Idaho State Independent Auto Dealers Association, representing 350 independent dealers in Idaho, testified to support SB1050.

There is no fiscal impact to the department.

MOTION: **Senator Corder** moved to send SB1050 to the Floor with a Do Pass Recommendation. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**. **Senator Heinrich** will sponsor SB1050 on the Senate Floor.

SB 1051: **Senator Tim Corder**, District 22, presented SB1051 that relates to motor vehicle tires. He explained this bill is a correction to legislation from last year. This section of Idaho Code was amended in 2006 (HB561aa) to enact a limit of 600 pounds per inch of tire width for wide-base single truck tires as well as conventional dual tire assemblies. In terms of this objective, the legislative action was appropriate and successful.

In another part of HB561aa, there was a provision designed to discourage the use of single tires on axles that were built for duals (unless the tires were fifteen inches or more in width) by disallowing them altogether. (Earlier control of such tire configurations employed a lower weight limit per inch of width; this approach was confusing and presented problems in enforcement.) Unfortunately, it became clear shortly after the law went

into effect that it went to far in that it failed to set forth a vehicle GVW (gross vehicle weight) cutoff in its application. For example, it is currently illegal to equip any vehicle with only two tires on an axle unless the tires are at least fifteen inches wide; this would include a pickup truck and even automobiles. The Idaho Transportation Department immediately announced a policy, thankfully, of a phased approach to enforcement utilizing education and warnings during the first year. But a change must be made in this session.

This legislation is consistent with the AASHTO (American Association of State Highway Transportation Officials) guideline, which sets forth 600 pounds, as an acceptable allowable weight per inch of tire width. Furthermore, in terms of an improvement to earlier Code, loading on a tire is limited to 600 pounds or the manufacturer's rating for the tire, whichever is less. This is an excellent feature in the control of tire loading. The current limits of 600 pounds for steering axles and 800 pounds grand-fathered for older vehicles are unchanged.

In summary, SB 1051 will strike language that prohibited single tires on any axle configuration; removes language to make Idaho law consistent with AASHTO guidelines; ensures loading on any tire is limited to 600 pounds or manufacturer's rating, whichever is less; corrects current code; current limits of 600 pounds and 800 pounds for steering axles remain unchanged; eliminates confusion for enforcement personnel and industry, and the Idaho Transportation Department has reviewed this proposal and determined that there will be no adverse impacts to pavements or bridges.

There is no fiscal impact to the state's general fund.

Julie Pipal, Budget, Policy and Intergovernmental Relations Manager with the Idaho Transportation Department, testified the department has no problem with this legislation.

Paul Sudmeier, Executive Director of the Idaho Trucking Association, testified to support SB1051.

MOTION:

Senator Malepeai moved to send SB1051 to the Floor with a Do Pass Recommendation. **Senator Langhorst** seconded the motion. The motion carried by a **voice vote**. **Senator Keough** thanked **Senator Corder** for his hard work on this legislation, and she appreciated all of his efforts. **Senator Corder** will sponsor SB1051 on the Senate Floor.

Senator Malepeai asked if **Senator Corder** would arrange an educational session for the committee members relating to axles. **Senator Keough** also believes additional information relating to axles would be beneficial to the committee. **Senator Corder** agreed and will arrange an educational session for the committee.

RS 16568:

This proposed legislation, RS16568, was presented by **Senator Corder**, District 22. The legislation relates to the basic rule and maximum speed limits in Idaho.

RS16568 will eliminate the differential speeds on rural interstates, and will result in safer highways. This legislation will reduce the number of truck/auto interactions by changing the speed limit for all vehicles on rural

interstates to 70 mph (miles per hour). A national study, conducted by the University of Arkansas, has concluded positive changes for driver compliance to speed laws as an added benefit.

He explained that a study was conducted by Dr. Steve Johnson and the following conclusions may be found in context and at length at <http://dailyheadlines.uark.edu/8286.htm>. Dr. Johnson's study, "*Cost/Benefit Analysis of Speed Differentials Between Heavy trucks and Automobiles*," is an extensive consideration of multiple implications for safe travel on rural Interstates.

Reduced interactions between cars and trucks will improve highway safety and efficiency. Computer simulation determined that a differential speed of 65/55 resulted in more than four times the number of interactions over a vehicle traveling at the mean speed.

"The higher the difference in the speed, the higher the probability of an accident." One-hundred percent (100%) of 236 drivers surveyed agreed vehicles should go the same speed. Same speed travel reduces cluster congestion. Speed variance and vehicle speed affect fuel efficiency and air quality, as all vehicles accelerate and decelerate to maneuver.

Compliance rates are an additional consideration. For uniform 75/75 mph compliance rates were 53% for cars and 73% for trucks, and uniform 70/70 mph limit resulted in 31% for automobiles and 70% for trucks. Compliance rates for a lower differential speed of 65/55 mph found only 7% of cars and 0% of trucks complied with the speed limit.

Fiscal Impacts: Analysis by the Idaho Department of Transportation has determined the cost to replace driver manuals at \$17,500, and speed limit signs at \$50,000. The total impact to the General Fund would be \$67,500. The offsetting positive impact is undetermined.

MOTION: **Senator Langhorst** moved to send RS16568 to Print. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 2:08 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 6, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:32 p.m. He announced that the deadline for printing bills will be Monday, February 12. The best opportunity for persons interested in bringing proposed legislation before the committee would be on Thursday, February 8.
- RS 16676:** **Senator Broadsword**, District 2, presented RS16676 relating to passenger safety for children. She explained there has been an opportunity to receive grant funds to purchase safety seats for low income families, and that money is not available because of two exceptions. Children of the state are our most precious resource, and it is our duty to protect them.
- This proposed legislation will amend Section 49-672, Idaho Code, to provide that there shall be no exceptions to the law requiring all children six years of age or younger to be properly secured in a child safety restraint. Also, amends Section 49-673, Idaho Code, to delete reference to an exception in law that is no longer applicable.
- Fiscal Impacts: There will be no fiscal impact to the general fund.
- MOTION:** **Senator Langhorst** moved to send RS16676 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.
- HB 35:** **Regina Phipps**, Vehicle Size & Weight Specialist for Commercial Vehicle Services Section with the Idaho Transportation Department, presented HB35 with two proposed changes to Section 49-1010, Idaho Code, relating to the size of vehicles and loads.
- The first change adds a definition of the National Network. The second change adds a line to Section 49-1010(6) to allow saddle-mount combinations to operate up to 97 feet in overall length when traveling on the National Network. This change assures Idaho is in compliance with

the federal law changes that occurred with the passage of SAFETEA-LU (Safe Accountable Flexible Efficient Transportation Equity Act-Legacy for Users) in 2005.

MOTION: **Senator Hammond** moved to send HB35 to the Senate Floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**. **Senator Heinrich** will sponsor HB35.

HB 36: **Chris Engels**, Permit Program Supervisor for Commercial Vehicle Services Section with the Idaho Transportation Department (ITD), presented HB36, relating to the duties of the Idaho Transportation Department; and amending Section 49-202, Idaho Code.

This proposed change would waive the \$10 fee for a letter of Temporary Vehicle Clearance to Idaho-based motor carrier customers who process their commercial vehicle registrations online. A Temporary Vehicle Clearance (TVC) allows a motor carrier customer to operate until they receive their permanent credentials. The changes clarify that ITD is waiving the \$10 Temporary Vehicle Clearance fee for online customers, since they are printing the document from internet access.

Currently, Idaho Code requires the ITD to collect \$10 for each letter of TVC that is issued by the department. Customers who use their own time and equipment for on-line processing of commercial vehicle registrations will no longer be required to pay the \$10 fee for a temporary vehicle clearance. The \$10 fee has been a barrier to utilization of our web-based services. This proposed legislation will encourage the expanded use of on-line services by waiving the \$10 temporary vehicle clearance fee for on-line customers.

This proposed legislation has been brought before the Motor Carrier Advisory Committee and Industry and has received agreement.

Alan Frew, Administrator of the Division of Motor Vehicles at the Idaho Transportation Department, explained the ITD uses a fiscal conservative approach regarding credit card usage. ITD does not know how many subscribers will be involved, but considered this proposal as a win-win situation for both ITD and the customers.

MOTION: **Senator Keough** moved to send HB36 to the Senate Floor with a Do Pass Recommendation. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.

HB 37: **Chris Engels**, with the Idaho Transportation Department (ITD), presented HB37, with two proposed changes to the Idaho Code. This legislation relates to registration of vehicles weighing more than 8,000 pounds.

The first proposed change is to Sections 49-431(2) and 49-431(3). Removing these lines (page 1, lines 39-41) will eliminate any references to refunds, and allows Idaho Code Section 49-434 to serve as the main code section regarding refunds. Removing lines 4-7, page 2, will eliminate any references to refunds, and allow Idaho Code Section 49-434 to serve as the main Code section regarding refunds.

The second proposed change is to Section 49-437(1), page 2, lines 37

and 38. This change clarifies that when an owner changes the registered weight during the registration year, a refund will not be issued for the fees already paid. This has been brought before the Motor Carrier Advisory Committee, and has received agreement.

Therefore, this proposal will resolve the conflict in Idaho Code concerning refunds of commercial vehicle registration fees by striking the references to refunds in Sections 49-431(2) and (3), Idaho Code. Section 49-434, Idaho Code, will then provide direction to the department for processing refunds. The modification to Section 49-437 will clarify that registration refunds are not allowed for any gross vehicle weight changes during a registration year. This includes weight increases or decreases.

MOTION: **Senator Corder** moved to send HB37 to the Senate Floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**. **Senator Keough** will sponsor HB37.

HB 38: **Chris Engels** also presented HB38 relating to the registration of commercial trailers. This legislation proposes changes to Sections 49-434 and 49-443, Idaho Code. She gave a detailed description of the proposed changes.

The first proposed change is to Section 49-434(9), Idaho Code. This would allow motor carrier customers the option of purchasing a permanent registration for commercial trailers at a cost of \$105. This would replace the current 7-year option that is available.

The second proposed change is to Section 49-443(2), Idaho Code. This would exempt the permanent trailer plates from the requirement to be reissued every 7-years.

The proposals will reduce the amount of time and paperwork required by both the Idaho trucking industry and the department for registering commercial trailers. This will help the Idaho trucking industry to avoid citations and the need to purchase temporary trip permits for expired trailer registrations. Today, the industry is required to purchase a 1-year trailer registration at \$15 or a 7-year registration at \$105. This proposal will provide a permanent trailer registration at \$105, or the option to continue to register yearly. Registration for rental trailers is still limited to five years, but they can now prepay registration in one-year increments up to the five-year limit.

Law Enforcement has indicated that, for trailers, the reflectivity is sufficient beyond the standard 7-years. If it becomes necessary, a duplicate plate will be issued at a cost of \$3. These proposals were brought before the Motor Carrier Advisory Committee, law enforcement, and industry, and has received agreement.

Alan Frew, Administrator of the Division of Motor Vehicles, explained this proposed legislation is based on input from the Motor Carrier Advisory Committee, as well as from truckers. They wanted an option for a permanent trailer plate. Surrounding states like Montana have passed similar legislation. ITD believes it is a win-win situation, because we only have to deal with the trailer registration one time. This provides an option

for carriers. If they want, for \$105, they can buy a permanent trailer plate; therefore, they would not have to be concerned with it again. It is an improvement for our customer services. A trailer must be based in Idaho to qualify for a permanent plate.

MOTION: **Senator Keough** moved to send HB38 to the Senate Floor with a Do Pass Recommendation. **Senator Corder** seconded the motion.

Discussion: Senator Keough explained this seems like a good customer service opportunity, and a lightening of ITD's work load.

The motion carried by a **voice vote**. Senators Geddes and Little voted No. **Senator Corder** will sponsor HB38 on the Senate Floor.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 2:12 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Thursday, February 8, 2007

TIME: 1:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai

MEMBERS ABSENT/ EXCUSED: None

OTHERS IN ATTENDANCE: The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).

CONVENED: **Chairman McGee** convened the meeting at 1:33 p.m.

RS 16890: **Senator Hammond**, District 5, presented RS16890 relating to Class D drivers' license and instruction permits.

The purpose of this legislation is to strengthen Idaho's graduated driver licensing law (GDL) for novice drivers. Idaho's law was enacted in 2000 and became effective in 2001. All 50 states have enacted such laws in the past decade, to give novice drivers more time behind the wheel in safer environments so they may gain confidence, skill, and judgment in the process of learning to drive. Despite a 5.6% decrease in serious injury and fatal collisions during the first four years following passage of Idaho's law, Idaho teen drivers' ages 15-19 is still over represented in fatalities, injuries, DUI arrests and aggressive driving collisions. Though Idaho teen drivers' ages 15 to 17 represent just 3.3% of all licensed drivers, they accounted for 8.5% of all fatal and injury crashes in 2005.

Evidence suggests those states with stronger GDL provisions reduce teen crash involvements by limiting risks during the first years of learning to drive. This legislation extends the four-month period of the Supervised Instruction Permit to six months, to allow teens a more realistic time period to complete the 50-hours of practice now required. It adds a provision limiting the number of passengers for the first six months after a youthful driver is licensed, if the driver is under age 17 when the license is received, and includes a technical provision to assure that cancellation of a permit occurs upon violation of underage alcohol consumption.

FISCAL IMPACTS: There is no fiscal impact to the general fund.

It is expected that this legislation would reduce the number of serious injury and fatal collisions, which would lessen associated crash costs.

Costs to the Idaho Transportation Department: Programming \$2,900 and \$4,000 postage.

Manuals - revisions to the driver's manual are scheduled in June. The GDL changes could be included with the others for no additional cost. Inserts will need to be printed for the Spanish manuals at a cost of approximately \$600.

Web Maintenance -The cost to update the online manual and young driver page is minimal.

MOTION: **Senator Keough** moved to send RS16890 to Print. **Senator Heinrich** seconded the motion. The motion carried by a **voice vote**.

RS 16885: This proposed legislation, RS16885, was presented by **Senator Heinrich**, District 8, and relates to snowmobile registration. The legislation would increase the snowmobile registration fee by \$10, and would clarify how monies are handled in the State Snowmobile Fund. He explained this legislation was previously submitted, but due to an error in typing it was best to resubmit as RS16885.

Fiscal Impacts: This would increase revenue to the Idaho Department of Parks and Recreation for its administrative fee of \$78,366, and provide \$444,074 to the various snowmobile grooming programs throughout the state.

MOTION: **Senator Langhorst** moved to send RS16885 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

RS 16554C2 **Lynn Rhodes**, Driver's License Program Supervisor at the Idaho Department of Transportation, presented RS16554C2 relating to drivers' instruction permits. She outlined eight areas being impacted by RS16554C2.

1. Equalizes fees and fee distribution for public and commercial school driver training instruction permits.
2. Makes the driver's training permits interchangeable between commercial schools and public schools.
3. Provides clarification that the Class D driver's training instruction permit must be in the instructor's immediate possession while the permittee is operating a vehicle during driving instruction.
4. Changes the expiration date from one-year or age 17 to age 18 for an instruction permit that was derived from a driver's training/supervised instruction permit.
5. Provides clarification that driver training instruction permits will be issued to people aged 14 up to age 17. People age 17 and over will be issued Class D instruction permits for driving instruction.
6. Promotes public safety by helping teens and parents feel less rushed to obtain a driver's license before the teen is really ready.

7. Reduces trips to the driver's license office by teens and their parents to obtain additional permits.

8. Provides funding for a durable, photo digitized drivers' training and supervised instruction permit.

Fiscal Impacts:

1. The new fee for a driver's training permit will be \$26.50. This results in a \$3.50 decrease for public school students, and a \$16.50 increase for commercial school students.

2. It will provide funding for a digitized driver's training/supervised instruction permit that can be used for as long as 3-years. (\$60,000/yr based on 20,000 students).

3. There will be no change to the county current expense fund, and a very minimal impact to the driver's training account.

4. One time programming costs are expected to be \$8,500.

MOTION: **Senator Keough** moved to send RS16554C2 to Print. **Senator Langhorst** seconded the motion. The motion carried by a **voice vote**.

RS 16681: **Julie Pipal**, Budget, Policy and Intergovernmental Relations Manager for the Idaho Transportation Department, presented RS16681 relating to developmental impact fees.

This legislation amends Sections 49-110, 49-302, 49-303, 49-305, and 49-307, Idaho Code. This bill would require local units' of government to enter into agreements with the Idaho Transportation Department to collect and expend development impact fees when it is determined that a proposed development has an impact on a facility under the jurisdiction of the Idaho Transportation Department. The department would be required to follow all existing rules and regulations requiring the funds collected through impact fees to be spent in the area of impact in which they are collected. The department may only collect impact fees in partnership with local units of government and not as an independent entity.

Fiscal Impacts: It is estimated that this bill could bring up to \$7 million to the Idaho Transportation Department to address traffic, congestion, and safety issues in the areas of impact in which the fees are collected.

MOTION: **Senator Corder** moved to send RS16681 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

RS 16692: This legislation, RS16692, relating to motor fuels tax was presented by **Julie Pipal** for the Idaho Department of Transportation. This legislation amends Section 63-2407, Idaho Code. This bill would eliminate the ethanol exemption and reduce the revenue impact of alternative fuels' tax exemption on transportation funding. This legislation will restore fuel tax revenue to the Highway Distribution Account, and will partially address a \$203 million annual funding shortfall for transportation in Idaho.

Fiscal Impacts: Elimination of the ethanol exemption would restore approximately \$900,000 to the Highway Distribution Account, with approximately \$513,000 being distributed to the Idaho Transportation Department, approximately \$342,000 to local units of government, and approximately \$45,000 to the Idaho State Police.

MOTION: **Senator Heinrich** moved to send RS16692 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

RS 16740: RS16740, relating to fees charged by the Idaho Transportation Department, amends Sections 49-202, 49-306, 49-328, 49-523, 49-525, 49-1224, 49-1607, and 49-2444, Idaho Code.

This bill would raise the fees for the Division of Motor Vehicles services by 75%. Fees for services include, but are not limited to, issuing drivers' licenses; title transfers; furnishing copies of registration or ownership of motor vehicles' or driver's license records; replacing registration stickers; and issuance on unassigned or replacement vehicle identification numbers. Funds from these fees will be deposited into the State Highway Account and will be used by the Idaho Transportation Department to fund operations of the department and restore a state-funded construction program that has been depleted due to hyperinflation and diminished buying power. This bill allows for the continuation of exempting fees when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

Fiscal Impacts: The Idaho Transportation Department estimates that this change will increase revenue from fee increases for vehicle titles, driver's licenses, and related Division of Motor Vehicles services by \$13.1 million annually to the State Highway Account.

The one-time cost associated with implementing this legislation is estimated to be \$72,000 which includes 600 hours of system programming by contract programmers (\$45,000) and forms development/printing (\$27,000).

EFFECTIVE DATE: The effective date of the fee increases will be January 1, 2008. This date will allow the department to complete the necessary system programming to implement these fee increases.

MOTION: **Senator Corder** moved to send RS16740 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

RS 16762: This proposed legislation, RS16762, relating to the highway preservation fuel tax, and amending Sections 63-2424, 63-2428, and 63-2431, Idaho Code, were presented by **Julie Pipal** for the Idaho Transportation Department.

This bill would impose a 7% tax on the base or "rack" price of all fuel at the distributor level. This legislation provides for the incidence of the tax to occur prior to assessment of the federal tax of 18.4 cents, and to the assessment of the state fuel tax rate of 25 cents per gallon. This tax would provide not only a significant source of revenue to the Highway

Distribution Account, but would also provide a practical indexing methodology for funding transportation in Idaho as the tax revenue would increase with the price of fuel.

Fiscal Impacts: This legislation is estimated to generate approximately \$108.3 million in revenue (approximately 900 million gallons' gasoline and dyed diesel X \$1.73 gallon X .07) (at \$2.16 gallon retail) to the Highway Distribution Account, with approximately \$61.7 million being distributed to the Idaho Transportation Department, approximately \$41.2 million to local units of government, and approximately \$5.4 million to the Idaho State Police.

MOTION: **Senator Keough** moved to send RS16762 to Print. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.

RS 16881: RS16881, relating to the flooding of highways, was presented by **Stuart Davis**, Executive Director of the Idaho Highway Districts.

This legislation amends Section 18-3908, Idaho code, by increasing the penalty for a second offense under the provisions of this chapter. This legislation also clarifies who is responsible for making a complaint for violations of this section. Further, the amendment allows the offender to not be charged with a violation if the condition is corrected within twenty-four hours of notification of condition.

Fiscal Impacts: There is no fiscal impact to the general fund.

MOTION: **Senator Langhorst** moved to send RS16881 to Print. **Senator Geddes** seconded the motion. The motion carried by a **voice vote**.

RS 16844: This proposed legislation, RS16844, relating to the highway and motor vehicle law, was also presented by **Stuart Davis**. This bill would amend Section 40-117, Idaho Code. This legislation is a technical clarification of public right-of-way, and to provide consistency between the definitions in Title 40-117 and Title 49-117.

Fiscal Impacts: There is no fiscal impact to the general fund.

MOTION: **Senator Hammond** moved to send RS16844 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

RS 16848: **Stuart Davis** also presented RS16848 that relates to the rules of the road. This legislation amends Section 49-613, Idaho code, to prohibit depositing debris upon the highway, and to require vehicles be properly equipped to prevent material from being blown, spilled, or allowed to escape while being driven on the highway.

Fiscal Impacts: There is no fiscal impact to the general fund.

MOTION: **Senator Hammond** moved to send RS16848 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

PRESENTATION The committee recessed at 2:00 p.m. to observe visual axle configurations presented by **Senator Corder**. [See Attachment 1].

ADJOURNED: There being no further business, **Chairman McGee** adjourned the

meeting at 2:30 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Monday, February 12, 2007
- TIME:** 1:00 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:05 p.m., and explained this would be a Print hearing only for proposed legislation. No public testimony would be accepted.
- RS 16869:** This proposed legislation, RS16869, was presented by **Edward Pemble**, Division Motor Vehicle Driver Services Manager for the Idaho Transportation Department.
- This legislation will amend Section 49-335, Idaho Code, and bring Idaho's Commercial Drivers License (CDL) program into closer alignment with Federal Motor Carrier Safety Administration (FMCSA) regulations. In December 2006, FMCSA was prepared to send a noncompliance letter to Idaho for not addressing this issue, which would have been the first step in the process to withhold highway funding.
- Federal disqualification periods for major offenses of CDL holders or those required to hold a CDL must be reflected in Idaho statutes. Idaho's administrative license suspension (ALS) is considered one of those major offenses. While the ALS currently disqualifies CDL holders during the period of suspension (90 days for the first ALS and one-year for any subsequent ALS), the disqualification period required by FMCSA regulations for major offenses is a one-year disqualification for the first major offense, and a lifetime disqualification for a second major offense (arising in separate incidents). Thus, under the proposed legislation, if a driver had both an administrative license suspension and a DUI conviction in one incident, only one disqualification would be applied.
- Fiscal Impacts: If this legislation is not implemented and Idaho's laws are found to be in substantial noncompliance with Federal Motor Carrier Safety Administration's regulations, the following would happen:
- All future increases in FMCSA grant funding to the Motor Carrier Safety

Assistance Program will be eliminated.

There will be a permanent 5% reduction of the department's federal aid highway funding the first year (approximately \$6.6 million) and 10% in subsequent years (approximately \$13.2 million annually). The reduction would affect the following categories:

- Interstate Maintenance
- National Highway System
- Surface Transportation Program.

MOTION: **Senator Malepeai** moved to send RS16869 to Print. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

RS 16965: RS16965 was presented by **Senator Langhorst**, District 16, and he explained that he had worked during the past year with a constituent, but had learned that a similar bill had been printed last Friday. This legislation, relating to the rules of the road, would amend Title 49, Idaho Code, to require the covering or securing of loads of gravel, rock, dirt or sand while operating a vehicle on public highways.

Fiscal Impacts: There is no fiscal impact to the general fund.

MOTION: **Senator Corder** moved to send RS16965 to Print. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.

RS 16992C1: This proposed legislation, RS16992C1 relating to railroads and other public utilities, was presented by **Senator Geddes**, District 31.

The purpose of this legislation is to bring Idaho law into compliance with new federal regulations, and clarifies the Idaho requirement that trains are not required to whistle at private crossings.

Fiscal Impact: There is no fiscal impact to the state.

MOTION: **Senator Geddes** moved to send RS16992C1 to Print. **Senator Little** seconded the motion. The motion carried by a **voice vote**.

RS 16988C1: RS16988C1 was presented by **Roy Eiguren**, representing the American Ecology Corporation, the Amalgamated Sugar Company and other organizations.

This proposed legislation will amend Section 49-1004, Idaho Code, relating to the special pilot project routes and permits for 129,000 pound overweight vehicle loads. The bill will add to the list of designated state special pilot project routes in southern Idaho.

He explained there are a limited number of routes being proposed to be added to the existing pilot program. There are five different user groups in Idaho making this request. A map listing the existing and proposed pilot project routes for increased legal gross weights and the Idaho State Highway System was reviewed. [See attachments #1 and 2]. The routes including U.S. highways (US), state highways (SH) and locations are:

SH-51 Mountain Home to Junction SH 78,
SH-46 Fairfield to Wendell,

SH-26 Bliss to Gooding to Shoshone,
US-30 Bliss through Burley to Junction SH-81,
SH-81 Junction U.S. 30 to Malta,
SH-87 Montana Border to Junction U.S. 20,
US-20 Montana to Ashton,
US-26 Wyoming to Idaho Falls,
SH-28 Junction SH-22 to Mud Lake,
US-93 Shoshone to Twin Falls,
SH-44 Eagle to Junction I-84/U.S.30,
US-20/26 Notus to Parma,
SH-27 Burley to Oakley,
SH-38 Malad,
SH 33 Sugar City to Driggs and Victor,
US 20 Idaho Falls to Rexburg,
US 91 Continuation of U.S.91 to U.S. 26 (Idaho Falls), and
US 20 Mountain Home to Junction of U.S.26.

Mr. Eiguren requested that two routes be deleted as they are not needed; therefore, he requested the two routes, U.S. 26 and U.S. 20 be deleted from the proposed legislation.

Senator Keough asked if the two routes were to be deleted from the proposed legislation or from the map? **Mr. Eiguren** explained the routes to be deleted are from RS16988C1, on page 2 delete lines 49, 50, 53 and 54, and on page 3 delete lines 8 and 9. He explained a corrected RS16988C1 would be delivered later in the day as RS16988C2.

Senator Langhorst moved to send RS16988C1 to Print with the following edit: on page 2, lines 49, 50, 53, 54 be stricken in the proper numbering order, and on page 3 lines 8 and 9 also be stricken with the proper renumbering ordered.

DISCUSSION: **Chairman McGee** ensured that the committee understood the motion. **Senator Keough** explained she was voting “no” as she had not seen this type of action before. **Senator Corder** referenced Senate Rule 39H. [*Rule 39 Right to Vote - (H) A Senator has the right to vote upon all questions before the Senate and to participate in the business of the Senate and its committees and, in so doing, the Senator is presumed to act in good faith and in the public interest. If a Senator has a conflict of interest under applicable law, such conflict must be disclosed to the presiding officer in writing or to the body. Upon disclosure of any such conflict, the Senator may vote upon any question or issue to which the conflict relates, unless the Senator requests to be excused.*]

Senator Heinrich seconded the motion. The motion carried by a **voice vote**. **Senator Keough** voted “No.”

RS 16990:

RS16990 was also presented by **Roy Eiguren**. This legislation, relating to special motor vehicle license plates would amend Section 49-402, Idaho Code, and would create a special, standardized design license plate for a national 501(c)3 nonprofit corporation that is also incorporated in Idaho. The corporation is Support Our Troops, Inc., a public charitable organization established exclusively to support the families of the men

and women from Idaho who serve in all components of the United States Military. Support Our Troops, Inc., is organized in all fifty states. To date, 45 of the 50 states have created special license plates to provide funding to Support Our Troops, Inc. It is anticipated that by the end of this year such license plates will be established in every state in the Union.

Fiscal Impacts: The proceeds from these license plates will be added to other revenue sources available to Support Our Troops, Inc., to assist Idaho's military families with their living, educational and health care needs. Support Our Troops will work in conjunction with the Idaho Guard and Reserve Families Support Fund, Inc., in the distribution of funds to families.

Senator Geddes asked about the fiscal impacts and the cost of producing the special license plates. **Mr. Eiguren** explained that the cost is borne by the plate sponsor; therefore, that cost would be paid to the Idaho Transportation Department.

Senator Little asked if an opinion had been received from the Idaho Attorney General, as it applies to the Constitution and fees collected for roads. **Mr. Eiguren** emphasized that it is constitutional and also is voluntary. He has not asked for an opinion from the Attorney General.

Senator Hammond commented that he has heard from law enforcement numerous times expressing concerns about license plates, trying to identify and match a vehicle and the license plate because of the liberation of different plates. He agreed this proposed legislation is certainly for a good cause, but he has concerns.

MOTION: **Senator Corder** moved that RS16990 be held in the committee. **Senator Little** seconded the motion.

DISCUSSION: **Senator Langhorst** emphasized this discussion is held yearly, and an alternative way of viewing special license plate proposals is needed. He has heard numerous times that law enforcement has a problem with the number of vehicle license plates on the road, but he cannot recall anyone from law enforcement ever testifying in a committee meeting to that effect. It is hard to rationalize the problem with different license plates. He would like to hear that argument made by a law enforcement officer.

SUBSTITUTE MOTION: **Senator Langhorst** made a substitute motion to send RS16990 to Print. **Senator Malepeai** seconded the motion.

Chairman McGee requested a roll call vote:
Senators Malepeai, Langhorst, Heinrich, Keough, and McGee voted "Aye." Senators Geddes, Hammond, Little, and Corder voted "Nay."

The substitute motion carried by a roll-call vote to send RS16990 to Print.

RS 16981: **Jerry Deckard**, representing Q-Tires, presented RS16981, relating to motor vehicle equipment, and amending Section 49-948, Idaho Code. The purpose of this proposal is to allow new technology in studded tires to be used in the state of Idaho. Currently, any tire with studs must be removed

from use from April 15 to October 15. This change will allow a studded tire to be used throughout the year on Idaho highways when the studs can be retracted below the wear bar of the tire. This type of tire is safer for use and will also lessen the wear and tear on the Idaho highways.

Fiscal Impacts: There is no fiscal impact to the general fund. Some long-term savings could be realized by the Idaho Transportation Department.

MOTION: **Senator Heinrich** moved to send RS16981 to Print. **Senator Hammond** seconded the motion.

DISCUSSION: **Senator Geddes** asked about driving on tires and going beyond the wear-bars on the tires. **Mr. Deckard** emphasized that a person using tires beyond the wear-bar would be in violation of the law.

The motion carried by a **voice vote**.

RS 17015: **Senator Heinrich**, District 8, presented RS17015, relating to motor vehicle safety restraint use.

This legislation would amend Section 49-673, Idaho Code, by increasing the seat belt violation fine to \$25 which will increase the incentive to comply with Idaho's seat belt law. We expect an increase in Idaho's safety restraint usage, which will save lives, reduce serious injuries, and reduce the cost of traffic crashes.

Idaho's \$10 fine for adult violators is currently the lowest fine in the Nation. This legislation will increase the funding for the Catastrophic Health Care Cost Fund by \$5 per conviction, and allocate \$10 to the Highway Safety Fund to fund seat belt and child passenger safety programs. This will reduce Idaho's dependence on federal funding for its traffic safety programs, and passes some of the program costs to those that violate Idaho's traffic laws.

Violation of this section may not be deemed to be a moving violation for establishing motor vehicle insurance rates, nor may it be used as evidence of contributory or comparative negligence in any civil action with regard to negligence.

Fiscal Impacts: This legislation will reduce health care costs, including Medicaid, Medicare, and state and county catastrophic health care cost funding by increasing the incentive to use seat belts by those last 20% that do not buckle up. To the extent that such costs are paid from the general account through a variety of state-subsidized health care programs, there will be a reduction in such general account costs.

We anticipate approximately the same number of seat belt citations will be written with this law change. By increasing the contribution to the CAT fund (catastrophic funds) for each seat belt citation, the contribution will increase from \$134,590 in 2006, to \$269,180 annually assuming the same number of seat belt citations continues to be written.

By allocating \$10 from each conviction to be allocated to the seat belt and child passenger safety programs, this will reduce Idaho's dependence of

federal funding to sustain its programs, and it will put some of the cost of lifesaving programs onto those that violate the laws. We anticipate approximately the same number of seat belt citations will be written with this law change, and that the fund might result in \$269,180 to the highway safety fund.

This legislation will make Idaho eligible for funding from the National Highway Traffic Safety Administration to sustain efforts to increase safety restraint usage. Under SAFETEA-LU (Safe Accounting Flexible Efficient Transportation-Legacy of Users) Section 405, Idaho could receive \$947,000 annually to be designated for projects that would increase proper use of seat belts and child safety seats. These funds will be reflected in the Idaho Transportation Department's budget.

By increasing the seat belt fine, Idaho's seat belt use rate may achieve 85% use for two consecutive years. This could allow Idaho to qualify for Section 406 funds totaling \$4.5 million, which could be used for highway safety projects and programs.

MOTION: **Senator Keough** moved to send RS17015 to Print. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**.

ADJOURNED: There being no further business, **Chairman McGee** distributed a newspaper article, published in the New York Times, relating to the Senate Transportation Committee. [Attachment #3]. He then adjourned the meeting at 1:35 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 13, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:35 p.m.
- RULE DOCKET 39-0321-0601:** **Julie Pipal**, Budget, Policy and Intergovernmental Relations Manager for the Idaho Transportation Department (ITD), explained the rule governing special permit fees for the department was previously approved by both the Senate Transportation Committee and the House of Representatives Transportation Committee. Rule 39-0321-0601 is the rule governing special permit fees collected by the Overlegal Trucks Permit Program.
- She explained that when Rule 39-0321-0601 was presented to the House Transportation and Defense Committee it was discovered that ITD staff had miscalculated the percentage of those fees that would come to the Idaho Transportation Department. The committee was told about the total amount collected under those fees. What members were not informed about those fees are deposited into the Highway Distribution Account; therefore, the Transportation Department only gets 57%. The amount ITD thought that was needed to cover the overlegal permit fees program if all the money came to the department, but it would not. The House asked ITD to go back and look at whether or not ITD could realign those fees administratively. After discussion with the ITD deputy general, it was determined that a guidance memorandum would be provided. There is enough indication in Idaho Code that the entity issuing the permit gets to keep the fees. Regarding the 129,000 pound pilot project, the Legislature was explicit in saying that if a local entity issued the permit for the 129,000 pound, they could keep the fees from that permit. If ITD issued the permit, then they could keep the fee.
- Ms. Pipal** outlined five different options on implementing the rule, IDAPA 39-0321-0601.
1. Approve the change that was proposed and keep the same

revenue distribution, change nothing. Instead of being several hundred thousand dollars over what was needed to manage that program, ITD would actually be \$500,000 in the hole.

2. Approve the changes and administratively change the distribution. That would give the ITD \$365 million for a program that would only cost \$2.6 million to operate. It would impact the locals approximately \$900,000 and the Idaho State Police (ISP) approximately \$120,000.
3. Completely reject the rule and be approximately \$800,000 in the hole.
4. Reject the rule that administratively changed the distribution. ITD would still be about \$150,000 short of the \$2.6 million needed to operate the overlegal permit program.
5. Approve the rule, leave the distribution the same on the existing funds coming in, but direct the new \$15 to ITD. That would basically mean the cities, counties, and highway districts would get the same amount they had been receiving. ISP would get the same amount they had been getting, and ITD would recover enough to cover the cost of the program.

The House Transportation Committee determined they would approve the rule, but the ITD was to direct the new \$15 fee to the overlegal permit program.

Chairman McGee asked her if the Senate Transportation Committee needed to take any further action? **Ms. Pipal** responded "no," the committee had previously approved the rule, and the House committee also approved the rule. The House committee simply said to cover the program cost and directed the new fees to cover the cost of administrating the program. [See Attachment #1 Rule 39-0321-0601, Adoption of Pending Fee Rule.]

ACCESS MANAGEMENT IN IDAHO:

Chairman McGee explained this section of the meeting is for educational purposes regarding the issue of access, access management, and rights-of-way in Idaho's transportation system. He had invited several people to present limited testimony regarding their concerns.

Stuart Davis, Executive Director of the Idaho Association of Highway Districts, informed the committee this issue is huge for the Highway Districts in terms of access, but a lot of people do not realize how big the issue really is. The highway districts have 12,000 miles of roads that are graded, graveled, or paved. There are 14,000 miles in the county system, 5,000 miles in the city system, and 5,000 in the state system; therefore, we are discussing a lot of miles of roads.

Basically, about 99.9% of the access issues are manageable, but the percent that does come up, usually when there is a developer that needs to do something very fast and it cannot be done within the scope of our policies, we usually can work those problems out. How we anticipate and take care of the access situation is mostly from the safety standpoint. Whenever a person comes into our system and proposes an access, the

first thing we do is look at the site vision triangle. We also look at the volume of traffic that dictates the distance between those two points. Usually, we run off a 330 to 440-foot differential between where an access is placed in our system. We also review other issues such as land drainage, irrigation, et cetera.

In summary, the primary issues the highway districts look at in granting access control is safety.

Jason Bennett, Managing Partner of Sage Development, LLC, testified for the Sage Development Company opposing ITD's rules governing Type IV access. He outlined the work he has done with ITD, and the lack of progress made. **Ryan Skene**, Sage Development Senior Associate, submitted written testimony opposing ITD's rules governing Type IV access.

Sage Development's concerns are related to an application for access on State Highway 44. The property in question is located at the North East corner of State Highway 44 and Linder Road, and is currently zoned C-1 with a development agreement in place with the city of Eagle.

The city has approved two access points on Highway 44. We have requested a single access that is in the same location as the access previously deeded to the property, but we were denied by the Idaho Transportation Department. The city of Eagle would like a neighborhood center to go in at this location to service current and future residential developments in the area. However, commercial and retail tenants require multiple access points in a project of this size (13.42 acres). Without access on State Highway 44 it will be extremely difficult to develop this land.

We have also completed traffic studies that demonstrate access in the requested location will improve the intersection's functionality and safety. Ada County Highway District is in agreement with these findings. In summary, the city of Eagle is in support of this project, it is a part of their comprehensive plan, and Ada County Highway District is in support of this project. However, denial by the Idaho Transportation Department is making it extremely difficult to bring it to fruition. It is our hope that the committee can help us gain the necessary access to provide the city of Eagle with a needed commercial development. Thank you for your attention to these matters.

E. Don Copple, Attorney-at-law with Davidson, Copple, Copple and Cox, LLP, testified for the company and opposed ITD's Type IV rules. The company represents several property owners in their efforts to obtain approval for access permits on state highways. However, their success in obtaining approval for an access permit onto a state highway has been very limited, due to the Idaho Transportation Department's ad hoc interpretation of its rules and regulations.

In December 2006, the company wrote the committee and requested that they be afforded an opportunity to come to the committee to address our objections to the approval of Type IV access as that term is defined in IDAPA Rule 39.03.42. Since that time, we have been advised that the

Department of Transportation does not intend to bring that rule before the committee, and we are writing to urge the committee to review the Rule pursuant to Idaho Code 67-5291.

The Idaho Transportation Department (ITD) is severely restricting access to private land without notice to owners, a hearing, or on a public safety basis. This has been broadly done through the ITD rules adoption process, without public input. These rules are designed to be, and should be reviewed and approved by the Legislature.

Our request - We are requesting the Senate Transportation Committee to reject that portion of Rule 39.03.42.011.04 of the Idaho Administrative Code dealing with the re-adoption of Type IV access (as that term is defined in the rule), because Type IV access does not provide reasonable access to properties adjacent to four-lane highways with a median or a center lane.

Supporting Details: Type IV access is defined in Rule 39.03.42.011.04 as follows: Type IV access control is applicable to selected segments of the state highway system functionally classified as principal arterial and have four (4) or more lanes with median or a continuous center turn lane. Public highway connections and new private approaches may be permitted in accordance with department standards. Joint-use approaches are encouraged. As land uses change, existing approaches should be reviewed to encourage development of frontage roads.

IDAPA Rule 39.03.42.400.3 provides a table for location and design standards for Type IV approaches. IDAPA Rule 39.03.42.010.72 and 90 define urban and rural as follows:

Urban Area - Any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to shall be determined by the latest United States Census Rural Area - all areas outside the boundaries of an urban area.

Rural Area - All areas outside the boundaries of an urban area. Copies of these specific rules were reviewed. [See Attachments #3 and #4].

The Impact of Approving the Rule: What the identified rules mean is that any urban property adjacent to a four-lane state highway with median or a continuous center turn lane that is functionally classified as principal arterials is only entitled to access if it is one-half of a mile away from another access point, one-mile away from another access in a rural area. This limitation is totally unreasonable in either an urban or rural setting.

In Gem, Canyon, and Ada counties this access problem has been compounded by the Department of Transportation because in March 2002, the Idaho Transportation Board adopted a resolution which changed the Type III access control policy on State Highway 16, State Highway 44, and State Highway 20-26 to Type IV access control in anticipation of future improvements planned by the department. A copy of the resolution is enclosed. [See Attachment #4].

Type III access is defined in Rule 39.03.42.011.03 as follows: Type III

access control is applicable to segments of the State Highway System functionally classified as principal arterials. Type III can also be applied to elected segments classified as minor arterials but exhibit characteristics of principal arterials. Public highway connections and new private approaches may be permitted in accordance with department spacing standards. Joint-use approaches are encouraged. As land uses change, existing approaches should be reviewed to encourage development of frontage roads.

What this means is that any urban property adjacent to a four-lane State Highway without a median, continuous center turn lane or a two-lane highway that is functionally classified as principal arterial is entitled to access every 300-feet away from another access point or 1,000 feet from another access in a rural area.

The current Type IV access control standards are unreasonable for urban, as well as rural, development and transportation planning. Out of direction travel, missed opportunities for travelers and a lower tax-base for local jurisdictions result for no apparent reasonable safety need.

Convenience for travelers and reasonable use of property should be a chief consideration balanced with safety for the use of the highway system. Medians are a far more acceptable way to limit cross traffic accidents, and nationally recognized engineering standards identify that more than 660-feet of separation provides no increased level of traffic safety except on freeways.

Access points limited to ½ mile (urban areas) or 1-mile (rural areas) results in either land locked parcels, the need to design residential subdivisions to be adjacent to high traffic, noisy roads with back yards abutting the roads, or they severely disrupt the possibility of a reasonably planned service commercial oriented uses for the area population base. These drastic Type IV limitations in access will blight properties in the long run for no apparent safety reason. [See Attachment #2 and 3 for copy of Rule 39-03.42 and the Board's agenda.

Erik Shannon, Deputy Director of the Idaho Transportation Department, explained the main purpose for access control, and the highways major function, is mobility to get from one place to another. The local roads, which represents the vast majority of roads in the state, have the main purpose of access. That is why we have access control, to try and preserve that mobility. Access control is based on science and is not arbitrary. There are a lot of standards and studies that give us the data used for developing access control. The Transportation Research Board has an access control study. The Federal Highway Administration has a study.

The historic pattern we had in past generations is that a road got built and no access control on it. It develops and mobility is lost, and you may have to build a highway some other place. The cycle repeats itself. Years ago, Fairview (in Boise) was a state highway. Today, it would never function as a state highway; therefore, we had to build a new highway some other place. The problem with this cycle is that increased access becomes unsafe, and also becomes expensive as mobility is lost as a deterrent to

the economic liability of a community. The general rule of thumb with any type of development, whether done by the state or by private developers, is that he who changes the status quo is the burden party. When ITD does a highway project the department pays for all of the construction, if they take any land or access they pay for it. Likewise, whenever a developer comes in and changes the status quo by changing the use and adding traffic, typically the developer is the burden party for taking care of any expenses associated with that.

ITD does not come along and do a taking. It is when a developer wants to change the use for a deeded access from the original deed. Again, the developer must take care of any level of service or any problems caused for safety. ITD does work very closely with the local elected government officials such as mayors and county commissioners. We do that as they represent the will of the local people, and they are the ones to talk with regarding siting and enforcing land use. The officials are always very concerned about enforcing safety, and are advocates for mobility. They recognize the importance of mobility so citizens can get to where they need to on highways.

Eagle Road is a good example where access was not controlled. We have since worked with the cities of Meridian, Boise, Eagle, Ada County, and Ada County Highway District and local planning organizations to develop a plan on how to control access and vision for Eagle Road. We are also working on similar plans for Highway 20/26 and State Highway 44 with the local officials. In each case we are not eliminating access altogether, we are trying to come up with a way to allow the areas to develop and provide safe and reasonable access, but also preserve the mobility of the system. The idea is that if you have a road that is built and it has a functional life of 30 or 40 years and you can preserve the access, then you can preserve that road for 30 to 40 years. If you let access become uncontrolled you will lose mobility and you must spend money to build a new road system some other place, or bear the fact that the road will not move traffic any longer. This increases the demand on the limited revenue we have.

Senator Corder explained that the committee has received a number of letters reporting that ITD is unresponsive, and it is always troubling to him to hear that a state agency is unresponsive. He understands the loss of mobility and the need to develop another way to move traffic, but these areas will develop. He asked what alternative is ITD proposing for people like **Jason Bennett** who previously outlined his problem with ITD? **Mr. Shannon** explained that **Mr. Bennett** can develop an access on the side road, but it may not be all he wants. He may have only one or two accesses as opposed to five, but that is an alternative. On the bigger scope, the ITD is working with local land use agencies to develop a robust secondary road system. The highway is not there to get you from one store a mile down the road to another store, the highway is to get you from one city to another city. Therefore, we need to develop a secondary road system with frontage or backage roads that will get you one block, and develop that into a feeder that gets you to a highway at a safe well controlled access point. **Senator Corder** asked **Mr. Shannon** if the alternative, as he explained, is that developers build other access roads to give them an access to secondary roads that would then be able to move

traffic onto the primary route? **Mr. Shannon** responded in the affirmative.

Senator Geddes asked about conflicts in the original access easements that were granted with the property. How does the department handle something that was historically granted, and some people feel they have a right too. **Mr. Shannon** explained that, categorically, if there is a historical deed, the deed is for use that is in place. In others words, if you have a farm field that has two approaches ITD will recognize that right. The ITD does not go in and take that right without compensation, but if that property develops and you go from a 20-foot approach to two 40-foot commercial approaches which will have several thousand vehicles per hour coming out of that access, then the burden is shifted onto the developer. If the property has no other way out from a highway then we grant an access. Specifically, for the case in point, it is our understanding in searching the deeds there is no mention of access in the deed. What the ITD did find is a set of highway plans from the 1950s that did show an access. However, that access does not exist today. Furthermore, the applicant has appealed to a hearing officer, and that date is being scheduled. He will get his due process before an uninterested party, and if he is correct he will prevail.

Senator Geddes did not recall ever reading a deed where the access was granted or limited to farm equipment, or specified in a deed for a single purpose or a general purpose. **Mr. Shannon** explained that the ITD looks at the problem and whoever upsets the status quo is the burden party. **Senator Geddes** stated that in his opinion if a deed provided access, that is the status quo.

Senator Hammond explained there is another agency in Idaho that encourages and recruits businesses and companies to the state to create a higher level of economic development. Therefore, if ITD strictly adheres to this type of rule it goes in the opposite direction, as it really restricts development. This is one agency working against the other. He encourages the ITD to recognize they need to strike a balance between a need for access, and what is practical in terms of access. In today's management of traffic, and using different types of devices to keep traffic flowing, we should be able to look at that type of restrictive rule and have greater flexibility so that economic development and traffic management can work more hand-in-hand. **Mr. Shannon** reported that ITD does not want to stand in the way of development, but does want development in a way that does not adversely affect the highway system.

Senator Hammond stated that he believes the ITD is being unrealistic about development. If a highway develops on both sides of the road, you probably will not get the same level of traffic flow that you originally achieved. Regardless of what happens, the highway will be impacted by the traffic. To refuse access and tell others to just figure out something else is not a practical solution. Somehow, we should be able to keep traffic flowing at a reasonable level without being so restrictive. He believes the ITD's practical application is not really worth it. With unlimited funds it can be done, but the developer also has to be practical. **Senator Hammond** stated that he hopes the ITD will be willing to look at some compromises particularly in areas that are urbanizing from rural.

Senator Heinrich asked about Type III and IV access. Whenever you enter an area that is a two-lane highway, for example Highway 55 in Blaine County, and you are negotiating that additional right-of-way with the property owners, not once were any of those people alerted that this was going to be a Type IV access. Therefore, they did not know what they were really negotiating. They were not well informed buyers and sellers. That is not a fair way to do business, because when you get a five-lane road you are enforcing acres and acres of weeds to provide that frontage. Plus, you are forcing some people to put in a frontage road for just a private access in that area. Is there some way we can properly notify them or put them on an equal level?

Mr. Shannon explained that the ITD backed off from that project and when they go through it again, they will do that. A good example is on Highway 16 which intersects State Highway 44. The ITD held a series of public meetings, and the mayor of Star, Idaho reported he had not received any complaints about Highway 16 because of what ITD did. That is what the ITD will do in the future when making changes. Regarding the specific project the senator was talking about, the ITD is uncertain when they will do that project due to a lack of funds. But, whenever that area becomes an active project the ITD will do a better job of working with the Valley County commissioners and will hold public meetings.

Garrett Nancolas, Mayor of the city of Caldwell, explained that access on Highway 20/26, Highway 19 or Highway 55, is different than an access on just any two-lane road. We are required to plan in very long terms such as 20 to 50 years. Highway 20/26, Highway 19, and Highway 55 are not going to remain as two-lane roads as they cannot carry the traffic that is expected. As we discuss access to a two-lane road, I do not think that Highway 20/26 or Highway 55 qualify. Those roads are going to be much wider, and that is where the access issue comes into play.

The Idaho Transportation Department's staff, specifically Mr. Shannon, has been extremely responsive to the city of Caldwell, to our needs, and they are easy to work with. We believe that we have some ideas that may affect access and make it a little easier, and still protect mobility. **Mayor Nancolas** emphasized that he understands the frustration of the developers and the development community. Caldwell is currently dealing with that problem with several developers. Caldwell recently presented the idea to a couple of developers, and also to the Transportation Department, that deals with both issues and is what we call the El Camino Real section. This is something within an urban area. It is seven-lanes wide, has right-in and right-out access with deceleration and acceleration lanes on both sides of the highway. You will still have two-lanes that is basically unfettered except for stop-lights at the appropriate places. If that is actually managed, with a beautiful landscaped median that allows for full access at lighted intersections, that will help with access and develop a community yet still preserve the mobility. Our job is to listen to the concerns of our citizens, to manage land use and match it with the transportation system, and try to enforce the land use laws. As those things change, we need to be creative. But, we also need to be responsive to the fact that 20 or 30 years from now citizens do not ask what were we thinking.

Nancy Merrill, Mayor of the city of Eagle submitted written comments. She wrote, I recently was copied on a letter sent by you requesting information and comments on our state highways. This last summer the Treasure Valley Partnership held their annual retreat in Cascade where we were given a presentation from the Federal Highways regarding access control, as well as what is happening in other states regarding funding of highways. I am giving you a copy of this information, hoping it will help you in your decision regarding access control. [See Attachment # 4.]

The cities in the Treasure Valley have been discussing this with the Idaho State Transportation Department for some time. I believe we can help on a local basis by working with the development community to establish incentives for providing right-of-way properties in exchange for increased densities along an arterial.

We believe it is in everyone's best interests, both the traveling public and the folks that are doing business or those that live along a busy corridor, to limit the amount of accesses we have on a major highway. As land use planners, we can use connectivity between our subdivisions and commercial developments to disperse traffic.

Frontage and backage roads are also being used to move traffic in a more efficient manner, thus eliminating the need for every property owner to have its own access to a very busy highway. As the Mayor of Eagle, I realize we could have done a better job planning for the future of Eagle Road. None of us want to make that same mistake again. I appreciate you taking the time to evaluate and listen to the concerns of all of us who must travel the roads of Idaho.

Mark Butler, representing State-Park, LLC, testified to oppose ITD's Type IV access rule. We have a very serious and growing concern regarding reasonable access, allowing Idaho's business enterprise to thrive in our growing communities while not compromising safety. The current ITD restriction of Type IV access, one access every ½ mile in areas classified by ITD as urban, and one access every mile in areas classified by ITD as rural, is far too heavy handed based upon transportation safety standards. There appears to be no sound transportation safety logic to suggest those access restrictions greater than 660-feet apart are needed unless the roadway is an Interstate.

Specifically though, my wife and I are partners in 11-acres of commercial ground at the northeast corner of State Highway 44 and Park Lane in Eagle, Idaho. I have also been a land use planner for 18-years working in both public and private sectors, so I am very familiar with land use and transportation planning. [See Attachment # 5 aerial photo.]

Our property has approximately ½ mile, 2,670-feet on State Highway 44 (a two-lane road), and approximately 380-feet of the frontage on the side street, Park Lane. Even though we have three deeded Highway 44 access points to our property, ITD has denied even one access point to Highway 44 based upon the Type IV standards and an access limitation resolution passed by ITD.

This limitation is extremely harmful, and is contrary to its purpose of obtaining reasonable and sound development with safe and functional transportation facilities. In our opinion, the Type IV restrictions fly in the face of sound planning, greatly restrict business enterprise, create additional trip lengths with people trying to find access to property, and all this for no apparent reasonable safety concern. Please reject the current Type IV access restriction in the ITD Rule.

David Ferinand, Canyon County Commissioner, emphasized that we all meet together as part of various committees and boards that we serve on, we meet with land use issues daily. In fact, as the county develops (Canyon County has increased in population 49%) we know it is not the way it use to be. We know that with the businesses that are coming, we know there has to be a balance. What we are suggesting is that we all come to the table and meet, especially with what has been accomplished with the Idaho Transportation Department. When the ITD staff come to us, we listen and take a good hard look at two things, mobility and safety. Those are the things we continue to look at.

We also have our dreams. If we could make Highway 20/26 into a four-lane divided expressway, helping both Caldwell and Meridian, we know in a perfect place today we would have areas where people could circulate traffic every ½ mile. We did not do the planning that we do now. Now we are all at the table and looking at these things. We appreciate the committee taking a look at access. We know there has to be some controls, we also know with private property rights that we must be reasonable with what we do, especially with developers helping us build the kind of transportation system that we really need. If we had a better way of paying for it, then we could make it look the way we want.

Dick Phillips, owner of the Willowbrook Development and has been in the land development business in Idaho for more than 40-years, testified opposing Type IV access.

He explained, as a developer my efforts to develop land are becoming increasingly more regulated. I don't necessarily have a problem with development standards and regulations, as long as they achieve some important public purpose. While I believe that any regulation must serve a reasonable public purpose, the regulation must at a minimum be fair and reasonable. I am here to testify before you concerning what I believe to be an ITD access regulation that is fundamentally unfair and unreasonable.

I own a piece of property adjacent to Highway 44 between Middleton and Star, Idaho. Before I purchased the land, I conducted my standard due diligence to determine if the property was feasible for a small commercial development. During the due diligence process, I learned that Highway 44 is under the jurisdiction of ITD. In addition, I learned that Highway 44 was classified as a Type III access, which allowed an access every 300-feet. The property has more than 1,330 feet of frontage on Highway 44. Under ITD's own standards, I would be entitled to four access points.

The ITD's access standards and regulations are required to be adopted through the rule making process that requires public input and compliance

with the procedures set forth in the Idaho Administrative Procedures Act. Based upon the legally adopted ITD access standards, I concluded that the land was viable for commercial development because of the allowable access points. Frankly, I only want or need two access points on Highway 44 and three on Duff, which is a city/county road.

Consequently, I purchased the 38-acres and proceeded with the land use entitlement process with the city of Middleton. In order to get it annexed into the city, I was required to extend the sewer of the property at a cost of approximately \$700,000. After meeting the numerous development standards of the city of Middleton, the city approved the land use entitlement, including the annexation, re-zone and a development plan with access points onto Highway 44 and Duff. To respond to the unprecedented growth in the area, the city of Middleton desperately wants and needs this center.

After the city's approval, I proceeded forward with obtaining an access permit from ITD consistent with their adopted regulations. During the summer of 2006, I submitted a formal application to ITD. In July 2006, ITD responded by notifying me that the Highway 44 was not a Type III urban access, but rather a Type IV rural access. In addition, ITD informed me that I could not access my property from Highway 44, and they are limiting all access to my property off of Duff, even though the street is not under their control.

In thinking that ITD was in error of their access control standards, I hired a lawyer to research the adopted access control standards. At that time, I learned that the access control standards were changed in March 2002, by the ITD Board, which changed the access control to Type IV from Type III. This change occurred without any public notice, public hearing, public comment period, but what is more important, this change in the access control standards was done in violation of Idaho law; specifically in violation of the required procedures and processes of the Idaho Administrative Procedures Act. The ITD has taken a position that if you want access based upon the previous access control standards, you are going to have to fight them. Their lawyers know that the change in access control standards was not done in accordance with Idaho law.

Mr. Phillips explained, so here I am, I have 38-acres ready to be developed. I am now ready to develop it, but I have no access. I have invested several million dollars into this project. I did this in complete reliance upon legally adopted ITD access control standards; and now I am at the mercy of a State agency who is requiring me to follow illegally adopted access standards that do not provide my project with any viable access. As I previously indicated, I believe in standards that are predictable, fair, and reasonable. I hope that you believe and that you agree. I encourage this committee to adopt a public policy that provides balance between the needs of land development and the transportation system.

In addition, I encourage you to adopt a public policy that requires fairness, reasonableness, and predictability in the access control standards and regulations of ITD.

Dave Roberts, Meridian, testified opposing the ITD's rules governing Type IV access. He is one of the owners of an 18-acre parcel of land that is located on the northwest corner of Highway 20/26 and Aviation Way in Caldwell, Idaho. The speed limit on Highway 20/26 in front of our property is 35 mph. The highway is classified by the ITD as Type IV, even though it does not currently meet the definition of Type IV; therefore, the ITD states that accesses can only be placed at the half-mile and mile locations.

My partners and I have made application to the ITD two separate times for an access to our property, and both times the ITD has denied these applications. The property is on the north side of the highway, which is across from the Flying J, and doesn't have one access, they have two accesses and both of these accesses are full accesses. (By that I mean vehicles have access to right in/right out and left in/left out). Our applications to the ITD have not asked for a full access, we have only asked for a right in/right out access. We have had two separate traffic engineers, Gary Funkhouser of Stanley Consultants and Pat Dobie of Dobie Engineering, perform traffic studies for this site based on its highest and best use (this property is zoned commercial and its highest and best use is for retail shopping). Both of these traffic engineers have come to the same conclusion; that this site will not work without an access onto the highway in front of the property. The traffic that will be generated by a shopping center cannot be handled by only the outlet at Aviation Way, and there must be a second outlet onto the highway.

I believe that we have been treated very unfairly and unreasonably in this process. Two separate professional traffic engineers have evaluated this site and both have come to the same conclusion. ITD has just ignored these conclusions, ignored the fact that they already have two full accesses to the Flying J across the street. It does not seem reasonable that the policy for a highway in the city limits, in a 35 mph speed limit, would call for accesses ½ mile apart. Please consider rejecting this type of policy and adopt the correct policy for these types of roads to allow accesses 300-feet apart.

Darin J. Taylor, a Land Use Attorney for Canyon County Highway District #4, testified regarding safety, access, and traffic flow. He outlined five points.

- 1) If we had enough money to build the roads so we could maintain mobility and safety and invite commerce, we would do it.
- 2) ITD has not had enough money to build the other lanes to Highway 20/26, Highway 44, Highway 16, and Highway 19, Highway 55 and Highway 95. If they had the money, they would have built those lanes. The ITD understands that if it does not, it must reserve the right of access management to maintain the integrity of the roads. Most of the people who drive in our district use those roads, and do not know there is a difference between ITD and Canyon County Highway. We work closely with the ITD, it is a joint effort.
- 3) The specifics of Mr. Butler's and Mr. Bennett's comments, they have deeds and very specific situations. It sounds like their problems should be handled in the judicial branch.

4) The adoption of policy for the ITD access management. If due process is not followed then it should be reversed and adopted according to procedures.

5) If we want to invite commerce and we are balancing that with mobility and safety and accommodate commerce, then something has to give and it needs to be the roadway. We need to give on our planning that Highways 44 and 20/26 will be like State Street, Fairview, and like Nampa/Caldwell Boulevard. Something must give and if we are going to grant access to commerce, and we all want commerce, we just need to change our expectation of those areas.

Tammy de Weerd, Mayor of the city of Meridian, explained the city of Meridian is getting tired of being studied as what “not” to do. We have been trying to do the right thing in preserving roadways that will move traffic, will provide for commerce, and be a safe place for our motorists to be. Eagle Road is an exceptional trouble area for the city. We are trying to make it a safer place, and that has been a very difficult balancing act.

Mayor De Weerd stated what she is advocating is to consistently apply the rules. Right now, we have an opportunity with Highway 20/26. If we maintain our stance of limited access so we can work with our development community to get the backage and frontage roads, connect the dots, then we will be penalized if we allow someone a mile down the road to have a different access. One balance that we have found in land use transportation is life safety. Eagle Road is a mess, and is where we have spent a lot of our city’s resources. Access management thru barriers to limit access, like we have on Eagle Road, if we could get them funded, could be life savers. Concrete islands do work.

Joe Cacioppo, Senior Pastor of the Grace Bible Church of Boise, provided written comments opposing Type IV rules. He wrote that his church owns seven acres of property on Eagle road, between Ustick Road and McMillan Road. For the past two years, we have been trying to develop our property so that we may build a church building to meet in. For the past year and a half, we have been road blocked by the Idaho Transportation Department. We have in our possession three granted accesses which were reconfirmed to us by the ITD back in 1997. We are currently using one of the accesses to enter our office building on the property. The ITD has stopped our approval from planning and zoning, after they agreed to grant our zoning, by writing a letter to planning and zoning declaring that we have no accesses from Eagle road or any other road to our property. The ITD has since then refused to meet with us in person to resolve the issues. We have since then paid for and received two traffic impact studies as requested from the ITD, both confirming that there would be no impact on Eagle road yet they still deny us any access. We have been forced to hire a lawyer who after exhausting every avenue other than a law suit, has finally gotten their attention, but still has not gotten any results. The ITD to this date, has still not met with us, but has contacted us through our lawyer stating we would have an offer by the end of the week. This was four weeks ago, and we still have no letter.

Here we are, a small church who has labored for twelve years to buy this expensive piece of property and now we are essentially being told that it

is not worth anything. We could not even sell it if we wanted to without any access to the road. What are we asking for? We are not asking for money, we are not demanding that we get all three accesses. What we are asking for is an up-front ethical Department of Transportation to sit down with us, and work out a reasonable compromise to the situation.

Please consider the inconsistencies of the ITD. You can't grant and reaffirm accesses one-year and then deny they even exist the next. You can't refuse to meet and work out a reasonable compromise when it is essentially a large part of your responsibility in your job. You can't promise a letter by the end of the week and then have none arrive, or no contact as to why for up to a month later and ever be trusted to keep your word. I realize that we are a very small piece of the pie, and that you have many things to consider. I will pray that you are granted wisdom. Thank you for allowing me to express my concerns.

Miguel Legarreta, Government Affairs Director for the Building Contractors Association of Southwestern Idaho, Inc., submitted written testimony regarding access and access management.

The concern pertaining to access and access management is twofold. Both issues will take time and consideration to formulate a well thought out response, however, I would like to submit the following comments from the members of our Association in a preliminary context:

1) Access points seem to change with the use of the property and the usage of the adjoining state roads. As traffic increases, access points are reduced or severely restricted. This has a significant impact on the accessibility of numerous parcels located between "approved access points." What should be the process to provide the access to these "interior" parcels with limited access to state roadways?

2) Obtaining a workable solution with the ITD is a long drawn out process, which severely impacts the land owner's value, timing and uses. This process needs to be streamlined with a procedure and guidelines. The extent of these procedures and guidelines will take sometime to work through.

3) Access management addresses the safety concern and the flow of traffic. These may be resolved through alternative access designs, which may require the ITD taking an active role in the process, especially in urban locations.

4) I believe there is a significant difference between rural and urban environments as they pertain to the state road system. This must be considered when addressing these issues.

5) The issues need to be planned ahead - take the initiative and plan the uses along the state's roads. Traditionally, the issues are addressed only when forced, and failing to plan is a plan for failure.

Balancing access management with access points to property may best be solved through a collaboration of interested parties to achieve a workable solution. I can be reached at the Building Contractors Association of Southwestern Idaho, 377-3550 or on e-mail at

mlegarreta@heritagewifi.com.

Robert A. Haggett, Vice President of the Red Cliff Development in Boise, submitted written testimony to oppose the ITD Rule 39.03.42.011.04. He requested the Senate Transportation Committee adopt a concurrent resolution that they not approve that portion of Rule 39.03.42.011.04 of the Idaho Administrative Code dealing with the re-adoption of Type IV access, because the Code does not provide for reasonable access to properties adjacent to four-lane highways in the state of Idaho.

The State certainly needs to have approach standards, but the existing Type IV standards that limit access to ½ mile in urban areas and 1-mile in rural areas is inadequate. Limiting access in this way will not make travel on state highways safer. In reality, more landlocked parcels will be created, residential projects will be located closer to high trafficked roads, and potential development land for well located neighborhood commercial uses will be restricted.

As an example of the current Type IV standards effect, Red Cliff is developing a 34-acre mixed use project on the south side of State Highway 44, just east of Horseshoe Bend Road. We have one access point to our property off of State Highway 44, and that one access is located on the adjacent property owners land to the east, approximately 1,750 ft from the intersection of Highway 44 and Horseshoe Bend Road. One access for this 34-acre development is inadequate and puts an undue burden on the landowner.

There are numerous other examples of development projects throughout the Treasure Valley that have been negatively impacted by the current approach standards. We appreciate your consideration in this matter.

Senator Langhorst asked the ITD about the public process when routes are classified, and if the public process alternatives are considered? **Mr. Shannon** explained that he is unaware of the public involvement process during 2001, when the new policies were adopted. As far as the Board's actions which specifically addressed Highways 20/26, 44, 16 and later in a separate action a portion of Highway 55, the ITD has learned that when they do a corridor study it will involve a massive public outreach, and they are currently doing that now with the Highway 20/26 project.

Steve Hutchinson, Chief Engineer for the ITD, reported the ITD Board conducts its actions in open board meetings, they are advertised, and agendas are made available with notice that the board will take action on those routes.

Mr. Bennett quickly reemphasized that both he and **Mr. Butler** have experienced the same denials, even while trying to do the right thing such as right-in and right-out, etc., regardless he was still denied by the ITD.

**JFAC
PRESENTATION:**

Chairman McGee and committee members discussed the upcoming meeting with the Joint Finance Appropriations Committee, and what items needed to be reported.

ADJOURNED: **Chairman McGee** thanked the people who presented information or testified, and the information will be very valuable to the committee. There being no further business to conduct, **Chairman McGee** adjourned the meeting at 3:00 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Attachment #1 - Rules governing special permit fees 39-0321-0601
Attachment #2 - Rules governing encroachments on state rights-of-way 39.0342.
Attachment #3 - ITD Board agenda item, dated March 13/14, 2002
Attachment #4 - Transportation corridor preservation: summaries of recent cases
attachment #5 - Aerial photo-Resler subdivision

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Thursday, February 15, 2007

TIME: 1:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, and Malepeai

MEMBERS ABSENT/ EXCUSED: Senator Langhorst

OTHERS IN ATTENDANCE: The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).

CONVENED: **Chairman McGee** convened the meeting at 1:35 p.m.

MINUTES: **Senator Keough** moved to accept the minutes of Tuesday, January 30, 2007, as presented. **Senator Corder** seconded the motion. The motion carried by a **voice vote**.

Senator Hammond moved to accept the minutes of Thursday, February 8, 2007, as written. **Senator Heinrich** seconded the motion. The motion carried by a **voice vote**.

PRESENTATION CONNECTING IDAHO AND GARVEE: A presentation relating to the Connecting Idaho and the GARVEE (Grant Anticipation Revenue Vehicle) Bonding Program was presented by **David R. Butzier**, Program Manager for Connecting Idaho Partners for the Washington International Group.

He presented an overview of the Connecting Idaho GARVEE Program, and explained the presentation is divided into five areas and outlined the individual areas being presented.

First, he presented a brief overview of Connecting Idaho Partners (CIP). CIP is the Joint Venture of Washington Group International and CH2M HILL that is under contract with the Idaho Transportation Board, to help the Idaho Transportation Department deliver the Connecting Idaho GARVEE Program. The CIP and the Idaho Transportation Board entered into this contract on August 3, 2006.

Second, he presented a brief overview of the bonding amounts for the Connecting Idaho Program - both for the first bond issue and for the Idaho Transportation Board's recommendation of \$998 million.

Third, he presented a summary of the highway project development process. There are many steps that need to be accomplished before a highway project can go to construction. Major steps in project development process include, but are not limited to preliminary engineering, environmental studies, public involvement, final design, right-of-way acquisition, utility relocation, and permits.

Fourth, he presented a walkthrough of each of the funded GARVEE corridors and the exciting work that is occurring on each of the projects along those corridors. The Idaho Legislature has currently authorized GARVEE bond proceeds to be spent on projects within the following six major transportation corridors:

- U.S. 95, Garwood to Sagle
- U.S. 95, Worley to Setters
- Idaho 16,1-84 to South Emmett
- 1-84, Caldwell to Meridian
- 1-84, Orchard to Isaacs Canyon
- U.S. 30, McCammon to Soda Springs.

In its FY 2008 GARVEE bonding request, The Idaho Transportation Board has recommended continuing spending GARVEE proceeds on the projects along the above six corridors plus the U.S. 93, Twin Falls Alternate Route corridor, and on southerly extension of the U.S. 95, Garwood to Sagle corridor - the U.S. 95, Wyoming Avenue to Garwood Project.

Fifth, he presented a summary of the service and fee provisions of the contract between the CIP and the Idaho Transportation Board. There has been some confusion on the exact services that the CIP is providing and the fees that we are being paid for those services.

Mr. Butzier expressed his appreciation for the opportunity to be before the Committee. If committee members have any questions or need additional information after today's presentation, please do not hesitate to contact him at (208) 386-5183.

The committee viewed a 22-slide power point presentation relating to the Connecting Idaho Partners, GARVEE, the project development process, a corridor overview, a project walkthrough, and the CIP contract. [See Attachment #1.]

Senator Corder asked about the Eagle Road traffic and what is planned for traffic on the road? **Mr. Butzier** explained that Eagle road was not included in the GARVEE project, but the Idaho Transportation Department is working on a study looking at what needs to be done. The ITD added a lane between the interstate and Franklin last year to help improve that and they plan on continuing the island process on down Eagle Road to help that corridor. **Senator Corder** stated, "this is another example of our failure to look at the long-term picture, a great example of what we are doing wrong and not doing right."

Senator Keough asked several questions relating to a project's contract, approval, and funding.

How much is the cost for the contract with Keller and Associates?

Why would we put out a contract on a project that had not been approved under the GARVEE program by the Legislature?

If the Lancaster project was already undertaken and a contract was for primary development, was the project associated with GARVEE funding or approved for future GARVEE funding?

Mr. Butzier explained he believes the cost of the Keller contract is in the neighborhood of \$2 million. He stated the project was already under contract prior to be adding. He emphasized the Keller and Associates contract was through District 1, before it was added to the corridor. It was in project development prior to GARVEE, but there was not enough money to complete the final design; therefore, he believes the ITD Board hoped the Legislature would approve finishing the project.

Senator Keough asked, "is GARVEE money being spent on that project or not?"

Mr. Butzier stated that no GARVEE money is being spent on it at all, right now. The ITD Board was clear, we could not work on the project until the Legislature approved adding it to the corridor.

Mr. Butzier presented an overall summary of the presentation. When the contract was signed on August 3, there was \$54.1 million under contract. Between January and March, he anticipates another \$65 million to be under contract, and from April to June another \$8.6 million, and by September there will be another \$63.3 million, for a total of \$190.6 million under contract. The program is moving very well and on schedule with the original plan, and we are very excited about the progress. The difference between the \$190.6 million and the \$213 million is the right-of-way which we cannot put under contract, or start acquiring, until after the environmental documents have been cleared.

A lengthy discussion was held concerning engineering, pavement overlays on existing asphalt, risks and cost to subcontractors, funded and unfunded obligations, fixed fees, schedules, most needed projects and completing started projects before beginning other projects. If the Legislature approved \$264 million in funding, how soon could the money be put into actual pavements?

Chairman McGee reviewed a list of criticisms about GARVEE such as:

- The program has been going too slowly.
- The Washington Group International contract costs too much.
- The money is not being spent quickly.

Chairman McGee emphasized that **Mr. Butzier's** comments today are:

- The projects are on schedule.
- \$13 million in interest.
- Projects under the estimate.
- Bidding for final design.

- Going to bid next Tuesday; and outsourced 53%.

Chairman McGee asked that the above mentioned facts be reconciled with the criticisms, as today's presentation makes him believe everything is okay.

Mr. Butzier stated that he is unable to explain where the criticisms come from, that is why they were excited for the opportunity to meet with the committee today to, hopefully, set the record straight.

Chairman McGee explained that based on comments **Mr. Butzier** just made, it is important that a clarification be made. The Idaho Transportation Board's recommendation of \$264 million, and the Gentleman on the second floor recommendation of \$264 million, and this Legislature's original commitment of \$264 for this next year, is the Washington International Group prepared to use that money to get the projects done?

Mr. Butzier responded, "absolutely." The company is excited about getting the projects going.

**PRESENTATION
PILOT PROJECT:**

Greg Laragan, Assistant Chief Engineer/Operations for the Idaho Transportation Department (ITD), presented a status executive overview relating to the 129,000 pound pilot project. He introduced **Alan Frew**, Division of Motor Vehicles Administrator, and **Matt Farrar**, State Bridge Engineer, and **Regina Phipps**, Vehicle Size and Weight Specialist for Commercial Vehicle Services, from the Idaho Transportation Department who were also available to answer technical questions. **Mr. Laragan** outlined the following:

- 1998-2001, first pilot project allowed 129,000 pound trucks on limited routes.
- 2003, House Bill 395 reestablished the pilot project with more routes and a longer time frame.
- Bill required ITD to report on all important impacts of 129,000 pound trucks and specifically required that impact to pavements, bridges and safety be included.
- Reports required in 2007, 2010 and 2013.
- 2007 report contains results of our data collection and analysis for the first 3-years of the program and represents our best effort to comply with the intent of the statute.
- Previous studies on impacts of heavier trucks, including the 1998 pilot project and a Montana study, primarily utilized computer models for predictions of damage that might occur to pavements and bridges due to heavier loads.
- Previous studies on impacts of heavier trucks, including the 1998 pilot project and a Montana study, primarily utilized computer

models for predictions of damage that might occur to pavements and bridges due to heavier loads.

- ITD looked at actual measured pavement and bridge damage and compared it with prior time periods to determine trends. We also collected data from the two biggest participants in the pilot project, Amalgamated Sugar and U.S. Ecology, to get an idea of the economic impact of the increased haul volume on their operations.
- Sugar beets have made up 75% of the loads hauled by the heavier trucks; 14% of the loads have been hazardous waste hauled to the US Ecology disposal site near Grand View; all other commodities make up the other 11% of loads.
- Bridges are designed for 50 years and asphalt pavements are designed for 20 years; failure is usually a long-term process. Although some trends have developed, three years is still too short a time frame to draw definitive conclusions. This also applies to crash data.
- Because the statute limits axle weights, the tradeoff between heavier loads and fewer numbers of loads may balance each other, except that long bridges become more of a concern.

Some issues:

1. Pilot project trucks are still a small percentage of all trucks on most of the routes.
2. Ongoing bridge and pavement preventive maintenance has improved conditions in some areas and made comparisons' difficult.
3. Other factors such as weather and materials properties also affect bridge and pavement durability.
4. The effect of both permitted and non-permitted overweight loads that are not part of the pilot project is unknown.
5. Adding additional pilot project routes will mean starting from scratch on those routes and makes aggregating data problematic.

A three-year report on the 129,000 pound pilot project has been given to each committee member to review. The report includes a background narrative of the pilot project, the 2003 project routes, data collection, the economic impact, safety, pavements, bridges, functionality, and other related data. [See Attachment #2.]

A summary of the report includes the following:

In an effort to provide for a more efficient means of freight transport, the

Idaho Legislature, in 2003, created a new pilot project with House Bill 395 to allow truck and trailer combinations up to 129,000 pounds. A condition of this pilot project is for the Idaho Transportation Department to track the impacts of these heavier loads and to provide a report to the Legislature every three years for the duration of the project. Interim results will be reported again in 2010, and final results in 2013.

During this most recent three-year period ending June 30, 2006, 24 entities obtained permits for the movement of 369 trucks at the heavier weight. They have transported such commodities as sugar beets, hazardous waste, pumice, hay and phosphoric acid. Seventy-five percent of the trips made by these specially permitted trucks were hauling sugar beets. Hazardous waste, transported primarily to the U.S. Ecology Idaho facility near Grand View represents 14% of the pilot project trips.

Users have reported economic benefits associated with this pilot project. For example, in a public/private partnership, U.S. Ecology Idaho indicated that the ability to transport higher payloads provided enough economic incentive to invest \$1.6 million in the paving of Simco Road in Elmore County. The combination of traveling on that shorter route, and additional weight allowance on 40% of the loads, produced an estimated savings of \$3 per ton, or the equivalent of \$1.5 million per year. Additionally, Amalgamated Sugar Company estimates annual savings of approximately \$95,000, primarily in freight efficiencies resulting from fewer trips.

The report reflects that, at this time, there is insufficient data to reach definitive conclusions regarding the impact of the heavier vehicle combinations on Idaho's roads and bridges. The Idaho Transportation Department continues to collect data on pavement and bridge condition. In addition, crash data will need to be examined over a longer period of time for valid comparisons and conclusions.

A discussion was held regarding longer-span bridges and supports, engineering and bridges designed for additional heavier truck weights and long-term effects on bridges, pavement conditions, and accident data with **Mr. Laragan**, **Mr. Frew**, and **Ms. Phipps** responding to questions and concerns.

Senator Keough requested that when the legislation previously introduced to expand the pilot project comes back to the committee, it would be helpful if the ITD's bridge engineer could be present.

Chairman McGee agreed and requested the Idaho Transportation Department's bridge engineer be present when the expanded 129,000 pound pilot project legislation is presented to the committee on March 3, 2007. [Reference SB1138 & SB1180.]

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 2:53 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Attachment # 1 relating to a Connecting Idaho - GAREVEE Program presentation.
Attachment # 2 relating to the annual report about the 129,000 pound pilot project

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 20, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** The signature sign-in sheet(s), charts and graphs will be retained with the minutes in the committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- MINUTES:**
- Senator Heinrich** moved to accept the minutes of Tuesday, February 6, 2007 as written. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.
- Senator Keough** moved to approve the minutes of Monday, February 12, 2007. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.
- S 1094:** **Senator Broadsword**, District 2, outlined Senate Bill 1094 relating to passenger safety for children; amending Section 49-672, Idaho Code, to provide that there shall be no exceptions to the law requiring all children six years of age or younger to be properly secured in a child safety restraint; and also amending Section 49-673, Idaho Code, to delete reference to an exception in law that is no longer applicable.
- She emphasized our children are Idaho's most precious resource and need our protection. Senate Bill 1094 will eliminate the two exceptions currently in the child's safety seat law. If SB1094 is passed, it will address the concern that we, as a state, are allowing our children to be put in danger by the exceptions in Code. The roadways and traffic of today are not those of twenty years ago. The speeds we travel and the sheer number of cars on the road, make it imperative for parents to keep their precious cargo in their safety seats. It should not be a hardship to pull off the road to handle a child's needs. The few minutes it would take would be minutes well spent. The heartache that could be caused by the loss of even one child would never go away. In this day and age, it is not unusual for large families to take more than one vehicle if they have too many bodies with them. The removal of these exceptions would make Idaho eligible for almost \$2 million in federal incentives in 2008 and 2009. That is \$947,000 each year. The grant money, if received, must be used for child safety seats or child safety education and activity.

George DeLand, M.D., Joyce Gilbert, M.D., and Robin Helm, M.D. submitted written testimony as shown:

We are writing about our Idaho statute regarding children and car seats. Title 49 of the Motor Vehicles Code, Chapter 6, Rules of the Road, Section 49-672, provides that children shall ride in a car seat, but exempts a child who is "removed from his car safety restraint and held by the attendant for the purpose of nursing the child, or attending to the child's other immediate physiological needs." We strongly object to this exemption, and wholeheartedly urge you to remove it from the Code. There is no valid reason - ever - for an infant or young child to be in a moving vehicle without being strapped into a safety seat. Nursing an infant or attending to other needs of a child should be done in a safely parked vehicle. Changing the law to eliminate the exemption would help ensure the safety of our children. Changing this law would also help us procure donated car seats for our underprivileged families, as companies cannot legally donate car seats in states allowing such exemptions.

We would be happy to talk with you about our concerns. For the safety of Idaho's children, please change the law by eliminating the aforementioned exemption.

Heather Cooper, submitted a written statement relating to SB1094. She wrote, as a parent and concerned citizen, I am in strong support of SB1094.

Senator Hammond asked about another item of legislation that is requiring a higher fine of \$25 for not using a seat belt, and the information also related to the almost one million dollars to be used for safety. Is that a different fund? **Senator Broadsword** explained there are a number of federal incentives for safety belt use, and she believes this is a separate fund.

Julie Pipal, Budget, Policy and Intergovernmental Relations Manager for the Idaho Transportation Department, explained she is uncertain if the money comes from separate funds, but the way NHTSA (National Traffic Safety Administration) gives incentives is that with each additional change the incentives increase. Therefore, with each change additional funds could be received.

Senator Heinrich concurred with **Ms. Pipal's** statement. There are separate funds available for separate safety restraints for children's seat belt usage.

Dr. Jerry Hirschfield, a pediatrician in this community for about 35 years, also representing the Idaho Chapter of the American Academy of Pediatrics, and is the CEO of the St. Luke's Children's Hospital, testified to support SB1094. The hospital is tremendously invested in the care of children, but is even more invested in the prevention of injury. The leading cause of death to children ages 1-to-14 years, both death and disability, is traumatic injury. Traumatic injury is most frequently caused in car crashes. There is a lot of data that shows the use of appropriate infant and child restraint devices have a high likelihood of preventing death, and certainly decreases the morbidity or disability of car crashes.

The Idaho Legislature over many years has shown its wisdom in forcing several items in order to try and secure our children and prevent traumatic injury. One is education, and we all value education immensely. The second is identifying excellent technology and the strategies to implement that technology. We have been at the forefront of doing that through educational programs of parents, partnerships with law enforcement and fire departments, and many other entities. We try and provide an educational format so parents can understand what kind of restraint devices should be used and at what weight, age, and height. We have been very successful. We have increased the utilization of those infant and children's restraint devices several percentage points on a yearly basis. Some of that has also been encouraged by the passage of legislation that creates penalties for lack of utilization, and of knowing effective technology.

Dr. Hirschfield requested the committee to eliminate the two exceptions. For every exception there are people who will interpret that exception as an invitation to utilize it, when it is almost never necessary. He is not interested in eliminating an emergency rescue of a child should they vomit in their car seat. He is interested in eliminating the opportunity of taking a child out of a car seat for long periods of nursing or other psychological needs that are broadly identified in the current bill. He is asking the Legislature to define the boundaries under which children should ride in infant and car seats, and to stick with other boundaries without exception.

Jeannette Risch, Nationally Certified Child Passenger Safety Passenger Instructor, testified to support SB1094. She educates parents and checks car seats, but she also teaches certified people on becoming a child passenger safety technician. She reported that the exemptions in the statute are very disconcerting. This legislation will progress us further to teach parents to take two minutes and pull over to the side of the road. When the law was changed a couple of years ago, we saw an increase in usage of child restraint, and an increase in complying with the new statute. It is very important that we protect the children of our state. Children rely on the adults in their lives to make good choices for them. By changing this statute, we are giving parents tools to make choices for their children.

Senator Heinrich asked if this change in the law would allow the type of program the Health Districts had to install safety seats be reimplemented? **Ms. Risch** explained the Health Districts used to provide low-cost car seats. We have a national body called "Safe Kids" that supply safety seats. At St. Luke's Hospital we do three car seat checks a month within the valley, and we also have low-cost car seats available or free to families that cannot afford to purchase a safety seat. There is funding available throughout the state for child safety restraints.

Dr. Hirschfield emphasized that two years ago we began a process with the Idaho Transportation Department, and we acquired \$105,000 in funds. Those funds are distributed throughout the entire state. An organization is selected within each of the seven Health Districts, and those funds are distributed to them for three purposes: 1) education; 2) training the trainer, and 3) provide car and infant seats. No one is denied a car seat because of an inability to pay. If someone cannot afford the \$25 car seat fee, they

are given the seat.

Senator Hammond asked **Senator Broadsword** about page one, line 40 of the bill, is she concerned about a loophole? She explained that next year possibly further changes may be brought forth regarding the legislation.

Fiscal Impact: There is no fiscal impact to the general fund.

MOTION: **Senator Keough** moved to send SB1094 to the floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**.

S 1075: **Senator Corder**, District 22, presented SB1075, relating to basic rule and maximum speed limits. Under Senate Rule 39H he disclosed he is the owner of a trucking company.

[Rule 39H - A Senator has the right to vote upon all questions before the Senate and to participate in the business of the Senate and its committees and, in so doing, the Senator is presumed to act in good faith and in the public interest. If a Senator has a conflict of interest under applicable law, such conflict must be disclosed to the presiding officer in writing or to the body. Upon disclosure of any such conflict, the Senator may vote upon any question or issue to which the conflict relates, unless the Senator requests to be excused.]

This legislation, SB1075, will eliminate the differential speeds on rural interstates and will result in safer highways. This legislation will reduce the number of truck/auto interactions by changing the speed limit for all vehicles on rural interstates to 70 mph. A national study conducted by the University of Arkansas has concluded positive changes for driver compliance to speed laws as an added benefit.

Senator Corder explained that about a third of his truck fleet operates 99% of the time off rural interstate; therefore, only 1% of all their miles come into contact with the interstate. And 1/3 of the fleet operates by the hour. He has been accused by e-mails and the newspaper that his motivation is to increase his profits. If he really wanted to increase his profits in trucks working by the hour, he would try to slow the speed limit down to 45 mph for everyone.

The rest of his truck fleet works by the load. He has one truck that goes to Burns, Oregon, and that truck only makes one trip per day. During that one trip a day, it is only on the rural interstate between Caldwell and Ontario, Oregon.

This legislation is not about increasing his profit as it will not change the profit picture, but it is about watching your rearview mirror, and watching and counting the number of near misses when people have to slide on their breaks, then realize while going into another lane that another car is racing as well to get around a truck. Too many near misses. That is what brought him to have this discussion. As we have this discussion, there are two things he wanted the committee to understand, regardless of the outcome of SB1075.

First, enforcement - regardless of the speed limit, if we do not have enough officers patrolling the ground and enforcing the speed limit there is, to some extent, chaos and anarchy on the road whenever there are not enough officers patrolling the roads. He has numbers that demonstrate that automobiles and trucks, but more often automobiles are driven contrary to the speed limits.

Second, highway conditions - it would be great if we could do as some have e-mailed each of us too just not slow the cars down. I want to keep going 75 mph. The reality is they want to keep going 85 or 80 mph, because statistics say the majority of cars do. The reality is people do not drive the speed limit. He wants to accomplish compliance. He reemphasized enforcement and highway conditions should be a high priority in going forward and how it is funded.

Senator Corder explained the following conclusions may be found in context and at length in a study conducted by Dr. Steve Johnson at <http://dailyheadlines.uark.edu/8286.htm>. Dr. Johnson's study, "Cost/Benefit Analysis of Speed Differentials Between Heavy Trucks and Automobiles," is an extensive consideration of multiple implications for safe travel on rural Interstates.

- The higher the difference in the speed, the higher the probability of an accident.
- Speed variance and vehicle speed affect fuel efficiency and air quality as all vehicles accelerate and decelerate to maneuver.
- Compliance rates are an additional consideration. For uniform 75/75 mph compliance rates were 53% for cars and 73% for trucks. Uniform 70/70 mph limit resulted in 31% for automobiles and 70% for trucks. Compliance rates for a lower differential speed of 65/55 mph found only 7% of cars and 0% of trucks complied with the speed limit.
- Automobile drivers are more likely than truck drivers to drive at a "comfortable" speed, regardless of the posted speed.
- Actual traffic counts over a 1,000 mile trip in a 70/70 speed jurisdiction were 483 interactions car with car, and 130 interactions car with truck. A 1,000 mile trip in a jurisdiction with 10 mph differential demonstrated 543 interactions car with car and 182 interactions car with truck.

Mean speeds (speed of 80% of the vehicles):

| <u>Automobile Speed Limit</u> | <u>Truck Speed</u> | <u>Mean Traffic Speed (mph)</u> | <u>Mean Automobile Speed (mph)</u> | <u>Mean Truck Speed</u> |
|-------------------------------|--------------------|---------------------------------|------------------------------------|-------------------------|
| 65 | 55 | 71.2 | 73.2 | 64.2 |

Mean speeds continued from page 5:

| | | | | |
|----|----|------|------|------|
| 70 | 65 | 71.4 | 73.5 | 66.7 |
|----|----|------|------|------|

| | | | | |
|----|----|------|------|------|
| 70 | 70 | 71.5 | 72.6 | 68.6 |
| 75 | 75 | 74.2 | 74.8 | 72.3 |

Realistic speed limits are of public importance for a variety of reasons:

1. They invite public compliance by conforming to the behavior of the majority.
2. They give a clear reminder of reasonable and prudent speed to non-conforming violators.
3. They offer an effective enforcement tool to the police.
4. They tend to minimize the public antagonism toward police enforcement which results from obviously unreasonable regulations.

Unrealistic speed limits are also of public importance for the following reasons:

1. They do not invite voluntary compliance, since they do not reflect the behavior of the majority.
2. They make the behavior of the majority unlawful.
3. They maximize public antagonism toward the police, since the police are enforcing a "speed trap."
4. They create a bad image for a community in the eyes of tourists.

Speed limit enforcement influences variation in traffic speeds. If speed limits are not strictly enforced, motorists choose their own "comfortable" speed.

Motorists tend to drive at speeds at which they are comfortable, regardless of posted speed limits. For example, speed data collected in the study illustrated that, although posted speed limits for automobiles differed by 10 mph, average speeds differed by only 1.6 mph. In other words, regardless of whether the speed limit was set at 65 mph or 75 mph, motorists drove between 73.2 and 74.8 mph.

If limits are set at what is considered to be arbitrarily low values, motorists will not adhere to those values. Dr. Steve Johnson found significantly different compliance rates for the various speed limit configurations. Compliance rates for the configuration of a uniform 70 mph were 31% for automobiles and 70% for trucks. By contrast, compliance rates for lower posted differential limits 65 mph for cars, 55 mph for trucks - were 7% for automobiles and 0% for trucks.

Despite many motorists' perception that tractor-trailers pass them frequently, Dr. Johnson found that the average speed of trucks is three to four mph slower than the average speed of automobiles, even when speed limits were uniform.

Changes in posted speed limits affect speed variances. After a speed limit

change, there is a transition period and an adaptation period. During the transition period, some drivers adapt slowly to the high limits while others immediately travel at or above the new limit. The behavioral difference of these two groups increases the amount of a speed variance and results in a temporary but artificial indication of higher accident rates due to increased limits.

Commercial trucking company policies that restrict the maximum speed of their fleet by using speed limiters, engine mechanisms that prevent trucks from traveling faster than a desired speed, increase the amount of speed variances on interstate highways.

Driving time has a significant impact on truck-driver fatigue. However, up to the average traffic speed, higher speed does not result in additional fatigue.

Speed variances, in addition to vehicle speed, significantly affects fuel efficiency and the amount of pollution, as both trucks and automobiles must accelerate and decelerate to maneuver around slower traffic.

Idaho's fatality trend, the number of deaths annually, has been essentially level for the last 16 years. This comes even with the increased vehicle miles traveled on the system.

The reduction in traffic fatalities and injuries continue to be both an Idaho and national emphasis. While the Idaho fatality rate is higher than the national average, it is typical of rural states and continues to improve. The use of safety restraints, which improves vehicle occupant safety, continues to improve in Idaho. It is still slightly behind the national rate.

Effects of Speed and Speed Differentials on Roadway Wear:

There is an issue of roadway wear as a function of highway speed limits. Chat ti (1996) studied the impact of speed on pavement strains. The effect of vehicle speed on pavement strains was significant. Increasing vehicle speed from 2 mph to 40 mph caused a decrease of approximately 15% to 30% in transverse strains, and 30% to 40% in longitudinal strains. However, one main issue with this study, relative to the current effort, was that the speed data did not exceed 40 mph.

Luskin (2001) studied the impact of truck operations on the highway infrastructure, and concluded that for a truck moving over smooth pavements, the load transmitted to the pavement would be static. An increase in the operating speed of the truck would not affect the intensity of stress on the pavement, but it would reduce the duration for which the vehicle would be on a pavement, thus reducing the amount of pavement damage. Akram, Scullion, and Smith (1993) studied the effect of operating speed on pavements using a multi-depth deflectometer. Evaluation of vertical compressive strain data showed that sub grade strains at the bottom of the asphalt layer decreased substantially with an increase in vehicle speed. However, this study considered only speeds up to 55 mph.

While there have been very few scientific studies conducted to investigate the relationship between higher speeds (speeds above 55 mph) and road wear and maintenance, there seems to be a common consensus among

researchers that the amount of wear and tear caused on the roadway is directly proportional to the time during which the roadway is exposed to the vehicle's tires. Therefore, as the speed limit increases, the amount of time that the tires will remain in contact with the unit area of the road decreases. Thus, wear caused by the tires on that particular unit area of the road will decrease. Overall, as the traveling speed of the vehicles increases, the time for which the vehicles will be traveling on the road decreases, thus decreasing the roadway wear.

Although there have been no direct studies of the issue, there could be another important relationship between speed differentials and roadway wear. Generally, as the speed differential between automobiles and trucks, or among trucks, increases, the amount of maneuvering increases. These maneuvers include decelerating and accelerating and moving laterally across lanes. These activities could have a very large affect on roadway wear.

Senator Corder introduced several charts.

Attachment #1 relating to state's maximum posted speed limit laws;
Attachment #2 relating to preferred speed of travel by truck drivers, and speed preferred by company drivers and owner-operators;
Attachment #3 relating to the effect of posted speed limits on compliance;
Attachment #4 relating to milage and speeds;
Attachment #5 relating to vehicle interactions over a 1,000 mile trip, and
Attachment #6 relating to the impact of speed limit changes, confidence intervals and crash increases according to the Empirical Bayes formulation.

Jim Moore, from Caldwell, testified to support SB1075. He reported that he is a professional driver of 48 years, with approximately four million miles of truck driving experience.

It is proven by many other states, safety advocates, highway engineers, insurance safety analysts, including, various motor clubs and trucking associations, that vehicles traveling the same speeds are less likely to collide with each other. And, if they should, is less dangerous of fatalities or severe damage. The National Transportation Safety Board and the Federal Highway Safety Administration have determined that cars are four to five times more likely to run into the back of a truck than trucks are to running into the car.

By having one speed limit for which all vehicles comply, reduces the need for passing, lane changes, tailgating and other maneuvers that create opportunities for drivers to make mistakes is minimized.

For example: Set your car speed exactly at 10 mph. Pick out a bridge or a big tree and hit it. The result is the air-bag will deploy, smack you in face and cause some kind of pain or discomfort. This is the same effect as current 10 mph speed differential provides for accidents. It is common knowledge most car drivers care less for posted speed limits. On any given day, on I-84, between Boise and Twin Falls, cars are running 80-85 mpg while trucks are running 65 mph. Now instead of 10 mph speed difference we have up to a 20 mph speed difference. Thus, further increasing examples of injury.

Due to the influx of the population from the south, the maximum speed in their state is less than in ours. And they are less experienced in high speed driving. This isn't physics or rocket science, it's simple common sense that the highway engineers have known and followed for decades.

Just a few weeks ago, there was an accident on 1-84, between Nampa and Meridian, caused by a lane change to pass a truck, then losing control, crossing the median and colliding head-on with another car. There is a good possibility that this would not have happened if everyone was traveling the same speed. I don't care what speed limits you decide on as long as it is the same for all vehicles. No matter what the speed limit is, split speed Limits are unsafe.

Fiscal impacts: Analysis by the Idaho Department of Transportation has determined the cost to replace driver manuals at \$17,500, and speed limit signs at \$50,000. The total impact to the General Fund would be \$67,500. The offsetting positive impact is undetermined.

After a lengthy discussion and review of the charts, the following action was taken:

MOTION: **Senator Keough** moved to Hold SB1075 in Committee. **Senator Geddes** seconded the motion.

Discussion: A lengthy discussion was held. It was determined that this legislation needs further study and involves the Idaho Transportation Department and law enforcement officials.

The motion to Hold in Committee SB1075 carried by a **voice vote**.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 3:04 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, February 22, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:34 p.m.
- S 1135:** **Senator Heinrich**, District 8, presented SB1135 relating to Motor Vehicle Safety Restraint Use.
- This legislation would amend Section 49-673, Idaho Code, by increasing the seat belt violation fine from \$10 to \$25, which will increase the incentive to comply with Idaho's seat belt law. This increase is not necessarily meant to be a revenue generator, but is intended to increase the awareness about the beneficial usage of utilizing seat belts.
- In 2005, there were 126 Idahoans killed in car crashes and were not wearing seat belts, and another 452 unbelted occupants were critically injured. Idaho's seat belt usage was only 79.8%, up nearly 4% from 2005. The 20% of people who do not buckle up accounted for 60% of the people killed or seriously injured in Idaho car crashes.
- Idaho's fatality rate is 26% higher than the national average. Not only is our seat belt usage in the bottom 1/3 of the nation, but the direct correlation is our existing \$10 fine which is the lowest in the country, along with three or four other states.
- This 20% of unbelted occupants account for \$575 million in medical bills, to say nothing of the cost of property damages. If for no other reason, SB1135 deserves a do pass vote, but the committee members may want to consider some of the correlated benefits.
- This legislation will make Idaho eligible for funding from the National Highway Traffic Safety Administration to sustain efforts to increase safety restraint usage. Under SAFETA-LU (Safe Accountable Flexible Efficient Transportation Equity Act-Legacy for Users), Section 405, Idaho could receive \$947,000 annually which is designated for projects that would

increase proper usage of seat belts.

If the main objective is achieved, which is 85% seat belt use for two consecutive years, we would then qualify for Section 406 funds which could total \$4 million to \$5 million which would be distributed through the Idaho Transportation Department to use for highway safety projects and programs.

This legislation will reduce our health care costs, and is anticipated to generate \$296,000 for our catastrophic health fund. That would be \$135,000 more than last year. It would also give the traffic safety committee another \$269,000 for seat belt education and training.

Senate Bill 1135 is not a change to make this a primary seat belt law, it will remain a secondary enforcement tool which means you cannot be stopped or cited on a seat belt violation alone. As it is now, violations of this section may not be deemed to be a moving violation for establishing insurance rates, nor used as evidence in any civil action.

Of Idaho's 94 teens of driving age killed in traffic crashes in the last three years, 63% were not buckled up. In 2005, it is estimated that 88 lives were saved by seat belt use. An additional 63 lives could have been saved if they had just buckled up.

Senator Heinrich noted that for our protection, to save money spent by the public on our crashes, and to improve our potential revenue from federal funding, He asked the committee for their support of SB1135. A packet of charts was reviewed relating to seat belt violation fines by individual states, seat belts usage by states in 2005, Idaho's seat belt and child passenger safety expenditures, and who pays Idaho's \$575 million expenditures for unbelted occupants. [See Attachment #1.]

FISCAL IMPACTS: This legislation will reduce health care costs, including Medicaid, Medicare, and state and county catastrophic health care costs by increasing the incentive to use seat belts by those last 20% that don't buckle up. To the extent that such costs are paid from the general account, through a variety of state-subsidized health care programs, there will be a reduction in such general account costs.

Senator Heinrich anticipates approximately the same number of seat belt citations will be written with this law change. By increasing the contribution to the catastrophic fund for each seat belt citation, the contribution will increase from \$134,590 in 2006, and to \$269,180 annually, assuming the same number of seat belt citations continues to be written.

By allocating \$10 from each conviction to be allocated to the seat belts and child passenger safety programs, this will reduce Idaho's dependence of federal funding to sustain its programs. It will put some of the cost of lifesaving programs onto those that violate the laws. He anticipates approximately the same number of seat belt citations will be written with this law change, and the fund might result in \$269,180 to the highway safety fund.

Dave Carlson, representing the 85,000-member of the AAA (American Automobile Association) Idaho travel organization, testified to support SB1135. He stated that I'm here also in the capacity as co-chairman for the Idaho Seat Belt Coalition, a 250-member statewide organization representing Idaho citizens, businesses, health care organizations and law enforcement, testified to support SB1135.

He reported Idaho has had a mandatory restraint law for two decades. We've made some good strides getting more Idahoans to buckle up despite the weaknesses in that law. The first chart on the handout shows Idaho's \$10.00 fine is tied for lowest in the country. Our use rates have improved due to federal grants and incentive money used in educational efforts and mobilizations in recent years, but our use rates are still in the bottom third among all states, as indicated by the second chart. And, unfortunately, as the third chart shows, Idaho's projected expenditures to promote seatbelt use will drop drastically in 2008. Federal incentives in SAFETY-LU are going to states that have cleaned up outdated code references, and are making strides to improve usage. [See attachment #1.]

Experts say safety restraints are the single most effective safety devices ever invented for cars. Idaho's officials estimate an additional 63 lives could have been saved in 2005, had everyone taken no other single precaution than to buckle up. But even using Idaho's latest 79.8% usage, Idaho trails our western neighbors' usage rate by more than 10%. Consequently, the 20% of Idahoans who do not buckle up accounted for about 60% of Idaho's fatal and serious injury collisions in 2005. The cost for those collisions, as calculated by the National Highway Traffic Safety Administration was \$575 million. In pure numbers, unbelted occupants accounted for 126 fatalities and 452 serious injuries that year. Our lower use rate may be part of the reason that Idaho's roadway fatality rate is 26% higher than the national average, based on mileage comparisons.

Unfortunately, the 20% of Idahoans that do not buckle up cannot cover the costs occasioned by the crashes they're involved in. Two studies showed that the consequences of unbelted crashes result in higher costs that are shared by all Idahoans in the form of higher taxes, more expensive health care, and costlier insurance. The 80% of Idahoans who buckle up essentially pay for the crashes involving the 20%, who choose not to obey the law.

Senate Bill1135 addresses part of the weakness in the current law, the \$10 fine. No other fine in Idaho is as low. Fines for jaywalking costs \$46, a broken parking light cost \$52, failure to carry life preservers in a boat will cost you \$84. By raising the fine from \$10 to \$25, the fine should encourage more Idahoans to reconsider their actions when they climb behind the wheel. That \$25 benchmark is an important one too, because it qualifies Idaho for a total of about \$1.9 million in Section 405 Incentives during the next two fiscal years. Incidentally, the Idaho Seat Belt Coalition's goal for this year was to get Idaho to an 85% benchmark to become eligible for up to an additional \$4.5 million in federal incentive grants.

Senate Bill1135 allocates \$5 of the increase in fines to the Catastrophic Health Care Cost Fund (CAT), which helps local units of governments who are picking up the tab for crash victims who are unable to pay. Assuming a

similar number of tickets are written, the increase would yield an additional \$134,000 to the CAT funds. The bill allocates \$10 of the increase to the State Highway Account to the Office of Highway Safety for the express purpose of conducting seat belt and child passenger safety programs. This would yield about \$269,000 to safety restraint programs, based on the current number of citations.

SB1135 will also clean up language related to the 8,000 pound gross weight reference. There is no definition of gross vehicle weight (GVW) in Idaho Code. Federal Standard 208, which is used to define vehicles covered by Idaho law, is based neither on GVW nor to a specific reference of 8,000 pounds. Standard 208 instead uses various references for gross vehicle weight ratings, and a 10,000 pound number is more commonly used in its description of passenger cars, multipurpose vehicles, trucks and buses covered by the standard. The deletion would make our law more consistent with four neighboring states where weight limitations for the purpose of definition have been removed altogether. That change would make the law more consistently enforceable.

Mr. Carlson noted the net effect of this simple legislation is that it should improve Idahoans' compliance with a law that is more respected and simpler to enforce. It recognizes that improved seat belt usage should reduce fatalities and lessen the incidence of serious crashes, resulting in lowered overall cost to the state, local units of government, and ultimately to Idahoans who have to pick up the tab. The AAA urges your positive consideration of this legislation, and asks that you send it to the floor with a do pass recommendation.

A discussion was held relating to the distribution of the additional funds, commercial vehicles manufactured prior to seat belts and are without seat belts, the catastrophic fund and how counties access the fund and only counties have access, disbursement to counties, the child safety fund, and the strikeout language in the bill on page 1, lines 12 and 13.

Senator Heinrich explained the fee is a fixed structure fee for all citations, and the \$5 breakdown is 22.5% goes to the district court fund, 22.5% goes to public schools, 10% goes to the state general fund, and 45% goes to the State Highway Distribution Account. The fee distribution is a statutory allocation.

Senator Geddes referred to page 1, lines 12 and 13 of the legislation, which had language stricken regarding gross vehicle weight. [each occupant of a motor vehicle ~~which has a gross vehicle weight of not more than eight thousand (8,000) pounds, and~~]. **Senator Heinrich** explained that several vehicles exceed the 8,000 gross vehicle weights, and there is a question in law as to whether they need to have seat belts, if they were stopped and arrested. If the vehicle was built prior and in compliance with factory equipment, they should fall under the Code.

Richard Burch, Idaho Law Enforcement Officer, testified to support SB1135. He stated that he has stopped people from out-of-state and not wearing seat belts, and when he gives them a ticket for not wearing seat belts, they actually laugh at him. His point is that he hopes to establish safer places where we can drive, and also change the attitude and

behaviors of drivers. From a law enforcement perspective, he believes the fee we currently have is the lowest ticket fine we have in Idaho.

Mary Hunter, Adult Occupant Protection Specialist for the Office of Highway Safety at the Idaho Transportation Department (ITD), testified to support SB1135. She has overseen the Adult Occupant Protection Program for the ITD Office of Highway Operations and Safety since 1999. She reported Idaho has been eligible for seat belt incentive funds from NHTSA (National Traffic Safety Administration) starting in 2000. Through 2005, Idaho spent an average of \$658,000 each year on seat belt and child passenger safety. We are very pleased to report that we have increased seat belt usage from 58% in 1999, to nearly 80% today.

This legislation will enable Idaho to continue the programs we have established that have brought us the success we have today. With the expiration of TEA-21 (Transportation Equity Act for the 21st Century), Idaho is no longer receiving these funds. Passage of this legislation will provide funding back to Idaho.

Without this bill, the funding level for seat belt and child passenger safety combined will be reduced to about \$270,000 for 2008. In the future, we will still make every effort to continue programs within available resources, and continue programs to get Idahoans to use their seat belts and child safety seats, and save lives. **Ms. Hunter** presented a chart outlining the restraint usage in Idaho traffic crashes. [See Attachment #2.]

Senator Heinrich requested an explanation regarding the loss of funding for the child's safety restraint program. **Ms. Hunter** explained that Idaho will not be eligible to receive Section 405 funding totaling \$947,000 per year. To receive these funds, Idaho's law would need to be revised to meet one of the following three criteria.

- ! Primary seat belt law.
- ! Delete the nursing baby exemption.
- ! Increase the fine to at least \$25.

Kenneth Bromwell, M.D., representing the Idaho Chapter of American Academy of Pediatrics as well as the American College of Emergency Physicians, and is a practicing emergency physician, testified strongly to support SB1135. He stated that nothing has been proven to save more lives than seat belts, and there is nothing we are encouraging less than seat belt usage the way the current statute is written. He is involved daily with people in motor vehicle accidents, and the people unbelted have more catastrophic consequences than those remaining in the vehicle. The seat belt is the single most revolutionary safety devise developed in the last 100 years.

MOTION: **Senator Malepeai** moved to send SB1135 to the Senate Floor with a Do Pass Recommendation. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.

S 1118: **Senator Heinrich** presented SB1118 relating to snowmobile registrations. The legislation would increase the snowmobile registration fee by \$10, and

would clarify how monies are handled in the State Snowmobile Fund. He explained the current maintenance of existing trails is not meeting the actual needs of the program. Maintenance costs have increased, because of the additional volume of snow machines on the trails. The newer type sleds are disturbing the groomed trails more drastically as some machines now have three to five inch treads.

He discussed the language strikeouts on page 2, line 9 and 10, of the legislation, "which may be steered by tracks, skis, or runners, ~~and which is not otherwise registered or licensed under the laws of the state of Idaho.~~" These particular type machines or four-wheelers are riding our snow machine trails, and most people would pay the registration for snow machines. But, under the current law, without striking out this language they cannot buy a snowmobile registration, because they are registered somewhere else. The last rate adjustment for snow machines was in 1998. Costs to operate grooming machines have continued to increase.

This is a user fee, and the individuals want to increase the user fee so they will be paying their way. [See attachments #3 and 4.]

Senator Heinrich referenced page 4, lines 2 thru 5, strikeouts which read: "Application for additional funds shall be made to the department by each county prior to the second Monday of August of each year. The money applied for shall be used solely for a bona fide snowmobile program." Idaho has very little snow in August; therefore, counties do not know what they will need from the State Snowmobile Fund. This will allow people to apply for grant funds later."

He also referenced page 4, Section 5, lines 17 to 26, which clarifies the language to give the authority to the Department of Parks and Recreation to administrate the State Snowmobile Fund. [~~(5) Counties which have not established for those registrations not designated to a bona fide county snowmobile program, shall remit the entire balance in the county snowmobile fund to the state treasurer for credit to the moneys generated shall be deposited to the state snowmobile fund, and such fund shall be available to counties with a bona fide snowmobile program. Application for these moneys shall be made prior to the second Monday of August of that registration period the department for snowmobile-related expenses.~~

FISCAL IMPACTS: This legislation would increase revenue to the Idaho Department of Parks and Recreation for its administrative fee of \$78,366, and will provide \$444,074 to the various snowmobile grooming programs throughout the state. The current law allows that up to 15% of the registration fee can be used for law enforcement.

Senator Langhorst asked for a clarification regarding a section on page 2 of the legislation. Is it the intention that if you have a dual purpose machine, or something that can be converted to run on snow, would you need to register it as an ATV (all terrain vehicles) for use during the summer and also register it if you intended to operate it on snow? **Senator Heinrich** explained that is correct.

Senator Little asked if you have an ATV tag and you are on a trail that is not groomed, do you need to have both tags? Is a groomer ever operated

on an ATV trail? **Senator Heinrich** emphasized this legislation does not require them to have the tag. Most of those people riding on a groomed trail would be happy to purchase the tag, but the current law says you cannot. If you have a registered ATV and you wish to purchase a registration tag for the snow machine to help fund the maintenance of a groomed trail, then you can. Under current law, you cannot, even if you wanted, but it is not mandatory that you have both registrations.

Tom Glass, Meril Ebbers, and Dan Hammerbeck, members of the Idaho Snowmobiler Association, acknowledged support for SB1118.

Sandra Mitchell, Public Land Director for the Idaho State Snowmobile Association (ISSA), a statewide organization representing more than 4,000 people throughout the state, testified to support SB1118. The ISSA is governed by a board of directors and they dealt with this issue at great length. The board and the general membership voted unanimously to support SB1118.

Dave Claycomb, Off-Highway Vehicle Program Manager for the Idaho Department of Parks and Recreation, explained that an ATV on a trail that is not groomed would not be required to obtain a snowmobile registration. It is only for those trails that are groomed. An ATV does not have to have a track kit to get the registration, but if it is on a groomed snowmobile trail, it would be required to obtain a registration.

He briefly discussed funding and cost for the Off-Highway Vehicle Program for the Department of Parks and Recreation. The last fee increase was eight years ago. At that time, the average groom machine cost was in the neighborhood of \$120,000, but today it costs \$210,000. The counties are responsible for managing and maintaining those groomers. Not only has the price of a groomer increased, so have the costs for parts to maintain the groomers, and the counties must incur that cost.

The committee held a brief discussion regarding how the money flows down to the local jurisdiction, county commissioners overseeing funds and how they are spent, and determining the selection of the designation of the district where fees are distributed.

MOTION:

Senator Langhorst moved to send SB1118 to the Senate Floor with a Do Pass Recommendation. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**. **Senator Heinrich** will be the Senate Floor sponsor.

S 1110:

Lynn Rhodes, Driver License Program Supervisor for the Idaho Transportation Department (ITD), presented SB1110 relating to drivers' instruction permits. This legislation makes obtaining a driver's permit a convenient, one-stop effort for parents and students. Parents who are paying twice for students who originally started driver education in public schools, and had to make a different choice due to schedules or space limitations, will benefit from this legislation. The legislation makes several changes to the current system.

- Eliminates the problem of different permits being required for

different choices in a driver's training programs by allowing interchangeability between public and private driver training schools;

- Eliminates different permits altogether and alleviates the problem of parents or students purchasing the wrong permit, for which fees are non refundable per Idaho Code;
- Provides funding for a durable digitized photo driver's training permit in a special format on a card like a driver's license;
- Provides clarification that the Class D driver's training permit must be in the instructor's immediate possession while the permittee is operating a vehicle during driving instruction;
- Provides clarification that the driver training instruction permits are issued to people age 14½ but less than age 17; and
- Changes the expiration date for a driver training instruction permit from one-year, or age 17, whichever comes first, to age-18, essentially making the permit valid for as long as 3½ years.

With the approval of the proposed legislation, a single type of driver education permit would be issued for a fee of \$26.50 with the following fee distribution:

- \$5 to the county current expense fund;
- \$3 to the state highway account, and
- \$18.50 to the driver training account.

Only 18% of driver training account funds are derived from driver training instruction permits. Whereas, 82% of driver training account funds come from general driver license transactions.

In summary, this legislation funds a digitized photo permit, extends the period of permit validity, streamlines and improves the permitting process, increases customer convenience, and is supported by the State Board of Education.

FISCAL IMPACTS: Currently, based on a volume of 13,300 public school driver's education permits at \$30, and 6,670 commercial permits at \$10. The annual revenue from these programs is approximately \$466,600. Under this proposal, 20,000 permits at \$26.50 would raise revenues of \$530,000 - an increase of \$63,400. Of this amount, \$60,000 would go to the State Highway Account to cover the cost of issuing a plastic digitized photo card and the remaining \$3,400 would go to the drivers training account. The \$60,000 would cover the cost of issuing the digitized photo cards for the foreseeable future.

With the clarification those driver training students who are age 17, or older, will purchase instruction permits instead of driver training instruction permits, the driver training account may experience a small decrease; \$2.60 of the \$11.50 fee for an instruction permit will be directed to the driver training account instead of \$18.50. It is estimated that less than 5% of the students who enroll in a full driver training course are age 17 or older.

A discussion was held relating to the difference between SB1110 and SB1346 which passed in 2005; why increase fees from the private side

and use the money to subsidize the public side; uneven fees and two permits; the ITD getting \$3 from the fund and the remainder of funds are dedicated by Code to go to other places including the Department of Education, improve customer services by issuing one permit, and the benefits of having one plastic permit card.

Mike Ryals, who owns a private professional driving business in Eagle, Idaho, stated he has been involved with this legislation for some time and he testified to oppose SB1110. He objects to the \$18.50 that will be going to the public school fund, yet his program obtains no service. Therefore, his organization is subsidizing the public school for about a maximum of \$125 that he never sees. It is absolutely true, it is for our parents but they do not approve of this increase.

Mr. Ryals submitted data relating to the permit proposal and the driver's education permits. [See Attachment #5.] He recommended the committee do not pass SB1110, as it is not good legislation.

Dave Eiguren, owner of the Eiguren Driving School, testified to support SB1110. We are interested in safety. But, this is a question of a school voucher, and this same argument comes up yearly. If this legislation is tabled because of the costs, then we have failed on all the other good points.

Senator Malepeai asked if a number of people from the private sector were included in these negotiations with the Idaho Transportation Department? **Mr. Eiguren** explained this is not a school bill, it is a constituent's bill. He has discussed the issue with parents, and they are hassled with the fact they pay \$30 to the public school, but because of schedules or location the applicant must go purchase another permit. He stated that a permit is a permit.

Hubert Hogaboam, a teacher for the Gem Star Driving School, testified to oppose SB1110. He has owned a private driving school since the early 1990s. He was not involved in negotiations last year or this year.

Greg Wood, an instructor and owner of the Treasure Valley Driving School, testified to oppose SB1110.

Dave Mason, owner and instructor of the Dynamic Driving School in Idaho Falls for the last ten years, testified to oppose SB1110. He believes what the Idaho Transportation Department has put together as the focal point, is wrong, but he does support the digitized plastic permit.

Senators Keough, Langhorst and Malepeai, Mr. Mason and Ms. Rhodes discussed numerous areas regarding SB1110. Such as:

1. The cost for a digitized plastic card and how to fund the mechanism to create the system.
2. Why are there different prices for permits?
3. Can the Idaho Transportation Department produce a digitized plastic card for \$3.00?
4. Will commercial drivers receive any benefits from the increased fee?

5. Page 2, lines 48 to 53, and page 7, line 1, with corrections will read:
(2) " Every enrollee of a class D driver's training course shall pay a non refundable fee of \$26.50. Eighteen dollars and fifty cents (\$18.50) of each fee so imposed shall be deposited in the driver training account, \$3 shall be deposited in the state highway account, and \$5 shall be deposited in the county current expense fund.

Ms. Rhodes explained the ITD can produce the card, but she explained the record keeping system requirements, and the distribution of the funds.

Kelly Glenn, Driver Education Coordinator for the State Department of Education, testified to support SB1110. She was asked if commercial instructors get the same benefits as a public school instructor? She explained if you are a driver education instructor, private or public, you can attend any of the workshop classes you wish. There is no difference between instructors; therefore, those instructors do benefit from the Department of Education program.

Mike Arnell, a Certified Fraud Examiner representing a private driving school in Meridian, testified to oppose SB1110. He requested the committee to table this legislation and have all interested parties work on these contentious issues during the next nine months.

Ed Pemble, Driver Services Manager for the Idaho Transportation Department, explained that a public meeting was previously held with interested parties. If a plastic sized card was produced, the physical card is not what we are trying to create the interchangeable with, it is the funding distribution remains to make the permit interchangeable, otherwise, there would be no reason for anyone to pay whatever the lower fee would be.

Ms. Rhodes summarized the legislation. She believes the majority has been given another opportunity to determine whether or not we want to have one permit for one fee that is interchangeable. A decision needs to be made whether we will at last have one fee with commercial schools receiving the same benefits as public schools do for the amount of money being paid. Whichever way this proposed legislation goes, it will be the public who ultimately will be served.

Senator Malepeai noted that we are giving \$120 to the public schools in subsidization, and it seems to be a major point as to why they do not want an increase in fees. **Ms. Glenn**, from the Department of Education, responded that public schools are funded or subsidized for the driver education program. At one point in time, driver education was within the regular school day. In order to fund those programs, the Legislature decided they would subsidize or fund the driver ed program. Currently, the driver education program is funded in public schools up to \$125 per student that completes the course.

It was noted there are still a lot of contention and the minor changes in SB1110 are agreeable to everyone else, both the Department of Education, the Department of Motor Vehicles, and the private commercial driver training schools. But, there is still so much contention over the cost, and it is the same contention heard last year. There appears to be

consensus regarding a standard permit regardless if you take drivers' education through a commercial school or some public schools. The permit should be the same. It seems a good idea to have a more durable permit than a piece of paper that can be easily damaged. The increased cost to produce the card is \$3; therefore, the problem is the \$18.50 and how that is charged and distributed.

Last year, SB1346, was heard in the Senate Transportation Committee. **Senator McKenzie** made a motion to "Hold SB1346 in Committee" and **Senator Jorgenson** seconded the motion. The motion carried by a voice vote. The parties were directed to come together to reach a solution, which did not happen. We still do not have a consensus regarding the legislation.

John Sawyer, owner and operator of the Moscow Driving School in Latah County, submitted written comments to oppose SB1110. He wrote that he is concerned about the effects of Senate Bill 1110, if it should become law. Elements of this bill will hurt private schools at a time when demand for private instruction is increasing. The move to increase fees for a commercial or private school permit by 165%, and decrease fees for public school permits by 12% seem an obvious attempt to benefit public schools at the expense of private schools. The state already subsidizes public schools to the tune of \$125 for every student taking driver's education. The state would save itself \$125 for every student who selected to go to a private school, so I can't understand why the state would make it artificially more expensive for a parent to choose private training.

The growth of commercial or private driving schools is evident in that 34% of all Idaho high school students take drivers education privately, and that increases every year. Every private driver education program in the state get calls from parents whose student can't get into the public school class because teachers aren't available or because of long waiting lists. Some school districts in our area offer drivers education only once a year, and sometimes that class cannot accommodate every student that would like to enroll.

The fiscal note at the end of the bill indicates little or no fiscal impact to the state. What it doesn't note is the fiscal impact it has on private and commercial schools and on parents who select instruction even though it costs them more money to do so. They do this because they get a better result, or because their student can actually get into a class, or because of schedule conflicts that all families face. I know you have meetings, hearings, and comment periods, but this proposal is just designed to make public schools happy. They are better off with waiting lists because it guarantees every class will be full and the cost per student will go down and they will get another \$125 for every student from the state. Private schools benefit from serving every student and parent as quickly as possible, and doing the very best they can because they are directly accountable to them.

Mr. Sawyer suggested that the committee modify this bill and keep fees as they are. You can alter the physical permit without adjusting the fees. But, it is a disservice to charge parents more who choose private instruction and save the state more than \$125 per student.

MOTION: **Senator Geddes** moved to Hold SB1110 in Committee. **Senator Hammond** seconded the motion.

Discussion: Currently, we have two different fee structures. The ITD is trying to develop a consistent fee schedule where a permit can be transferred. It is an administratively convenience for parents and students.

The motion to Hold SB1110 in Committee carried by a **voice vote**.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 3:50 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Attachment #1 - Seat belt coalition
Attachment #2 - Restraint usage in Idaho traffic crashes
Attachments #3 and #4 - relating to snowmobiles

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 27, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** Senator Langhorst
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:32 p.m.
- MINUTES:** **Senator Heinrich** moved to accept the minutes of Thursday, February 1, 2007 as written. The motion was seconded by **Senator Keough**. The motion carried by a **voice vote**.
- S 1119:** **Senator Hammond**, District 5, presented SB1119 relating to a class D driver's license and instruction permits, and amending Sections 49-110 and 49-307, Idaho Code.
- The purpose of this legislation is to strengthen Idaho's graduated driver licensing law (GDL) for novice drivers. Idaho's law was enacted in 2000 and became effective in 2001. All 50 states have enacted such laws in the past decade to give novice drivers more time behind the wheel in safer environments so they may gain confidence, skill, and judgment in the process of learning to drive.
- He explained that despite a 5.6% decrease in serious injury and fatal collisions during the first four years following passage of Idaho's law, Idaho teen drivers' ages 15-19 is still over represented in fatalities, injuries, DUI arrests and aggressive driving collisions. Though Idaho teen drivers' ages 15 to 17 represent just 3.3% of all licensed drivers, they accounted for 8.5% of all fatal and injury crashes in 2005. Evidence suggests those states with stronger GDL provisions reduce teen crash involvements by limiting risks during the first years of learning to drive.
- This legislation extends the four-month period of the supervised instruction permit to six-months, to allow teens a more realistic time period to complete the 50-hours of practice now required. It adds a provision limiting the number of passengers for the first six-months after a youthful driver is licensed, if the driver is under age 17 when the license is received, and includes a technical provision to assure that cancellation of

a permit occurs upon violation of underage alcohol consumption.

FISCAL IMPACTS: There is no fiscal impact to the general fund. It is expected that this legislation would reduce the number of serious injury and fatal collisions, which would lessen associated crash costs.

Senators Malepeai and Hammond discussed substance abuse relating to page 4, lines 13 to 17, of the proposed legislation. The legislation reads: "If the permittee is convicted of a violation of any traffic law, or section 18-1502, Idaho Code, or section 18-8004, Idaho Code, or section 23-949, Idaho Code, or is found to be in violation of any of the restrictions on the class D supervised instruction permit, the department shall cancel the class D supervised instruction permit." Therefore, if a person is found to be in violation, the permit would be canceled.

Dave Carlson, representing AAA of Idaho (American Automobile Association of Idaho) and its 85,000 member motorists, testified to support Senate Bill 1119. He reported that ten years ago, he worked with a coalition of like-minded interests representing law enforcement, drivers training educators, and the Idaho Division of Motor Vehicles (DMV) to strengthen the Idaho teen licensing laws. It took three years and two legislative attempts to change the law.

Despite a 5.6% decrease in serious injury collisions, and a 16.6% decrease in fatalities during the first five years following passage of the law, Idaho's teen drivers are still over represented in such crashes. In 2005, the state recorded 38 teen fatalities involving drivers 15-19 years, compared to 68 in 2001 when the law went into effect. Part of the decrease is attributed to fewer teens in the driving pool. This group still is involved in 2.5 times as many crashes as would be expected based on the number of licensed drivers they represent.

Although they represent just 6.8% of licensed drivers, this group shows up in 13.5% of all drivers in fatal and serious injury crashes. From 1996 to 2004, this group showed up in 285 traffic deaths, 111 were teen drivers, 106 were passengers, 50 were occupants of other vehicles, 17 were pedestrians or non motorists. Teens, age 19 and under, are hugely over represented in DUI arrests, accounting for 716 arrests or 7.3% of all such arrests in 2005. In addition, this group represents 10.1% of all impaired motorists in collisions.

This bill would lengthen the current four-month period to complete the supervised instruction permit to six-months. It will strengthen a provision for cancellation of the supervised instruction permit when a minor is cited for alcohol possession. The bill limits the number of passengers allowed in a vehicle operated by a driver with a class D driver's license who is under the age of 17. The bill includes an exception for the passenger restriction. It does not apply to passengers who are related to the driver by blood, adoption or marriage.

A new AAA Foundation for Traffic Safety study shows that 16-year-old drivers are involved in 38% fewer fatal crashes, and 40% fewer crashes resulting in injuries in those states that have at least five of seven common components. This bill adds two of those components, 1) the full

6-month period to complete the 50 hours of supervised training, and 2) a passenger restriction until the young driver reaches age 17. As you can see from the attached handout, we believe this simple bill has the potential to address Idaho's fatal and injury crashes involving teen drivers. [See Attachment #1.]

Mr. Carlson explained that research shows that a teen's risk of being involved in a vehicle crash is highest immediately after receiving a driver's license, but that driving under adult supervision during that time reduces teens' crash risk dramatically. GDL laws that keep beginners out of high-risk situations during the earliest stages of driving are effective in reducing teen crashes. The presence of passengers strongly increases crash risk. The more passengers, the greater the risk.

He urged the committee to send SB1119 to the Senate Floor with a do pass recommendation. It's reasonable legislation that deals with the current shortcomings in our existing law.

Mike Cunningham, Supervisor of Driver Education for the Boise School District, testified to support SB1119. He noted the district trains about 1,200 students annually, and he encouraged passage of this legislation. He also noted the more additional driving practice a student receives the better driver he will be. Research showed that right after a student completes the instruction period, the month right after the licensing, students are six times more likely to have an accident or receive a citation.

MOTION: **Senator Heinrich** moved to send SB1119 to the Floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**. **Senator Hammond** will sponsor S1119.

S 1130: **Edward Pemble**, Driver Services Manager for the Idaho Transportation Department (ITD), presented SB1130 relating to commercial drivers' licenses, and amending Section 49-335, Idaho Code. He reported that SB1130 is a simple bill in terms of how the legislation was crafted. However, it solves a big problem for the state and the Idaho Transportation Department in correcting audit findings from the Federal Motor Carrier Safety Administration (FMCSA), and will keep our commercial driver licensing (CDL) program operating according to national standards.

There have been a number of previous bills enacted by the Legislature to address federal requirements and CDL program audit findings, this year was HB66, in 2006 there was SB1347, and in 2005 HB402.

After many discussions and much negotiation with FMCSA, it is clear that we also need to make this change in statute for Idaho to avoid being found in a substantial noncompliance with the federal regulations. In fact, a letter of a noncompliance was being drafted by FMCSA to send to our governor. Our Transportation Board did not want to see that happen.

At stake is a loss of federal highway funds. Up to 5% of federal highway funds would be lost the first full year of being deemed in a substantial noncompliance, and up to 10% of federal highway funds each year

thereafter. At the full 10% level, the loss of funding would be in the neighborhood of \$13 million per year.

FMCSA regulations require states to impose commercial motor vehicle driving disqualification periods of one-year for the first major offense, and impose a lifetime commercial motor vehicle driving disqualification for a second. If a CDL holder operates a motor vehicle and is under the influence of alcohol or a controlled substance, this is a major offense under the federal regulations. If there is an administrative license suspension for failure of an evidentiary test and a DUI arising out of one incident, a disqualification must be imposed.

When a disqualification is imposed, it applies to CDL holders and commercial motor vehicle driving only and operates apart from any class D administrative license suspension. There is no change to the Administrative License Suspension programs found in Title 18.

Mr. Pemble explained this legislation does not use language out of federal regulations, but is Idaho's own solution to the problem and avoids dismantling or tinkering with the administrative license suspension program, because the Administrative License Suspension program is operating well. Will it satisfy the auditors? The auditors must do their job and come up with findings and recommendations, but the ITD believes the imminent "substantial noncompliance" issue can be avoided with this legislation.

There are no extra costs to implement this bill, because all the tools are in place to implement this change on July 1, 2007. There is no programming required, and the suspension advisory form does not need to change.

FISCAL IMPACTS: If this legislation is not implemented and Idaho's laws are found to be in a substantial noncompliance with Federal Motor Carrier Safety Administration's regulations, all future increases in FMCSA grant funding to the Motor Carrier Safety Assistance Program will be eliminated. There will be a permanent 5% reduction of the department's federal aid highway funding the first year (approximately \$6.6 million) and 10% in subsequent years (approximately \$13.2 million annually). The reduction would affect Interstate Maintenance, National Highway System, and the Surface Transportation Program.

Hal Putnam, Driver Records Supervisor for the Idaho Transportation Department, explained when an individual fails the evidentiary test while operating a motor vehicle as described in Title 18, the DUI laws, and is caught and given a suspension or goes through the court process and is given a DUI, they will lose their authority for a year for the first time, and 10-years or a lifetime for the second offense.

Delores Maceas, Division Administrator of the Federal Motor Carrier Safety Administration (FMCSA), explained the progress being made in the legislation has actually been submitted to the headquarters office, and we have had discussions back and forth as to what needs to happen. This legislation actually addresses the majority of the problems. We are

looking at this legislation as a very positive step. It does not necessarily mean that it will take care of everything, but it will actually give us additional room to continue working toward a solution.

If a determination is made that Idaho's legislation does not come into compliance, does Idaho lose the \$6.6 million or is there a Plan B to save that funding? **Ms. Masceas** noted that in Plan B we would look at this as a good faith effort, something we are working toward, and would allow additional time. There must be a full-year of noncompliance before you are ever in jeopardy. She also explained that the FMCSA auditors also audit records of trucking companies and carriers, and a record of a suspension follows the individual. The FMCSA is working toward a solution where they will have a database of drivers that have tested positive.

MOTION: **Senator Keough** moved to send SB1130 to the Floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**. **Senator McGee** will sponsor SB1130.

S 1133: **Jerry Deckard**, representing Q Tires, Inc., presented SB1133 relating to motor vehicle equipment, and amending Section 49-948, Idaho Code. The purpose of this proposal is to allow new technology in studded tires to be used in Idaho. Currently, any tire with studs must be removed from use from April 15 to October 15. This change will allow a studded tire to be used throughout the year on Idaho highways when the studs can be retracted below the wear bar of the tire. This type of tire is safer for use, and will also lessen the wear and tear on highways. He encouraged the committee to send SB1133 to the Floor with a do pass recommendation. He informed the committee the proposed legislation was written in concert with the Idaho Transportation Department.

Julie Pipal, Budget, Policy and Intergovernmental Relations Manager for the Idaho Transportation Department, noted there is not a lot of evidence relating to damages from these tires. If they perform exactly as what we have been told, they could improve safety. It might be difficult to enforce.

FISCAL IMPACTS: There is no fiscal impact to the general fund. Some long-term savings could be realized by the Idaho Transportation Department.

There was a general discussion relating to this being a new market in this area, deployment and function of the tires, chain-up requirements, and costs for the tires.

MOTION: **Senator Hammond** moved to send SB1133 to the Floor with a Do Pass Recommendation. **Senator Heinrich** seconded the motion. The motion carried by a **voice vote**. **Senator Hammond** will sponsor SB1133.

S 1134: **Charles Clark**, representing the Union Pacific Railroad, presented SB1134 relating to railroad crossings, and amending Section 62-412, Idaho Code. The purpose of this legislation is to bring Idaho law into compliance with new federal regulations, and clarifies Idaho's requirement that trains are not required to whistle at private crossings. He reported there has been no opposition to SB1134.

Chris Arvas, representing the Union Pacific Railroad, testified to support SB1134. He noted the bill brings Idaho into compliance with federal regulations requiring the sounding of the train whistle at public crossings, and clarifies Idaho law which does not require the sounding of a train whistle at private crossings. Presently, there is some confusion by some railroad companies in Idaho as to whether they are required to blow their horns at private crossings. There are approximately 2,500 crossings with about ½ public and ½ private crossings. **Mr. Arvas** distributed copies of the federal regulations Sections 222.7 and 222.21. [See Attachment #2.]

Idaho law required the sounding of the train whistle starting at a distance of 80 rods, approximately 1/4 of a mile prior to a highway rail intersection. The new federal regulation sets a time instead of distance. Does this mean trains will never blow their whistle at private crossings in Idaho? The answer is "no." Although Idaho law does not require trains to routinely blow their whistle at private crossings, it does not prohibit the sounding of the whistle at private crossings.

In the GCOR, (general code of operating rules) there is a rule that trains must blow their whistle if pedestrians or motor vehicles are at or near a private crossing. This rule provides for warning if there is activity at a private crossing, but eliminates the need for routine blowing of the whistle at private crossings, except in Montana and California which require the sounding of the whistle at all crossings. I don't know how Idaho was added to this list, but clarifying that Idaho does not require routine sounding of the whistle at private crossings will get us off of the list, reduce noise pollution for our communities, and still afford citizens that live by private crossings warning of an approaching train.

Mr. Arvas noted he has worked for the Union Pacific Railroad for 34 years, most of that time as an engineer, and for the last 18 years he has been involved with Idaho Operation Lifesaver as a regional coordinator and as the state coordinator, working to eliminate car-train collisions, injuries and fatalities. He states that if he thought there was anything in SB1134 that increased the potential danger for motorists and pedestrians, he would not support it.

Mike Hysell, a working locomotive engineer for 39 years for the Union Pacific Railroad, testified to support SB1134. He is also the Idaho State Legislative Chairman of the Brotherhood of Locomotive Engineers and Trainmen. He explained we are the men and women of Idaho who blows the whistle. This bill brings Idaho law in line with the federal regulations on whistle blowing statutes adopted in December 2006. Senate Bill 1134 eliminates the need to blow at private crossings unless activity is detected. The federal rules also give discretion to the locomotive engineer when trains are going at slower speeds at rail grade crossings. The change in Idaho law would let professional locomotive engineers decide when to start the 20-second whistle sequence required at each crossing. At the present time Idaho engineers are responsible for memorizing track and crossings in four states. This change in Idaho law would make all whistle blowing requirements the same in those states.

John Watts, representing Watco Railroads, testified to support SB1134. Watch Railroad is a short-line railroad train company in Idaho, and owns four of the nine short-line railroads in Idaho. The vast majority of Watco lines are rural lines and deal with many private crossings. He referenced SB1134, lines 22 - 25 as giving flexibility, and is good legislation. The lines referenced read: The operator of a train or locomotive is not required to sound the locomotive's bell, horn or whistle when approaching any location at which the railroad crosses a private highway, private road or private street at grade.

FISCAL IMPACTS: There is no fiscal impact to the state.

MOTION: **Senator Malepeai** moved to send SB1134 to the Floor with a Do Pass Recommendation. **Second Hammond** seconded the motion. The motion carried by a **voice vote**. **Senator Geddes** will sponsor SB1134 on the Senate Floor.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 2:30 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Attachment #1 - percentage difference in fatal crash rates in relation to driver age and number of program components.

Attachment #2 - use of locomotive horns and general code of operating rules.

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, March 1, 2007
- TIME:** 1:30 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- OTHERS IN ATTENDANCE:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:34 p.m.
- H 117:** **Representative Wills**, District 22, presented House Bill 117 relating to motor vehicles, and amending Section 49-624, Idaho Code. He noted similar legislation was approved last year (HB560), but the courts have determined additional language is needed for clarification. The purpose of this motor vehicle act is to further clarify the duties and responsibilities of a driver approaching a stationary police vehicle or authorized emergency vehicle displaying flashing lights.
- The courts have been confused with the current statute, so this act makes it clear the driver must slow down below the posted speed limit and change lanes as soon as it is possible to do so in a manner that is reasonable and prudent under the conditions then existing, with regards to actual and potential hazards.
- Fiscal impacts: There is no fiscal impact on the general fund.
- MOTION:** **Senator Geddes** moved to send HB117 to the Floor with a Do Pass Recommendation. **Senator Little** seconded the motion.
- DISCUSSION:** **Senator Keough** explained she will vote "no" as she did last year.
- The motion to send HB117 to the Floor with a Do Pass Recommendation carried by a **voice vote**. **Senator Keough** voted "no." **Pro Tem Geddes** will sponsor HB117 on the Senate Floor.
- S 1131:** **Roy Eiguren**, representing Support Our Troops, Inc., presented SB1131 relating to special motor vehicle license plates, and will amend Section 49-402, Chapter 4, Title 49, and will add a new Section 49-4415D, Idaho Code. The goal of the organization is: "We are going to help keep their

families intact while their parents are engaged in protecting our families, whether it is a peacekeeping mission, a war, or a hurricane, flood, or other disaster. We are going to help pay for education, medical, home needs, emergency transportation, and the like – the kinds of things that dad or mom could do if they were home.” A three-page handout was distributed outlining the purpose checks and balances, and revenue. [See Attachment #1.]

This legislation would create a special, standardized design license plate for a national 501(c)3 nonprofit corporation that is also incorporated in Idaho. The corporation is a public charitable organization established exclusively to support the families of the men and women from Idaho who serve in all components of the United States military. To date, 45 of the 50 states have created special license plates to provide funding to Support Our Troops, Inc. It is anticipated, by the end of this year such license plates will be established in every state in the Union. **Mr. Eiguren** had contacted law enforcement and the prosecutors’ office, and they have no opposition to this legislation. Idaho has more than 35 special license plates.

FISCAL IMPACTS: The proceeds from these license plates will be added to other revenue sources available to Support Our Troops, Inc., to assist Idaho’s military families with their living, educational, and health care needs. Support Our Troops will work in conjunction with the Idaho Guard and Reserve Families Support Fund, Inc., in the distribution of funds to families.

A discussion was held relating to law enforcement’s opinion as whether different license plates make it harder or easier to identify vehicles; safety issues with different types of license plates, and no testimony nor anyone being present to testify from law enforcement personnel.

MOTION:

Senator Langhorst moved to send SB1131 to the Floor with a Do Pass Recommendation. **Senator Keough** seconded the motion.

DISCUSSION ON THE MOTION:

- Is there a board of directors for the Support Our Troops, Inc., and how are board members selected? **Mr. Eiguren** explained he serves on the board along with Brian Whitlock from the Idaho National Laboratory, and Bryan Whipple from the Amalgamated Sugar Company, and former House Representative Debbie Field. There are plans to add members to the board for Support Our Troops, Inc.
- Concerns were expressed and referenced a handout that reads: “Our aim is to put the kids all the way through college, and help get them their first car.” Putting kids through college is a great thing, but will taxpayers support the purchasing a kid his first car?
- What are the costs to manufacture special plates? **Julie Pipal**, Budget, Policy and Intergovernmental Relations Manager for the Idaho Transportation Department, explained that several years ago the Legislature put in Code that costs borne for the

preparation and production of special plates would be borne by the proposing entity.

Until Idaho gets a different license system, the cost of the inventory for the less populated areas will be borne by the Transportation Department. In some of these areas, license plate inventories are never sold. There are other costs associated with special license plates.

**ROLL CALL
VOTE S1131:**

Voting yes: **Senators Malepeai, Langhorst, Heinrich, Keough, and McGee.**

Voting no: **Senators Corder, Little, Geddes and Hammond.**

There were 5 Ayes and 4 Nays. The motion carried to send SB1131 to the Floor with a Do Pass Recommendation. **Senator Heinrich** will sponsor SB1131 on the Senate Floor.

**S 1138 and
S 1180:**

Chairman McGee announced the committee previously had a lot of discussions relating to the 129,000 pound pilot project and permits for overweight vehicle loads. Originally, a bill was printed that did not include two projects from the Idaho Falls area. A decision was made to make SB1180 a trailer bill to SB1138. Therefore, both bills will be heard at the same time. The plan today is to hear both items of legislation, SB1138 and SB1180, but voting will be at a later time. A vote will be taken on each individual bill. He explained that testimony can be presented today on both bills and at the same time.

Senator Keough stated that it may be perceived that she has a conflict of interest on this issue. She submitted a written statement dated March 1, 2007:

Pursuant to Senate Rules, I would like to disclose for the record that it may be perceived that I have a conflict of interest on this issue.

In addition to being an elected State Senator, I, as do many other legislators, have another job. I am employed by the Associated Logging Contractors (ALC). I want to further note that my legislative district includes among its population logging contractors who may or may not be members of the ALC.

As such, these issues today are broad in nature which is one measurement, according to the Attorney General's guidelines, of the degree of a possible conflict of interest.

I believe because of the broad nature of this issue I am not in conflict, but did feel it important to disclose to you that it may appear that I have one.

I do intend to be engaged in this hearing and to vote on the bill before us. [See Attachment #2.]

Senator Corder stated, as owner of a trucking firm, it may be perceived that he has a conflict of interest on this issue, but he would have no advantage over other trucking firms. He does plan to engage in discussions and voting on the trucking issue. **Senator Corder** referenced Senate Rule 39H.

Senate Rule 39H - Right to Vote - *A senator has the right vote upon all questions before the Senate and to participate in the business of the Senate and its committees and, in so doing, the Senator is presumed to act in good faith and in the public interest. If a Senator has a conflict of interest under applicable law, such conflict must be disclosed to the presiding officer in writing or to the body. Upon disclosure of any such conflict, the Senator may vote upon any question or issue to which the conflict relates, unless the Senator requests to be excused.*

Roy Eiguren appeared today representing Amalgamated Sugar Company, the American Ecology Corporation, and a broader 38-member coalition. [See attachment #3.]

He also presented a chart listing the major road segment additions to the 129,000 pound pilot project, routes, miles, and usage such as hauling hay, feed, and hazardous waste. [See Attachment #4.]

He introduced several individuals who wished to testify: Bryan Whipple, Transportation Manager for the Amalgamated Sugar Company; Ryan McDermott, General Manager for the U.S. Ecology of Idaho, and Toy Smith, Director of Market Development for the Northwest Dairy Association, Kirk Burns from Idaho Falls appearing on behalf of Burns Concrete. He also distributed a map outlining the existing and proposed pilot project routes. [See Attachment #5.]

Bryan Whipple, an employee for 23 years of the Amalgamated Sugar Company, explained what he believes are the real benefits that Senate Bill 1138 will have for the people and businesses of Idaho. He presented a brief background on the Amalgamated Sugar. There are three important reasons why this bill warrants your support.

1. First reason is safety - The safest truck is one that is parked. Expanding the number of routes in the pilot project will result in fewer trucks on Idaho's state highways because if you can carry more on each truck, you don't need as many trucks. In fact, as many as one out of every five trucks could be taken off Idaho roads by expanding the pilot project.
2. Thanks to Senator Corder, you've had the opportunity to learn a lot about the safety of these trucks. Simply put, these trucks have more axles and as a result more brakes, which means that even with the additional weight the stopping distance is the same or better.
3. The second reason you should support this bill is an environmental one. Fewer trucks on the roads mean less diesel fuel is needed. That results in reduced emissions and fewer small particulates that affect our lungs. Air quality is very important and this bill will help. We can also do our part by helping reduce our dependency on foreign oil by using less diesel fuel.
4. The third reason I'm asking you to support this legislation is economic. Fewer trucks on the roads means less wear and tear on our highways. And, as a result of the larger number of axles on

these trucks, there are more tires which give these trucks a softer footprint on the roadways. Think of it like a snowshoe where the weight is better distributed on the top of the snow, which keeps the wearer from breaking right through the top of the snow. More tires on a truck means a better weights distribution on the pavement. That means less wear and tear on the roads. And that means saving taxpayer dollars on road maintenance.

5. In addition, most of our neighbors, Utah, Nevada, Montana, Wyoming and British Columbia, already allow trucks of this weight. We need to stay competitive, and expanding the number of routes in the pilot project will help us to do that.

Businesses have already realized significant cost savings as a result of the current pilot project. Amalgamated Sugar, for example, was able to reduce our truck trips by 30,000 under the current program, which resulted in cost savings just under \$300,000. Expanding the number of routes will result in even greater cost savings for our company. When we save money on freight costs, our growers have more money to spend in their local communities which benefits local merchants and increases tax collections for the state.

There is a broad coalition of more than 30 companies and groups that support this legislation. They support the legislation because of the reasons I've laid out for you today - enhanced safety on Idaho's roads, the environmental benefits of using less diesel, and the direct economic benefits to Idaho businesses and taxpayers. These are the right trucks for Idaho, and I respectfully ask for your support on this bill.

Senator Keough asked what are the truck weight limits in the states of Oregon and Washington? **Mr. Whipple** responded they are 105,500 pounds, which is the same as Idaho currently. The same limit is for both states.

Chairman McGee asked about the I-84 roadway, especially from Caldwell to Boise, as we are seeing very deep ruts in the concrete which is a very serious safety problem. He asked would a 129,000 pound truck with the snowshoe help to reduce the wear in the pavement? **Mr. Whipple** stated he believes it would, as we look at the weight per axle on a typical 8,000 pound truck. He referenced a handout (Right Truck for Idaho) additional axles, additional braking power and to transport one haul of 400,000 tons at 100 miles. [See Attachment #3.]

Ryan McDermott, General Manager for the U.S. Ecology of Idaho, testified to support SB1138. The U.S. Ecology operates a hazardous waste treatment, storage and disposal facility located approximately 60 miles southeast of Boise, near the town of Grand View. On an annual basis, U.S. Ecology moves approximately 600,000 pounds of material to the Grand View facility. A majority of the materials arrive by rail at a transfer station on Simco Road. It is transferred from rail cars to trucks to transport to the Grand View facility.

Some of the benefits U.S. Ecology has realized under the 129,000 pound

pilot project allowed the company to develop and pave a new route that being Simco Road. That route has reduced the number of truck trips in a year from 38,000 to 19,000. It has reduced the full miles driven in a year by one million. By switching to the larger more efficient trucks, the company has further reduced the number of trips from 19,000 trips per year to 16,000 per year. That is a savings of approximately 200,000 truck miles per year.

U.S. Ecology has reduced transportation costs by approximately \$1.5 million per year, greatly improving our ability to compete in the marketplace. Additional, by reducing the number of trips we have drastically reduced air emissions and improved safety.

In summary, since its adoption, the 129,000 pound pilot program has provided U.S. Ecology multiple benefits such as increased efficiencies, improved competitiveness, improve public safety, and reduce air emissions. As a result, U.S. Ecology strongly supports SB1138.

Senator Keough asked if the U.S. Ecology company owns its trucks or uses independent haulers? Did the independent hauls have to gear up with the extra axles? Did the haulers charge U.S. Ecology more to get a return on their investment? **Mr. McDermott** stated the company contracts, but he is uncertain regarding the other question, but he will send her the information.

Toy Smith, Director of Market Development for the Northwest Dairy Association and the Dairy Industry in Idaho, testified to support SB1138. He reported, as Bryan said, this bill is about safer roads, helping our environment and very real economic benefits. He stated, and I am here today to tell you about the dairy industry's support for the bill.

The Northwest Dairy is a farmer-owned cooperative operating in Idaho, Washington, Oregon, California, and Utah. We have three processing plants in Idaho at Boise, Caldwell, and Jerome. Our member-owners produce approximately 26% (247,000,000 pounds per month) of Idaho's milk supply. In addition to our plants, we have full supply contracts with Meadowgold in Boise and Kroger in Layton, Utah. We also supply raw milk to Glanbia in Gooding, Sorrento in Nampa, and Gossner Foods in Heyburn.

We move approximately 117 truckloads of milk from farms to plants daily. Within Idaho, approximately 435 truckloads of milk move daily. This raw milk is used to produce 1,270 loads of cheese, milk protein concentrates and powdered milk each month. It takes an equal number of truck trips of feed concentrates to the farms to feed the cows.

Truck trips will be reduced by expanding the program, and provide cost savings associated with the reduced trips, if possible, our hauler in the Magic Valley has estimated they would shrink from 57 loads daily to 46 loads with the increase in weight limits, a reduction of 11 trucks per day off of the roads. At approximately \$175 per load, it would save \$1,925 per day. This does not count improvements from increased routing efficiencies. This represents 12% to 13% of Idaho's milk supply.

If half of the milk, finished product and feed concentrate were moved at

the increased rates it would reduce the number of trucks used by 2,415 per month. Glanbia Foods moves all of the whey produced at their cheese plants in Gooding and Twin Falls to their processing plant in Richfield on a daily basis. Increased weights would reduce the number of trips by 15% to 20%.

Utah is allowing 129,000 trucks and expanding the routes will help. Currently, we are moving 1.3 million pounds of milk daily into Kroger's plant in Layton, Utah. We are purchasing some of the milk from Utah Dairy Farms Cooperative in Delta, Utah. This milk moves about the same distance as the milk we send down there from Idaho. They enjoy a freight advantage of \$52 per load, because they can move 85,000 pounds per load instead of 70,000.

Fewer trucks on the road mean safer highways and a better environment. More tires on the trucks means less wear and tear on the roads and real cost savings for taxpayers on road maintenance. Expanding the routes in the pilot project is the right thing to do.

Kirk Burns, President of Burns Concrete in Idaho Falls, testified to support SB1138 and SB1180. He reported they have been using the current existing pilot routes in Idaho Falls and outlying areas for the past two years.

Jane Wittmeyer, representing the Intermountain Forest Association, testified to support SB1138 and SB1180. The Association urges support of the legislation and future routes regardless of the areas they are in.

Scott Atkison, CEO of Bennett Forest Industries, reported our family-owned small business operates a lumber mill in Grangeville, owns and manages timberland in Central Idaho as well as other real estate assets in North and South Idaho. I am here today to offer support for S1138, but to also urge you to include in the pilot project tests of 129,000 pound truck weights on a new route that includes U.S. Highway 95 from Grangeville to Potlatch's mill in Lewiston and to the Port of Lewiston.

In 2005, our company emphasized our faith in Idaho as a place to do business and in our family's heritage as a proud member of Idaho's forest products industry with the construction of a state of the art lumber manufacturing facility in Grangeville. This project included building a new sawmill, wood fired boiler steam plant, dry kilns, and extensive upgrades to an existing planer mill.

As part of our business operations in Grangeville we:

1. Directly employ 160 people at our plant site and through our contract logging and contract trucking partners employ approximately another 150 people.
2. Purchase approximately 90 million board feet of timber annually with approximately 10% coming from national forest lands, 30% from the State of Idaho Endowment lands, and 60% from private timberland owners, most of whom are farmers and ranchers.

As a by-product of manufacturing lumber, we produce and sell wood chips, bark, planer shavings and sawdust. All of these products are valuable, with the chips and sawdust used to produce paper and the other residues used to generate energy. Our major customer for these by-products is Potlatch Corporation in Lewiston and each day we send them approximately 2,000,000 pounds of product which represents approximately 30 truckloads at the current allowable weights. Quite simply, we see no reason why our shipments of this material to Potlatch are any different from the shipments of sugar beets, stone or other materials that might be hauled more efficiently on the routes outlined in the pilot projects authorized through S1138. While at some future point, we may haul finished lumber to the Port of Lewiston for export; our current interest in a pilot project for hauling 129,000 pound loads is the shipment of our wood chip and sawdust products to Potlatch.

U.S.95 from Grangeville to Lewiston is a modern, generally a wide, high speed highway. In recent years, it has been rerouted away from small towns, curves straightened, bridges rebuilt and widened. It can support heavier trucks. Any doubt can easily be resolved by making any changes to include this as a pilot project route contingent upon certification of the route's suitability by the Transportation Department.

If this route could accommodate heavier trucks, we would envision using our same Idaho-based contractors and their same trucks. They haul our wood chip and sawdust products in 53 van-type trailers and we would simply load them heavier, probably to around 120,000 pounds on average, since there isn't always space in the vans to accommodate full 129,000 pound loads. By increasing our average load size from 105,500 pounds to 120,000 pounds using the same equipment we would reduce the number of daily trips required to haul this product by five. Over the course of a year this would mean 1,250 fewer trips between Grangeville and Lewiston, which is an increase in efficiency of approximately 17%. We estimate that this additional efficiency in the number of trips required would save our company approximately 10% in our shipping costs associated with hauling these products.

Right now, lumber prices are down and we have seen mill curtailments and closures in Idaho. So far, the efficiency of our new mill and the talents of our crew have allowed us to operate during this down cycle. However, there is no question that additional cost savings and efficiencies will help strengthen our ability to further compete through all market cycles.

There is an issue of basic fairness and equity in our proposal to add this route. If the Legislature wants to truly test the concept of heavier trucks, then a test should include some routes north of the Salmon River. We understand that promises have been made by various interests to not pursue routes in North Idaho and all we can say to this is that whoever made such commitments did not speak for us. We are not bound by such prior commitments.

In 2002 we lost our short line rail service from Grangeville to Lewiston and as a result we became 100% dependent on using trucks for shipping products from our plant.

In summary, we see no reason why this additional route cannot be accommodated within the context of the pilot project, so long as new routes elsewhere in the state are being added. Just as the agriculture industries in South Idaho would benefit, so would we benefit. Our highway can handle the increased weights and if there is any doubt, we suggest any change be made contingent upon a certification to that effect by the Transportation Department. So, in the interest of fairness and support for our business, we hope you will treat our proposal favorably.

There was a general discussion about concerns relating to Idaho's older bridges and support beams on Highway 95, and questions on whether it was correct that the trucks referenced by **Mr. Atkison** could legally carry the extra weight.

ADJOURNED: **Chairman McGee** again announced those motions regarding SB1138 and SB1180 will be taken at a later date. There being no further business he adjourned the meeting at 2:56 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Attachment #1 - Support Our Troops, Inc.

Attachment #2 - Senator Keough's statement to the Senate Transportation Committee

Attachment #3 - List of coalition members, side one and side two relating to the right truck

Attachment #4 - Major road segment additions to 129,000 pilot project, February 2007

Attachment #5 - Existing and proposed pilot project routes

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, March 6, 2007

TIME: 1:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Malepeai

MEMBERS ABSENT/ EXCUSED: NONE

OTHERS IN ATTENDANCE: The signature sign-in sheets(s), charts and graphs will be retained with the minutes in the committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).

CONVENED: Chairman McGee convened the meeting at 1:32 p.m.

MINUTES: **Senator Corder** moved to accept the minutes of February 13, 2007 as written. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

GUBERNATORIAL APPOINTMENT: **R. James (Jim) Coleman** of Hayden Lake, Idaho, was appointed to the Idaho Transportation Board by Governor C. L. "Butch" Otter to serve a term commencing January 31, 2007, and expiring January 31, 2013. **Mr. Coleman** explained he is a third generation Idahoan, married and has two children. He has a B.S. and M.S. in Civil Engineering from the University of Idaho. He has worked for J-U-B Engineers, Inc., for 29 years. Throughout his career, **Mr. Coleman** has been involved in his community serving on many local and statewide organizations in various leadership positions. His political affiliation is Republican. [See Attachment #1.]

Senator Hammond noted he has known **Mr. Coleman** for a long time and wanted to share he is an excellent nomination for this position. He brings a wealth of knowledge with his Civil Engineering background and he is also very committed to his own community and the State of Idaho.

S 1115: **Stuart Davis**, Executive Director of the Idaho Association of Highway Districts, presented SB1115. This legislation will amend Section 40-117, Idaho Code. He explained this bill does two things, 1) adds the word "including" to make it more grammatically correct, and 2) matches the definition of a public right-of-way, relating to the Highway and Motor Vehicle Law.

Senator Little asked why do we need this bill? **Mr. Davis** said this change was made from a suggestion. He distributed a copy of Sections

40-117(6) and 49-119, Idaho Code, relating to the clarification of public right-of-way, and provides consistency between the definitions in Code. [See Attachment #2.]

MOTION: **Senator Little** made a motion to send S1115 to the 14th Order. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**. **Chairman McGee** will sponsor the bill on the Senate Floor.

PRESENTATION: **Ed Pemble**, Drivers Services Manager at the Idaho Transportation Department (ITD) presented the **REAL ID Act**. **Mr. Pemble** explained the REAL ID Act was signed into law May 11, 2005, requiring states to adopt minimum federal standards for the issuance of a driver's license and personal identification card.

The proposed rule to adopt minimum federal standards giving states' direction on how to comply was released March 1, 2007. **Mr. Pemble** explained the benefits of the REAL ID Act as cited by the Department of Homeland Security (DHS) include improved national security, reduced identity theft, and discourage unqualified driving and fraudulent activities facilitated by a less secure driver's licenses such as fraudulent access to government subsidies and welfare programs, illegal immigration, unlawful employment, unlawful access to firearms, voter fraud, and possibly underage drinking and smoking.

If Idaho complies, some form of implementation must occur at the state level by May 11, 2008, unless an extension is received to December 31, 2009. The ITD has reviewed the driver licensing requirements included in the REAL ID Act, and has determined Idaho is not in compliance. Compliance states can issue a REAL ID card to those who qualify, and non Real ID for those who don't. The systems would have to accommodate both. People would not be forced to get a REAL ID, but everyone would need to go and get their cards reissued by May 11, 2013.

Mr. Pemble mentioned that REAL ID or not, there are plans to discontinue over the counter license and identification card issuance, and begin central issuance and mailing cards from a secure central facility sometime in 2008. This is a process improvement that will allow Idaho's card production equipment, card stock, and issuance facilities to be more secure. The price negotiated is the same as always. The card will have additional security features. Even with this plan of action, changes in the card may not be fully REAL ID compliant.

The REAL ID compliant cards could be more expensive to produce with the amount of increased expense directly correlated with the number of new security features. The Idaho Transportation Department has asked their current contractor of card production to provide a cost estimate of for an Idaho REAL ID card, based on their analysis. The ITD has not received a response yet. Data standards are an issue because Idaho's antiquated DMV (Division of Motor Vehicles) systems cannot accommodate large data transmissions. The cost is a concern to Idaho, because of all of the required system changes and modifications. The initial costs are \$39.6 million to start, and \$9.3 million for the first four or

five years. Initially there was \$40 million in federal funds for nationwide implementation. Two states received grants, since then all grant funding has been suspended.

It is understood that the federal budget does not currently include monies for REAL ID. Idaho could reprogram 20% of their existing DHS (Department of Homeland Security) grant money for REAL ID, which would be \$750,000 per year; user fees are expected to pay for the rest.

Mr. Pemble explained the effects of the noncompliance on Idahoans. He said there is work to do whether Idaho complies or not. On the positive side, noncompliance would allow services to continue at Idaho's driver licensing locations without adding considerable cost, burden, and inconvenience associated with the re-enrollment, document scanning and date verification for Idaho's one million licensed drivers, and 144,000 identification card holders. The ITD has not taken a position on HJM 3, however, if passed ITD will continue to stay informed about the national status of REAL ID, and will monitor any funding opportunities related to its implementation. [See attachment #3 - Section 202, Minimum Document Requirements and Issuance Standards for Federal Recognition.]

Senator Langhorst asked if there was any cost to delaying REAL ID?

Mr. Pemble said the problem with delaying is it will squeeze the re-enrollment process into a tighter window than 3½ years. What if it is delayed forever? We would be subject, as Idaho citizens, to the requirements at the airport to provide other documentation, federal ID, or extra pat-downs.

Senator Little asked if the legislative law said we wanted to make sure not one illegal alien has a driver's license, how would you enforce that?

Mr. Pemble said there are a lot of people with Idaho drivers' license or ID cards today that may not be here legally. If the Department of Motor Vehicles (DMV) is in charge of determining if people are here legally, we would have to see documentation as required by REAL ID, a birth certificate to show citizenship or documentation from the DHS to show they are here legally. **Senator Little** then asked if we wanted to be certain that everyone with a valid Idaho driver license was a citizen, then would we have to implement a lot of the language in the REAL ID Act?

Mr. Pemble said that was correct.

HJM 3:

Representative Hart, District 3, presented this House Joint Memorial 3 (HJM 3) regarding the objection to the mandate of the REAL ID Act. The purpose of this memorial is to send a message to our Congressional delegation that Idaho does not want to comply with the REAL ID Act of 2005, and instruct them to pursue legislation to repeal the Act. Once you are in the data base for REAL ID, you can get information on anyone who has a so called REAL ID. The opportunity for identity theft would grow. It was thought that the unfunded mandate was \$11 million for REAL ID, but when the rules came out last week the latest estimate is now \$23 billion.

Bill Bishop, Director of Idaho Bureau of Homeland Security, employee of the State of Idaho, said the Governor pays him to wake up in the middle of the night, in a cold sweat thinking about bad things that could happen to the citizens of Idaho. That's his job, he's good at it, and he takes it seriously. He worries about Idaho people being harmed by natural disasters, intentional acts of terrorism either foreign or domestic. **Mr. Bishop** said if he believed that the REAL ID Act would prevent an act of terrorism, he would support it. The REAL ID Act has no effect on the status of America.

Hanna Saona, Legislative Counsel for ACLU of Idaho (American Civil Liberties Union of Idaho), with more than 2,000 active members and supporters statewide noted ACLU stands in support of HJM 3. The entire concept behind REAL ID Act is flawed. The ACLU believes the cost of this Act would fall on Idaho, and dramatically affect our citizens. The ACLU also believes it would have an impact on the privacy rights of every American. The REAL ID Act will not make a more secure nation nor will it resolve the issues surrounding illegal immigration. What this Act would do, is it takes away the states' autonomy in managing its drivers' license and identification systems without ensuring data security, and without funding any of the major changes required by the REAL ID Act.

Karen McWilliams, a board member of the Idaho Community Action Network (ICAN) spoke to support HJM 3 which opposes implementation of the REAL ID Act. The ICAN has 8,000 members across the state, many who are elderly or foreign born, who would be severely impacted should this Act be implemented. **Ms. McWilliams** shared a personal story and urged the committee to vote in support of this resolution.

In closing, **Representative Hart** noted that the AARP supports this joint memorial.

Senator Little said he would oppose this motion and noted that we have no way of solving the immigration issues with this. There are problems with the REAL ID Act. He agrees with most of the resolution, however, he thinks we should fix it.

Senator Langhorst said he agrees with **Senator Little** that we need to address immigration issues, but must defer to the Director of Homeland Security. He believes **Mr. Bishop** when he says HJM 3 will not resolve our immigration issues.

MOTION:

Senator Langhorst made a motion to send HJM 3 to the floor with a Do Pass Recommendation. The motion was seconded by **Senator Hammond**.

DISCUSSION:

Senator Hammond said, with regard to **Senator Little's** comments, we need to figure something out, and he is not convinced that any memorial will do anything more than let the Feds know that we have some concerns, and we want to work them out and not just move blindly

ahead and ignore those concerns.

Senator Little was concerned with page 2, line 46, which reads: “that the Idaho Legislature shall enact no legislation nor authorize an appropriation to implement the provisions of the Real ID Act.” He said the Idaho Transportation Department is headed down that road right now.

Senator Keough noted she was prepared to support this memorial, however, we have enacted legislation and we have already spent money; therefore, she believes there may even be money proposed in this year’s budget to do elements of something that looks like Real ID. She’s uncertain if she has ever seen a joint memorial that says the Legislature shall enact no legislation, nor authorize an appropriation. With those two issues, **Senator Keough** will oppose HJM 3.

ROLL CALL VOTE:

Voting yes was **Senators Malepeai, Langhorst, Heinrich, Geddes, Chairman McGee, and Vice Chairman Hammond.**

Voting no was **Senators Corder, Little and Keough.**

There were 6 Ayes and 3 Nays. The motion carried and HJM 3 will be sent to the Senate Floor with a Do Pass Recommendation. **Senator Fulcher** will sponsor HJM 3 on the Senate Floor.

ADJOURNMENT:

There being no further business, **Chairman McGee** adjourned the meeting at 2:40 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Barbara Davidson
Assistant Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, March 8, 2007

TIME: 1:30 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai

MEMBERS ABSENT/ EXCUSED: None

OTHERS IN ATTENDANCE: **Representatives Eskridge** and **Nonini** attended the hearing relating to House Bills 150 and 200, and **Scott Stokes**, Deputy Director of the Idaho Transportation Department also attended. The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the 2007 legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).

MINUTES: **Senator Hammond** moved to accept the minutes of Thursday, February 15, 2007, as written. **Senator Heinrich** seconded the motion. The motion carried by a **voice vote**.

Senator Corder moved to accept the minutes of Tuesday, February 20, 2007, as written. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

VOTING ON GUBERNATORIAL APPOINTMENT: **Chairman McGee** explained that on Tuesday, March 6, 2007, the committee held a confirmation hearing regarding the gubernatorial appointment of **R. James (Jim) Coleman**, from Hayden Lake, Idaho, who was appointed by Governor C.L. "Butch" Otter to the Idaho Transportation Board, to serve a term commencing January 31, 2007, and expiring on January 31, 2013.

MOTION: **Senator Hammond** moved to support the gubernatorial appointment of **R. James Coleman** to the Idaho Transportation Board to serve a term commencing January 31, 2007, and expiring January 31, 2013. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

TRANSPORTATION INVESTMENT REPORT: **James Kempton**, Chairman of the Northwest Power and Conservation Council, presented a report regarding the Forum on the Idaho Transportation Department (ITD). He referenced Senate Concurrent Resolution 111 (SCR111) that has been sent to the House of Representatives. He is confident SCR111 will go forward from there.

SCR111 . . . by STATE AFFAIRS - TRANSPORTATION - STUDY - *Stating findings of the Legislature and authorizing the Legislative Council to appoint a committee to undertake and complete a study to review*

allocation and expenditure of revenues by the Idaho Transportation Department, to evaluate the internal organization and administrative practices utilized by the Idaho Transportation Department to meet its statutory obligations to the traveling public and to investigate how the Idaho Transportation Department can best perform its duties in the 21st century.

The report was prepared in January 2006 by Lochner Engineers and Planners of Boise, and Tom Warne and Associates, LLC, South Jordan, Utah.

Mr. Kempton stated that he hopes in having this review, it will answer both the governor's questions, and questions the Legislature may have regarding the Transportation Department. Hopefully, it will lead into discussions about the revenue requirements that the state of Idaho may have regarding transportation. It is important before the Legislature adjourns to move into a discussion about the differences between GARVEE (Grant Anticipation Revenue Vehicles) and money in the Highway Distribution Account. He did not mean in terms of a specific discussion, but simply to remember that while we are using federal funds to accomplish the objectives of transportation in Idaho, we cannot overlook the fact that the Legislature set up the Highway Distribution Account and the distribution from that account for the purposes of local government and local highway districts' jurisdictions, the ITD and state police. Provisions from the Highway Distribution Account are about 57% for ITD, 38% for local highway jurisdictions, and 5% for state police.

He distributed charts relating to the Highway Distribution Account for the years of 2000 up to 2006, and the gasoline and special fuels revenue. [See Attachments #1 and #2.]

The Forum on Transportation Investment (FTI) was initiated in September 2004 by the Idaho Transportation Board. The Forum was made up of 58 individuals who had various interests in Idaho's transportation such as mayors, lobbyists, legislators, and others representing public agencies, transportation service providers, public transportation providers, stakeholders, and citizens with a keen interest in Idaho's transportation needs.

He stated there was a consensus that there is work to do addressing the revenue funding and the Highway Distribution Account. Fundamentally, since 69% of the revenue comes from fuel taxes, there needs to be some action taken on the part of the Legislature to either decide how to raise gas taxes, special fuel taxes, or redefine a taxing system that will accomplish the same thing, or set in motion a strategy process to identify to the rural areas how you plan to dismantle the secondary highway system. There are no other choices. For ten years, the lack of funding into the Highway Distribution Account has resulted into a flat revenue, almost to a flat zero.

A copy of the complete report will be retained with the committee's 2007 records. [See Attachment #3.]

H 150:

Senator McKenzie, District 12, presented HB150 relating to energy

grants. This proposed legislation amends Chapter 18, Title 42, Idaho Code by the addition of a new Section 42-1806.

He was co-chairman of an Interim Energy Committee to deal with the energy policy, and this bill is the result of their labor. They tried to make a policy and recommendations for some proposed action items. Currently, in our transportation fuel situation we import 100% of our transportation fuels, mostly in single pipelines from Utah. One of the recommendations of the policy is to try and reduce restrictions as well as promote our environment, and protection of our air quality. The committee made a number of recommendations related to alternative fuels and bio-fuels.

The committee invited members from the bio-fuel supporters and the petroleum industry, as subcommittee members, to review the fuel issue and see if we could reach a consensus within the industry. This legislation, HB150, is to create a 50/50 matching grant program for Idaho retail fuel dealers who choose to invest in qualified fueling infrastructure projects dedicated to providing bio-fuels to their customers. This program sunsets on July 1, 2012.

A general discussion was held relating to how many retailers would participate in the program, tax credit for bio-fuels, creating a new market, responsibilities for auditing and administrating the program, fiscal impacts, the five-year life of the program, and establishing a website.

Fiscal Impacts: The amount will be determined by a separate legislative appropriation.

| | |
|---|-------------|
| Amount to be requested for FY08 | \$690,000 |
| Amount to be requested for FY09 - FY12 | \$1,610,000 |
| Total amount for the five-year life of program: | \$2,300,000 |

Russ Hendricks, representing the 63,000-members of the Idaho Farm Bureau Federation, testified to support HB150. He reported it makes sense for Idaho to provide small incentives to encourage retailers to provide bio-fuels for a variety of reasons. He distributed a chart relating to the Idaho Energy Policy Survey, and the level of agreement that Idaho provides incentives for a shift toward alternative fuels for transportation. [See Attachment #4.]

He outlined the following:

1. Our entire state economy and all consumers will benefit from the use of bio-fuels:
 - a. Bio-fuel produced and added on this end of pipeline:
 - i. Increases supplies
 - ii. Helps stabilize and reduce prices, and is less volatile
 - b. Reduces dependence on imported fuel, more self reliant.
 - c. Environmentally friendly fuel:
 - i. Improved air quality
 - ii. Biodegradable

- iii. Nonionic
- iv. Renewable
- d. Increased rural economic development:
 - i. Use Idaho products to produce fuel for Idaho
 - ii. Keep Idaho fuel dollars here in Idaho
- 2. Government can assist in the switch by giving a small incentive in promoting bio-fuel use:
 - a. Last three years, three Interim committees support the use of bio-fuels in Idaho
 - b. Retailers will sell same number of gallons, they are indifferent, need an incentive to make the transformation
- 3. Very wide majority of public urging government to provide incentives:
 - a. 88% of public believes government should provide incentives
 - b. Only 8% do not agree
 - c. Overwhelming majority
- 4. Less than 40 cents per person per year to fully fund:
 - a. Each driver will save more than that because of:
 - i. Increased supplies
 - ii. Greater competition
- 5. Crafted just about as tightly as possible:
 - a. Budgets all set, money available
 - b. Production of bio-fuels will bring in more tax revenues each year
 - c. Pacific Ethanol will bring additional \$7.2 million in additional household income which equates to roughly \$450,000 in personal income tax alone each year, and will more than cover this program by itself.

The Idaho Farm Bureau Federation urges the committee's support of this modest incentive that will benefit our economy and citizens.

John Watts, representing Pacific Ethanol, testified to support HB150. He reported that companies endorsing HB150 includes Idaho Food Producers, Monsanto, Pacific Ethanol, Idaho Grain Growers, Idaho Petroleum Marketers and C-Stores, the Idaho Farm Bureau, and the Idaho Retailer Association. He emphasized that Pacific Ethanol does not qualify for this grant. Pacific Ethanol is an ethanol producer, and is not a retail distributor.

The cost to clean an underground fuel tank to provide bio-fuels is \$1,500. The number of fuel tanks at 792 retail fuel stations in Idaho is 2,380. A total anticipated investment by retailers is \$4.6 million, and the total anticipated investment of five years from the state match of \$2.3 million, with a first year expected level of participation cost of \$690,000. He distributed a data sheet relating to bio-fuel matching grant request and benefits to Idaho. [See Attachment #5.]

MOTION: **Senator Heinrich** moved to send HB150 to the Floor with a Do Pass Recommendation. **Senator Little** seconded the motion.

Discussion: **Senator Geddes**, a part-time employee of Monsanto in Soda Springs, reported it may be perceived that he has a conflict of interest.

The motion carried by a **voice vote**. **Senator McKenzie** will sponsor HB150 on the Senate Floor.

H 200: **Representative Anderson**, District 1, presented HB200 relating to the Idaho Safe Boating Act. He reported the legislation is simple in nature. The purpose of this bill is to adjust the base rate for registering a boat in Idaho from \$13 to \$20. The current rate structure has not been adjusted since 1994. The cost of providing services and facilities has gone up significantly in that time. For example, fuel prices for patrol or maintenance vehicles and vessels have increased more than 150% since 1994. Providing services for those who choose to recreate should not be a burden on property tax payers. This burden should be borne by the users of the system.

Fiscal Impacts: There will be no effect on the general fund, however, the increase in fees would annually generate approximately \$598,936 in revenue. A portion of this revenue, up to 15% (\$89,840), would go to the Idaho Parks and Recreation per current statute. The remaining \$509,096 would be distributed, using existing formula, to counties designated in the registration forms.

MOTION: **Senator Heinrich** moved to send HB200 to the Floor with a Do Pass Recommendation. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.

ADJOURNED: There being no further business, **Chairman McGee** adjourned the meeting at 2:42 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Attachment #1 - HDA account 2000 - 2006

Attachment #2 - Gasoline and special fuels revenue and Idaho fuel tax and fuel tax revenue

Attachment #3 - A form on transportation investment report and recommendations

Attachment #4 - Idaho energy policy survey

Attachment #5 - HB150 bio-fuel matching grant request and benefits to Idaho

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, March 13, 2007

TIME: 1:00 p.m.

PLACE: Room 426

MEMBERS PRESENT: Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, Langhorst, and Malepeai

MEMBERS ABSENT/ EXCUSED: None

OTHERS IN ATTENDANCE: The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).

CONVENED: **Chairman McGee** convened the meeting at 1:05 p.m.

H 99aa: **Senator Little**, District 11, presented H99aa relating to petroleum clean water trust funds. This legislation will amend Section 41-4909(7) and (10), and Section 41-4914, Idaho Code, and to clarify the definition of petroleum products; to ensure the financial integrity of the trust fund, thereby complying with federal and state financial assurance laws by providing insurance to clean up petroleum storage tanks; and to allow the board of the Petroleum Clean Water Trust Fund to determine by resolution whether the state treasure or state endowment fund shall manage the investments of the funds. These changes are necessary to establish long-term financial stability for petroleum storage tanks' insurance and to meet the goals of the state of Idaho to protect the environment and groundwater from petroleum contamination from tanks through the use of insurance.

The Petroleum Clean Water Trust Fund has successfully insured petroleum tanks throughout the state of Idaho, and the transfer fee needs to be temporarily reinstated when the unencumbered balance in the trust fund equals \$25,000,000 million, and the transfer fee suspended when the unencumbered balance in the trust fund equals \$35,000,000 million. The current \$15,000,000 level to reinstate the transfer fee is actuarially too low as the fund will not be able to generate sufficient levels to remain solvent and meet its statutory obligations.

A 14-paged power point was presented for review was distributed. [See Attachment #1.]

FISCAL IMPACTS: There is no fiscal impact to the general fund.

MOTION: **Senator Hammond** moved to send HB99aaa to the Floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion

carried by a **voice vote**. **Senator Little** will sponsor HB99aa on the Senate Floor.

H 42aa:

Laura Johnson, Legislative Liaison for the Department of Agriculture, presented HB42aa. This legislation, HB42aa, amends HB42 and Title 49, Chapter 29, the Rural Economic Development and Freight Transportation Program. The purpose of the amendment is to reassign the program development and implementation responsibility from the Department of Commerce and Labor to the Department of Agriculture. It amends the interagency working group providing the Department of Agriculture members instead of the Department of Commerce members, but retaining one seat for rural economic development expertise. It provides limited and defined fiscal authority to administer the program and allows one-time intermodal commerce authority planning matching grants limited to in number and scope.

John Watts, representing Watco Railroad, testified to support HB42aa. He presented a background relating to the Rural Economic Development and Integrated Freight Transportation Program and the agency responsibilities and recommendations.

He explained the 58th Idaho Legislature, during the Second Regular Session (2006), passed House Bill 820 creating the Rural Economic Development and Integrated Freight Transportation Program (hereinafter the "Program"). The bill was enacted into law as Session Law #413 and became effective on July 1, 2006. The legislation primarily affected the Idaho Transportation Department (Im) and the Department of Commerce and Labor (DCL). The responsibilities of these two State agencies under this legislation are outlined . . . per Idaho Code:

DUTIES OF DEPARTMENT OF COMMERCE AND LABOR:

Section 49-2901, Idaho Code, was amended to create the Program. Under this section, the DCL was "*designated and authorized to administer*" the Program.

Section 49-2902, Idaho Code, created an "Interagency Working Group" (hereinafter the "Group") to advise the DCL on issues and policies in support of DCL's administration of the program.

The Director of the DCL is required to appoint three members to the Group: two from the DCL and one representing business and financing interests. Completed. The Director shall also appoint one of his appointees as a co-chair, and DCL is required to "*Provide such amounts as are necessary for planning and operating expenses and staff assistance and support in order to administer the program, and to administer the fund established in section 49-2904, Idaho Code.*"

Section 49-2904, Idaho Code, creates the "Rural Economic Development and Integrated Freight Transportation Revolving Loan Fund" (hereinafter the "Fund") in the State treasury. The DCL is "*authorized to administer*" the Fund. Monies in the Fund may be used for loans or grants for qualified projects for the development and preservation of intermodal rail and truck services and facilities "*upon terms and conditions to be*

determined by the department of commerce and labor" with the assistance and advice of the Group. Monies received "by the *department of commerce and labor*" shall be deposited in the Fund.

DUTIES OF DCL AND THE INTERAGENCY WORKING GROUP:

- The Group will provide recommendations to the DCL in order for the DCL to "*develop criteria for evaluating intermodal projects of significance to the state.*"
- The Group will provide assistance to the DCL in monitoring the projects.
- The Group will provide recommendations to the DCL in order for the DCL to "*develop criteria for prioritizing freight rail and intermodal projects that meet the minimum eligibility requirements*" for financial support from the Fund.
- The Group will provide assistance necessary to DCL to "*ensure the state maintains a contingent interest in any equipment, property, rail line or facility that has outstanding grants or loans.*"

Recommendation: DCL should call the first meeting of the Group.

Recommendation: The Group should either a) draft bylaws that cover such issues as attendance, quorum, rules of order, proxies, travel, reimbursement, maximum loan amounts, etc., or b) establish operating procedures through an Executive Order.

Recommendation: The Group should use all currently available information to begin providing recommendations to the DCL for the purpose of developing criteria for prioritizing freight rail and intermodal projects. This can be done parallel to the preparation of the State Rail and Intermodal Facility System Plan.

DUTIES OF IDAHO TRANSPORTATION DEPARTMENT:

Under Section 49-2402, Idaho Code, as part of the Interagency Working Group, the Director of ITD is required to appoint four (4) members to the Group - two employees of the department, one representing freight interests, and one a member of the Local Highway Technical Assistance Council. Completed. The Director shall also appoint one of the appointees as a co-chair of the Group. Director **Pamela Lowe** appointed **Alan Frew**, Administrator of the Division of Motor Vehicles.

Section 49-2905, Idaho Code, gives ITD the responsibility to "*prepare and periodically update a state rail and intermodal facility system plan*" (hereinafter the "Plan"), the objective of which is to identify, evaluate and encourage the development and preservation of essential rail and truck intermodal services. The legislation lays out all the various required elements of the Plan including description of and issues concerning the State rail system, a coordinated freight transportation system, and identifying an intermodal rural rail and truck freight system.

Section 49-2904, Idaho Code, states that money in the "*fund shall be used only for the purposes specified in this chapter.*" One of the purposes specified is the preparation and update of the Plan. The legislation also

states that there is *no fiscal impact unless the Joint Finance and Appropriations Committee provides an appropriation*. That appropriation, however, specifically precludes any of the money in the Fund from being used to prepare or update the Plan.

The ITD is also required to: 1) provide information to the Interagency Working Group for assisting and advising the DCL to monitor the status of railroads, and 2) submit an evaluation of alternatives to abandonment of rail lines prior to federal surface transportation board meetings.

Recommendation: The DCL - upon review and approval by the Group - should release the draft Request for Information that has been prepared by ITD and reviewed by the department's contract administration staff.

Recommendation: Identify a source of funding to prepare the Plan that can be used to match and supplement federal freight planning dollars.

FUNDING CONSIDERATIONS:

The fund number for this program is 0403-03, the Fund is located in the State Treasurer's Office, and it is titled the "Rural Economic Development & Integrated Freight Revolving Loan Fund." As of January 31, 2007, the fund balance was \$5,101,200. This fund is not continuously appropriated. In 2006, HB874 appropriated funds for two (2) years and limited the use of the funds to revolving loans - not to other expenditures like the study that needs to be done. The language is excerpted below:

SECTION 3. In addition to any other appropriation provided by law, there is hereby appropriated to the Idaho Department of Commerce and Labor 18 \$5, 000, 000 from the Rural Economic Development and Integrated Freight Transportation Revolving Loan Fund for the period July 1, 2006, through June 30, 202008. Such moneys shall be used for revolving loans to upgrade, expand; rehabilitate, purchase or modernize equipment and facilities for short line rail or intermodal freight shipping infrastructure.

Recommendation 1 of 2: Contract with a financial institution to do the financial review and credit check on the applicants based on the criteria established, or pattern this loan program after another state loan effort such as the Department of Environmental Quality's Clean Water and Waste Treatment Loan Programs. The Department of Commerce & Labor could then disburse the funds to the entity that passed the criteria and credit check. (Resources for accomplishing this recommendation: **Liza Carberry**, Office of the Idaho State Treasurer, 332-2997; or **Bill Jerrel**, Department of Environmental Quality Program Manager, 373-0400, (retiring the end of March), and **Tim Wendland**, Loan Officer: 373-0439.)

Recommendation 2 of 2: Include language in the Department of Commerce & Labor's FY08 appropriation bill that allows for payment of the contract with the financial institution and for using a portion of the money to do the Idaho State Rail and Intermodal Facility System Plan.

FISCAL IMPACTS: There is no fiscal impact to the general fund.

A lengthy review of HB42 and the proposed amendments was held.

MOTION:

Senator Keough moved to send HB42aa to the Amending Order. **Senator Geddes** seconded the motion.

Senator Keough noted a lot of work has been done on this legislation and a good faith effort has been made to achieve the results many were trying to achieve. She will be happy to work on the amendments to clarify some of the concerns that need to be clarified. This provides an opportunity to get the process going. Transportation is a huge issue across the state, especially in rural Idaho in putting together partnerships with trucking, trains, and businesses. The revolving loan concept is excellent, but it was just put into the wrong department.

The motion was carried by a **voice vote**.

**VOTING ON
S 1138:**

The committee previously held a hearing on March 1, 2007 regarding SB1138 and the trailer bill SB1180. **Chairman McGee** stated a motion or discussion is now in order for SB1138.

MOTION:

Senator Keough moved to send SB1138 to the Floor with a Do Pass Recommendation. **Senator Heinrich** seconded the motion.

DISCUSSION: **Senator Keough** reported she has not been a proponent of big trucks in the past, and it occurs to her that for the first time in eleven years the Legislature has had a big truck bill, and she has not received a single telephone call or letter saying "don't do this." She commends the cosponsor and the coalition for their unrelenting efforts and support through traditionally opposing communities to work out the issues and bring this forward. She supports moving this legislation forward. This is the first time in eleven years without massive amounts of communications saying "no, we don't want bigger trucks" and without massive amounts of people communicating that fact, it has really been quite calm conversation this year.

Senator Hammond stated he probably will support the motion, he is still not convinced that he has heard clear evidence that heavier weight trucks are not creating any additional stress on bridges. He looks forward to additional information from the ITD regarding the long-term effect of this.

Senator Corder explained that under Senate Rule 39H he will declare a conflict on both SB1138 and SB1180, but he does intend to vote.

Senator Geddes explained we may have another bridge or two to cross in the not too distant future, because we approved the 129,000 pilot project, because in a few years it will be expiring. But, he will support this legislation. He has concerns that some people will invest in a lot of new equipment to carry that much weight on our existing pilot project approved routes, and in all reality, we will have to determine if that will be an investment good for the long-term or the short-term.

The motion carried by a **voice vote**. **Senator McGee** will sponsor SB1138 on the Senate Floor.

**VOTING ON
S 1180:**

Chairman McGee explained that SB1180 is a trailer bill to SB1138, and asked for a motion or a discussion.

MOTION:

Senator Heinrich moved to send SB1180 to the Floor with a Do Pass Recommendation. **Senator Malepeai** seconded the motion. The motion carried by a **voice vote**. **Senator McGee** will sponsor SB1180 on the Senate Floor.

ADJOURNED:

There being no further business, **Chairman McGee** adjourned the meeting at 1:45 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary

Attachment #1 - Power point presentation relating to the Petroleum Clean Water Trust Fund.

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, March 15, 2007
- TIME:** 1:00 p.m.
- PLACE:** Room 426
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Keough, Little, Corder, Heinrich, and Langhorst
- MEMBERS ABSENT/ EXCUSED:** Senator Malepeai
- OTHERS IN MINUTES:** The sign-in sheet(s), charts and graphs will be retained in the Senate committee's office, Room 434, until the end of the legislative session, and then will be on file with the minutes in the Legislative Services Library. (Basement E).
- CONVENED:** **Chairman McGee** convened the meeting at 1:12 p.m.
- MINUTES:** **Senator Heinrich** moved to approve the minutes of Thursday, February 22, 2007, as written. **Senator Hammond** seconded the motion. The motion carried by a **voice vote**.
- Senator Hammond** moved to approve the minutes of Tuesday, March 6, 2007, as written. **Senator Keough** seconded the motion. The motion carried by a **voice vote**.
- H 228aa:** **Senator Keough**, District 1, presented HB228aa for **Representative Anderson**, District 1. This legislation relating to highway districts will amend Section 40-1317, Idaho Code.
- This legislation is necessary in order to provide an adequate time period for an audit to occur following the end of the fiscal year ending on September 30 of each year. Moving the required date from November 1 to January 1 will allow a reasonable time for an audit of the previous year's activities to be completed in 30 days. By extending the time period to 90 days, significant savings can be realized.
- FISCAL IMPACTS: There is no impact to the general fund. Some savings will be realized by the local entities.
- MOTION:** **Senator Hammond** moved to send HB228aa to the consent calendar with a Do Pass Recommendation. **Senator Little** seconded the motion. The motion carried by a **voice vote**. **Senator Keough** will sponsor HB228aa on the Senate Floor.
- H 187aa:** **Representative Wood**, District 35, and Chairman of the House Transportation and Defense Committee serving her twenty-fifth year in the Idaho Legislature, presented HB187 as amended relating to

unconventional motor vehicles. She gave a detailed review of the new proposed legislation, and believed it will clear up the confusion relating to the ATV rules.

She explained if you own an all-terrain vehicle (ATV), utility type vehicle (UTV) or moped, the rules on where you can ride and what types of licensing you need, if any, are confusing at best. There is a large disparity from county to county in how these regulations are interpreted and enforced. The only way you can know for sure if you are complying with the regulations is to call your local sheriffs office. That's why I began working more than a year ago with a coalition of dealers and riders, law enforcement, transportation and parks and recreation experts and legislators to create fair, consistent and easy to understand rules.

This week, the Idaho Legislature will consider a bill that will make it easier to own and ride your ATV, UTV, or moped. The bill will:

- Allow ATV and UTV vehicles to ride on unpaved roads and any sections of paved road designated by the local jurisdiction with the purchase of a \$10 registration and license plate. This fee will go into the highway distribution account which funds the maintenance of roads;
- Allow ATV riders who only rides on trails to purchase a Parks and Recreation sticker for \$10 instead of the license plate. This fee goes to the state Parks and Recreation Department.
- Either the license plate or the sticker will allow the rider to cross a state highway at designated locations; and
- It will reinforce local jurisdictions' abilities to adopt ordinances to close unpaved or portions of unpaved roads where there are good reasons to restrict ATV and UTV traffic. They already have the authority under Section 49-208.

She reported she has received many letters, e-mails and telephone calls from riders and dealers, particularly from northern Idaho that were expressing concern about the bill. Several changes have been made to the first proposal that many saw last fall, and these changes address those questions and concerns.

In addition, this bill incorporates minimum motor vehicle safety standards, allows for conversions of off-road motorbikes into street legal motorcycles, and provides uniform rules for the operation of mopeds.

Under the bill, mopeds will need to be registered. This will allow a licensed rider to operate on the roads where the speed limit is 35 mph or less. For roads with a higher speed limit, the rider could travel on the shoulders of the road similar to a bicycle . . . but could not ride in the bicycle lane unless under pedal propulsion. Mopeds would not be allowed on the Interstate.

ATV riders are passionate about their machines and the access they provide to Idaho's beautiful back country. **Representative Wood**

explained she is equally passionate about protecting these rights and making it easier for riders to understand and comply with the operating rules. She also believes this proposed bill does this.

This legislation amends various parts of motor vehicle code to incorporate federal motor vehicle safety standards as requirements for titling and registration of vehicles for use on public highways. These amendments clarify what vehicles can be registered and operated, and prohibit those not able to meet minimum safety requirements as provided by the National Highway Traffic, Safety Administration in the federal motor vehicle safety standards (FMVSS) on State and Federal Highways.

Amendments provide exceptions for all-terrain vehicles (ATV), and provide for a specific ATV license plate. ATVs are not manufactured to meet federal motor vehicle safety standards; however, changes provide for recreational opportunities for these vehicles. Clarification and uniformity are provided for the operation and definition of all-terrain vehicles to ensure a common understanding for the public, law enforcement, the department of Parks and Recreation, and the Idaho transportation department. Allows operation of ATVs on all unpaved roads in Idaho, unless local jurisdictional authority adopts ordinances to prohibit certain unpaved roads under their jurisdiction.

Amendments move authority for adopting ordinances allowing ATV operation on paved highways or portions of paved highways under a local jurisdiction to the appropriate code, Section 49-208. It moves the authority of the Idaho transportation board to designate sections of state highways to be used for crossings for these vehicles to the appropriate code reference under duties of the board provided in Section 49-201.

Provides for Parks and Recreation off-road stickers to be used for off-public highways and for operation on highways located on state public lands or federal public lands. An ATV plate would also give the authorization to operate on these public lands.

This proposal adds a new section to clarify where mopeds can be operated. It allows these economical vehicles to be operated in traffic on roads posted at 35 mph or less, and to be registered, and operated by a licensed driver. It provides for operation on roads posted above 35 mph in the same fashion as allowed for bicycles.

The proposal amends and adds definitions for motorcycles, motor-driven cycles, motorbikes and mopeds and provides for titling and registration based on classification of the vehicle. Increases fee for ATVs and motorcycles by \$1.00 to \$10.00 annually.

FISCAL IMPACTS: It is estimated that programming cost will be \$3000 to the Idaho Transportation Department. There could be a potential for a slight revenue increase if all-terrain vehicles currently not registered for a license plate, become registered if this bill is passed.

Jack Rupp, representing the concerns of several ATV clubs, testified to oppose HB187. He stated he is afraid this bill will cause mass confusion in every district, and will also alienate smaller communities that rely on tourist income generated by ATV riders and their communities. He

requested the committee to stop HB187 to allow the North Idaho ATV community more time to help formulate a workable solution.

Steve Frost, from the Idaho Department of Parks and Recreation, explained the department hosted public meetings statewide and there were significant differences. He did hear from the northern district that this bill likely would not work for them, but also heard from others that it would work for them. He believes this legislation is a good step in the right direction.

Senator Broadsword, District 2, explained that **Representative Wood** has worked very hard on this issue, and she appreciates her efforts. But, she has constituents, by the gross load, who are unhappy with this legislation. There is some confusion and misapprehension about what the bill does and what it does not do, but there are also some viable concerns. People are having a hard time understanding why what they have been doing for years will now not be allowed. She explained there are concerns from law enforcement about how to enforce this issue.

Representative Wood briefly summarized HB187aa and Section 49-208. She explained that without this legislation mopeds and moped dealers cannot be licensed. She stated that in drafting of HB187 they really tried to get user groups involved, and she is surprised people here today had not heard or asked their opinions. She outlined the drafting and amending process to ensure concerns were addressed. She asked the committee to send HB187aa to the Floor.

MOTION:

Senator Keough moved to Hold HB187aa in Committee. **Senator Geddes** seconded the motion.

DISCUSSION: **Senator Keough** stated she understands the amount of work involved in this legislation, it was a huge step. Even law enforcement officials in Northern Idaho, who have concerns, have acknowledged it is a good idea to put this issue into one place. However, there is a good deal of consternation about what the bill does and does not do. The complexities about the amendments have made it very difficult for them to understand. To make it worthwhile, and to ensure we are making the right policy and the right move, and not undoing anything previously done in the last few years through a good deal of negotiations, both on UTVs and ATVs, that we take one more year and provide an opportunity for groups to have an explanation and a walk-through the legislation, piece-by-piece, and to make comparisons about what is new and what is not new. While she is disconcerted about the moped dealers, the alternative for them would have been to simply come with a bill dealing with mopeds. Therefore, she requested the committee to hold HB187aa to give a fair opportunity and to ensure the policy decisions within itself are adequately explained.

The motion to Hold HB187aa in Committee carried by a **voice vote**.

ADJOURNED:

There being no further business, **Chairman McGee** adjourned the meeting at 2:05 p.m.

Senator John McGee
Chairman

Betty Osborn
Secretary