

Senate Transportation Committee

Minutes
2008



MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** January 15, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Corder, Heinrich, Langhorst, and Sagness
- MEMBERS ABSENT/ EXCUSED:** Senator Little
- 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 209, until the end of the 2008 legislative session, and then will be on file in the legislative services library.
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. He introduced **Brooke Rinearson**, a Caldwell High School student, who is the Page assigned to the Senate Transportation Committee for the 2008 legislative session. He then explained that Betty Osborn, the regular secretary for the Senate Transportation Committee has sustained an injury to her wrist and will not be able to join the 2008 legislative session. He introduced **Lizzie Kukla** who will fill the role as Committee Secretary for the Senate Transportation Committee during the 2008 session. Continuing, he introduced **Senator Sagness**, who will act as Senator in the place of **Senator Malapaei** who will sit the session out to care for his wife who has become very ill. Concluding introductions, he made an honorable mention of **Charlie Clark**, a longtime lobbyist for Union Pacific, who passed away in October of 2007. He had long been a friend of the Senate Transportation Committee and will be missed. **Chairman McGee** then turned the meeting over to **Vice Chairman Hammond** to preside over the Rules Review.
- RULES REVIEW:** **Idaho Transportation Department**
- DOCKET # 39-0260-0701** Rules governing **License Plate Provisions** was presented by **Amy Smith**, Vehicle Services Manager for the Division of Motor Vehicles (DMV) at the Idaho Transportation Department.
- She explained that the pending rule before the committee was presented to the Dealers 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.
- These changes are made to bring this rule into standard formatting as required by the office of Administration of Rules. Remaining changes

made to these license plate revisions rules are necessary and timely to address changes and opportunities created by the digital license plate process, implemented in September 2007. Due to the increased volumes of plates and all of the specialty plate programs moving to the digital plate process, the department was given time to rethink the way specialty plates are processed. In an effort to address the storage needs at each county DMV office, all specialty plate inventories have been returned from the county offices and have been issued from our plate vendor.

In order to process orders for specialty plates, the customer still goes to the county, pays the applicable fees and now receives the temporary registration with the assigned plate number. The changes to this rule incorporate the temporary registration for all new, replacement or reissued license plates. It also provides for the placement of the temporary registration document and allows the temporary registration to be valid for forty-five days while plates are manufactured and shipped; however, this process typically only takes about four or five weeks. This rule also addresses the space capability that will be available on specialty plates when the additional plate process is fully implemented. The capacity will be increased from five to six spaces for specialty plates.

This change responds to several requests from vehicle owners who want to donate the use of their vehicle to charitable or civic events. They are able to do so through use of the dealer loaner plates for vehicles held in a dealer's inventory, not to exceed thirty days.

Senator Keough asked for a confirmation that all counties were happy and that she received no comment on this change. **Amy Smith** answered that there was only positive feedback from all offices in this program.

Senator Langhorst observed that on page twenty-nine, 012-01, Temporary Registration, the last period should be a comma.

MOTION

Senator McGee motioned to adopt section 39-0260-0701. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

**DOCKET #
39-0275-0701**

Rules Governing **Names on Drivers' Licenses and Identification Cards** was presented by **Ed Pemble**, Driver's Services Manager at the Idaho Transportation Department.

There are two simple changes proposed in this rule, both giving the public more flexibility on how their names can appear on drivers' licenses and i.d. cards. The first change is under general provisions. This rule adds permissibility of apostrophes to names. Apostrophes were formerly not allowed because the national format requirement, when transmitting data, did not allow apostrophes. We now transmit the data on the card with an apostrophe and transmit the data for records with the national format. This allows us to accommodate those with names such as O'Sullivan, O'Leary, etc...

The second change to the rule is in reference to hyphenated names. The standard for married female applicants is "maiden - married." The

standard for married men is "surname - maiden." If we applied this standard to a married couple and they both wanted to use the same hyphenated last name, we could not do that under the current rule. This went to hearing when we were applying the rule standards and the hearing officer said to, "forget that." Therefore, we need to make a change to the rule because it appears that the rule will not hold up in hearing. Changing this rule will allow a married couple to have the same hyphenated last name.

Chairman Hammond asked whether the change being made is that which the hearing officer wanted. **Ed Pemble** replied that, "Yes," this is the change which the hearing officer indicated was necessary.

Senator McGee asked what the previous standard was for drivers' licenses. **Ed Pemble** replied that under the current standard the names are reversed on drivers' licenses. He gave the example that if a couple seeking to obtain drivers' licenses with hyphens Pemble and Ramall, the man's license would state Pemble-Ramall, but the woman's license would state Ramall-Pemble. The new standard would allow both licenses to state the hyphen in the same order.

Senator Geddes commented that a husband and wife must agree on a hyphen order, yet they may or may not renew their licenses at the same time. He asked how the Transportation Department will control or manage that. **Ed Pemble** responded that the purpose of the change is to give applicants more flexibility with a hyphenated name.

Senator Geddes followed up his question, asking **Mr. Pemble** to clarify whether the court is not concerned with whether applicants have the same name, but whether they have flexibility to have their preferred hyphenated name on their drivers' license. **Ed Pemble** answered that yes, that was correct.

MOTION

Senator Langhorst motioned to adopt section 39-0275-0701. **Senator Sagness** seconded the motion. The motion carried by **voice vote**.

DOCKET # 39-0308-0701

Rules Governing **Prequalification of Variable Load Suspension Axles and Other Auxiliary Axles** were presented by Regina Phipps, Vehicle Size and Weight Specialist for the Idaho Transportation Department Commercial Vehicle Services.

This rule deals with Variable Load Suspension Axles and the Prequalification of those Axles. Last year, in **SB 1049**, the reference dealing with prequalification was deleted out of Idaho Code. Therefore we are now eliminating rule 39-0308-0701 that dealt with prequalification status because it is no longer needed.

Senator Langhorst pointed out that the language being deleted is not present in the information given and stated that he is curious what the language that is being deleted states. **Regina Phipps** offered to give a rundown of that language and stated that an operator that had a vehicle configuration that had a lift axle on it could go through a process of prequalifying that lift axle so that it could be weighed as a tridem rather

than as a tandem and a lift axle. It was proven that these cannot be split-weighted because the tandems and the lift axle both need to be weighed separately to make sure they are carrying the proper amount of weight. This rule goes through the process of how to do that prequalification.

Senator Langhorst followed up with another question, asking whether anyone testified on this rule change. **Regina Phipps** replied that no one testified on this rule.

MOTION

Chairman McGee motioned to adopt section 39-0308-0701. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

**DOCKET #
39-0310-0701**

Rules Governing **When an Overlegal Permit is Required** was also presented by **Regina Phipps**.

This change is dealing with wreckers. Originally, this permit was used for the emergency move only. The emergency move allows a tow to take the whole vehicle combination and remove it off of the highway. The secondary move is from the location the vehicle was taken to and separated into single units, to another destination as single units. This change combines both permits so that an annual permit may be used for emergency moves of a vehicle as well as for the secondary move. This change also allows greater flexibility in weights allowed to be used while moving a vehicle. We now attach the route capacity map with the permit and as long as the axle weight is within the weight limits, regardless of the type of axle, then the mover may go by the weight limit allowed by the highway.

Senator Geddes stated that he had understood that when an emergency move is needed, it may be done so without a permit. **Regina Phipps** responded that a permit has always been required to make an emergency movement of a vehicle. This permit is called the disabled wrecker permit. This permit was used for the emergency move and would allow certain limits for the weight of the tow truck and the length of the towed vehicle.

Senator Geddes followed up his question asking how, in practical terms, does that work if there is an accident in which a vehicle must be towed. **Regina Phipps** replied that the permits required to move a vehicle in the case of an emergency is an annually acquired permit and tow truck companies already have these permits so that they may act when a vehicle collision does occur.

Senator Heinrich asked whether there is an overall criteria for granting a permit to a towing company or to a person. **Regina Phipps** replied that as long as the applicant is not suspended from the department, then a disabled wrecker permit will be issued.

Senator Heinrich followed up his question, asking if a permit applicant has to verify that he or she has the proper equipment to demonstrate that he or she is capable of performing the task correctly. **Regina Phipps** replied that the Idaho Transportation Department does not do the verification for this permit, but that other entities including the Idaho State

Police and the port of entry personnel do those types of inspection to ensure that the permit holders are in compliance with regulations.

Senator Corder clarified that the move which **Regina Phipps** was referring to in her question was only to the secondary move of a vehicle. He explained that the standard permit is only for emergency moves, but that she would like to change the rule for the permit to include the secondary move of a vehicle as well.

MOTION

Senator Corder motioned to adopt section 39-0310-0701. **Senator Keough** seconded the motion. The motion carried by **voice vote**.

**DOCKET #
39-0312-0701**

Rules Governing **Safety Requirements** was also presented by **Regina Phipps**.

This rule clarifies where the "oversized load" sign needs to be placed. On the towing vehicle it was formerly required that the sign was only allowed on the front of the vehicle. This rule change will allow the sign to be placed on the roof top of the towing vehicle as well. This rule change also clarifies that on the pilot cars, the "oversized load" sign must be on the roof top of the pilot car and is not allowed on the front or rear bumpers. Because of this change, the sign will be entirely visible from every direction.

Senator Corder asked what other states require because it seems that other states already have this rule in their books and Idaho is behind. He asked why that is. **Regina Phipps** replied that the Idaho Transportation Department (ITD) has always interpreted the current rule to mean that the sign must be placed on the roof top, but since the wording did not clearly say "the sign must be placed on the top of the vehicle," the Idaho Transportation Department has had cars placing the signs on their front and rear bumper, challenging the wording. This change will clarify that wording.

MOTION

Senator Heinrich motioned to adopt section 39-0312-0701. **Chairman McGee** seconded the motion. The motion carried by **voice vote**.

**DOCKET #
39-0316-0701**

Rules Governing **Oversize Permits for Non-Reducible Vehicles and/ or Loads** was also presented by **Regina Phipps**.

This change allows people to haul overweight loads on double width trailers as long as the total configuration does exceed seventy-five feet.

Senator Corder asked what the need was to change the extra length to a double-width trailer. **Regina Phipps** replied that the wording "extra length" may incorporate fifty-three foot trailers, double-width trailers, and triple-width trailers. The change in wording will clarify that only double-width trailer combinations are included in this rule as opposed to other categories of extra-length vehicles.

MOTION

Senator Corder motioned to adopt section 39-0316-0701. **Senator Keough** seconded the motion. The motion carried by **voice vote**.

DOCKET #

Rules Governing **Permits for Manufactured Homes, modular**

39-0317-0701

Buildings, and Office Trailers was also presented by **Regina Phipps**.

The change in this rule is that ITD is now asking to strike the reference to ball-hitch and states that as long as an oversized vehicle is in compliance with federal motor carrier safety regulations, it will also be allowed to use a pintle hook connection, which has been requested by movers. This change places the hauling and towing requirements on the same playing field. With this rule, movers will be able to use any option allowed by the federal motor carrier safety ranks.

Senator McGee asked if there has been any testimony against this rule change. **Regina Phipps** replied that there has not been any testimony against this rule change.

MOTION

Senator Keough motioned to adopt section 39-0317-0701. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Hammond turned the meeting back over to **Chairman McGee**. **Chairman McGee** advised the committee to turn in legislation before any set deadlines.

ADJOURNMENT

There being no further business, **Chairman McGee** adjourned the meeting at 2:03 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** January 17, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Little, Corder, Heinrich, Langhorst and Sagness
- 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 209, until the end of the 2008 legislative session, and then will be on file in the legislative services library.
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m.
- SB 1259:** He introduced SB 1259, a bill sponsored by the Chairman himself. Because the committee would be discussing a bill which **Senator McGee** would present, **Senator McGee** gave the floor to **Vice Chairman Hammond** to preside over SB 1259.
- Senator McGee** explained that because Albertson College of Idaho changed its name back to The College of Idaho, a code change is in order. As a result, he had Maureen Ingram do a search of Code to find out where College of Idaho is listed in the Code. There are two sections of Idaho Code which need to be updated. Those are found on Page two of the bill, line 19. Strike the word "Albertson" and insert "The." There is a grammatical change underlined which says, "Of which." We use that term, "of which," throughout the paragraph and paragraph seven. In *Idaho Code, Section 67-5205*, the College of Idaho Library is a State Deposit Library and was listed as Albertson College when the name was changed to begin with. **Senator McGee** noted that this is a simple piece of legislation and would appreciate an aye vote in sending the bill to the Senate floor.
- Senator Little** commented that he is puzzled by page two, line nineteen. The College of Idaho is not in the standard amending format, "added language." Rather, the listed phrase, "Albertson College of Idaho" is being changed by striking the word "Albertson" and inserting "The." **Senator McGee** replied that Senator's Little's assertion was correct.
- MOTION:** **Senator Keough** motioned to send SB 1259 to the floor with a Do Pass Recommendation. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

Upon completion of business regarding SB 1259, **Vice-Chairman Hammond** gave the floor back to **Chairman McGee** to proceed with the remaining business of the committee meeting.

RS 17347:

Chairman McGee introduced **Amy Smith**, Vehicle Services Manager for the Department of Motor Vehicles (DMV) at the Idaho Transportation Department, to discuss RS 17347 relating to Idaho Transportation Department and retention and deposit of fees by counties.

This proposal is being sought to amend the two dollar release of liability fee collected under *Idaho Code, Section 49-202, subsection 2, subsection O*, by adding a new section to allow the fee to be retained by the county assessor that processes that form. Several years ago it was determined that the County Assessor DMV offices should be able to process these forms for their customers, which are required by code to be completed within five days of sale of the vehicle. For that work, the fee should be retained by their office for completing the work. This amendment is clean-up to match current code practice. At this point, **Ms. Smith** respectfully asked the committee to send RS 17347 to print.

Senator Corder asked what percent of these two dollar fees are actually turned in. **Ms. Smith** answered that last year there were fifty-five thousand people filing and nearly seven hundred thousand titles are processed annually. As you can see from the numbers, a very small number of people comply with this code, but there is no penalty associated.

Senator Corder followed up his question asking if the two dollar fee even begins to cover the cost of the process. **Ms. Smith** replied that the process is merely a central data entry function and they have asked the counties if they would like to directly retain the money rather than having thousands of forms processed at the state level.

Senator Corder followed up his question with a third question, asking why, legally, is this practice continued if so few people comply with the fee. **Ms. Smith** answered that there is a legal requirement, however, the only one harmed if it is not completed is the seller of the vehicle, as they will remain liable if the vehicle is abandoned, gets parking tickets, or is involved in a wreck, because they haven't filed the release to alleviate themselves from liability. This is just a method to release their liability to the buyer of their vehicle.

Senator Hammond, having prior knowledge of the practice and its practicality also responded to **Senator Corder's** third question, explaining that the practice gives the public protection from liability. He stated that he takes advantage of the forms frequently.

Senator Little agreed that the form is practical, stating that anytime there is a bill of sale, the DMV will have a point of contact if liability issues arise.

MOTION:

Senator Hammond motioned to move RS 17347 to print. **Senator Little** seconded the motion. The motion carried by **voice vote**.

RS 17348: **Chairman McGee** introduced Hal Putnam, Driver Records Program Supervisor with the Idaho Transportation Department, to discuss RS 17348.

He explained that RS 17348 restructures the subparagraph of *Idaho Code, Section 49-326A*. This change would clarify the application of this code section by making the license suspension conditions and endings subject to the courts order, that the suspension time ordered by the courts is to start upon release from incarceration.

Senator Keough asked how the renumbering will achieve the goal wanted by the department and the law makers. **Mr. Putnam** replied that the renumbering will make the old subparagraphs two, three and four subject to the conditions of old paragraph number one. By removing number one from the first paragraph and renumbering the following three paragraphs, the conditions of paragraph one must be met before the conditions of paragraphs two, three and four may apply.

MOTION: **Senator Heinrich** motioned to send RS 17348 to print. **Senator Hammond** seconded the motion. The motion was approved by **voice vote**.

Senator Langhorst reminded the committee that sportsmen from around the state will rally on the steps at two p.m. today, giving legislators who are interested in meeting Idaho's sportsmen an opportunity to do so.

Having no further business, **Chairman McGee** adjourned the meeting at 1:45 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

JOINT SENATE TRANSPORTATION AND HOUSE TRANSPORTATION AND DEFENSE COMMITTEES

- DATE:** January 22, 2008
- TIME:** 1:30 p.m.
- PLACE:** Supreme Court Basement Conference Room
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst and Sagness
- 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 209, until the end of the 2008 legislative session, and then will be on file in the legislative secretary's library. This was a joint meeting with the House Transportation and Defense Committee. The following Members of that Committee were present: Chairman Wood, Vice Chairman Hart, Representatives Smith, Roberts, Bedke, Wills, Moyle, Nonini, Mortimer, Hagedorn, Shepherd, and Ringo. Members of that Committee who were absent or excused include Representatives King and Ruchti.*
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. Senator McGee explained that employees of the Idaho Transportation Department would be presenting their annual presentation to the Joint Transportation Committees. He introduced **Darrel Manning**, the Chairman of the Idaho Transportation Board to give an introduction and overview of the presentation.
- Mr. Manning** introduced himself as Chairman of Idaho Transportation Board gave a brief history of his positive experience with the Board and the Transportation Department. He introduced **Pamela Lowe**, Director of the Idaho Transportation Department.
- Ms. Lowe** introduced the presenters and staff of the Idaho Transportation Department (ITD) present at the meeting. She explained that the presentation would cover the 2009 ITD budget requests, the revenue needs of the Department, Department efficiencies and the GARVEE program. She then updated the legislators on the budget goals and vision of the Department. She stated that there were four components of the ITD vision: the first was to invest in their people, the second was to expand and enhance partnerships. The third was to lead through agency performance and the fourth was to improve customer service culture. She explained that two practical applications of this vision are illustrated through two goals: to have drafting plans to the board in the spring, and to have the bulk of the budget dedicated to the bond process.

Ms. Lowe then began to give an overview of the budget, explaining that the increase of funds needed by the Transportation department is due partly to the increased gains made in fuel efficiency. An increase in fuel efficiency allows more people to own cars, bringing more vehicles onto the roads and highways. The tax on thousands of gallons of fuel does not compensate for the growing number of cars on roads and highways. The maintenance needed, therefore, cannot pay for itself while the increased number of cars on the roads and highways requires an increase in maintenance needed. She explained that there was a 10 million dollar budget cut for ITD from the budget in 2008. The budget cut resulted in a decrease in equipment and items such as de-icers.

She continued, going on to discuss Department efficiency. She stated that she agreed with the Governor in his assertion that ITD must be efficient with the funding currently allotted to the Department before there is consideration for an increase.

In mentioning efficiency of funds, **Ms. Lowe** gave examples of the efficiencies which the Department has executed in previous years. She stated that the Department added seventy-five employees over a course of two years. She compared the 2.4% increase to the overall State employee increase of 3.4%.

Steve Hutchinson, an ITD Administrator discussed the Highway Division Infrastructure. He began by stating that the highway budget request for 2009 was \$437,842,300.

He stated that in the last year, there have been improvements in Idaho in inspections. For instance, after the Minnesota bridge collapse incident, all bridges in Idaho were inspected by state employees with minor adjustments noted.

He then stated that Idaho, in order to become more efficient in vehicle safety, must decrease fatalities by increasing the use of seatbelts.

Mr. Hutchinson began discussing the efficiency aspect of the Highway Division. He emphasized winter maintenance, stating that it is cost effective to decrease the amount of money spent by adding wings to plows, allowing snow plows to cover more ground at one time. This type of equipment modification and others like it decrease the amount of wear and tear on equipment, thus saving the Department money. "Wing" snowplows clear highways quicker and save \$750,000.00 annually. Additionally, changing Idaho's anti-icing product saves \$500,000.00 per year.

Cross training, or teaching employees the skills needed to become versatile employees, not dependant upon the season eliminates the need to hire seasonal workers. In the summer employees can work as field staff and in the winter they can work in winter maintenance.

Incident response creates safer roads by providing quick response to vehicular collisions in order to clear stopped vehicles off of the highways.

McCammon truck stop provides new rest area services, saving \$13.5 million dollars in construction costs and \$66,000.00 annually in maintenance costs.

Another efficiency measure, inmate labor, cuts maintenance costs by \$2.3 million dollars, annually.

Likewise, efficiency can be demonstrated in changing the focus in how projects are viewed. ITD must ensure that projects are engineered, not just ruled by boundaries, budget and schedule. Application in both construction and maintenance efforts can be given through changes that ITD is taking to increase efficiency in this manner. Changes are being made on sound engineering, not just based on cost. All Districts, for example, have submitted a plan and suggested program changes that were approved by the board. As a result of this change, there will be a total savings over five years in excess of \$50 million dollars. Additional changes include a change in pavement depths, design exceptions, a change in pavement treatment, a change in seal coat limits, a fit that is typical to surrounding roads, rehabilitating only travel lanes, consistent design for companion projects, material changes, an increase in recycling, and rehabilitating rather than replacing. With the savings from these types of efficiency measures, the department has been able to address cost issues on nine other projects.

Having finished his comments, **Mr. Hutchinson** introduced **John DeThomas**, a Department administrator from the aeronautics division.

Mr. DeThomas began by stating that the aeronautics division is small, but is very important. The Division exists to provide match assistance for FAA-funded projects to: 1. seven commercial airports and 2. thirty-one general-aviation airports, to provide grants for state-funded projects at 28 small community airports, to maintain the state's system of 30 airstrips and to support Idaho's 2,500 pilots and 2,200 aircraft.

The Aeronautics division is quite good at pinching their pennies. The division employs two maintenance people to maintain twenty airstrips, utilizes volunteers to save \$5,500.00 annually. Advertising revenue from the Rudder Flutter newsletter annually saves \$2,500.00. Additionally, the division partners with Rimrock High School to fly a windsock, saving \$825.00 annually.

The Aeronautics Division relies upon tax payers for 80% of its revenue. He stated that most communities that have airports add the extra tax.

The proposed legislation for the division is an increase in aviation fuel taxes by 1.5 cents per gallon. The increase would raise the total tax on aviation fuel to 7 cents per gallon, raise the jet fuel tax to six cents per gallon and increase revenues by \$429,000 (14%) annually.

Mr. DeThomas then introduced **Alan Frew**, an ITD Administrator with the Motor Vehicles Division. He stated that the Motor Vehicles Division exists for the purpose of community partnerships.

Discussing the efficiencies of his division, **Mr. Frew** stated that much of the efficiency improvements made under his division have been regarding online access to citizens. The goal of online motor carrier services is efficiency. The division would like to see large numbers of online visitors to the web site as well as a large number of online vehicle registration. Thus far, in looking at the numbers, online use has been successful. There has been a volume increase for driver records.

The division has partnered with the Department of Corrections to create the digital license plate system. This measure saves the Department of Motor Vehicle (DMV) offices storage space for special license plates.

Mr. Frew commented that these positive results could only be seen by a dedicated and hard working staff such as those at the Idaho Transportation Department, complimenting his coworkers and staff. He then introduced **Randy Kyrias**, and ITD Administrator with the Public Transportation Division.

Mr. Kyrias stated that the Division FY09 budget is \$6.9 million dollars and added that this request is unchanged from the FY08 budget.

He explained that the division has doubled its enhancement supply to providers of public transportation. Kootenai county, for example provided a suite of urban transportation including dial-a-ride and city busses. Additionally, the Yellowstone and Teton National Parks have a business travel partnership.

There is a Food and Drug Administration requirement in purchasing busses and vans for public purposes. Compliance with these requirements may be costly, but public travel vehicles give both comfort and options for travel.

Mr. Kyrias introduced **Matt Moore**, an Administrator with the Division of Transportation Planning. **Mr. Moore** discussed improving customer service and maximizing efficiency. Use of internet and interactive technologies will improve efficiency by reducing travel, printing, and distribution costs by \$5,000.00. The Division provides customers over 9,000 online maps and traffic reports which are available 24 hours per day, seven days per week.

The ability to annually update the digitized video log minimizes travel time for employees. With this feature, employees can see the entire state highway system from their desktops.

At this point **Mr. Moore** introduced **Dave Tolman**, an Administrator with the Administrative Division.

Mr. Tolman began with the Division budget request, which was \$23,840,200.00

Efficiency measures for the Division include transferring data to the State Controller's Office, which would save \$500,000.00. Additional efficiency

measures may be seen through use of the internet. The Idaho Transportation Department is the first agency in the nation to implement electronic billing for federal safety funds. Online time sheets reduce errors and cut the need for two part-time positions - saving \$40,000.00 annually. The internet is now used for organ donor driver's licenses as well. Organ donors can be connected with recipients quicker, making this program a model for the nation - saving lives and \$1,500.00 annually in postage costs.

Mr. Tolman reported that the ITD board passed a resolution in January directing staff to do whatever they could to recover credit card transaction fees. He also noted that both Committees had questioned the Department on that issue last year and this information was intended to provide an update on that issue.

Mr. Tolman then introduced **Scott Stokes**, the Deputy Director of ITD who discussed the revenue plan and Grant Anticipation Revenue Vehicles Program (GARVEE).

Mr. Stokes stated that in economic vitality and in building, safety is the number one priority. He explained that his discussion would consist of the plan for GARVEE during the next 12 months. He referred to the chart on page 40 of the presentation handout which included an outline of everything said at the meeting¹. On the chart, the bond (in blue) has been issued. The process has thus begun. The Department will not pursue the bond until it is needed to cover projected needs. The designs of corridors are tailored to meet community needs.

Regarding environmental concerns, the department has worked with the program to minimize environmental impacts. The final design for GARVEE prepares contract arguments. Also, the preliminary and finalized designs have been completed at an increased pace. Likewise, the trend of the contract will continue to accelerate. Currently, ITD has contracts to build twice the usual amount within the next six months. As an example, he referred to a \$134 million dollar bond request which would advance 3 key projects including the Ten Mile Interchange construction on I-84 between Caldwell and Meridian (\$61 million); the Orchard Interchange right-of-way, the Orchard Interchange construction, and the Vista Interchange right-of-way on I-84, from Orchard to Isaac's Canyon (\$47 million); and the Topaz Bridge construction on U.S. 30, McCammon to Lava Hot Springs (\$26 million).

Now, the primary need is engineering. The next funds will be for building progress. It cost a total of 76.2 million per year for the GARVEE program. It is anticipated that the Department will be accruing less interest on bond proceeds.

He stated that the percentage of funding dedicated right-of-way and construction increases annually, as demonstrated by the circle graphs on page 44 of the presentation handout.

Mr. Stokes then discussed the role the ITD will play in moving GARVEE

along. He stated that the best thing the Department can do is to provide construction oversight and management for projects. He explained that the reason that there has been construction cost inflation and acceleration is due to unforeseen forces in the market. He stated that the Department hopes to see a moderation in this trend, however, all key players are in place to advance increasing construction costs.

At this point, Mr. Stokes concluded the presentation and announced that he and the rest of the presenters and Department staff were open to answer any questions that the Committee might have.

Senator McGee commended **Director Lowe** regarding the tremendous cost savings. He stated that \$50 million dollars is a lot of savings and that the presentation handout should be sent to every Department director to demonstrate the savings which takes place when the budget is gone through with a fine-toothed comb. He commented that if he had heard any criticism, it was a concern that cost savings may sacrifice safety.

Director Lowe answered that the only time in which the Department can measure safety is in practical design. As time goes on, the Department will increase practical design in order to decrease the chance that safety is being sacrificed. Practical design is modeled after the state of Missouri, which had success by tracking the number of accidents. Practical design, therefore, increased safety and savings. She ended by stating that the Department would never compromise safety, but currently is enhancing it with specialization.

Senator McGee again congratulated **Director Lowe** on presenting the most clear cut presentation of GARVEE that he had ever heard. **Director Lowe** thanked Senator McGee explaining that the ITD team spent two years researching. She received clearance on the environmental aspect for the Cloverdale Interchange. This created the stage for more construction and for a higher intensity of building.

Senator Hammond directed a question to **Mr. Stokes**. He asked about construction costs and whether there are measurements on how construction costs affect the overall cost of a project. He also asked if the price of materials will soften future projects. **Mr. Stokes** answered that there has been moderation on the price increase for materials recently. He stated that the increase has been anywhere from seven to ten percent.

Representative Bedke asked **Director Lowe** where ITD would take money from to comply with the Governor's recent request for a 5% change in employee compensation (CEC) for all state employees. He also asked what the difference would be between a 3% and 5% CEC for ITD. **Director Lowe** responded that currently, the ITD has budgeted for a 5% CEC. The Department has managed to hold some vacancies within ITD. The budget also has cut a total of \$10 million from within the personnel budget, from equipment, from facility construction and has cut back on de-icers. The number of positions not filled have to do with the money associated with the position and what kind of room there is in the full time position count. She stated that ITD does know what 3% means to the Department.

Representative Hagedorn asked **Director Lowe** what is the cost per passenger mile. **Director Lowe** replied that she did not have the answer to that question at that time, but would get the answer to the Committees at a later date.

Senator Little asked **Mr. Tolman** of the \$2.9 million for GARVEE, how much change there has been throughout the project and how much of that is interest. **Mr. Tolman** responded that the models run inflated 25% to the middle of February. The change has been an increase of 2.6 million. The other increase was an increased estimate of the interest rate earned, being 4% interest. It will cost more for GARVEE than the short term that the Department pays out for it.

Chairman Wood asked for a description of the Local Highway Technical Assistance Council (LTAC) local bridge inspection. **Mr. Hutchinson** replied that the Department manages consultants in collaboration with the local entities.

Chairman Wood asked why State trucks drive with their blades lifted. **Mr. Hutchinson** replied that trucks might drive with their blades lifted if they had just added salt or sand to the road and didn't want to get rid of the anti-skid materials just placed on the ground.

Chairman Wood asked why Fish and Game built a bridge faster and cheaper, referring to a bridge in district 6. **Mr. Hutchinson** stated that the fast action had to do with partnerships among the Departments and the fact that the district engineers have a good relationship with the environmental impact employees. **Chairman Wood** then asked if the Federal Department of Fish and Game accepted environmental paperwork more quickly than the ITD. **Mr. Hutchinson** replied that ITD never turned in paperwork for that project to the Greater Yellowstone Coalition. The reason is that it would be difficult for the Greater Yellowstone Coalition to critique their own document. The Coalition was more than happy, therefore, with the paperwork submitted by the environmental impact employees.*

Making a transition to discuss aeronautics momentarily, **Chairman Wood** asked if there has been a decrease in take-offs and landings of airplanes. **Mr. DeThomas**, implying that there has indeed been a decrease in take-offs and landings, replied that airplanes are larger, more fuel efficient, can carry more people and can travel more now than they have been able to in the past.

Chairman Wood then asked why ITD was fined six million dollars, which goes toward the bid on GARVEE. **Director Lowe** stated that she was not aware of any six million dollar fine and her finance people do not know of any fines against ITD either.

Representative Hart asked how much more quickly these ITD projects are being completed with GARVEE than without, if each project was tracked, one-by-one, for the time it would take to complete them. **Mr. Stokes** stated that the initial pie chart in the ITD documents handed out to

the Committees state that 25% of the budget goes to bond issues. This is essentially a full court press on getting these bond issues going; it is an acceleration ploy. The ITD rule is that federal money cannot go unspent. He continued, stating that these projects would be hard to have without GARVEE in the first place. He used the Orchard interchange as an example. Last year, the Orchard interchange was one year ahead of schedule. Additionally, five million dollars, which have been saved on projects have gone to other contracts. He added that twelve months from now, ITD is expected to be five hundred million dollars ahead because of GARVEE. Dates have been established on projects prior to GARVEE to be able to see how much more quickly those projects are being completed with GARVEE.

Representative Roberts asked about the Governor's comments regarding a Change in Employee Compensation during his State of the State Address. He asked the members of ITD present, given that the Governor has proposed moving money to the Idaho State Police (ISP), how much money will flow to the local highway districts and how much to ITD. **Director Lowe** stated that her understanding of the Governor's State of the State Address is that money will move from ISP to ITD. **Representative Roberts** stated that last year, the funding deficit was updated with the bond from last year, being 134 million dollars for this year. He asked for a confirmation that the increase was at least an 8% decrease on fuel projections. **Director Lowe** answered that there was a ten million dollar total revenue last year. That amount was not just for fuel tax.

Senator Langhorst asked if there has been any analysis or an assessment of the pavement conditions and deficiencies. **Mr. Moore** responded that this study is being done and is currently in process. This kind of project needs to include all services for transportation. **Senator Langhorst** asked if this study would be available to the Committee soon. **Mr. Moore** stated that ITD is taking this study to the Idaho Transportation Board next month, and he hopes it will be available to the public soon after.

Chairman Wood asked how the Pocatello area is doing with busses and mass transit without help from the State. She asked for comparisons to cities who use bus and transit systems that are funded by the state. **Mr. Kyrias** replied that ITD does provide funds to transportation services and tech support in Pocatello. There is coordination included with the State and Pocatello.

Representative Smith asked if, in the Governor's State of the State Address, revenue is devoted to increased road construction. Except for the vehicle registration bill, he asked what happened to the other nine or ten measures which were submitted to the Governor and are being pursued to increase revenue? Where in the process is the vehicle registration increase for positive revenue? **Director Lowe** replied that ITD does support the Governor's vehicle registration fee increase. **Mr. Edmunson** stated that the Governor is committed to the Registration fee increase. The Governor is willing to look at all options. **Mr. Smith** also

replied the registration fees are the only other possible sources of revenue. All of those who answered **Representative Smith's** question, implied that the Governor does intend to act on the vehicle registration fee increases as a source of revenue before the end of the legislative session.

Mr. Edmunson stated that the Governor is willing to look at other sources. He does not prefer an increase to the gas tax and the polls indicate that the public doesn't want to go there.

Senator John McGee
Chairman

1. Attached in the Appendix

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** January 24, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Corder, Heinrich, Langhorst, Sagness
- MEMBERS ABSENT/ EXCUSED:** Senator Little
- 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 209, until the end of the 2008 legislative session, and then will be on file in the legislative services library.
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. He presented the minutes.
- MOTION:** **Senator Heinrich**, having reviewed the January 15 minutes, made a motion to approve them. **Senator Sagness** seconded the motion. The motion passed by **voice vote**.
- Chairman McGee** announced that the Committee will be reviewing the proposed rules for the Idaho Tax Commission. He stated that the Committee will not be voting on these rules. There will possibly be legislation that needs to be passed by the Legislature before the Committee may pass the rules. We will review the rules now so that as the Committee provides for a timely end of the session, when the legislation has gone through the Legislature, we will have already heard the rules and may vote at that time. **Chairman McGee** gave the floor to **Vice-Chairman Hammond** to review the remainder of the rules.
- Vice-Chairman Hammond** introduced **Ted Spangler** from the Idaho Tax Commission. **Ted Spangler**, in turn, acknowledged **Randy Nilson**, the Tax Policy Specialist for fuel tax matters at the Idaho Tax Commission who chairs the Tax Commission's committee that handles rules regarding fuels tax. **Mr. Spangler** stated that he may refer to **Mr. Nilson's** expertise to answer questions throughout the presentation.
- Mr. Spangler** gave preliminary comments and background regarding the Idaho Tax Commission rules before presenting any rules. He stated that the purpose for changing the Idaho Tax Commission rule discussed is to conform the rules to current practice. Most of these rules have to do with implementing legislation passed last year. He cited House Bill 249 from the 2007 legislative session, stating that it changed four things: 1. It changed legal incidents of motor fuels tax; 2. It repealed the allowance for

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bad debt; 3. It changed the distributor's allowance; and 4. It added a provision, that if the State and a tribe enter into an agreement on motor fuels tax, the agreement will rule rather than Idaho Code.

Rule 105:The changes begin with Rule 105, subsection D, page 5. The changes in Rule 105 have to do with the bad debt allowance, being that after the passage of H 249, bad debt is not allowed.

Senator Corder asked when the taxes are payable by the wholesaler. **Mr. Spangler** answered that these taxes are payable in one of two instances: 1. If the fuel comes through a pipeline terminal through the state, then the tax is payable when the fuel leaves the terminal. 2. If the distributor takes the fuel from outside of the state and trucks it into the state, then the fuel is taxable when it enters the state. In both cases the fuel will be reportable on the fuel distributor's report, which is the tax return for the month when the fuel is received.

Rule 130 on page 7 was changed to reflect the statute. This rule refers to agreements between the State of Idaho and Indian Tribes. If an agreement is in place, it would be followed as opposed to Idaho Code. At the bottom of page 8, the definitions are clarified for bio-diesel and bio-diesel blend and their usage to be consistent with the industry.

Senator Langhorst stated that the wording used caused him to ask if ethanol is ever blended in anything rather than 10%. **Mr. Spangler** replied that the industry standard is 10% and a blend other than 10% would be highly unlikely.

Senator Langhorst responded that the way the paragraph is worded, if someone blended at 5%, they would still get the tax deduction for blending at 10%. **Mr. Spangler** stated that statute is intended as a limitation, then yielded the floor to **Mr. Nilson** to answer the Senator's question. **Mr. Nilson** responded that if gasoline is not blended at 10%, according to Code, it cannot be considered gasoline. **Senator Langhorst** stated that he had no problem with those conditions.

Mr. Spangler stated that the bad debt reduction would be available in September of 2004. This rule reflects the court ruling that the bad debt allowance is gone. H 249 also reflects that court ruling and this rule is reflecting that statute as well.

Senator Hammond asked **Mr. Spangler** to explain the part about bad debt. He stated that when litigating, it depends upon whom did legal incidence of tax fall. To get to the provision, the administration looked at the bad debt allowance. The existence of bad debt was proven by evidence that the statute imposed incidences on legal cases. Legal incidence of tax is put on the distributor. As of December 1, 2007, bad debt allowance is gone and does not apply.

Senator Heinrich asked if this rule is stating that the distributor will also collect the use-tax on off-road diesel **Mr. Spangler** replied that the district pays the tax to the consumer. If the consumer uses it in a way that is not

taxable, then the consumer may file for a refund.

Rule 140: Mr. Spangler stated that Rule 140 changes .02, which is the old law, to .03, which is the new law, making a two percent deduction. Referring to page 11, of the rule handbook, created by the Department of Transportation¹, he stated that bad debt can no longer be a tax write off after December first of 2007. This change is also reflecting changes made in H 349.

Rule 160: Moving along, **Mr. Spangler** stated that the change taking place in rule 160 is that collection will collect from the person upon whom legal incidence falls.

Rule 180: Rule 180 deals with refunds. The result of an Idaho Supreme Court decision on May 1, 2007 from Barrett Oil vs Tax Commission. The Idaho Supreme Court observed a complete refund claim and their definition of a refund changed the way the Tax Commission views a refund. The Supreme Court stated that there are two elements to a refund. The first is that there must be a reason that a refund is available in the first place. The second element is that there must be an amount to be refunded. The Idaho Tax Commission has reflected this idea in its own refund reviews.

The Change taking place is at the beginning of rule 180.

Rule 270: The changes made in rule 270 have to do with a refund being granted to the consumers. On page 14, there is a recognition of tribal agreements. The agreements are made over whether fuel is subject to state tax or to the tribal tax. If the state tax is paid on fuel purchase on tribally owned retail outlets on reservations, then whether or not that tax is paid will be reflected by the agreements made.

Rule 292: Mr. Spangler referred to page 15, dealing with refunds on special fuels. The change reflects the same idea about tribal agreements and is in paragraph four of the handout.

Rule 510: This rule deals with the application and reporting of the petroleum transfer fee. This rule aims to bring code to current practice after the passage of House Bills 14 and 249a, to remove "cost of collections" in regard to the 2% discount granted to licensed fuel distributors when they pay motor fuels taxes, and to add biodiesel to the list of products subject to the transfer fee. The changes are discussed on page 19, in section .04. The transfer fee is one penny per gallon.

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Rule 170: Referring to page 21, is dealing with the EPA's changes to the allowable amount of sulfur content in on-road and off-road diesel fuel. This Rule deletes all references to high-sulfur diesel fuel and add ultra-low sulfur diesel fuel.

Senator Hammond asked if there is any difference to the dealer or distributor as a result. **Mr. Spangler** answered that there is no change in regard to taxation.

Senator Corder asked how one might recognize low versus high sulfur content in fuel. **Mr. Spangler** yielded the floor to **Randy Nilson** who explained that there is a label on gas pumps explaining which pump contains a low or ultra-low sulfur content. He added that currently, low sulfur is not used in new cars. If it was used in a newer car, it would ruin the car. Additionally, the fuel will be dyed red.

Senator Corder asked if this fuel will just be at the retailer level, commenting that he does not know of a single retailer in Idaho who uses dyed fuel.

Randy Nilson stated that red fuel is primarily used for the purpose of off-road fuel. With this rule, the red fuel can also be used for State and local government vehicles because the federal government doesn't tax the state or local governments.

Rule 250: Referring to page 24, **Mr. Spangler** explained that the change being made in rule 250 adds a paragraph to address a recent Supreme Court observation regarding refund claims. Those changes, mentioned above, in the explanation of Rule 180, have been reflected in this rule.

Rule 501: **Mr. Spangler** explained that the 500 series of rules has to do with the rule transfer fee and reflects the changes made in H 99, which dealt with changes made to the threshold in the clean water trust fund. If there is an increase of unencumbered balances which rises above the threshold, the transfer fee would be cancelled. However, if the unencumbered balance falls below the threshold, the transfer fee is applied under the statute. Under H 99, the transfer fee was reinstated and this rule gives notice to fuel distributors of that reinstatement. It also provides the legal requirement for reinstatement and the date for reinstatement when set.

At this point, **Mr. Spangler** completed his explanation of the rules and offered to answer any question the Committee might have. Receiving no questions, **Vice-Chairman Hammond** gave the floor back to **Chairman McGee** to preside over the remainder of the meeting.

PRESENTATION: **Chairman McGee** introduced Lane Beattie, the President and CEO of the Salt Lake City Chamber of Commerce, to give a presentation on the success of the Salt Lake City Chamber of Commerce in their management of growth and its relation to transportation.

He shared that the Chamber of Commerce in Salt Lake City takes strong responsibility for development as a result of the growth in Salt Lake City. The Chamber has tried to be aggressive in several areas, one area being transportation. The Chamber of Commerce became more important to the business community than the Legislature. He stated that because of the major growth in downtown Salt Lake City, the City will add about 10,000 residences in the next five to six years. Also, as a result of the growth, there are no class A offices available. Additionally, the LDS Church has invested in 2.5 billion in two blocks of building projects and fifty-four other projects in a ten-mile radius.

Transportation has been the key issue for economic growth for all of Utah.

Mr. Beattie emphasized the point that if transportation is stopped or grid locked anywhere near I-15, development and commerce will be halted. The SLC Chamber of Commerce used this to apply business principles to city development. The Chamber predicted a \$23 billion dollar decrease in funding. The Chamber decided to give their own analysis of what transportation would need in SLC by 2015.

\$3 billion dollars have been added to the transportation budget in the last three years. Transportation in Salt Lake City, however, is still underfunded.

Salt Lake City chose to avoid gridlock by looking toward the future.

Mr. Beattie stated that there has been a proposal that the Utah tax on gas will increase two cents every year for the next fifteen years. He made the point that neither transportation nor roads will pay for themselves. He stated that Utah still deals with transportation issues, but that the City and the Chamber of Commerce are working on where additional funding needed for transportation can come from. He stated that Salt Lake City has been working with federal guidelines regarding environmental impacts. He stated that some form of public transportation or transit is required in order to receive any federal funding by the Department of Environment Quality, adding that transportation drives pollution through the roof.

He stated that the purpose of planning ahead and making improvements, for governmental and city purposes, is to address problems before they happen or before they become crippling for the City.

Senator Heinrich asked if development agreements have impacted fees. **Mr. Beattie** replied that yes, there is a formula for solving problems ahead of time.

Senator Heinrich followed up his question, asking if Salt Lake City collected from the building permit fee or from the developer. **Mr. Beattie** answered that it depends on the developer flat fee which is under the Banbury application and what is not used.

Senator Geddes asked **Mr. Beattie** to discuss the struggles of keeping up with transportation needs. **Mr. Beattie** replied that he has entertained the idea of using the design build concept. He stated that it was not his expertise, but his experience had been that the design build concept has received national support for its ability to build and design at the same time. The idea and method began in California right after the bridge collapsed in the 1989 earthquake in the Bay Area. The bridge had to be rebuilt quickly and the design build method was invented. Since then, this method has been adopted by many cities. Through this design build method, projects have been finished ahead of schedule and under budget.

Senator Corder asked **Mr. Beattie** if he believed that counties should not tax independently. **Mr. Beattie** stated that counties can start “one-upping” each other and that can become a harsh reality for the citizens of those counties. The Legislature should keep tight reigns on the taxing authority and that authority should not be given away.

Senator Corder replied that the State of Idaho often uses Utah as a model for the Truth in Taxation program. It was best to allow the result to play out until the long term results may be seen. **Mr. Beattie** stated that the Truth in Taxation program has incentives to increase taxes in order to keep up with inflation. The point of the program is to have open public dialogue. Under the program, each county had freedom to increase sales tax \$0.025 if there is a need. The county must first have the consent of the Legislature before this tax may be implemented. It is important to deal with needs early. The cost to supply needs will cost more tomorrow than if the State will take care of the needs today. When the State knows that its needs are going to change, then it is time to address them.

ADJOURNMENT: There being no further business, **Chairman McGee** adjourned the meeting at 2:50 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

1. Rule Handbook is attached for reference in the appendix.

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** January 29, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 212
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- GUESTS:** *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in Legislative Services Library.*
- MINUTES:** **Chairman McGee** called the meeting to order at 1:30 p.m. and requested the secretary take a silent roll call. He welcomed committee members and guests.
- RS 17675:** **Relating to Special Motor Vehicle License Plates.**
Mr. Stan Boyd, Legislative Advisor, Idaho Wool Growers Association, presented the rationale for **RS 17675**. He stated that the Idaho Wool Growers and the Idaho Cattleman's Association are a part of the Idaho Rangeland Resource Association. He introduced **Gretchen Hyde**, the Legislative Advisor for the Idaho Rangeland Resource Commission (IRRC).

Ms. Hyde presented research conducted by The University of Idaho (U of I) regarding the performance of the Idaho Cattlemen's Association and the Idaho Wool Growers Association and the resulting recommendations for funding. **Ms. Hyde** stated that the funding for these organizations comes from Ranchers, nearly 4,000 of them. Funds are currently solvent and the IRRC is hoping to diversify its funding, going outside of its members to provide funding for its organization. The IRRC anticipates a high sales volume from license plate sales and will meet the plate sales minimum by appealing to both the members of the IRRC as well as to other people attracted by a cowboy themed license plate.

Senator Sagness asked how license plates are paid for by the Idaho Transportation Department (ITD). **Ms. Hyde** yielded the floor to **Julie Pipal**, Legislative Liaison for ITD, who stated that the license plate programs pay for themselves with the funds received from the program.
- MOTION:** **Senator Keough** moved to send **RS 17675** to print. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.
- RS 17679:** **Relating to Local Transportation Benefit Projects and Toll Roads.**
Senator Corder presented the rationale for **RS 17679**, stating that this bill

could be a tool for use in special and unique situations to finance bridge and road projects. The bill would allow for one more funding option. Most highway districts are pressured because they are underfunded. Districts can incur debt to purchase equipment, and can even incur a large amount of debt to build a road, but cannot incur a small amount of debt to fix or maintain a road.

This legislation gives the power to collect funds to the local highway districts and the local government. Therefore, the highway district can establish how a toll will be collected. The highway districts will be able to meet “necessary” and “ordinary” expenses with this toll. If expenses are not met, the repayment method can be put to a vote in the county.

In response to **Senator Heinrich**, **Senator Corder** explained that the State Board of Transportation is the only Board vested with the authority to grant tolls and is authorized to pass that authority directly to the local board.

Senator Lanhorst asked what taxes would normally be levied in this case. **Senator Corder** replied that this bill is identical to normal turnpike legislation. The right of way cannot be taxed and isolates the entire project from any personal property taxes.

MOTION: **Senator Keough** moved to send **RS 17679** to print. **Senator Langhorst** seconded the motion. The motion passed by **voice vote**.

RS 17703: **Relating to Rules of the Road; Amending Chapter 6, Title 49, Idaho Code, to provide for reduced speed limits in school zones.**
Senator Geodde stated that the purpose of **RS 17703** is to lower the speed limit in school zones, increase the fine and make a change on the posted signs. The bill proposes to increase the current fine of \$75.00, adding a penalty of \$41.51, making the total fine over \$116.00. The revenue from the increased fine will offset the cost of the new signs. **Senator Geodde** yielded to **Captain Wolfinger**, Kootenai County Sheriff’s Office, who explained that the bill will raise the fixed penalty to \$75.00 plus any additional penalties. He explained that statistics will show that raising a fine to over \$100.00 increases the effectiveness of the fine to prevent recurrent violations tremendously.

MOTION: **Senator Little** moved to send **RS 17703** to print. **Senator Sagness** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Mr. David Babbitt**, Director of Engineering for Bingham County Public Works Department, presented the annual report from the Idaho Association of County Engineers and Road Supervisors. Throughout his presentation, he referred to his prepared handout entitled, “2008 Senate Transportation Committee Presentation by the Idaho Association of County Engineers and Road Supervisors.” This handout is included as Attachment C in the Appendix.

Mr. Babbitt explained the structure of Local Highway Jurisdictions and how state funds are distributed between cities, counties and highway districts. Other sources of income are local funding and vehicle

registrations.

Mr. Babbitt stated that there are 1,761 bridges on the state highway system. Bridges are originally designed to last 50 years, and 339 or 19 percent of the bridges on state highways are older than 50 years. He included statistics about construction types and the size of bridges.

Because construction costs continue to rise and transportation funding continues to decline, **Mr. Babbitt** said that, instead of expanding, general maintenance of the existing system is falling behind. Federal revenue is not the solution. Federal funding requirements increase costs, making local money more efficient. The only way the counties can keep within their budget is to trim expenses. Bridges are not being replaced, roads are not being chip-sealed, safety improvements are delayed or ignored, and the level of service is dropping because of the lack of funds.

Mr. Babbitt concluded his presentation by saying that Local Highway Jurisdictions (LHJ) prefer to have money given to them without Federal strings attached; that the division of money to the LHJ needs to be reevaluated; that inflation continues to increase rapidly; that all of Idaho's roads and bridges are deteriorating; and that they need more funding. He emphasized his main point that the counties and LHJs would like to be included as recipients in funding provided for transportation projects in Idaho. When smaller LHJ and counties are not included, they suffer significantly.

Senator Langhorst asked for information about the red tape associated with the federal funding. **Mr. Babbitt** recommended keeping federal money separate and using as little as possible on smaller projects so that the counties and LHJ may get more production and materials for their money. He stated that the cost for red tape is the same for a small bridge as it is for a large bridge and the red tape should be used on large projects for which it is most beneficial.

Senator Langhorst said this report clears the air and he can't imagine the federal agencies looking at this and not doing something about it. **Senator Corder** agreed and said that many highway districts use their money for maintenance, not construction. In response to a question from **Senator Little**, **Mr. Babbitt** said that counties and states maintain their own bridges. There is very little contracting between Idaho State Transportation Department and Local Highway Districts.

There was further discussion about the pros and cons of using Federal money. The problem is the red tape with all the strings attached, which reduces the return. **Mr. Babbitt** answered questions about certain materials used in bridge construction and how the streams are protected from contamination.

Another problem with Federal funding is that the regulations are the same for all regions. With different climates in the West and Midwest, different materials are needed, yet this is not recognized by federal regulations. This is another reason why it is best to use State funding as opposed to

federal funding.

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

ADJOURNMENT:

Chairman McGee adjourned the meeting at 2:40 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

Sandra Boyington
Assistant

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** January 31, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, and Sagness
- MEMBERS ABSENT/ EXCUSED:** Senator Langhorst
- GUESTS:** *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in Legislative Services Library.*
- MINUTES:** **Chairman McGee** called the meeting to order at 1:30 p.m. and requested the secretary take a silent roll call. He welcomed committee members and guests.
- GUBERNATORIAL APPOINTMENT:** **Mr. Scott W. Patrick**, a charter pilot seeking confirmation of his reappointment to the Aeronautics Advisory Board, answered questions asked by the Committee regarding the state of small scale aviation in the State of Idaho. He spoke to the Committee about certain problems facing the Division of Aeronautics. In response to a question from **Senator Keough** regarding the proposed increase on aviation fuel, **Mr. Patrick** responded that as time goes on, it will take more money to keep up with the growth of the tourist industry in Idaho. He stated that he does think its time for that increase. **Mr. Patrick** stated that even with a limited budget, the Board is doing well to absorb the rising fuel costs. More funds are needed to keep the maintenance and safety projects current and more funds will continually be needed to keep up with the fuel costs and maintenance as time goes on. He specifically spoke about the airport in Coeur D' Alene and the opportunity that it presents for people just moving to Idaho to see the state of Idaho by means of small aircraft. He stated that maintenance and increased funding will be needed in order to keep this airport open and that is something that he would like to see happen. **Chairman McGee** thanked **Mr. Patrick**, and said the Committee will vote on the appointment during the next meeting.
- S 1306:** **Relating to the Idaho Transportation Department**, amending *Section 49-202, Idaho Code*, to provide for the retention and deposit of certain fees by counties. **Ms. Amy Smith**, Vehicle Service Manager, Idaho Transportation Department, presented the rationale for **S 1306**. **Ms. Smith** stated that the only change is on the second page and relates to fees collected by the county assessor for filing releases of liability statements. These fees should be deposited with the county treasurer and credited to the county's current expense fund. She stated that this bill is clean -up to match current practice. There was a discussion begun by

Senator Heinrich regarding the fact that despite what the bill states, the money is not deposited with the Country Treasurer. It is deposited with the County Auditor, who in turn, gives the money to the County Treasurer. This language is prevalent throughout this code and may be fixed. **Julie Pipal**, legislative liaison for the Idaho Transportation Department, stood and stated that she would discuss the matter to see if the problem could be fixed in general rather than specifically in this one spot. **Senator McGee** asked whether this change in wording would affect the bill at all. He was assured by **Senator Heinrich** that it would not change the effects of the bill.

MOTION: **Senator Heinrich** moved to send **S 1306** to the floor with a do pass recommendation. **Senator Hammond** seconded the motion. The motion carried by **voice vote**. **Senator Heinrich** will sponsor **S 1306** on the Senate floor.

S 1307: **Relating to Driver's Licenses;** amending *Section 49-326A, Idaho Code*, to clarify provisions relating to certain judicial suspensions of driver's licenses. **Mr. Hal Putnam**, Driver Records Program Supervisor, Idaho Transportation Department, explained that **S 1307** will reformat sections of the code to clarify that the court takes the primary role in determining periods of driver license suspension following a period of incarceration.

MOTION: **Senator Hammond** moved to send **S 1307** to the Senate floor with a do pass recommendation. **Senator Geddes** seconded the motion. The motion passed by **voice vote**. **Senator Sagness** will sponsor **S 1307** on the Senate floor.

H 355: **Relating to Capitol Commission License Plates;** amending *Section 49-420A, Idaho Code*, to delete the expiration date. **Mr. Jeff Youtz**, Legislative Services, stated that **H 355** drops the sunset clause on Capitol Restoration License Plates Program, originated in 2001. The Capitol Commission is thinking beyond the project and is looking for ways to find money for the ongoing maintenance and repairs of the building once the building is complete. Proceeds from the sale of the Capitol Restoration license plates go the Capitol Endowment Income Fund for on-going maintenance and repairs. They began raising \$6,000 in the first year and it has seen significant growth to over \$80,000 in 2008.

Senator Geddes asked who administers the fund for the Capitol Commission License Plate Program when those funds are in place and what types of projects would that fund support. **Mr. Youtz** replied that the Capitol Commission administers those funds and the language in the program states that the fund can be used for anything in the building that needs maintenance. **Mr. Youtz** also stated that this program would take away competition from other permit funds or general building funds.

Senator Little asked which license plates have sunset clauses. **Mr. Youtz** yielded the floor to **Ms. Smith**, who stated that no other license plates have sunsets on them. **Ms. Pipal** later clarified that all license plates have conditional sale sunset clauses if the sales on a license plate reach a minimum annual sales after three years..

MOTION: **Senator Geddes** moved to send **H 355** to the Senate floor with a do pass recommendation. **Senator Hammond** seconded the motion. The motion carried by **voice vote**. **Senators Corder** and **Little** voted nay. **Senator Geddes** will carry **H 355** on the Senate floor.

Committee members continued the discussion of the sunset clauses of specialty license plates sales. In response to a request from **Senator Sagness**, **Senator Little** gave his rationale for not favoring specialty license plates. There are so many of them that they are starting to look similar. At some point numbers could be duplicated and cause a safety issue.

S 1361: **Relating to Rules of the Road**; amending *Chapter 6, Title 49, Idaho Code*, to provide for reduced speed limits in school zones, to require certain information on school zone signs and to specify a fixed penalty for exceeding the posted speed limit in a school zone. **Senator Goedde** presented **S 1361** and read testimony about a child who was run over in a Coeur d'Alene school zone just seconds after his father dropped him off in front of his school. The young man lost his eye sight and sustained many other injuries.

TESTIMONY: **Capitain Ben Wolfinger**, Kootenai County Sheriff's Office, reported that the current wording "when children are present" is open to interpretation. Changing the signs to have an electrical mechanical device during specified hours would standardize the time when it is necessary for drivers to slow down in a school zone. **Captain Wolfinger** stated that when a fine is over \$100, the pertinent law is obeyed more often. He supported this statement with statistics from the seat belt law history and used as evidence the positive results from the increased fine for seatbelt violations. Large penalties are tools that work and should be used to protect children.

Senator Corder asked if allowing more specialty license plates make it harder for law enforcement to read license plates. **Chairman McGee** said he would allow the question even though it is not part of this discussion. **Captain Wolfinger** replied that one of the first things a police officer must learn is how to read license plates as they are coming toward one in traffic. When responding to a call and reading a particular license plate, the first thing an officer wants to know is what kind of license plate it is. Secondly, an officer looks at the number/letter sequence. He stated that Idaho has a lot of specialized plates and having only one or two would make him happy.

TESTIMONY: **Patrolman Tim Vulles**, a Patrolman with the Coeur d'Alene Police Department, spoke in support of **S 1361**. He told a story of a thirteen year old girl who was dropped off by her father and ran around her father's vehicle, was hit by an oncoming vehicle and sustained injuries as a result. This demonstrates the unpredictability of children. He stated that the Coeur d'Alene Police Department believes in enhanced penalties for speed violation in school zones and in improving the standardization of sign postage within school zones. The phrase "When Children are Present," currently posted on signs appearing in school zones, is open to interpretation from judges. A judge recently ruled in favor of a school

zone speed violator who fought his ticket in court because there was one child present when the individual was driving through the school zone and the sign posted used the word, "children." He stated that more uniform signs would allow police officers to do their job more easily.

Senator Geddes asked **Patrolman Vulles** if he had any school zones adjacent to a State Highway. After a negative reply from the patrolman, the Senator commented that in his district there are two school zones which are adjacent to State Highways and his District has had a difficult time working with the Idaho Transportation Department to change the speed limit in those school zones since the highway is a State Highway. The State therefore wants to go through studies that are normally done when setting the speed limit. He asked for assistance from **Julie Pipal** in helping the Department to understand that the reason for the change in speed limit is for the safety of the children at risk because of high speed traffic near their school zone.

In response to a question from **Senator Hammond**, **Patrolman Vulles** clarified that school zone speed limits are regulated by city engineers. He stated that it would be desirable to have a universally set speed limit so that there will be no confusion as to the speed limit in school zone. **Senator Hammond** expressed hope to see a universal speed limit set in future legislation.

Senator Little asked **Patrolman Vulles** to define what a school zone is. **Patrolman Vulles** stated that the definition of a school zone is contained in a thick book of regulations interpreted by engineers. **Senator Little** asked if an increase in penalties can be set by the legislature, or is that authority with the municipality. **Captain Wolfinger** stated that a bill cannot set a standard speed limit because it is an engineering issue. Reading the language to say that "The sign shall indicate the school zone and shall have a reduced speed limit." **Senator Little** observed that there is no option for setting anything other than a "reduced speed limit." He stated that the bill would reduce the speed limit in addition to the already reduced speed limit in a school zone. **Senator Corder** stated that the reduced speed limit does not have a reference point and therefore can be reduced from a highway speed limit rather than being reduced in addition to the already reduced speed limit in a school zone.

TESTIMONY:

Ms. Wendy Blickenstaff stated that she lives near a school located in a residential neighborhood and has difficulty crossing streets two blocks away. School events continue until 5:00 p.m. on most days and believes that children walking home after extra curricular activities are in need of a reduced speed limit within the school zones. In other states the fine is as much as \$600 for speeding in a school zone.

MOTION:

Senator Keough moved to send **S 1361** to the Senate floor with a do pass recommendation. **Senator Corder** seconded the motion. **Senator Little** stated that he will vote no because he does not have a satisfactory definition of "school zone," but will research it before it goes to the floor. **Senator Hammond** said he favors **S 1361**. **Senator Goedde** spoke again in support of **S 1361** and urged the support of the Committee.

Senator Keough's motion passed by **voice vote**, with **Senator Little** voting nay. **Senator Goedde** will sponsor **S 1361** on the Senate floor.

PRESENTATION:

Ms. Pipal introduced **Mr. Philip Demonsthenes**, Access Management Expert and Consultant to the Idaho Transportation Department. She shared his many credentials, including extensive work on the research and design of the traffic round-about and his success working in Denver on access management planning issues. **Mr. Demonsthenes** referred to his handout¹ which was a copy of the slides placed upon the projection screen, which Mr. Demonsthenes used to illustrate his presentation. He began by stating that the purpose of access management is to create a smoother traffic flow resulting in fewer accidents. The goal of access management is improved performance on the roads. He stated that social maintenance works against smoother traffic. Access management works to encourage the community and developers to work together for better performance.

These goals are achieved by creating better access locations and designs, by a partnership between communities and developers, and to preserve highway function to reduce reconstruction needs and costs. The first step in successful access management is to identify problems including increasing traffic volume, congestion and delays and a decrease in regional mobility. Developers must understand that roads have long been the most dangerous facilities on the face of the earth. Access related crashes at intersections and driveways create over 55% of traffic crashes. Access management works to keep private access off of arterials, in other words, it keeps driveways from directly accessing main roads with high speeds.

Studies have shown that people on arterial driveways have an increased rate of accident experience. Reducing the rate at which a motorist encounters conflicts, reduces the rate of crashes and increases mobility for motorists. He stated that when access principles are applied to a specific corridor, crashes are reduced by 30%-60% and road capacity is increased by 20%-40%.

He stated that US 20/26 will be planned for heavy traffic in the future using access management as a planning tool.

Mr. Demonsthenes stated that traffic signals produce the greatest amount of conflict, delay and workload. One way of decreasing crash rates is to add medians. Installation of a round-about can reduce up to 90 percent of the traffic accidents at selected intersections.

He stated that good labor mobility, that is access to jobs, good travel time and good roads for tourism all play an essential role to a good regional economy and good growth. In addition, establishing a twenty year vision with consistency is essential to providing for a good future of access management.

Most access programs have three major elements: 1. access location and design standards, 2. access categories, and 3. access management plans. Access plans must also be tailored to each individual highway.

After questions and discussion, **Chairman McGee** thanked **Mr. Demonsthenes** for his presentation.

Senator Little asked what the Committee can learn from other states about securing roads from the time the roads are built in relation to land use.

Mr. Demonsthenes stated that reasonable access is used in all states except for North Carolina. Most state governments plan a network of streets. Reasonable access has proved very successful and most states are an example of that success in their planning for access.

ADJOURNMENT:

There being no further business, **Chairman McGee** adjourned the meeting at 3:00 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

Sandra Boyington
Assistant Secretary

1.The access management handout will be attached in the appendix.

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 5, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- GUESTS:** *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in Legislative Services Library.*
- MINUTES:** **Chairman McGee** called the meeting to order at 1:30 p.m. and requested the secretary take a silent roll call. He welcomed committee members and guests.
- GUBERNATORIAL APPOINTMENT:** **Chairman McGee** stated that the Committee will consider the appointment of **Mr. Scott W. Patrick** to the Aeronautics Advisory Board.
- MOTION:** **Senator Hammond** moved to confirm **Mr. Scott W. Patrick's** appointment to the Aeronautics Advisory Board with a do pass recommendation. **Senator Sagness** seconded the motion. **Senator Langhorst** inquired about political affiliation. The motion passed by **voice vote**. **Chairman McGee** stated that the appointment will go to the Senate floor with a do pass recommendation.
- S 1359:** **Relating to Special Motor Vehicle License Plates;** amending Section 49-402, Idaho Code, to provide a Code reference; amending Chapter 4, Title 49, Idaho Code, by the addition of a new section 49-417D, Idaho Code, to establish an Idaho Rangeland Special Plate Program; and providing an effective date. **Mr. Stan Boyd**, Executive Director of Idaho Wool Growers Association, presented the rationale for **S 1359**.
- The Idaho Cattlemen's Association and the Idaho Wool Growers Association passed resolutions asking that the Legislature allow the Idaho Rangeland Resource Commission (IRRC) to have a specialty plate that will honor the rangelands of the State. The IRRC was created about ten years ago to promote the rangelands in Idaho. The revenue will assist these associations in managing the Idaho rangelands.
- TESTIMONY:** **Ms. Gretchen Hyde**, Executive Director of the IRRC, spoke in support of **S 1359** and explained the IRRC's funding comes from a 100% fully refundable assessment. The IRRC is highly accountable for its funds. Support comes from the Idaho Cattle Association, the Idaho Rangeland Association and the Idaho Wool Growers Association, all of which support

this piece of legislation, as well as the Idaho Farm Bureau and the Society for Range Management. She explained a funding graph assessment of the Animal Unit Grazing (AUM). Since the annual IRRC budget totals less than \$200,000.00, the organizations are seeking additional sources of revenue.

TESTIMONY: **Mr. Cory Smith**, Lobbyist for the Idaho Farm Bureau Federation (IFBF), stated that the IFBF supports **S 1359** because it will provide additional revenue to the Idaho Rangeland Resource Commission. He explained that the Commission's budget has flatlined. This increase in revenue would help the Commission. The Idaho Farm Bureau also feels that this license plate captures Idaho's rich history and promising future on the rangelands. In response to a question from **Senator Sagness**, **Mr. Smith** yielded the floor to **Mr. Rick Waitley**, representing Idaho Ag In The Classroom (AITC), who stated that the AITC license plate generated \$16,000.00 in it's first year and in 2007 it generated \$33,435.00. He stated that it would be difficult to tell what the revenue would be in advance.

TESTIMONY: **Mr. Waitley** moved forward with his testimony, with the permission of the Chair. He stated that the people who buy license plates are not necessarily members of the organization which represents the respective license plate program. The Commission would therefore be diversifying funds. He also stated that the amount of money raised by the License Plate Program will be dependant upon the amount of money spent advertising. He cautioned the IRRC that advertisement would be necessary to raise a significant amount of money long term.

TESTIMONY: **Senator Corder** asked how **Ms. Hyde** could assume that the License Plate Program was going to be the answer for bringing extra revenue, not knowing how much the Program would bring in. He also asked when was the last time the IRRC increased its assessment. **Ms. Hyde** responded that the IRRC has never increased its assessments and with refundable assessments, she stated that raising assessments are a concern. She continued, stating that the Commission hopes to use the "cowboy image" to appeal to more people in Idaho than just the members of their respective organizations. Multiple public opinion polls show support for the cowboy and ranch lifestyle. This is an opportunity for the Commission to benefit from the cowboy lifestyle that the Commission is so proud of. She stated that the Commission is aware of the need to advertise and is considering advertisement options.

Senator Hammond mentioned that the Commission is working hard to get this plate, with the risk that it may not even generate the necessary revenue, and asked why they don't increase fees or initiate some other process to assure the source of revenue is secure. **Ms. Hyde** stated that there is no support for raising the fees. She stated that the Commission conducted focus group surveys at the University of Idaho. The finding of these polls was that there is strong support for the Commission and the direction that the Commission is taking by diversifying funds. The Board discussed higher fees and decided to go outside the ranching industry using the license plate as an advertising tool.

Senator Geddes told a story of asking a stranger who had a Capitol Restoration License Plate on his car if he liked what the State was doing to the Capitol. The stranger replied that he did not know what the State was doing to the Capitol and bought the license plate simply because the color matched the color of his car. He made the point that people who buy the license plates often do not buy them to support the organization which the license plate supports, but because he or she likes the look of the license plate. He stated that this is a good opportunity for this particular organization and he will be supporting this bill.

MOTION:

Senator Langhorst moved to send **S 1359** to the Senate floor with a do pass recommendation. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**; **Senator Corder** voted nay. **Senator Heinrich** will sponsor **S 1359** on the Senate floor.

RS 17346:

Relating to Transportation; amending Section 49-1602, Idaho Code, to revise the powers and duties of the Idaho Transportation Department by deleting requirements relating to the posting of certain information at dealers' principal places of business; and amending Sections 49-105, 49-106 and 49-117, Idaho Code, to revise definitions. **Chairman McGee** welcomed **Ms. Amy Smith**, Vehicle Services Manager, Idaho Transportation Department (ITD), who presented the rationale for **RS 17346**. This legislation will provide for uniform minimum requirement for all dealers requesting to be licensed, as requested and approved by the Dealer Advisory Board. There are currently several different regulations for zoning requirements from one local jurisdiction to another. Current code is not definitive in the requirements providing guidance for approval of a principle place of business. People have been known to set up shop in portable sheds, commercial storage units, camp trailers, garages, and barns. These people can easily pick up and move without notice, leaving consumers and ITD to resolve outstanding problems. This RS aims to prevent dealers from being able to pick up and move so easily by establishing requirements that licensed dealers must have a building of a permanent nature built on a permanent set foundation. Car dealerships will be required to have permanently installed utilities including power, water and at least one operational restroom. The principle place of business shall be a building at which the public must be able to contact the dealer, the dealership must have a hardline telephone and shall be the place at which all books, files and records necessary to business shall be securely kept. The RS eliminates reference to allow a principle place of business to occupy a hotel, apartment house or rooming house. It also deletes reference to sign requirements, as those are addressed at administering rules and also allows more flexibility to resolve current issues with franchise agreements and zoning regulations. Guidelines will be consistent for all new dealership licenses. Existing dealerships will be grandfathered into the requirements currently in place and will not be made to meet the requirement unless their dealership moves.

Ms. Smith stood for questions and further discussion of the Committee on the topics of zoning ordinances, preventing fly-by-night operations, and repair shops not doing business in used car sales.

Senator Keough asked what ITD might do with a licensed dealer who

has all of the amenities proposed for a licensed dealer in RS 17346 and they still fly by night and get away. **Amy Smith** answered that the Department does the best it can to work with the consumer to resolve title issues and to get title to consumers who bought in good faith. **Senator Keough** followed up with a comment, stating that the fly-by-night operator will fly by night whether he or she is grounded or not.

Senator Heinrich asked what the current procedure is when someone applies for a dealer's license. **Amy Smith** replied that the Department looks for the zoning approval from the local jurisdiction, makes sure that the individual has a telephone, meets sign requirements, that there is a display area big enough for five vehicles and that there is a file cabinet that locks.

Senator Langhorst mentioned that the word "dealer" is replaced by the word "manufacturer" on Page 6, Line 18 relating to the dealer's established place of business. The Senator wanted to know why "established place of business" was not located anywhere else in the RS. **Amy Smith** replied that manufacturer is required to have an established place of business, but is not required to have anything open to the public. This is why the change to include an established place of business as a requirement is located in the RS.

Chairman McGee thanked **Ms. Smith** for her presentation.

MOTION:

Senator Heinrich moved to send **RS 17346** to print. **Senator Hammond** seconded the motion. The motion carried by unanimous **voice vote**.

RS 17617C1:

Relates to Tire Equipment Restrictions; amending Section 49-104 Idaho Code, to provide a chapter reference and to make technical corrections; and amending section 49-948, Idaho Code, to provide the Idaho Department of Transportation with the authority to require chains on certain commercial vehicles, being interstate trucks, on certain passes, to require the Department to take certain actions when requiring the chains, to provide for chaining requirements and to provide for exceptions.

Chairman McGee welcomed **Senator Broadsword** to present the rationale for **RS 17617C1**. Law enforcement has been having a hard time keeping I-90 clear, especially the passes, with all of the snow acquired this year. This legislation will allow local law enforcement agencies and the State Police, in conjunction with the Idaho Department of Transportation (ITD), to post signs and require chains or traction devices on certain commercial vehicles when difficult and narrow mountain passes present hazardous driving conditions. The cost of the new signs will be offset by the savings to law enforcement, IDT, and other drivers.

Senator Broadsword stood for discussion and questions. **Senator Little** asked if the definition of chains referred to in RS 17617C1 was taken from Idaho Code. **Senator Broadsword** replied that ITD and Idaho State Police (ISP) assisted her with the language of the RS and she is inclined to believe that the definition of chains does indeed come from current Idaho Code. **Julie Pipal**, Legislative Liaison from ITD, stood to offer that ITD did indeed work with ISP on the legislation and that those who worked on it were meticulous in ensuring that it complied with what the

Department could and could not do. **Amy Smith** commented that she would be prepared with that definition at the hearing on the bill, should it go to print.

Senator Corder commented that he would also like to hear at the bill hearing how ITD is going to hold traffic and where ITD has prospective chain-up locations for the trucks. **Senator Broadsword** answered that she could give chain-up locations. At I-90, east-bound, at Wolf Lodge there is a chain-up area. It is paved, it is lit, it is signed and it has a thirty truck capacity. There is a de-chain area at Cedars. It is paved, lit and has a twenty-five truck capacity. West-bound at Cedars there is a chain-up area that is paved, lit and has a thirty truck capacity. At Wolf Lodge to de-chain, the area is paved, lit, has signs and has a twenty truck capacity. She stated that she has information that is similar to what she just gave for all other passes.

Senator Keough commented that another piece of information that she will want to hear during the hearing is whether ITD has any truck counts so that once those chain-up and de-chain spots on the passes are filled, she wants to know if that number of trucks is a normal day or just part of the regular traffic.

Senator Hammond observed that closing the shoulder along the highway for a truck to install or remove the chains would be much less of a problem than having all lanes closed because the truck jack-knifed.

Chairman McGee thanked **Senator Broadsword** for her presentation.

MOTION:

Senator Hammond moved to send **RS 17617C1** to print. **Senator Sagness** seconded the motion. **Senator Little** inquired as to why we are only requiring that certain commercial vehicles are required to chain-up as opposed to all commercial vehicles. **Senator Broadsword** stated that when a private vehicle slides off the road, it goes into a ditch, not blocking traffic. When a big semi-truck slides off of the road, it usually jack-knifes, stalling traffic and commerce. The motion passed by unanimous **voice vote**.

MOTION:

Senator Langhorst moved to approve the minutes of the Transportation Committee meeting on February 17, 2008. **Senator Corder** seconded the motion. The motion carried by unanimous **voice vote**.

H 356:

Relating to Transportation; amending Section 49-102, Idaho Code to revise a definition; amending Section 49-304, Idaho Code, to revise provisions relating to motorcycle endorsements; amending Section 49-327, Idaho Code, to delete provisions relating to the retention and return of surrendered driver's licenses by the Idaho Transportation Department, to provide for applications for duplicate driver's licenses after revocation or disqualification; and amending section 49-1222, Idaho Code, to provide for applications for duplicate driver's licenses. **Chairman McGee** welcomed **Ed Pemble**, Licensing Manager, Idaho Transportation Department, to present the rationale for **H 356**. This legislation will expand driver license reciprocity for individuals under the age of 17 who

completed driver education in another US jurisdiction, prior to moving to Idaho. This bill allows those drivers ed students to move on with their driver education as opposed to having to start the program over in the state of Idaho. This bill also cleans up phase-in dates for motorcycle requirements. Now one would have to take the knowledge test as well as the skills test to get the motorcycle endorsement, as opposed to previously having to only take the knowledge test. It would add reference to reinstatement requirements for Title 18 revocations and disqualifications, providing consistency between the fee for a title 18 based suspension and a reinstatement fee for a title 18 disqualification and revocation. It also removes the requirement that the Department retain licenses that have been surrendered to the Department because of a license suspension, cancellation or revocation. Likewise, the Department will no longer be required to return those licenses at the end of the license suspension, cancellation or revocation. Having the same number of staff with a growing population, it is difficult for the employees to keep up with and keep track of the number of licenses under the conditions discussed above. The number one employee recommendation to improve efficiency was to get rid of this file and create a more automated system. **Mr. Pemble** said that the Department expects to save about \$2,500 annually for postage expense on licenses that will not be returned to individuals.

Mr. Pemble stood for discussion and questions of the Committee. He explained that this RS would apply only to those who have surrendered their licenses. He stated that "surrender" refers to the surrender of a physical card while the term "suspended" refers to the driving privilege. He explained to Senator Corder that the difference this RS will make is that after the term of suspension has been completed, and the reinstatement fee has been paid, an individual is then eligible to get a duplicate at their local driver licensing office. **Mr. Pemble** said that the reinstatement fees are becoming automated with a more consistent fee structure.

Senator Hammond asked if there could be more consistency regarding the fee structure. **Mr. Pemble** replied that he could look into consistency for fees in the future.

MOTION:

Senator Hammond moved to send **H 356** to the Senate floor with a do pass recommendation. **Senator Keough** seconded the motion. The motion carried by unanimous **voice vote**. **Senator Hammond** will sponsor **H 356** on the floor of the Senate.

ADJOURNMENT:

There being no further business, **Chairman McGee** adjourned the meeting at approximately 3:00 p.m.

Senator John McGee
Chairman

Lizzie Kukula
Secretary

Sandra Boyington
Assistant Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: February 7, 2008

TIME: 1:30 p.m.

PLACE: Room 426

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

MEMBERS ABSENT/ EXCUSED: None

NOTE: *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.*

RS 17376 ***Relating to the Rural Economic Development and Integrated Freight Transportation Program to provide for the Director of the Department of Agriculture to designate a co-chairman for the interagency working group.***

Laura Johnson, Idaho State Department of Agriculture, explained that this piece of legislation will correct and amend *section 49-2902, Idaho Code*, to allow the Department of Agriculture to designate one of their three appointees to serve as co-chairman of the interagency working group.

MOTION: **Senator Corder** moved to send RS 17376 to print. **Senator Geddes** seconded the motion. The motion passed by **voice vote**.

RS 17814 ***Relating to the Rural Economic Development and Integrated Freight Transportation Revolving Loan Fund to increase the maximum matching grant fund limit.***

Senator Keough presented RS 17814 to the Committee to consider for printing. This concerns the program known as "Readyfit." Last year the legislature allowed a matching component to this program in the amount of \$25,000 so that it might be available for planning and development of commerce authority as defined in code. RS 17814 is a proposal to increase the \$25,000 to \$100,000. There is a group engaged in a regional cross-border study with Washington relating to transportation in northern Idaho called the "Inland Hub." Washington has contributed \$200,000 and Idaho has put in \$25,000 but has not met the full match. By increasing the ceiling in this fund, some of the \$100,000 would go toward the cross border study along with some other funds that have been identified for that study.

Senator Little wanted to know where do the revolving funds in the State

treasury come from. **Senator Keough** said there was a \$5.0 million, one-time appropriation put into this fund two years ago. As the money is paid out of the fund, it is replaced.

MOTION: **Senator Hammond** moved to send RS 17814 to print. **Senator Corder** seconded the motion. The motion passed by **voice vote**.

RS 17525 ***Relating to Special Motor Vehicle License Plates to establish the Idaho 2009 Special Olympics World Winter Games Special License Plate Program.***

Senator Langhorst explained that this is a license plate bill for a 2009 Winter Special Olympics license plate to raise funds in support of these winter games. **Senator Langhorst** yielded the floor to Chip Fisher.

Chairman McGee explained that Senator Stennett had agreed to carry this legislation but is unable to do so at this time. Senator Langhorst has agreed to do so in his place and Mr. Fisher is fully aware of this international effort.

Mr. Fisher stated that Idaho is embarking on a once in a lifetime opportunity to host the Special Olympics. Three thousand athletes from eighty seven countries participate in these games. This is probably the largest, multi-date winter sporting event ever. This is also an economic opportunity for the state. **Mr. Fisher** talked about the effects of the Olympic values, which are ambition, courage, compassion, persistence, humility, and sacrifice upon the state of Idaho and Idaho citizens. Perceptions about Idaho will change, people around the world will know where Idaho is located. This national event will transform how Idaho's citizenry view themselves. Having this license plate says Idaho's citizens have compassion, that they care, and these games are a representation of all that Idaho wants to be and can become. I hope you will consider this legislation favorably.

Senator Little asked why the bill stated an enactment date of January 1, 2009? Why not be silent on that and either have an emergency clause or be enacted on July 1, 2008. **Senator Langhorst** responded that he had planned on pursuing that subject to see about coming back to the Committee with a change. If we can make it a better bill, then we will.

Senator Sagness asked a procedural question. Would it be better to hold the RS for changes or print and amend it? **Chairman McGee** said that today is the last day to print through a germane committee. If it is held, it will have to go through a privileged committee. Senator Langhorst is the sponsor of the bill and it is up to him to decide. **Senator Langhorst** stated that he is trying to think through the pros and cons if the bill were to be printed. There is not a 100% approval for these license plates on the floor but that is probably not a good reason to kill it. **Chairman McGee** said he didn't mind printing this bill now and making a simple amendment. The Committee could then research and see what would be the best way to go. **Senator Langhorst** said it would be better to avoid going to another committee.

Senator Little stated it would be better to send the bill to the amending

order and put an emergency clause in it.

MOTION: **Senator Hammond** moved to send RS 17525 to print. **Senator Keough** seconded the motion.

Senator Langhorst asked Senator Geddes to yield to a question. Can the RS be sent to print with the change? **Senator Geddes** stated that he had never seen that done. **Chairman McGee** said that was done in a committee he was in this week. It would be alright with the chairman of the committee if a motion with the change was made.

SUBSTITUTE MOTION: **Senator Sagness** made a substitute motion to send RS 17525 to print with the date changed to July 1, 2008. **Senator Hammond** seconded the motion.

Senator Geddes was concerned that the enactment of the bill is almost a year out. It would be better to get this in place so the license plates are on the market as soon as possible.

AMENDED SUBSTITUTE MOTION: **Senator Geddes** moved to amend the substitute motion to send RS 17525 to print with Section Three deleted and an Emergency Clause put in place so that upon passage, this bill may take effect. **Senator Heinrich** seconded the motion.

Senator Keough asked for a point of clarification that the emergency clause would be added in place of section 3 and the date would be changed on page 2, line 42 to January 1, 2008.

Senator Geddes modified the amended substitute motion to read "that upon passage of this bill, a person may purchase a 2009 Special Olympics World Winter Games Special License Plate."

Senator Corder said that we talked about amending a motion in Committee which isn't done, in a sense. **Chairman McGee** said that the motion may be amended. There are three motions on the floor: the motion, the substitute motion, and the amended substitute motion. There is precedent to allow bills to be printed with changes. The Chairman will allow the modified amended substitute motion made by Senator Geddes.

Senator Hammond clarified that Section 49-415E is amended to say "after passage" instead of "after January 1, 2009"; then, Section 3 is stricken and an emergency clause will be inserted. That will enable people to buy these plates as soon as they are ready to sell. **Senator Geddes** confirmed this explanation.

Senator Langhorst stated that he will be supporting Senator Geddes' amended substitute motion and that he appreciates the Committee's help.

Chairman McGee stated that it is under a unique set of circumstance that the original sponsor is not able to approve the bill because of time constraints.

The amended substitute motion passed by **voice vote**, with **Senator Corder** voting nay.

Chairman McGee noted that with the passing of this amended substitute motion, all other motions relating to RS 17525 become moot and the bill will go to print with the changes that Senator Geddes described in his amended substitute motion.

RS 17788

Relating to Inspection of Motor Carriers to provide that intrastate motor carriers transporting wet concrete are subject to compliance reviews and safety inspections; and providing an effective date.

Senator Heinrich stated that under current Idaho law, most commercial trucks are subject to certain safety compliance and inspections by the Idaho State Police (ISP), except those who are exempted under Idaho State Law. The purpose of this legislation is to remove the exemption for the intrastate trucks that are transporting wet concrete so they would also be subject to the current safety inspection rules. This bill is not to give the cement trucks additional inspections, it is only to make them comply with safety regulations and they would be subject to random, periodic inspections by the ISP, generally at the ports of entry. The current standard has compromised public safety. This change is needed to prevent further accidents from taking the lives of innocent citizens.

Some of the additional requirements that would be put upon intrastate cement trucks would be: compliance with drug and alcohol testing, hours of service requirements, and it would bring them under Federal definitive regulations related to brakes.

Senator Little asked if there was any reason to set a date of January 1, 2009 instead of leaving out Section 2 and let it be enacted just like any other piece of legislation. **Senator Heinrich** said that date was at the request of the ISP and Idaho Transportation Department (ITD) so it would avoid hardships on people and give them time to comply.

Senator Hammond asked why this is only talking about intrastate cement trucks? **Senator Heinrich** replied that interstate trucks already have to comply.

MOTION:

Senator Hammond moved to send RS 17788 to print. **Senator Keough** seconded the motion. The motion passed by **voice vote**.

RS 17868

Relating to Special Pilot Project Routes for Certain Motor Carriers to update the descriptions of pilot project routes designated for permitted use by motor carriers with a maximum gross weight not exceeding 129,000 pounds.

Roy Eiguren, representing The Efficient Truck Coalition, the Amalgamated Sugar Company, and the American Ecology Corporation will present this bill. **Mr. Eiguren** explained that this is a technical corrections bill. Last year, when the pilot program was expanded, there were discussions between the Idaho Transportation Department (ITD) and the various user groups, as to the mileposts that were designated for the end as well as the beginning of certain pilot projects. Over the past year, some of those mileposts have been found to be technically incorrect. This is a request to change those mileposts so they will be correct.

Senator Hammond asked how long has this pilot project been going on? **Mr. Eiguren** answered that the project had been underway for three years. It was approved three years ago and it is now in the fourth year. There were two pieces of legislation which established about 100 miles for the project. Last year's legislation added the fourth year. **Senator Hammond** asked how long the pilot project was allowed. **Mr. Eiguren** said that it is a ten year pilot project.

MOTION: **Senator Heinrich** moved to send RS 17868 to print. **Senator Hammond** seconded the motion.

Senator Corder disclosed that there may be a conflict. He declared his intent to vote.

The motion carried by **voice vote**.

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

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 12, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 212
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- GUESTS:** *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in Legislative Services Library.*
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. and requested the secretary take a silent roll call. He welcomed committee members and guests, specifically the government students from Caldwell High School present to observe the Committee proceedings.
- S 1378:** **Relating to Motor Vehicle Dealer and Salesmen Licensing;** amending Section 49-1602, Idaho Code, to revise the powers and duties of the Idaho Transportation Department by deleting requirements relating to the posting of certain information at dealers' principal places of business; and amending Sections 49-105, 49-106 and 49-117, Idaho Code to revise definitions. **Amy Smith**, Vehicle Services Manager, Idaho Transportation Department (ITD), presented the rationale for **S 1378**.
- Ms. Smith** stated that **S 1378** is before the committee at the request of and approved by the Dealer Advisory Board in an effort to ensure that there are uniform minimum requirements for all dealers regarding their principle place of business. Current code is not definitive in its requirements and providing the guidance for the approval of the dealers principle places of business. This has long been an issue that the Dealers Advisory Board has long wanted to address to prevent those who set up shops in sheds, commercial storage units, temp trailers and garages who can easily pick up and be gone without notice, leaving consumers and the Idaho Transportation Department (ITD) to resolve outstanding title problems. Research from others states, coupled with research from a variety of local jurisdictions who perform zoning approval has resulted in this proposal to attempt to address these issues. This proposal amends the definition for "principle place of business" as outlined in Section 49-117, subsection 15, *Idaho Code*. The change adds requirements to include that commercial structures must be of a permanent nature on a permanent set foundation. It also requires permanently installed utilities including power, water and at least one operational restroom. It clarifies that the principle place of business shall be the building at which the public shall be able to contact the dealer and at which all books, records and files necessary to conduct

the business shall be securely kept. It eliminates reference to allow a principle place of business to occupy a hotel, apartment house or rooming house. These changes will allow the Department to consistently apply the same requirements to all people. This proposal also clarifies that an established business, which is different than a principle place of business pertains to manufacturers. This bill also eliminates the signage requirements since these requirements are already provided in Administrative Rules and are more flexible to help resolve conflicts that occur with franchise corporations and issues. Dealers already licensed will be grandfathered in and will not be required to meet the requirements unless they move their dealership. She stated that the changes of the bill are now concluded and she stood for questioning.

DISCUSSION:

Ms. Smith stood for questions and further discussion. Committee members were skeptical that hard-wire telephones and building requirements would provide protection for consumers from run-away dealers.

Chairman McGee began the question and answer session by asking about the hardwired phone requirement and why that requirement was included when so many people run their business from and personal lives by cell phone only. **Ms. Smith** stated that a hard wired telephone has always been a requirement in the dealer licensing code. It is also included in the Administrative Rule and allows ITD to know directly where to go to contact a dealer.

Senator Hammond stated that on page six, line eighteen, where "dealer" is deleted and "manufacturer" is substituted, the change is confusing. He asked for further explanation of the change. **Ms. Smith** stated that a dealer has certain requirements that they have to meet and a manufacturer isn't necessarily open to the public or selling to the public. A manufacturer, not being subject to the same requirements, needs to have an established place of business.

Senator Keough asked where the grandfathering portion of the bill is. **Ms. Smith** stated that ITD has determined that grandfathering would be implemented by policy and that anyone who had received their dealer licensing or has received approval for their location prior to implementing the changes to this code would not be held to these higher standards.

Senator Geddes asked if this kind of mandatory mechanism is required for any other business. **Ms. Smith** replied that there is not any that she is aware of because this is the only occupation that ITD has referred to. The Bureau of Occupational Licensing would know more about that kind of requirement for other organizations.

Senator Little commented that dealers who own a T-1 high speed internet line would qualify as a dealer with a hard-lined telephone. **Ms. Smith** replied that the concern of ITD is that the dealer's business is advertised and published in a phone directory so that consumer could contact the dealer. With cell phones, dealers would not necessarily be published. **Ms. Smith** said that an internet connection could qualify as a hard wired land line telephone connection for the purposes of this legislation.

Senator Corder asked if the real purpose of this legislation is for consumer protection. **Ms. Smith** stated that the purpose is to promote the uniform requirements because of the disparity of zoning approval from one jurisdiction to another. The Dealer Advisory Board is trying to clean up the image of car dealers and ensuring that these dealers have an investment for their businesses and their customers. **Senator Corder** reverted back to **Senator Keough's** question regarding grandfathering. He stated that there are people in business right now that may not be able to meet all of the requirements in the addition to this section of Idaho Code and he does not feel comfortable having someone interpreting policy in which dealers are fearing going out of business. **Ms. Smith** stated that the grandfather clause does not affect the principal place of business if a dealer is already licensed. If the dealership relocates, he or she would be required to register.

Senator Keough asked for an explanation of the dealer license approval process, asking especially if it is a one-time issued license. **Ms. Smith** stated that a dealer receives a license during the licensing approval process. First a prospective dealer must submit an application, then must get zoning approval. Then ITD goes to inspect the proposed place of business. ITD ensures that there is proper signage, an area for display and the building is checked to ensure there is a separate office, a locking file cabinet and a telephone at which the dealer may be reached. An annual renewal process is required; however, ITD will not inspect the principle place of business again, unless ITD was performing an audit. **Senator Keough** asked if the grand fathering clause will include that these new rules will not be applied during the annual relicensing process and also asked if the Committee will see that policy in the form of Rules from the Department. **Ms. Smith** stated that the policy would be an internal policy that would be administered among her staff of motor vehicle investigators. As long as dealers are just renewing their dealer's license that they have had on file every year at their principle place of business address, then the dealer will not be subject to these rules.

Senator Keough then asked about page eight, line twenty-seven, through thirty-three, which states that if a person has a house, he or she cannot have a car lot in his or her front yard. About half of her constituents' who own car lots have those businesses and lots in older homes that have been zoned into a commercial district. The house has been turned into a business office, making the former front yard the car lot. She asked if that change states that this cannot happen again. **Ms. Smith** stated that even if the area has been zoned commercially and the dealer has zoning approval, then an old converted house sitting on a permanent foundation would not be allowed to be licensed.

Senator Geddes stated that he is concerned that this bill goes above and beyond because it seems that the zoning requirements in any particular city should have a lot of jurisdictions to say whether or not they will participate in this. He asked if a motor vehicle dealer or salesman is still required to file a bond after he or she receives licensing. **Ms. Smith** stated that yes, dealers still have to file a \$10,000.00 bond with ITD. **Senator Geddes** followed up asking if there are people who sell cars out of a camp

trailer or a storage unit and then disappear in the middle of the night, is the bond which is referred to in the last question not such that the victim could litigate some of the damage caused by that dealer's disappearance. **Ms. Smith** replied that the consumers could file against the bond and with a \$20,000.00 limit, it does not cover very much.

Senator Hammond asked what is meant by the word "improved," referring to the requirement for an improved display area as a part of the definition of "principle place of business" on page eight, line fourteen through sixteen. **Ms. Smith** stated that "improved" means that the area is cleared of debris, weeds and is actually a parking lot that exists for the purpose of displaying vehicles. Gravel isn't necessarily mandatory. As long as the area is cleared of weeds and customers are able to walk around the area, the display area may be considered improved.

Senator Keough asked about renewal of the license. **Ms. Smith** replied that the licensing is for one time and that the annual renewal would not require an inspection or reconsideration of this legislation.

TESTIMONY:

Mr. Wilke Myers, Director of Independent Automobile Dealers Association, stated that his organization provides the continuing education required by law for dealers and sales personnel. This legislation was discussed during these classes and emphasis was given to the grandfather clause for those already in successful dealerships.

Senator Little asked if the intent of the Independent Automobile Dealers Association is to support this legislation because it does not affect their business, but would prevent new dealers from starting new dealerships and creating more competition for those already in business. **Mr. Myers** stated that the board is working toward higher industry quality. The new dealers coming into the business are going to have to apply themselves more than those who previously entered the business.

Senator Langhorst asked what the most recent numbers are in terms of bonding and consumer protection. **Mr. Myers** stated first, that used car dealers in Idaho are required to have a \$25,000.00 bond. Second, he stated that, not being an insurance underwriter, he does not know what is the requirement to file that bond. He then yielded the floor to **Ms. Smith**, who stated that ITD does keep records of consumer complaints about run-away dealers and she could give numbers of those who never received title or numbers of examples in which it took a very long time to receive the title to their vehicle to the Members of the Committee at a later date. She then yielded the floor to **Mr. Daryl Marler**, the Dealer Licensing Supervisor, ITD, who stated that more than 70 percent of the 1,000 complaints received last year were from dealers because of another party's failure to deliver proper titles.

Senator Geddes asked if those numbers referred to in the last question are solely from dealerships, or if they are also from individuals who sell their car and neglect to keep the commitment of transferring title. **Mr. Marler** responded that a large majority of that number come from people dealing with licensed dealers. A small number of complaints come from people dealing with individuals who have sold their cars to another

individual, however that is not within the authority of ITD and ITD does not deal with those. Those are returned to local jurisdictions to handle under civil cases.

DISCUSSION:

Ms. Smith stated that the Dealer Advisory Board and the Department have been working for several years to have legislation that would require car dealerships to raise the standards of the profession and that would reduce consumer complaints. **Senator Hammond** noted that dealerships have been asking for some kind of minimum standards, but then licensing standards and minimum facilities would then be required in other occupations, as well. However, some kind of a minimum standard for what is expected is certainly needed.

Ms. Smith stated that ITD has had this issue on their agenda with the Dealer Advisory Board for a number of years in order to resolve the issues at hand. ITD is confident that this piece of legislation solves this problem. She asked for support on this bill.

Senator Hammond, in an effort to prompt further discussion among the Committee, stated that the State of Idaho does have requirements for other occupations in Idaho. Hairdressers have to have minimum equipment and facilities in order to receive a license. Other occupations have sanitary and consumer comfort and safety requirements. If the State is going to grant licenses, there should be minimum standards of the State in order for a person to receive that license.

Senator Keough stated that she doesn't disagree with **Senator Hammond**, but the building requirement goes beyond the reasonable expectations of the State, stating that someone cannot have a car dealership out of his or her house. In her community of Sandpoint, the cost of living is so high that people may have to live on the top floor of their home and use the first floor as their principle place of business. The State's responsibility could be to ensure that a customer who buys a car, receives the title for the car too. But to require a building which is permanently affixed with a hard wired telephone in order to ensure consumer protection is a stretch. If there are indeed, ugly looking buildings, local jurisdictions and cities have planning and zoning abilities in order to clean up the town.

Senator Geddes stated that 1,000 complaints does not sound like a major amount of complaints. He also noted that this bill has requirements that have nothing to do with the quality of dealership. **Senator Langhorst** said that consumer issues can be tackled by other means, such as bonding.

Senator Little stated that the bill got to where it is because, he believes, that the Department wanted to please the Trade Association. The Trade Association, in turn, did not want to make its own members mad and therefore grandfathered all current members into the new requirements. The result is a barrier to entry for the new people and all people presently members of the Trade Association are protected. He is, therefore, confused.

Senator Langhorst and **Senator Little** both asked what requirements

apply to the dealers in type of degree. Essentially, they asked at what point does a person who sells cars become a dealer. **Ms. Smith** explained that currently, in the State of Idaho, a person who sells at least four cars, is considered a dealer and needs to have a license to continue selling cars.

Senator Langhorst stated that the Committee would like to do something about the consumer conflict, but he does not believe that this is the vehicle through which to do it. He encouraged ITD to continue working on this issue in order to revise this solution and solve the problem. **Senator Sagness** concurred with the comment that Senator Langhorst made.

Senator Hammond expressed concern that the State is charging an agency with licensing individuals as dealers, and the State should give requirements with which to do so. He stated that if the Committee believes this is a problem and still believes it needs to be fixed, the Committee should give ITD some ideas of what might work in the place of the proposed legislation. He also stated that he will support the motion.

Senator Keough suggested to ITD that legislation should approach this issue by protecting the consumer in a greater capacity.

MOTION:

Senator Keough moved to hold **S 1378** in Committee. **Senator Geddes** seconded the motion. After further comments from Committee members, the motion passed by **voice vote**.

S 1387:

Chairman McGee stated that, in the interest of time, **S 1387** will be visited in the next Committee meeting on Thursday, February 14, 2008.

S 1360:

Relating to Local Transportation Benefit Projects and Toll Roads; amending Title 40, Idaho Code, by the addition of a new Chapter 25, Title 40, Idaho Code, to provide for local transportation benefit projects and financing of projects, to provide for identification of local transportation benefit projects, to provide for collection of tolls for use of project roads, to provide that proceeds from toll revenues are trust funds, to provide remedy against the account, to provide for tax exemption, to provide for annual reporting and to penalize improper interest in a contract and to provide for maintenance of completed projects and continuation of tolls.

Senator Corder provided the rationale for **S 1360**, stating that this legislation will give local highway authorities an additional financing tool, toll roads, for transportation projects. If the project is determined to be "ordinary and necessary", ITD will make the decision to use a toll road to fund a road construction project or give the option to the patrons of the jurisdictional authority. Collection of the tolls from the project will be used to pay the construction loans. One of the concerns of this legislation is that the highway districts can already bond and indebt themselves without a vote of the people. The highway districts are kept accountable by the people who they serve. **Senator Corder** made the point that highway districts have a record of being fiscally responsible in the state of Idaho.

Senator Corder noted that there were considerations of turn-pike authority adapted and adopted into local jurisdictions. One example was the litigation City of Boise vs Frasier and what the "ordinary and necessary

expense” phrase that came out of that decision means for the highway districts. Being able to define what is “ordinary and necessary” is the limiting factor in whether a local jurisdiction can borrow a significant amount of money for a project. Another consideration was whether there would be an encumbrance, if a local jurisdiction did borrow money, upon the highway district or upon the project itself. The legislation allows a highway district to identify a particular situation that is unique enough that a toll would be an appropriate way to recoup the cost. This situation will be a rare, but remarkable occasion. Local jurisdictions will be able to identify a project that is necessary to be successful and serve their constituency. Part of the determination, as to whether a toll road will be the most appropriate way to fund a project, will be whether there is enough traffic on that road to pay back the debt.

Senator Corder referred to Section 40-2506 regarding tax exemptions and stated that local highway districts will continue to be tax exempt. What the local jurisdiction owns will be tax exempt, but the tax exemption will not flow to other land owners. If there is a company, for example, using the right-of-way, the local authority also has the right to charge that company a toll. This comes from the turn-pike authority.

He pointed out that Section 40-2507(1) of **S 1360** discusses the requirement for the annual report. Another portion of the report, include the details of this new project would be included in that project. Section 40-2507(2) removes the possibility of, and sets a penalty for any member of the board who might try to financially benefit from a project. In Section 40-2508, an option is available for the toll to remain after the road is completed in order to offset the costs of maintenance. The local jurisdiction will decide if this should take place. Billing for tolls and collecting the tolls has been made easier by several selections of software packages available for this purpose.

DISCUSSION:

Senator Hammond asked if any actual numbers have been put to a particular project to compare the cost of the connector road to how much revenue the tolls would have to produce to pay for the cost. It may be difficult to establish a system that would collect enough tolls to make it worth the effort, as opposed to other methods that one might use to get the project accomplished. **Senator Corder** replied that this issue was a concern when considering the details of this legislation. The drafters tried not to make these kinds of assessments because of all of the variables. One must also weigh the potential damages and gains in relation to the project. It purposely has not been defined so as to create flexibility for the local jurisdiction. These decisions would be up to the local jurisdictions to fit each specific project.

Senator Geddes stated that, according to his limited understanding of the Frasier Decision, it appears that in order for a project to bond for that much money, build a road and then recover tolls, the people would almost have to be given a vote. He was concerned that this was not provided for in Section 40-2501(4) of the bill. **Senator Corder** replied that the Frasier Decision has to prove that a project is “necessary and ordinary.” His fear is that a highway district would first believe a project to be necessary and ordinary, borrow money, and later find out that this should not have been

done. This subparagraph requires a judicial confirmation that a specific project meets the “necessary and ordinary” requirement. If so, then the Board may exercise their power and borrow money on behalf of the project. If the project does not meet the necessary and ordinary clause or if there is any doubt or uncertainty on the part of the jurisdictional board, then the project would go to the people of the pertinent district for a vote.

Senator Geddes stated that he didn’t believe the legislation read that way. He read that any one of the options is allowed or any combination of the options is allowed. He asked if it wouldn’t be more suitable to state what the constitution says directly in the subparagraph. **Senator Corder** replied by explaining the burden on the board of the local jurisdiction to show proof that the project is necessary and ordinary, or to pass the resolution to submit the issue to a vote of the residents of the district.

Senator Little helped clarify that *Section 40-1101, Idaho Code*, states that a highway district may, without election, issue bonds, but only for the purpose of funding or refunding existing indebtedness. The way he read it, that is contrary to the Idaho Constitution. **Senator Corder** stated that the power of the board, to fund debt only, or to fund new projects is the dispute which brings about *City of Boise vs Frasier*. He goes on to explain the Decision stating that although *Section 40-1101, Idaho Code* begins stating that every highway district is granted the authority under the Constitution to issue negotiable coupons for construction, improvements or repairs. There was a prohibition for highways to do that, however, for the City of Boise to do that and that is spelled out in the *City of Boise vs Frasier*. One of Senator Corder’s great anticipations as a board member of a highway district was that the highway district should be able to borrow money to complete a project quickly and then pay the money back on the proceeds. This simply could not be done because of the Constitutional prohibition. Although it was clear that highway districts were given that right in the Constitution, that right could not be exercised because of the Constitutional interpretation. No highway district ever challenged that Constitutional interpretation by attempting to borrow money to fund a new project.

TESTIMONY:

Mr. Skip Smyser, lobbyist for Idaho Trucking Association (ITA), stated that the ITA is opposed to **S 1360**. This bill could potentially disrupt commerce in the State of Idaho and this issue needs to be studied much more deeply before being adopted. It would also be necessary to have bond council present in order to discuss this issue. This bill suggests a substantial departure from current practice. Property owners of roads give their roads for the purpose of free travel of the public on those roads. He stated that highway districts and affected parties needed to be present in order to present their opinion of this proposal. He commended Senator Corder for bringing innovative solutions to the highway problem and stated that he hopes this issue is revisited again in the future after there has been more scrutiny of the idea.

Senator Little asked if it would be fair if an enterprising person built a bypass around Cascade and Donnelly, for example, and the public roads were shut down, for people, especially trucks hauling goods, to pay a fee to use the bypass. **Mr. Smyser** stated that he isn’t saying at all that for the trucking company to have to pay to use the bypass road would be unfair.

He stated that his point, however, is that the overwhelming situation that the public is being faced with today is that there are easements that are already in place and have been in existence for a substantial period of time, and would be effectuated by this bill. If, however, this discussion were considering starting from ground zero and then to have mag readers in the trucks for membership is unrealistic. The same person will not use the road every day. People from all over the United States bringing commerce would be using that road and to have one highway district in one remote part of the state would not receive the benefits that might work elsewhere.

Senator Little stated that the truckers who drive for companies who are members of the Idaho Trucking Association already have the readers in the trucks because they will have gotten them when going through the scales. He stated that tolls roads have to be a high-speed alternative.

Senator Corder gave his closing statement, remarking that he doesn't believe that the legislation is intended for existing projects or roads. No one would attempt to charge utility companies for existing structures. New roads are certainly part of the legislation. He stated that he understands that this is a challenging and controversial issue. To receive a judicial confirmation of the "necessary and ordinary" would be difficult to achieve, as would a vote of the people, yet this legislation is for the consideration of the committee.

Senator Hammond stated that he is not ready to throw the bill out yet because of that fact that typically, in a highway district, the people who would pay the freight for a new road are the property owners of that highway district. Perhaps, those people don't need that road, and the road is for interstate and intrastate commerce. Because of that idea, maybe this bill has more validity than the Committee currently believes. The Committee still needs to work on the practical application.

Senator Geddes agreed, commenting that the Committee needs to continue looking for viable options for funding transportation costs. He stated that he is still uncomfortable with Section, 40-2501(4) of the bill.

Senator Langhorst said that the Committee must continue discussing transportation options as these roads would be generally all new roads. He stated that discussion on this legislation should continue since growth happened so quickly, and would like to see this legislation implemented in the future.

MOTION:

Senator Hammond moved to hold **S 1360** in Committee. **Senator Geddes** seconded the motion.

Senator Hammond stated that he is not comfortable to move this bill on, but commends the writers for an innovative revenue source. The motion passed by **voice vote**, with **Senators Keough** and **Corder** voting nay.

ADJOURNMENT:

There being no further business, **Chairman McGee** adjourned the meeting at 3:05 p.m.

John McGee
Chairman

Lizzie Kukla
Secretary

Sandra Boyington
Assistant Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: February 14, 2008

TIME: 1:30 p.m.

PLACE: Room 211

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

MEMBERS ABSENT/ EXCUSED: None

CONVENED: **Chairman McGee** thanked Brooke Rinearsen for her service as a page to the Senate Transportation Committee during the past weeks.

The **Chairman** announced that his presentation to JFAC will be on Monday the 18th of February. He asked the Committee if there was anything that the Committee would like him to include in his presentation in addition to what he has planned.

Senator Hammond stated that the Idaho Transportation Department needs to be commended for their presentation on GARVEE. He asked that GARVEE funding maintenance be discussed. **Senator Corder** stated that an increase in revenue is needed and that GARVEE needs to be toned down, in his opinion. Other revenues should take time in the presentation as well as GARVEE. **Senator Heinrich** suggested that if there is an increase in funding for the highway department, that the state allocate an equal percentage to all highway districts. **Senator Geddes** asked that the State Highway Department be commended for keeping the roads open and safe during this past abnormally snowy winter season. He told a story of a snow plowman working for the state. The man worked a twenty hour shift to keep the roads plowed and safe. **Chairman McGee** thanked the committee for their suggestions.

Chairman McGee announced that he talked to Governor Otter recently and learned that former Representative Lee Gagner is the Governor's choice to serve on the Idaho Transportation Department (ITD) Board. The nomination will come before the Senate Transportation Committee within the next few weeks.

S 1379: **Relating to Tire Equipment Restriction;** amending Section 49-123, Idaho Code, to provide a Chapter reference and to make technical corrections; amending section 49-948, Idaho Code, to provide that Idaho Department of Transportation with the authority to require chains on certain commercial vehicles on certain passes, to require the Department to take certain actions when requiring the chains, to provide for chaining requirements and to provide for exceptions; and declaring an emergency.

Senator Broadsword referred to four pages of handouts given to the Committee. She stated that this legislation is very important to her district. I-90 travels through a very narrow canyon going over Fourth of July Pass and Lookout Pass. Interstate trucks have caused a majority of the accidents on those passes. She stated that the letter given to the Committee states what closed passes do to commerce. An additional concern is that jack-knifed trucks also block medical vehicles, making it impossible for them to transport emergency victims to a medical care facility. Furthermore, in severe weather conditions which prohibit life flight from flying in to help injured citizens, a blocked highway can literally mean the difference between life and death. **Chairman McGee** then yielded the floor to **Captain Chuck Rollins**.

Mr. Rollins stated that this legislation is long overdue. He commented that traffic being blocked because of jack-knifed trucks is becoming a big issue. He concurred with **Senator Broadsword's** comments regarding the urgency of a problem with jack-knifed trucks where commerce and health care are concerned. He stated that the states surrounding Idaho have similar laws and therefore, interstate trucks should already be carrying chains. He gave an overview of statistics from Idaho State Police (ISP) regarding interstate semi-trucks and the number of crashes which have taken place in the past snow season. This past year there were eighteen total semi-truck crashes, seven on Fourth of July Pass, eleven on Lookout Pass. There were seventeen semi-trucks spun out, five on Fourth of July Pass and twelve on Lookout Pass. There were thirteen blockage occurrences, twelve on Fourth of July Pass and one on Lookout. The most recent example, on February fifth, were twelve semis that spun and blocked the highway on west-bound I-90 and two semis spun out and were blocking east-bound I-90. As a result, ISP had to shut down I-90 for an extended period of time. **Chairman McGee** then yielded the floor to **Sheriff Reynolds**.

Sheriff Reynolds stated that he agreed with Captain Rollins' statements. He stated that Lookout Pass is in his county and the two people working the graveyard shift are most always on the pass. When there is highway blockage from a spun out semi, it can back traffic up to Highway 64, causing ten to twelve miles of traffic backup. He stated that his presence at the Committee Meeting was essentially to encourage, for the sake of safety, commerce and common sense, a passing vote.

Senator Corder asked if other State's chain-up laws are provisional like these are. **Captain Rollins** stated that Montana has a similar bill which targets commercial vehicles. Washington allows chain-up for commercial vehicle and 4-wheel traction tires for other vehicles with studded tires. **Senator Corder** clarified the Captain's response, asking if the Captain meant that, with the exception of every four-wheel drive pick-up, every truck in Oregon must stop to chain up his or her vehicle. **Captain Rollins** replied that this was the case for commercial vehicles. **Senator Corder**, in response, made the point that a "commercial" vehicle may be harder to define and open to interpretation. **Senator Corder** then asked what happens when a vehicle that fits into the exemption is the one which causes the problem. He asked why all commercial vehicles should not be

included in this bill. **Captain Rollins** responded that vehicles included in the exception are vehicles which currently are not causing a problem in the state of Idaho. **Senator Corder** followed up his question asking why not just include everyone so that in the future specific trucks will not become an issue. **Captain Rollins** responded he is trying to make the State rules consistent with the US Department of Transportation Federal Regulations and exemptions taken from those. He stated that in order to see this bill passed by the Legislature, these changes are prudent. At the very least some regulations need to be put in the books to solve this problem. **Senator Corder** also asked about the provision that trucks only have to chain up one axle. He asked if the regulation should be changed to provide for the situation in which it might be necessary to have trucks chain up both axles. **Captain Rollins** stated that currently only one axle would be required to be chained and the inclusion of a chaining up both axles is something that needs to be looked into further and then revisions can be made to this regulation in the future.

Senator Keough asked why Lolo Pass is included in this bill, in addition to Fourth of July Pass and Look out Pass. **Senator Broadsword** answered that there is sufficient room to chain-up at Lolo Pass. She then yielded the floor to **Captain Rollins** who stated that Lolo Pass can be a problem and does have room for chain-up.

Senator Corder asked what happens if a sign goes on after a truck passes the sign and later is pulled over by law enforcement and given a citation. **Captain Rollins** replied that this sort of problem can be solved by police officers using discretion and common sense. The decision to require chain-up will be at the educated discretion of ITD. He put full faith in the ability of ITD to know the weather conditions and work with ISP to know the conditions in which chains are necessary.

Chairman McGee introduced **Greg Laramie**, Chief Engineer for Operations at ITD. **Mr. Laramie** stated that ITD would have advanced signing and notice to inform driver's of chain-up requirement at both chain-up areas. The way the proposed law is written adequate advanced signing before the law would be in effect. Typically, two sets of advanced signs would be visible, one before they arrived at the chain-up area and another notice at the chain-up area.

Senator Corder asked how ITD and local law enforcement would know if there is adequate space to chain-up. **Mr. Laramie** replied that there isn't any way to positively know, but that the passes in the bill have been chosen for the room available, and for winter traffic volumes and how that is relative to directional split, and even how much time a truck would need to chain-up. The districts feel that there is adequate space at these listed chain-up locations. If a situation in which there was not enough space for trucks to chain-up, then ITD and ISP would take the signs down and not have the chain-up requirement at that time. **Senator Corder** also asked if ITD was preparing carriers with trucks driving in from states reasonably far away who may not be aware of the need for chains of the new State Law. **Mr. Laramie** stated that ITD does typically provide notices of law changes to nationwide carriers traveling through Idaho. He yielded the

floor to **Julie Pipal**, legislative liaison for the Idaho Transportation Department, who stated that ITD works with all interstate carriers who are interconnected with other commercial vehicle companies who pass information to their local DMVs and those who are responsible for educating drivers of commercial vehicles.

Senator Geddes asked if ITD was prepared to deal with drivers not carrying chains. **Mr. Laramie** yielded the floor to law enforcement who will be better prepared to answer the question. **Captain Rallins** answered that law enforcement will either ask the drivers to park until the roads are passable unless the drivers in that circumstance are willing to rent chains from entities through the passes that rent them out.

TESTIMONY:

Skip Smyser, on behalf of the Idaho Trucking Association urged passage of **S 1379**. He explained that three years ago similar legislation came through the Senate Transportation Committee, and the legislation failed because there was concern that the passes don't have areas to get trucks off of the road to chain up and then get back onto the road. He stated that if the number one concern of this bill is safety, there should not be any exceptions for commercial vehicles to chain-up. He stated that school busses carrying children should be just as responsible for chaining up as trucks carrying groceries. All commercial vehicles should be required to chain-up.

Senator Corder, further discussing exemptions and supporting **Mr. Smyser's** statement, stated that if a farmer is transporting his own equipment, then there is an exemption, but if he is transporting goods by means of a contract or transporting goods for another person or company, then there is no exemption. **Mr. Smyser** agreed, stating that the roads are unsafe with the current exemptions. He stated that other passes in the state should eventually be included in the bill and that the Idaho Trucking Association would be happy to be a party to any discussions on this issue.

Senator Broadsword gave her closing remarks, stating that truckers in Idaho use snow tires, whereas trucks coming from states where they are not familiar with snow and the road conditions that winter weather brings with it. Without snow tires and proper winter weather preparation, out of state trucks are causing problems on Idaho's Highways.

MOTION:

Senator Keough moved to send S 1379 to the Senate Floor with a do pass recommendation. **Senator Hammond** seconded the motion.

DISCUSSION:

Senator Keough commended **Senator Broadsword** for working with a prevalent issue that has needed attention and also for working with ITD and with the Idaho trucking companies.

Senator Corder stated that he will support the bill, but he doesn't like the exemptions. He hopes that the future will bring a loss of the exemptions.

Senator Hammond stated that he urges the committee to support the bill because it addresses immediate issues.

VOTE: **S 1379** passed by **voice vote**.

S 1389: **Senator Heinrich** introduced this bill as an exemption to the previous bill. **S 1389** will provide that interstate motor carriers transporting wet concrete would now be subject to compliance reviews and safety inspections. He yielded the floor to **Julie Stevens** and **Cynthia Onthank** for testimony.

Ms. Stevens told a story about seeing her husband go to work at ITD where he drove a dump truck on March 15, 2005. With much emotion, she explained that she expected her husband to return home for dinner that evening, but learned at around 1:00 p.m. that he had been killed when a fully loaded wet cement truck had blown the left steer tire. The tumbler disengages from the cement truck and completely crushed the cab of the dump truck. The men were so destroyed by the collision that their wives were not allowed to say goodbye to them or even see them. The tire that had blown was nineteen years old with a retread on it that was fifteen years old. **Ms. Stevens** and **Ms. Onthank** sued the company that was running the cement truck. During the deposition of the owner, **Ms. Stevens** and **Ms. Onthank** brought the tire conditions to his attention and asked him about the compliance of the tread depths and how it would have met the thorough motor carrier safety regulations. The owner of the dump truck stated, at that time, that cement trucks are exempt and he, therefore, didn't need to know what that was. The owner of the cement truck also owned a fleet of highway dump trucks that do fall under those regulations and do have to comply. Two weeks prior to his deposition, the owner of this company who drives one of these dump trucks on a daily basis on busy highways did not know what the legal tread depth was supposed to be on his own truck.

Ms. Onthank told a similar story, as her husband also died in the dump truck that day with Mr. Stevens. She stated that the truck was nineteen years old and hadn't been capped for 15 years. Her most emphasized point was that this situation could have been avoided, had the laws been different, not allowing the exception of cement trucks on these motor carrier safety laws. She asked that the laws be changed so that there would be no exemption for cement trucks so that roads might be safer and there might be no bad tires on the roads.

Senator Corder commented that this is such a tragic story. He stated that the Committee needs to take a look at the list of exemptions. In the previous bill, item number two, all the way to "m" are all exemptions. After the passage of this proposed legislation, the cement truck will no longer be exempt from the inspection regulations, but is it any less tragic if a person is hit by a farm truck or school bus? There should be no exemptions. It is not inconvenient to comply with the rules for the rest of the populations. Citizens just do it.

Senator Sagness asked why there were exemptions when this legislation regarding inspections for trucks was originally created. **Captain Lamont Johnston, Idaho State Police (ISP)** stated that these exemptions were first created when the Public Utilities Commission had control over this issue, which was the case before the Captain himself was probably even

alive. He doubted that anyone is around who still knows why there were exemptions allowed when these regulations were being written, being that they were created so long ago.

Senator Heinrich asked **Captain Johnston** what getting rid of exemptions would do for his life as a policeman. **Captain Johnston** replied that ISP would have to have a lot more troopers and many more commercial vehicle inspectors. There are about twelve policeman who are essentially assigned to inspecting commercial vehicles. There are also a couple of people who work for the City of Boise and for Ada County who can inspect commercial vehicles. In the world of a policeman, safety is the most important thing in regard to traffic and trucking. People have to understand that the commodity is not as important as other people on the road when it comes to getting rid of these kind of exemptions.

Senator Geddes discussed the way the code is constructed in the bill. He said that it seems that exemptions are being made from certain types of exemptions. He stated that it reads confusing and in the future he hopes that ITD could help make the bills more clear. If he isn't able to read the whole code in context, then the code becomes confusing to the people trying to interpret it.

TESTIMONY: **Senator Stegner** testified, discussing why wet cement trucks have become an issue and need inspection. First, one must look at the physics. The trucks are top heavy and tend to tip over. Overall, the trucks are unstable. Add to the instability a revolving drum.

TESTIMONY: **Mr. Smyser** testified, stating that he concurred with Senator Stegner's testimonies and supports the passage of this legislation.

Senator Geddes asked **Mr. Smyser** if, considering his legal background, he feels that this bill can be written to be less confusing for truckers to understand. **Mr. Smyser** replied that he does indeed believe that the bill can be written to be less confusing. He feels that the reading of a bill should produce a clear understanding of it, especially when it will be interpreted by individuals without a legal background such as the truck drivers who this particular bill applies to.

Senator Heinrich gave the closing remarks for **S 1389**, urging the Committee to send the bill to the floor with a do pass recommendation. He also thanked **Julie Stevens** and **Cynthia Onthank** for their testimonies. He explained that the tire which blew on the wet cement truck and destroyed the dump truck and killed the husbands of the above mentioned women, had 1/32 of an inch of tire. He stated that it is ludicrous for the law to allow that. He added that under current code, it would even be difficult for a State Policeman to cite the driver of a truck with such conditions.

Senator Corder offered his apologies to **Senator Stegner** and **Senator Heinrich** for not approaching them earlier to encourage them to include other exemptions which do not belong in Idaho trucking regulations into this piece of legislation.

MOTION: **Senator Corder** made a motion to send **S 1389** to the Senate Floor with a do pass recommendation. **Senator Keough** seconded the motion. The motion passed by **voice vote**.

S 1387: **Relating to the Rural Economic Development and Integrated Freight Transportation Program**; amending Section 49-2901, Idaho Code, to provide that at the beginning of each State fiscal year, the Director of the Department of Agriculture shall designate one of his appointees to the interagency working group as cochairman of the group, to make technical corrections and to provide reference to the Department of Commerce.

Laura Johnson, liaison for the Idaho State Department of Agriculture, described the issue at hand stating that last year when the revolving loan fund known as readifit was transferred to the Idaho State Department of Agriculture, a number of things were changed in the statute. One thing that was not changed was an allowance of the Director of the Department to Agriculture to appoint one of their three nominees to the interagency working group to be one of the team cochairman. This piece of legislation provides for that allowance. She stated that she would be happy to answer any questions about the loan or loan program and its process so far at the Department of Agriculture.

MOTION: **Senator Corder** made a motion to send **S 1387** to the floor with a do pass recommendation. **Senator Sagness** seconded the motion. The motion passed by **voice vote**.

ADJOURNMENT: There being no further business, **Chairman McGee** adjourned the meeting at 2:45 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 19, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Heinrich, Langhorst and Sagness
- MEMBERS ABSENT/ EXCUSED:** Senator Corder
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. and asked the secretary to take a silent roll call. He announced a field trip to the Boise Airport to take place on the 14th of March from 12:30 p.m. to 2:30 p.m.
- MINUTES:** **Chairman McGee** announced a review of the minutes from January 24th. **Senator Keough** stated that she had read and approved the minutes from January 24th.
- MOTION:** **Senator Keough** made a motion to adopt the minutes from January 24th. **Vice Chairman Hammond** seconded the motion. The motion passed by **voice vote**.
- MINUTES:** **Chairman McGee** announced a review of the minutes from January 29th. **Vice Chairman Hammond** stated that he had read and approved the minutes from January 29th.
- MOTION:** **Vice Chairman Hammond** made a motion to adopt the minutes from January 29th. **Senator Heinrich** seconded the motion. The motion passed by **voice vote**.
- S 1388:** **Relating to the Rural Economic Development and Integrated Freight Transportation Revolving Loan Fund**; amending Section 49-2904, to increase the maximum matching grant fund limit from twenty-five thousand dollars to one hundred thousand dollars and to make technical corrections.
- Chairman McGee** introduced **Senator Goedde** to give the rationale for **S 1388**. **Senator Goedde** explained that this bill creates a matching grant opportunity. When a similar piece of legislation was originally adopted during the 2007 Session, \$25,000.00 was provided for loan study progress. This piece of legislation increases that amount to \$50,000.00.
- Vice Chairman Hammond** commented, in order to add to the testimony, the fund could help a study help Idaho compete with other states.
- MOTION:** **Vice Chairman Hammond** made a motion to send **S 1388** to the Senate Floor with a do pass recommendation. **Senator Keough** seconded the

motion.

DISCUSSION: **Senator Little** asked if the State is getting paid back with the loan fund. **Senator Goedde** yielded the floor to **Laura Johnson**, Bureau Chief, Marketing, Department of Agriculture, who stated that yes, the loans are earning interest for the State.

VOTE: The motion passed by **voice vote**.

H 366 **Relating to Transportation;** amending Sections 49-303, 49-306, 49-319, 49-2443, and 49-2444, Idaho Code, to prohibit the issuance of driver's licenses, instruction permits, privileges or rights to drive to persons not lawfully present in the United States; to require Social Security numbers for applicants for driver's licenses, instructional permits and restricted school attendance driving permits; to provide for expiration dates and fees for driver's license issued to persons who are not citizens or permanent legal residents of the United States; to require verification of Social Security numbers for identification card applicants; to provide expiration dates and provisions for such for persons who are not citizens or permanent legal residents of the United States.

Chairman McGee introduced **Lynn Rhodes**, Driver's Licence Program Supervisor, Department of Transportation, who gave the rationale for **H 366**. **Ms. Rhodes** explained that this bill would prevent the expiration date on a driver's license or identification card from extending beyond the expiration date of alien documentation issued by the United States. It would also prevent the issuance of a four-year or eight-year Idaho driver's license or identification card to those person's whose legal presence in the United States is about to expire. Finally, this bill would limit the validity of a driver's license or identification card to one year periods when alien documentation issued by the United States does not state an expiration date. She also explained her research on the issue of Social Security relating to aliens. She stated that aliens who work in the United States may have Social Security numbers that may have expired, but the number still shows as valid because temporary social security applies to workers.

She explained concerns that were voiced by the House Transportation and Defense Committee and answered those concerns. A concern that this bill could hurt the high-tech industry and entangle the State of Idaho in the complicated immigration system was voiced. **Ms. Rhodes** stated that immigrants are always issued driver's licenses when they work in the United States. People without documentation are denied driver's licenses and identification cards.

Another concern was that the Department of Homeland Security issues picture employment identification cards to people with documentation and they are therefore considered to be legally in the United States. The Sheriff's Association was contacted and asked if this fact would make their job any harder.

Another concern was that implementation of this program would be expensive. Denying illegal aliens driver's licenses will increase the

number of people who will drive without insurance. **Ms. Rhodes** answered that this was not true. State issued driver's licenses with expiration dates will not be issued to people beyond the expiration of their stay in the United States. To do that would simply be irresponsible government.

Senator McGee asked if this bill was brought by the Department. **Ms. Rhodes** replied that it was.

Senator Hammond asked if a driver's license issued to an alien is differentiated from a driver's license or identification card issued to an American citizen. **Ms. Rhodes** replied that currently there is no differentiation, only different testing for a driver's license.

Senator Little asked what might happen if this bill passes and a Canadian citizen came to the United States and wanted to rent a car. **Ms. Rhodes** replied that a Canadian citizen could show his or her driver's license and proof of insurance. Foreign driver's licenses are recognized for one year in the United States.

Senator Geddes asked what an alien would be enabled to do with an Idaho driver's license after he or she leaves the United States for another country. **Ms. Rhodes** replied that it will depend on the specific country. She commented that a United States driver's license is a highly sought after document, internationally, because other country's licenses are expensive to attain.

Senator Hammond asked if a DMV employee would know if a license renewal, especially one from another state, was legal. **Ms. Rhodes** replied that if a person possessed an Idaho driver's license, there is no way of knowing if the renewal would be legal. This is the point of this legislation. If the license is an out of state license, most often the DMV employee would not be able to tell if that license was issued to an illegal alien. This legislation does not address that specific issue, but addresses the most abused holes in Idaho law regarding driver's licenses.

Senator Sagness asked if racial discrimination would be a valid reason to not back up this legislation. **Ms. Rhodes** stated that she understands where the Senator is coming from, but that the intention of these laws is to update Idaho Code. These laws regarding driver's licenses have been on the books for a very long time. She also stated that this legislation does not prevent any needs that legal immigrants might have.

Senator Langhorst asked if immigrants here on asylum status should be considered in this legislation being that some immigrants on asylum status or applying for asylum status don't have papers. **Ms. Rhodes** stated that unless a person were to tell ITD, there is no way of knowing if he or she is here illegally. She then yielded the floor to **Julie Pipal**, legislative liaison from ITD, who clarified for the Committee that the goal of this bill is to give DMV employees guidelines so they don't have to use their own discretion in violation of Idaho Code because the federal regulations aren't clear.

Chairman McGee introduced **Dr. William Rainlord**, Legislative Advocate of the Roman Catholic Diocese of Boise and Catholic Charities of Idaho. **Dr. Rainlord** stated that the Roman Catholic Diocese opposes **H 366** because it works in contradiction to the works of the Catholic Church. He stated that while the Roman Catholic Diocese of Boise applauds the Committee's concerns with the sovereignty of the United States, it is troubled by the particular method. Thousands of hard-working, family-loving, God-fearing immigrants live in this community without the documentation to be here. They did not merely walk across the border illegally. Many arrived in Idaho with legal documentation, and, due to economic forces far beyond their control, ended up with expired documents. Others did cross the borders without the necessary paperwork, fleeing economic violence and seeking economic freedom. Since the United States economy begs for such workers, one can hardly blame these for answering the call.

The Catholic Church serves many immigrants, embracing them as its own. It stands in defense of the immigrants in their quest for legitimacy. The Catholic Church answers the call Jesus issued in Matthew 25 to welcome the stranger, feed the hungry, and house the homeless. **H 366** works in contradiction to this effort. If a worker does not have a license, either he or she doesn't drive, and therefore doesn't work, or drives unlawfully, thereby further burying himself under the label of criminal.

Mr. Rainlord stated that he was a police officer for several years in a town of mostly first-generation immigrants from Mexico. He saw first-hand hundreds of accidents in which the driver without a license fled in fear of prosecution, even when the accident wasn't his or her fault. He witnessed hundreds of tickets for driving without a license or proof of insurance. He stated that he doubts if a dime was paid for those citations, not because the immigrant wanted to break the law, but because the immigrant had to break the law. He stated that concretely, this bill will create a class of criminals out of people who neither want to nor intend to break that law.

He stated that it is unwise to think that having the undocumented, unlicensed driver arrested and taken to jail, will fix the problem. First, the jails are full and second, good families will be torn apart and become even more desperate than they are in their now. Third, it will drive undocumented workers even farther under ground, causing unnecessary fear of law enforcement.

The State of Idaho and the United States will only be freed of undocumented immigrants with a legitimate national immigration policy that both meets the needs of the economy and serves the financial interest of the immigrant family. He stated that Bishop Driscoll, Bishop of the Roman Catholic Diocese of Boise and Ms. Rosio Gonzalez, Executive Director of Catholic Charities of Idaho, strongly urge the Committee to reject punishing immigrants for "trying to merely survive in the underbelly of poverty in this country."

Ms. Rhodes gave a closing statement, stating that the primary change

that the bill will bring about is a change to the expiration date to match the legal end of stay of an alien.

MOTION: **Senator Keough** made a motion to send **H 366** to the Senate Floor with a do pass recommendation. **Senator Hammond** seconded the motion.

DISCUSSION: **Senator Keough** clarified that **H 366** makes good sense.

VOTE: The motion passed by **voice vote**.

H 440: **Relating to Truck Campers**; amending Sections 49-105, 49-121, 49-501, 49-1606, 49-1608, Idaho Code, to revise the definition of "dealer"; to revise the definition of "truck camper"; to require certain truck campers to be tilted; to revise dealer licensing provisions; to revise dealer licensing bond provisions; to make technical corrections.

Chairman McGee introduced **Trent Wright** who gave the rationale for **H 440**. **Mr. Wright** stated that Dealers have been having an issue with the slide-in campers. Lenders and bankers are finding it difficult to finance these campers without the applicant holding title.

DISCUSSION: In response to a question from **Senator Geddes, Amy Smith**, Vehicle Services Manager, Idaho Transportation Department, answered that as long as the trailer is a slide in trailer or a slide in camper, it will receive title.

Senator Langhorst asked how many dealers will be affected by this. **Ms. Smith** replied that very few dealers will be affected because most of them already have to be licenced because they sell other recreational-type vehicles that have to be titled.

TESTIMONY: **George Dillard** of the Idaho State Good Sam RV Club stated that if there is a lien against a trailer, it only adds to the cost of the trailer. If a person purchases a slide-in trailer or camper without knowledge of a lien, he or she is purchasing the trailer at a value far more than he or she agrees to at the time of purchase. Without a title, banks don't want to lend money for these trailers or campers. He continued, stating that State Parks rely on campers and insisted that this class of RV should have title.

MOTION: **Senator Sagness** made a motion to send **H 440** to the Senate Floor with a do pass recommendation. **Senator Hammond** seconded the motion. The motion passed by **voice vote**.

INTRODUCTION: **Chairman McGee** introduced Patricia Gorla, the page who will assist the Committee for the second half of the session.

ANNOUNCEMENTS: **Senator Geddes** recommended membership to the Multistate Highway Transportation Agreement (MHTA) at the conference this year. The **Chairman** agreed that a representative from Idaho should attend MHTA so that Idaho's seat will not be lost.

ADJOURNMENT: There being no further business, **Chairman McGee** adjourned the meeting at 2:25 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

DATE: February 21, 2008

TIME: 1:30 p.m.

PLACE: Room 211

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

MEMBERS ABSENT/ EXCUSED: None

GUESTS: *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in Legislative Services Library.*

MINUTES: **Chairman McGee** called the meeting to order at 1:30 p.m. and requested the secretary take a silent roll call. He informed committee members about items that will be included in March meetings.

MOTION: **Senator Little** made a motion to approve the minutes of the January 31 Committee meeting. **Vice Chairman Hammond** seconded the motion. The motion carried by unanimous **voice vote**.

PRESENTATION: **Mr. Roger Seiber**, Capitol West, gave an update of what has transpired over the past year regarding the STAR legislation and both public and private partnerships for transportation infrastructure over the past year. In 2007 they proposed **H 250** which would set aside an identified area as development. As the retail elements come, the sales tax dollars would be identified and put into a separate account. Sixty percent of those sales tax dollars would be eligible to repay the cost of an interchange that would open up access to Post Falls from the Spokane area. The project is on track with a lot of activity.

Chairman McGee welcomed **Mr. Jeff Vitek**, President of Forceware Properties, to the committee. **Mr. Vitek** said the property was acquired in November 2006. A great deal of study was put in the project in hopes of gaining the interchange and convincing Cabela's to continue to locate in Idaho. They have been pleased with the STAR legislation and are optimistic about this project, which is a fine example of what can be done to increase jobs, tax remedies, and opportunities for our area. Engineers and environmentalists have been involved in the complicated process. It is hoped that construction will begin in the summer of 2009. Three other significant retailers are planning to join in this project.

Senator Geddes asked when the project would open. **Mr. Vitek** said it depends on the date for groundbreaking, and construction will take about

12-13 months.

Senator Keough asked if there were load limits on the bridge to get to Cabela's. She asked on account of the signs just beyond the state line which instructed driver's to use certain exits to get to Cabela's. **Mr. Vytex** replied that when the property was acquired, there were not load limits on the bridge. About one before Cabella's opened, load limits were put on the bridge crossing from Washington into Idaho. To accommodate the load limits, we asked that truck traffic be rerouted through Pleasantview.

Vice Chairman Hammond asked about the process in terms of what funds are being tracked through Forceware and the Tax Commission. Retail sales are occurring out there now, and those dollars could be going toward the expense of the interchange. **Mr. Vitek** said they are tracking those sales and in March a separate account will hold the funds. **Vice Chairman Hammond** said that modifications to this bill may be needed. If all the projects that are coming to this site are not located somewhere else in Idaho, they may be new stores that will stay with new jobs and additional tax revenue. We may want to modify that bill so that we are assured that any other project that occurs elsewhere also has to live by the same parameters. We are not moving tax dollars around. We are actually using the new tax money to help on projects. The intent was always to bring in new revenue to go toward these kinds of construction projects.

Vice Chairman Hammond shared an interesting side note in relation to **Senator Keough's** question. When we were competing very strongly with Washington, one of the concerns was that if we got the project instead of Washington they would start curbing access at the state line. When the other stores opened, there was severe restrictions on the bridge which was their bridge for about 1,000 feet before the section of our bridge that comes into Idaho. And now they have to come around and go two miles out of their way to get back into the project.

Chairman McGee acknowledged **Mr. Bruce Sweeney**, from the Transportation Board, who is attending the meeting.

**RULE
35-0105-0701:**

Chairman McGee gave the gavel to **Vice Chairman Hammond**. He introduced **Mr. Ted Spangler** who provided a brief presentation to refresh the Committee on the information on **Rules 35-0105-0701** and **35-0105-0702**. **Mr. Spangler** answered questions of the Committee. There was no testimony.

MOTION:

Senator Heinrich moved to adopt Docket #1, **State Tax Commission Rule 35-0105-0701**. **Senator McGee** seconded the motion, which passed by unanimous **voice vote**.

MOTION:

Senator McGee moved to adopt Docket #2, **State Tax Commission Rule 35-0105-0702**. **Senator Keough** seconded the motion, which passed by unanimous **voice vote**.

Vice Chairman Hammond returned the gavel to **Chairman McGee**.

RS 17961:

Relating to Driver's Instruction Permits; amending Sections 49-110, 49-302, 49-303, 49-305, and 49-307 to provide for revisions relating to class D driver's instruction permits. **Senator Geddes** presented the rationale for **RS 17961** stating that this legislation eliminates the distinction between public and private driver educators. It defines who is eligible and the length of the class. The fee for enrollment in the Class D driving course is increased from \$13 to \$15, with \$5 each for the driver education fund, the state transportation fund, and the current county expense fund. The new supervised permit time is six months instead of four months.

After calling for discussion, **Chairman McGee** discussed with the Committee the preferred process for routing this legislation. **Senator Corder** noted that if this legislation is merely clarification with no additional wording, the Statement of Purpose need not be amended. **Senator Little** asked for confirmation that the \$5 deposits in the three funds is just to cover costs. In addition, the \$5 deposit in the highway account is new language, as there is more money going into the state highway fund.

Chairman McGee, hearing no opposition to **Senator Geddes** sending **RS 17961** to the privileged committee, announced that **Senator Geddes** has the blessing of the Transportation Committee.

S 1390:

Relating to Special Pilot Project Routes for Certain Motor Carriers; amending Section 49-1004, to update descriptions of pilot project routes designated for permitted use by motor carriers with a maximum gross weight not exceeding one hundred twenty-nine thousand pounds. **Mr. Roy Eiguren** presented the rationale for **S 1390**. **Mr. Brian Whipple** and **Mr. B. F. Tory Smith** explained the map, which is attached as part of these minutes. **Mr. Eiguren** and **Ms. Pipal** clarified the beginning and ending points of the routes included in the pilot project, which will improve understanding for personnel in the Idaho Transportation Department (ITD) as well as those operating the vehicles.

Mr. Eiguren said that the Coalition has had dialogue with Congressman Simpson, who supports expanding the freeway into Idaho. The Coalition cannot move forward to expand the pilot program without the support of the ITD and Senate Transportation Committee. He said that **Chairman Overstar** plans to come to Idaho and discuss the new Federal project in 2009. A bond or some type of insurance policy will be in place to support this pilot program. A report is required every three years.

Senator Corder asked about the reports for Montana, Nevada and Utah. **Mr. Eiguren** said that the only pilot project pending before Congress now is for the State of Maine, which proposes to open all roads in the state to heavier trucks. **Mr. Smith** commented on transporting beets, cream and milk daily on the freeways. Some mileage could be cut by routing to the facility in cream and milk for manufacture of cheese to the Mountain Home facility instead of the one in Utah. **Mr. Whipple** said that in the case of sugar beets, they are only scheduled to run for ninety days and most beets are processed in the Magic Valley. He said they are aware of the problem of beets bouncing out of trucks. It was noted that much of

the beet crop is moved by rail.

Senator Little mentioned the bridge study on I-129. After the bill was held three times, he said they decided to study the issue more. **Senator Little** replied to **Mr. Eiguren** that the study was continued but there was not enough information to note positive or negative trends. **Mr. Eiguren** stated that this legislation will be revisited in 2009 when it is considered in the U.S. Congress.

MOTION:

Senator Keough moved to send **S 1390** to the Senate floor with a do pass recommendation. **Senator Heinrich** seconded the motion. **Senator Corder** stated that he owns trucks and works for two entities involved in trucking and will vote in favor. The motion passed by unanimous **voice vote**.

H 364:

Relating to transportation; amending Sections 49-123, 49-524, and 49-525 to provide electronic files and to revise provisions and fee provisions in regard to salvage certificates of ownership; and to provide for branded certificates of title for certain vehicles. **Ms. Amy Smith** presented the rationale for **H 364** stating that this bill standardizes how salvage certificates are issued depending on the type of vehicle. The proposal has been reviewed by the Vehicle Advisory Board.

Senator Heinrich asked if this legislation will help Idaho State Police with the disposal of abandoned vehicles. **Ms. Smith** replied that it does not.

Ms. Smith said that newer vehicles will no longer require physical inspections, but a salvage certificate is necessary. **Senator Langhorst** asked if there has been any opposition to this legislation by AAA or other companies involved. **Ms. Smith** replied that there has not been any opposition to this legislation.

Senator Langhorst referred to **H 364**, Page 6 and asked about the validity of the wording in regard to two sections on theft claims. **Amy Smith** explained that the bill provides for a reversal of the salvage vehicle status for theft recoveries upon an affidavit from the insurance company.

Senator Corder asked if every vehicle, including commercial vehicles, that are salvaged should have salvage titles. **Ms. Smith** replied that the only exceptions are motor homes, boats and motorcycles, by rule. Usually the insurance companies report salvage to the Idaho Transportation Department.

MOTION:

Senator Heinrich moved to send **H 364** to the Senate floor with a do pass recommendation. **Senator Keough** seconded the motion, which passed by **voice vote**. **Senator Langhorst** voted nay, stating that he will report to anyone interested in his no vote with respect to the legislation.

ADJOURNMENT:

Chairman McGee adjourned the meeting at 2:45 p.m.

John McGee
Chairman

Lizzie Kukla
Secretary

Sandra Boyington
Assistant Secretary

MINUTES

JOINT SENATE TRANSPORTATION AND HOUSE TRANSPORTATION AND DEFENSE COMMITTEES

- DATE:** February 26, 2008
- TIME:** 1:30 p.m.
- PLACE:** Basement Conference Room, Supreme Court Building
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Sagness
- MEMBERS ABSENT/
EXCUSED:** None
- GUESTS:** *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in Legislative Services Library.* This was a joint meeting. The members of the House Transportation and Defense Committee present at the meeting were Chairman Wood, Vice Chairman Hart, Representatives Smith (24), Roberts, Bedke, Wills, Moyle, Nonini, Mortimer, Hagedorn, Shepherd (2), Ringo, King, and Ruchti.
- MINUTES:** **Chairman McGee** called the meeting to order at 1:30 p.m. and requested the secretary take a silent roll call. He welcomed committee members and guests and pointed out that this meeting is a hearing only.
- PRESENTATION:** **Mr. Jim Kempton**, Chairman of the Forum on Transportation Investment (FTI), reported on the review of the forum on transportation and reviewed the revenue enhancement concepts. This process was driven by forum members; sponsored by Idaho Transportation Department (ITD). **Mr. Kempton** spoke of Mr. Dwight Bower, previous consultant, combined a list of needs from all six highway districts that totaled \$20 billion. He proposed having members of the forum visit the six highway districts and call out the projects which did not meet existing revenue. One of the problems encountered was how to estimate the cost of projects that may be 30 years away. The directive is set out in the "Forum Question" handout, which is attached.
- Mr. Roger Seiber** pointed out that the population has increased along with the number of vehicles. He explained that a \$.25 per gallon gas tax didn't keep up with the needs for very long because of the fuel and technological efficiency of new and updated cars. The revenue increased early on, but went flat later. An additional \$300 million in Federal funds would be available if ITD had gone with the original forum plan.
- Unless the additional revenue sources are identified, ITD revenue sources will be completely depleted and will not be able to meet the federal funding matching requirements. No one has taken a step to try and solve the issue.

It will be difficult to make the current options work because of the costs associated with the global economy. There are limits to the method by which you can establish the nexus. Given the current numbers, the Department is aware that it cannot address the shortfall with the fuel tax. ITD will have to pull back the revenue to maintain expenses in Idaho. If that does not happen, there will be a withdrawal from the current infrastructure. **House Chairman Wood** invited **Mr. Kempton** to meet with the House Transportation Committee to help with strategies.

Senate Chairman McGee introduced **Mr. Darrell Manning**, Chairman for the Idaho Transportation Board, who in turn, introduced **Mr. Monte McClure**, District 3 Board Member. **Mr. Manning** described the conditions facing ITD, what ITD has done to mitigate the funding shortfall, the priorities for the budget, the planned use of state and federal funding, and new construction details. Idaho is the fourth fastest growing state over the past ten years, and will increase 58% in 20 years to 2.5 million residents in the state and over 1 million residents in the Treasure Valley.

In the past 10 years, traffic has increased 99%, sales tax and general fund revenue is up over 100%, and transportation funds have increased only 22% - this year's income to the Department is \$10 million under projections. In addition, the value of the dollar has gone down in relation to other currencies. There is international competition for construction resources such as steel, cement and asphalt. The construction index is up to 64.9%, over double the inflation index. The decrease in the value of the dollar combined with the construction cost index increase of 94 percent as well as the cost increase of natural resources used for construction, the income for ITD projects is nearly level. In order to mitigate the cost of increases, the Department has cancelled certain critical construction projects, cut equipment, implemented personnel hold backs, expanded the "Practical Design" concept into construction preparation and intends to move this program into other areas. This program will save over \$52 million during the course of the next five years.

Projects for FY07, costing an estimated \$100 million, are prioritized as follows: (1) operation; (2) preservation; (3) restoration; (4) expansion; and (5) repair. The current budget for State revenue has increased \$2 million per year.

Mr. Manning explained the priorities more in detail. He described operations by discussing that the highway system's most critical priority ensure that ITD can use the investment it has made in the system that is in place. This will include highway systems operations and maintenance such as road repair, plowing, sanding, traffic management, signs, signaling, lighting, pavement markings, maintenance facilities, bridge inspection and repair, emergency event response, and road condition information.

Concerning Preservation, **Mr. Manning** stated that the system's second most important priority extends the useful life of the investment that ITD has made in the system and keeps it usable. Preservation projects include pavement overlays and sealcoats, etc.

He explained the third priority, restoration, stating that it completely restores the useful life of an asset that has reached the term of its full useful life. These projects do not add new capacity or new features. These projects do include full road and bridge replacements and roadside asset replacements.

Expansion, the fourth priority add either new roads and/or bridges at new locations, and rebuilding existing roads or bridges with added capacity. Restored and enhanced projects include new turn lanes, new off-ramps, widened lanes, additional lanes, widened bridges, and increased weight-load bridges.

Under the current funding, our state revenue will grow about \$2 million per year. The projected Change in Employee Compensation (CEC) in this year of 3%, plus the increased cost of health insurance will be approximately \$6 million. ITD does not get new money for these increases as the general fund agencies do.

Operations will cost about \$5 million more next year. To pay the increased cost of anti-icing materials, fuel, asphalt, and other materials, ITD will have to increase annual costs over \$12 million per year. Without an infusion of new money, by 2012, ITD will be unable to match federal funds for future construction.

Moving on to discuss construction, **Mr. Manning** stated that the Department had enough state money for some smaller construction projects and to avoid the very expensive federal requirements. ITD would then use state funds for projects on existing rights of way that almost always use the simplest environment document. The categorical exclusion saves money and time to stretch both state and federal dollars.

Mr. Manning explained what the Department would do with more construction money. He stated that the Committee should remember that the Department only receives 57% of the money from registration and fuel tax after going through the Highway Distribution Account. With more money, ITD would start constructing the projects in the Statewide Transportation Improvement Program (STIP) and advance projects where possible. STIP includes all modes. These projects have an estimated cost of \$300 million per year for the five-year program to FY 2012. ITD would then advance Horizon projects as quickly as possible. Many Horizon projects are ready to go. The ready to go projects exceed \$100 million.

ITD will continue the allocation of the money to Districts based upon pavement condition, vehicle miles traveled, and lane miles of road. The Districts in turn prioritize under our "performance priority program." This is based on safety, pavement preservation to maintain highways: with the goal of no more than 18% classified as deficient, restoration (more than standard maintenance), expansion, i.e., passing lanes, new alignment, etc, and a similar program with bridges. This priority is sent to the Board for approval.

In the 1970's the costs increased but the increases were not driven by

international competition and markets, as they are now. We have procrastinated until there is more congestion combined with lower economic growth.

The State is now at a crossroads. There is a choice to be made. The State and ITD can do nothing and watch as congestion increases to the point that economic growth stops and jobs start to move away, or ITD and the State can invest in the future and accommodate the growth of the economy. However, the longer the wait, the more the solutions to the transportation problems will cost.

PRESENTATION:

Mr. Clete Edmunson, Adviser from the Office of the Governor, stated that investments must be made in roads. The Governor supports two goals: (1) to continue the appropriation of GARVEE funds and (2) three-year build up of \$200 million to help with the STIP program. Funding is needed for building safe roads and repair of damage from high snow fall. The Governor maintains that everyone who uses the roads should have to appropriately pay for that use. The tax policy and fee structure by which citizens pay for their use of the roads should match the needs of ITD to maintain those roads and build new roads.

Funding choices include the local option tax and using existing legislation, State Tax Anticipation Revenue (STAR). The Governor will not bring new legislation forward and is not concerned about putting the vote before the people. At least 5 percent of the revenue generated by the fuel tax is appropriated to Idaho State Police (ISP). The Governor's proposal would replace funds over a two-year period. Locals would remain at 38 percent. The tax on rental cars would fund right-of-way construction. The Governor's philosophy is that the tax structure does not have to be complex.

To compare the charges in the surrounding states, **Mr. Edmunson** said that Ada County charges \$73.00, and adding on the proposed \$150.00 for a total of \$187.08 for vehicle registration. The rest of Idaho averages 46th in the nation. After the \$150.00 addition, Idaho is 23rd in the nation. Including all taxes highway users have to pay, the vehicle registration is still fair to the people of Idaho and equitable to other states.

The last proposal is for trucks. The Governor will not bring a piece of legislation as of yet. He is asking \$50 million to be brought to the table with \$22 million brought from light trucks and the rest placed upon heavy trucks. The Governor is committed to being a leader in this area. **Mr. Edmunson** stated that the Governor knows that we have a problem, and that the Committees are also committed to reinvesting in roads and believe it to be the right thing to do.

The three handouts provided by **Senators Corder** and **Keough** contained information about the costs of road maintenance for light and heavy trucks. **Senator Keough** said the proposal for trucks weighing 80,000 lbs or more is to replace the current tiered system and require a flat registration of \$660. An additional milage surcharge of 4.5 cents will produce about \$30 million for trucks. **Senator Corder** explained that the state handles the registration for the county vehicles. It's difficult to find

middle ground for trucks when working with infrastructure because we are working with two different charges when we could be working with one. Under the current system each step or percentage point is a jump.

Senator Corder referred to **RS 17945** and explained the changes in each of the fee schedules for each size of vehicle.

In response to a question from **Representative Hagadorn, Mr.**

Edmunson stated that, with the new schedule for GARVEE requesting \$134 million in new dollars, the charts show Idaho a little higher than the middle. In looking at the registration fees for other states, Idaho is in a minority in relying on state and federal funds. Most other states have additional forms of revenue.

Representative King expressed dissatisfaction in putting all the burden on registration fees without increasing the gas tax. **Mr. Edmunson** stated that the Governor's system for roads is two-pronged, (1) cars that drive on the roads pay for the use of the roads by means of a registration fee, and (2) citizens pay for the amount of miles put on the roads by means of the gas tax. **Representative King** asked why not increase the fuel tax, which is more fair to the elderly who do not use roads as much.

In a discussion with **Representative Hagadorn, Senator Corder** pointed out that the Governor's comparison of fuel tax to consumption is not a fair or equal comparison and isn't supposed to be. **Representative Hagadorn** stated that every state has different registration fees or has a number of other fees to help with funding. We must compare all funding streams to an increase in registration fees. **Senator Corder** said that without the \$150.00 fee, Idaho's rating is below mid point.

Representative Hart asked about the \$180 million sales tax revenue and whether the Governor had considered taxing automotive sales. **Mr. Edmunson** stated that the Governor is having a tough time clearing \$16 million for Idaho State Police.

Senator Little asked about the cost of delayed maintenance and specifically about how much the cost to fix a road increases the longer the delay of repair. **Mr. Manning** answered that the cost of delaying repairs is 1.5 times higher. But, for instance, certain procedures, such as chip seals, can extend the life of pavement allowing for new pavement at a later date. **Senator Little** stated that at some point the State will be behind \$4 billion instead of \$2 billion. **Pamela Lowe**, Director, Idaho Transportation Department, stated that the statistics are available and she will give those to the Committees at a later date. The entire STIP Program is dedicated to rehabilitating the roads. Money from other funds were used for rehabilitation, but that cannot be done any longer.

Representative Mortimer asked if ITD has completed a performance audit. **Mr. Lowe** replied that she is not aware of any audits, and that currently accountability comes from Legislative Services who looks at highway districts to determine how they are handling their projects. ITD does its own internal auditing including travel vouchers and Federal funds. And there is accountability from the highway administration, who looks at

the performance and spending of ITD. **Representative Mortimer** stated that currently, the audits performed are financial and compliance audits. Performance audits have not been done since the Performance Department was created for the Legislature. **Director Lowe** stated that components of these audits are made part of other audits as well. **Representative Mortimer** complimented the ITD Director on her presentation and the work she has done in the Department to oversee and cut spending.

Representative Bedke stated that in the past, the fuel tax was assessed on a per gallon basis. In 1988, 1991, and 1996 the fuel tax was increased. But as fuel efficiency increased on newer vehicles, revenue deteriorated, even in a good economy. He asked if there was any discussion given to a value tax on fuel rather than a volume tax on fuel. **Representative King** stated that the tax could be based on an energy basis. At this point when we have a concern about tax, we have increased cost of fuel. In current year, only 89 percent of non-petroleum fluids were converted to energy equivalence, which does not work on a value basis. Calculations should be made on the dollar value not the energy value and put on the product being sold, much like a sales tax. We will use less gas and oil in the future.

Representative Roberts said that it makes sense to put a value of energy on a source rather than per gallon. The cost of oil currently tracks with petroleum costs. A highly volatile price system can bring up the value while consumption also increases.

Mr. McClure answered this discussion between Members of the Committees, stating that the only fair way to charge people for driving on the roads is to calculate one-half of the registration for being on the roads and one-half for the mileage charge. The 50-mile traveler should not get a different break from the 30-mile traveler. Miles traveled will be difficult to track.

Representative Wills asked if the only way to catch up revenue is by using By the Unit (BTU) growth. He also asked what new method is used to mark usage. **Mr. Kempton** replied that the method for measurement uses a nexus of miles, weights and energy in the calculation. The transportation forum used a cost index, but the NCC Index is no longer published so employment is currently being used.

House Chairman Wood commented that people are paying sales tax on new and used cars, and auto parts. She suggested that the money generated by sales tax on tires and new and used cars should be transferred from the general fund to the transportation fund. But the remaining question is how to replace what is taken out of the general fund. That could be as much as \$180 million in revenue.

House Chairman Wood discussed with **Mr. Edmunson** the Idaho State Police (ISP) appropriation mixed in \$8.5 million each year which comes from the general fund. He yielded the floor to **Mr. Wayne Hammon**, an Administrator for the Division of Financial Management, who observed

that the funds must be earmarked for ITD and locked away because there won't be any money left by the year 2013. **Mr. Manning** explained that the restriction on the funds that pass through for ISP makes it possible for that department to match federal funds available for supervision.

Senator Geddes asked if state owned vehicles are exempt from fuel tax as well as registration and licensing fees. **Senator Hammond** said that all agencies are exempt from registration fees; certain other agencies are exempt from fuel tax depending on who they are. **Senator Geddes** mentioned that publicly owned vehicles cause as much damage to the roads as the private vehicles do.

Chairman McGee thanked all the speakers who contributed to this discussion. He expressed his appreciation to **Ms. Lowe**, ITD Director, **Mr. McClure**, and all the ITD personnel who participated in the discussion.

ADJOURNMENT:

There being no further business, **Chairman McGee** adjourned the meeting at 3:15 p.m.

John McGee
Chairman

Lizzie Kukla
Secretary

Sandra Boyington
Assistant Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** February 28, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Geddes, Little, Corder, Heinrich, Langhorst and Sagness
- MEMBERS ABSENT/ EXCUSED:** Senator Keough
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. and asked the secretary to take a silent roll call.
- S 1440:** **Relating to Special Motor Vehicle License Plates;** amending Section 49-402 to establish the Idaho 2009 Special Olympics World Winter Games Special License Plate Program.
- Chairman McGee** explained why **S 1440** had taken longer than expected to be placed on the Senate Docket. The Senate Transportation Committee passed **S 1440** as **RS 17525** with changes made to it before it went to the Senate Floor. With changes being made to the RS, it did not reach the desk of the Secretary of the Senate before the deadline for Routing Slips to come out of germane committees had passed. Therefore, **RS 17525C1** had to go to a privileged committee before it could be printed as a bill and sent to the Senate Floor. **RS 17525C1** has been printed from the Senate State Affairs Committee and after coming out of that Committee, will be sent to the Senate Floor.
- Senator Langhorst** noted the emergency clause and asked if the Idaho Department of Transportation was prepared to enact the emergency clause so soon. **Linda Emry**, Management Assistant to the Budget, Policy and Intergovernmental Relations, who represented the ITD legislative liaison, replied to the Senator's question by stating that ITD is aware of the timely needs of the implementation of this piece of legislation and will act quickly to accommodate those needs.
- MOTION:** **Senator Sagness** made a motion to send **S 1440** to the floor with a do pass recommendation. **Senator Heinrich** seconded the motion. The motioned passed by **voice vote**.
- S 1442:** **Relating to Driver's Instruction Permits;** amending Sections 49-110, 49-302, 49-303, 49-305, and 49-307 to provide for revisions relating to class D driver's instruction permits.
- Senator Geddes** gave the rationale for **S 1442**. He explained that this piece of legislation changes the driver's education rules. A person

fourteen or fifteen years old would pay \$15.00 for a paper permit. This permit would be digitized so that it would survive accidental destruction that might ruin a paper permit, causing the permit holder to buy a second permit. The digitized permit will look like a driver's license. A paper permit will be issued with the digitized permit for the purpose of having the necessary signatures present. The paper permit will be kept with the driver's education instructor or on file with the instructor. The standard fee for the digitized permit will be \$15.00, regardless of the type of license being sought by the permit holder. That money received from that fee will go toward three different funds: \$5.00 will go into the driver's education fund, \$5.00 will go to the Highway Department, and the last \$5.00 will go to the counties. This legislation standardizes the permit distribution process. The permit expires when a citizen becomes eighteen years of age.

TESTIMONY:

Mike Ryals, President of the Professional Driving Association (PDA), stated that the members of PDA support this legislation. This bill resolves issues with the distribution of fees that PDA has long requested be addressed. He expressed appreciation to **Senator Geddes** who worked so hard to respond to PDA when the Association asked for assistance with these matters.

Senator Geddes made closing remarks regarding **S 1442**. He stated that when the Department of Education collected a fee from drivers, the fee far exceeded the cost to run the program. There are \$3 million in excess of current needs in that account. He suggested that in the future, the Committee review these fees.

Chairman McGee stated that after many long and contentious battles over this issue, it is nice to have it resolved.

MOTION:

Senator Hammond made a motion to send **S 1442** to the Senate Floor with a do pass recommendation. **Senator Little** seconded the motion. The motion passed by **voice vote**.

RS 17948:

Relating to Temporary Registration of Vehicles and Combination of Vehicles; amending Section 49-432, to increase temporary permit fees and to provide for application of certain permit fees.

Senator Corder presented the rationale for RS 17948. He stated that this RS is being presented so late in the session because it was part of a package that was being held for approval. Giving an example of when the proposed legislation would be put into practical use, he stated that if a person buys a truck and doesn't have title to the truck for a week or two, that person can buy a permit online that will last for increments of five days. That permit goes into the window of the truck and the date of expiration of that permit is on the reverse side. There are missing fees from people who use old permits, making them look current, by not displaying the date of expiration in the truck window. His proposed solution for this problem is to double the fees for the permits. People can get credit for permits when they buy more than one. He stated that this solution would close the gap for truck drivers to cheat the system. He noted that this piece of legislation would be more effective if another piece

of truck legislation, currently being held for approval, passed.

Senator Heinrich asked if there was a reason that this legislation didn't begin implementation until 2010. **Senator Corder** answered that the reason for the late implementation has to do with the other piece of legislation mentioned previously that would make this legislation most effective.

Senator Little clarified that the weigh increase is incremental for a temporary weigh increase. **Senator Corder** responded that **Senator Little** was correct.

Senator Corder asked for unanimous consent to send **RS 17948** to the State Affairs Committee for print and to have it returned to the Senate Transportation Committee for further action. He also wanted to know how the Committee feels about moving forward with this piece of legislation without the other parts of the legislation referring to the issue going with it. **Senator Hammond** commented that implementing this legislation makes sense. He asked if there was a reason to not write an emergency clause into the bill rather than having it implemented so late.

Chairman McGee asked if changing the date of the implementation on the legislation would effect the other pieces of legislation. **Senator Corder** replied that it would not.

Senator Little asked if the \$1.8 million in permits being issued today will simply be double as a result of the legislation. **Senator Corder** replied that the money would not be doubled because, in many cases, truck drivers would simply be receiving credit for their registration.

MOTION:

Senator Corder asked unanimous consent to send **RS 17948** to a privileged committee with the date changed to July 1, 2008.

Senator Little commented that simply striking Section 2, lines 37 and 38, of the legislation would send the bill to the default date of implementation of July of 2008.

**AMENDED
MOTION:**

Senator Corder asked unanimous consent to sent **RS 17948** to a privileged committee, after striking Section 2. The Committee unanimously gave consent.

H 528:

Relating to Highway District Elections; amending Title 40, Chapter 13 to repeal certain Sections which are duplications with language found in the regular election law in Title 34 of Idaho Code.

Stuart Davis, Executive Director, Idaho Association of Highway Districts, gave the rationale for **H 528**. He stated that this bill strikes most election language in *Title 4, Chapter 13, Idaho Code* and replaces it with *Title 40, Idaho Code*. He stated that highway district election law was separated from general election law in Idaho Code because highway districts are a very small organization. All highway district election law, therefore, was decidedly placed into *Title 4, Chapter 13, Idaho Code*. The rationale behind doing this was that all pertinent election laws would be consolidated into one chapter and most highway districts would have to

buy only one code book. The problem is that over the years, the Legislature has made changes to *Title 34, Idaho Code*, which is the more general election law and those changes are not reflected in *Title 40, Idaho Code*.

Mr. Davis explained what is being struck out in Idaho Code, that is not being replaced in *Title 34, Idaho Code*. He referred to the handout on *Title 40, Chapter 1305dd, Idaho Code*, it will show the Highway District Commissioners are the only commissioners in the state that have to go through a magistrate court to petition for a recall election. According to *Title 40, Chapter 1305dd, Idaho Code*, after a recall petition has been filed, a judge will look at the charges and dismiss them as frivolous charges designed to harass the commissioner. **Mr. Davis** stated that he found this unconstitutional.

Senator Little stated that there is election consolidation legislation going through the legislation process right now and asked how that legislation, should it pass, would effect **H 528**. **Mr. Davis** replied that, should the election consolidation legislation pass, it would become paramount to **H 528**.

Senator Little asked if ACHD approves of this legislation. **Mr. Davis** replied that ACHD is a different entity than what this piece of legislation will handle.

Senator Hammond stated that he was under the impression that this bill was going to address stealth elections. **Mr. Davis** replied that there are a number of people in his district who supported that type of legislation, but that it was not included in this bill.

Senator Heinrich commented that under current election consolidation there are four dates and that stealth is still a problem where local elections are concerned. **Senator Hammond** stated that if the stealth elections are to remain, there would be an election date in August for various local jobs, implying that this would be a problem because most people are not aware of these local elections unless they take place on tradition election dates, such as the second Tuesday of November. **Senator Heinrich** stated that February, May, August and November are all months in which different organizations hold elections and maintain these election dates as stated in their rules and by-laws.

MOTION:

Senator Heinrich made a motion to send **H 528** to the Senate Floor with a do pass recommendation. **Senator Corder** seconded the motion. The motion passed by **voice vote**.

PRESENTATION:

Chairman McGee introduced **Lance Holmstrom** from the Local Highway Technical Assistance Council (LHTAC) to give the annual report for Fiscal Year 2007. **Mr. Holmstrom** stated that LHTAC provides the critical link between the local jurisdictions and the Highway Department. The council meets four times per year to conduct business and was created in 1994 by the Idaho State Legislature and reports annually to the Legislature, specifically reporting to the House and Senate Transportation Committees. LHTAC is funded by .326 of 1% of the local share of the

highway distribution account. This year that is \$412,000.00. He stated that page seven of the handout lists the authorities. LHTAC promotes and funds transportation planning and provides for local control of local projects.

Mr. Holmstrom explained the ten areas of authority for LHTAC: First, LHTAC represents its member jurisdiction in conferences, meetings and hearings. Second, it develops uniform standards and procedures. Third, LHTAC cooperates with and receives and expends aid and donations from the federal or state governments and from other sources for the administration and operation of the Council. Fourth, it makes recommendations to ITD Board for the distribution and prioritization of the federal funds for local highway projects. Fifth, LHTAC assists the Legislature by providing research and data relating to transportation matters affecting local highway jurisdictions within the state. Sixth, it maintains and disseminates information to local highway jurisdictions of federal and state legislation and administrative rules and regulations affecting local highway jurisdictions. Eighth, LHTAC acts for local jurisdictions through joint exercise of powers agreement with any other local jurisdiction, state or federal agencies. Ninth, it buys, sells, receives and exchanges property, both real and personal, as necessary to perform its functions. And finally, tenth, LHTAC is the sole and exclusive authority for the expenditure of the moneys made available by appropriation or otherwise to the Council.

He explained where LHTAC is at in terms of their main programs. LHTAC represents fourteen cities with populations over 14,000.

In discussing the local bridge and off-system bridge projects, he stated that there are \$37 billion in projects and there is money set aside for bridge projects.

He stated that LHTAC can anticipate a reserve in their funding for this year.

LHTAC is a driving force in planning and has \$7 million in transportation plans.

In describing where LHTAC is going, he stated first that the local highway inventory progress has a five-year cooperative agreement. He also stated that Congestion Mitigation / Air Quality (CMAQ) enhancement programs provide construction, engineering and inspection in local projects.

DISCUSSION:

Senator Little stated that the Committee recently asked ITD about the condition of the pavement and asked if LHTAC had any information about the paved roads in Idaho and their condition. **Mr. Holmstrom** stated that LHTAC has been working with companies on a process to find out the condition of specific paved roads and highways in Idaho. LHTAC has also been working with companies on transportation planning. He stated that it may be difficult to get where LHTAC is going with asset management.

Senator Little asked if the county commissioners and city councilmen choose roads for construction on an “as needed” basis currently or do they randomly pick roads. He asked what do those who choose which roads need work, use as a reference to choose one road over another. **Mr. Holmstrom** replied that without planning, equipment and need, the state cannot get capital improvement programs. If one looks at project costs, he or she will find a negative number of \$180 million. The road and state finance report states that funds have been found for projects. There is money reserves for future projects as well, but the projects are not given a projected cost amount.

Senator Corder expressed dismay that it has taken this long for LHTAC to get where it wanted to go. He stated that he sees the cause of the problem being that small districts do not have money to implement projects as needed. **Mr. Holmstrom** stated that LHTAC feels that it has made significant progress. LHTAC has more data and more plans than ever before. LHTAC has 85-90% of data collected and now desires to move toward an inventory of the roads. LHTAC will rate the highways using three different ratings: poor, good and excellent condition.

Senator Little told **Mr. Holmstrom** that without good data, LHTAC will not receive an increase in funding.

ANNOUNCEMENTS: **Chairman McGee** thanked **Mr. Holmstrom** for his time and his work. The **Chairman** reminded the Committee of the field trip next Tuesday, February fourth, to tour the section of I-84 under construction being supported by GARVEE funds.

ADJOURNMENT: There being no further business, **Chairman McGee** adjourned the meeting at 3:00 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** March 6, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- GUESTS:** *The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.*
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. and asked the secretary to take a silent roll call.
- MOTION:** **Senator Corder** moved to approve the minutes of February 5 and 7, 2008. The motion was seconded by **Senator Heinrich**. The motion carried by **voice vote**.
- H 463:** **Relating to Special Motor Vehicle License Plates**; amending *Chapter 4, Title 49*, to establish the Natural Resources and Mining Education Special License Plate Program.
- Representative Mary Lou Shepherd** explained that this legislation is to provide for a speciality license plate for the Natural Resources Education Outreach program. The license plate will be a picture of a miner and children. This program teaches educators of K through 12 how important mining is to everyday activities and to be able to speak to it in their classrooms. Any funding from the plate shall be used for supplies and expenses for those teachers who attend the four day classes. Representative Shepherd gave examples of educational materials that this will fund. There is no fiscal impact to the State.
- Senator Sagness** said he believes that this education is wonderful because it will help develop awareness about the natural world for children which will help them all their lives. He asked if Representative Shepherd has any idea about the market potential for this license plate?
- Representative Shepherd** said she has had many people call requesting the license plates and requesting specific numbers. She said numbers cannot be saved for individuals. There has been a lot of interest.
- MOTION:** **Senator Heinrich** moved to send **H 463** to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Sagness**. **Senator Geddes** disclosed a conflict but stated he would vote. The

motion carried by **voice vote**. **Senators Corder, Little and Geddes** voted nay.

S 1460: **Relating to Temporary Registration of Vehicles and Combination of Vehicles**; amending Section 49-432, to increase temporary permit fees and to provide for application of certain permit fees to an annual registration if the annual registration is purchased within thirty calendar days of issuance of the permit.

Senator Corder said there is nothing new to present about this bill since the print hearing, but to review, this bill doubles the fee for temporary permit fees and allows those registering within 30 days to receive credit for that fee against their registration. There is no fiscal impact on the State's general fund.

MOTION: **Senator Little** moved to send **S 1460** to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Hammond**. The motion carried by **voice vote**.

H 365: **Julie Pipal**, Legislative Liaison for the Idaho Transportation Department, explained that this proposal incorporates the Federal Motor Vehicle Safety Standards as prescribed by the National Highway Traffic Safety Administration into Idaho's motor vehicle registration code.

Ms. Pipal said these amendments are needed to clearly define that only vehicles which are certified to meet the federal motor vehicle safety standards will be allowed registration to operate on Idaho's public roads.

She stated this proposal will prohibit the registration and operation of unsafe vehicles that do not meet these federal safety standards such as toy scooters, motorized skateboards, mini motorcycles and similar types of vehicles. This legislation does not impact the current exception of the registration of all-terrain vehicles (ATVs). It also allows motorbikes to be converted to street legal motorcycles through the use of Federal Department of Transportation (DOT) approved conversion components.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary [see Attachment 1]

Senator Little said the way he understands this bill is that the federal government requires that vehicles operating on roads that the federal government subsidize pass some safety standards, and that is what this does. He asked if that is correct. **Ms. Pipal** said that is correct. **Senator Little** said the bottom line is that there are individuals who currently have a license for their ATVs who won't have a license as a result of this legislation. **Ms. Pipal** said if the federal government were to come in and audit, they would find that Idaho has an exception for ATVs and that Idaho is probably in violation of federal code. However, this bill will take care of everything else. **Chairman McGee** asked if this excluded ATVs. **Ms. Pipal** said that is correct. **Senator Little** asked if this bill makes Idaho compliant with federal code. **Ms. Pipal** said with the exception of ATVs.

Senator Langhorst asked if this prevents the people who currently have

an ATV with a license plate on it from renewing that license plate. **Ms. Pipal** said that no, it will not.

Senator Little asked if the federal government is alright with the fact that this code allows Idaho to say that these vehicles are not going to meet the safety standard. **Ms. Pipal** stated that if Idaho was audited they would probably find what ITD has proposed here lacking because we have not addressed ATVs which are not federal vehicle safety standard compliant, nor were they ever manufactured or intended to be used on public roads. However, because of the political climate and because ITD really needs this clarified for rural areas where they are getting all kinds of things on roads that don't have that certificate that says federal motor vehicle safety standard compliant, this allows them to properly title and register those vehicles that do meet the federal motor vehicle safety standard. This legislation provides an exception for ATVs because there is great concern about the fact that we currently issue plates on them today and there is a county by county decision making process that happens on where those vehicles can operate.

Senator Little asked about the reciprocity with other states. He said there is some concern about taking an ATV into Oregon or Utah without a license. He asked if every state licenses ATVs even though the federal government doesn't want them on the roads. **Ms. Pipal** said in the preliminary research they have done they found that each state does it differently. Her understanding from the users is that if ITD gives them a plate, that is all they need in another state. When they come to Idaho, if they have a plate on the ATV, they can operate.

Steve Frost, Recreation Resources Bureau Chief for the Idaho Department of Parks and Recreation, said that other states will allow Idaho ATV users to ride in their states if they have a license plate.

Senator Little asked if someone from another state comes in with their license plate on an ATV, is there also reciprocity on the park's permit. **Mr. Frost** said yes, statute allows 30 days.

Ms. Pipal referred to page 11, Section 49-402 (8), and in Section 49-402 (3) where the bill uses "and" to include ATVs. The intent was to keep "and" in there to include ATVs.

Vice Chairman Hammond asked what does this do to classic cars and hot rods that don't necessarily meet that safety standard. **Ms. Pipal** said this does not effect those vehicles built prior to the federal motor vehicle safety standard being put in place. Vehicles are only required to comply with federal motor vehicle safety standards for the year in which the vehicle was made.

Senator Little said the part of the code that Ms. Pipal referred to was referring to registration. He asked if this part of the code says they are allowed to drive on the road. **Ms. Pipal** said this has been reviewed by their legal counsel and the language was inserted so that ATVs were not touched.

Senator Little asked about liability insurance for ATV operators and

whether they are or are not licensed to be operating on the road. **Ms. Pipal** said she understands that there are concerns in the insurance industry with regard to that question. From an enforcement standpoint these vehicles are intended to be operated off road. She said she knows from those who have an exemption, such as an agricultural exemption, that ISP officers have given people tickets for driving ATVs on State highways. So it is an enforcement issue. If someone is operating that vehicle and it is not expressly provided for in that county they can still get a ticket.

Senator Corder said this bill would at least provide consistency from county to county. **Ms. Pipal** said this will provide consistency for the other types of vehicles. This does not in any way effect consistency across counties as to what those individual counties will do.

Vice Chairman Hammond said essentially this bill is trying to prevent any person from building a vehicle on his own which doesn't meet safety standards and licensing that vehicle. **Ms. Pipal** said it is to provide clarification for the public for county offices as to what will be titled and registered. It is very clear that the person who does what Senator Hammond just said cannot title and register the vehicle.

Senator Little referred to another bill that is coming on this issue and said he would like to see a process where there is only one tag instead of two. **Ms. Pipal** said she was trying not to talk about the other bill because this is really designed to address issues the transportation department has. ITD does not want to put a license plate on anything that doesn't meet federal motor vehicle safety standards. There is an effort by the people working on the other bill to make it consistent. ITD is going to issue plates. They are not going to turn that over; the Department of Parks and Recreation is not going to start issuing license plates. ITD will continue to do that and then provide that people can get the annual renewal for Parks and Recreation at regular vendors. They can come to the county office and get everything they need. The only problem with that is that the county office hours are from 8 a.m. to 5 p.m. Monday through Friday.

Senator Little said motor driven cycles which comply with federal motor vehicle safety standards is the new language. He asked what the difference is between motor cycles and motor driven cycles. **Ms. Pipal** said she believes that is the difference between the output. In order to be defined as a motor cycle you have some output, but motor driven cycles would have turn signals, headlights, tail lights, but might be more of a scooter.

MOTION

Senator Hammond moved to send **H 365** to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Keough**. The motion carried by **voice vote**.

H 526aa

Relating to Scrap Dealers; amending Section 54-2702, to revise the content of records required for purchases of scrap for ten dollars or less.

Representative Robert Schaefer said this is a simple bill. He stated there is in law a requirement that every purchase of scrap be recorded and be retained. Scrap dealers would like to be excused from keeping

records on small purchases. He said these aren't necessary to tracking criminal activity because of the small dollar amount involved. There is no fiscal impact to the State or local government.

Senator Corder asked why this bill changed from \$20 to \$10.

Representative Schaefer said Idaho Power and Mike Kane wanted him to pull the bill because Mr. Kane felt the original \$20 figure was too high. They agreed to the \$10 figure.

MOTION

Vice Chairman Hammond moved to send **H 526aa** to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Little**. The motion carried by **voice vote**.

ADJOURNMENT

Chairman McGee adjourned the meeting at 2:25 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** March 11, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. and asked the secretary to take a silent roll call. He reminded the Committee that Gubernatorial Appointments which are discussed in Committee today will be voted on next week.
- GUBERNATORIAL APPOINTMENT:** **Chairman McGee** introduced former **Representative Lee Gagner**, Governor Otter's appointment to the Idaho Transportation Board. He asked **Representative Gagner** to give an introduction of himself and his position.
- Representative Gagner** stated that he is from Idaho Falls and was a teacher and a businessman for some time before becoming an Idaho State Representative and sitting on the Joint Finance and Appropriations Committee. He stated that the reason he desired to be on the Idaho Transportation Board in the first place is because he has worked on state, local and national boards in the past, especially where finance is concerned and he takes an interest in the Transportation Board, looking forward to fixing the flat funding issue. He described himself as a fiscal conservative and emphasized his belief in the importance of accountability. He will ask questions such as, "Where did the money go and why did it go there?"
- DISCUSSION:** **Senator Langhorst** made the observation that he was honored to serve in the State House of Representatives with **Representative Gagner**.
- Senator Keough** thanked **Representative Gagner**, in advance, for the task he has taken on. She asked if he has any early thoughts on the fiscal challenge that is currently before the Idaho Transportation Department (ITD) and the State. **Representative Gagner** replied that he attended his first Board meeting the previous week and also attended an ITD orientation, which was invaluable for the information which he received.
- Chairman McGee** asked for any observations about GARVEE bonding. **Representative Gagner** replied that he retired from the House of Representatives a year before the first GARVEE bonding bill was

approved by the legislature. He is aware of how GARVEE started. He stated that he would have to back up as to where the money comes from. With the current inflations, he wondered if the State will get double the amount of road miles. He stated that he does not want to see the \$230 million in design costs go to waste. He also stated that he understands that GARVEE is the game in transportation today and that the Board must pursue GARVEE.

Senator Little asked about the big picture in Idaho Transportation. He asked what is the ITD Board's roll in increasing funding options.

Representative Gagner answered that the Board must have realistic expectations of how long a project will take. In the past, project lengths have been underestimated and have taken more time and therefore more funds than anticipated and planned for. He stated that he would like to take a more realistic approach to prevent unanticipated spending in the future.

Senator Hammond asked if, in orientation, there was any discussion of internal strategies to improve ITD. **Representative Gagner** replied that there was, specifically having to do with maintenance and with record keeping. He also stated that planning could be improved in ITD.

Senator Corder asked what the first six things are that **Representative Gagner** would approach and how he might go about approaching these things. **Representative Gagner** replied that he would take what he has learned in orientation and in getting to know the Department better and worked on budgeting and getting things done.

Representative Geddes stated **Representative Gagner's** efforts on JFAC are to be admired. He complimented the Governor and ITD for appointing **Representative Gagner**. He stated that **Representative Gagner** will bring credibility and confidence to the Board.

Chairman McGee thanked **Representative Gagner** for his time and work and reminded the Committee that a vote to confirm the appointment of **Representative Gagner** will take place at the next Committee meeting.

**GUBERNATORIAL
APPOINTMENT:**

Chairman McGee introduced **Robert A Hoff**, Governor Otter's appointment to the Aeronautics Advisory Board. He asked **Mr. Hoff** to give an introduction of himself and his position.

Mr. Hoff stated that he was born and raised in Southeastern Idaho. His family has been involved in aviation since 1938 on their Centennial Farm. He stated that he has served on the Aeronautics Advisory Board since 1995 when he replaced H Pete Hill on the Board. He described the board as a small Department having only fifteen or twenty employees total. He stated that given this information, he views the Board as very efficient, never having a tendency to overspend.

DISCUSSION:

Senator Keough asked what are the Aeronautic Advisory Board's top challenges. **Mr. Hoff** replied that runway pavement maintenance is a challenge as well as to revamp search and rescue. He stated that a more efficient and quick response system would produce a higher success rate of finding people lost in the wilderness. He also stated that a new

aeronautical chart is needed.

Chairman McGee thanked **Mr. Hoff** for his time and work and reminded the Committee that a vote to confirm the appointment of **Mr. Hoff** will take place at the next Committee meeting.

H 546

Relating to Highways; amending Chapter 5, Title 40, to designate that portion of Interstate Highway I-90 located in Idaho as the Idaho portion of the National Purple Heart Trail.

Chairman McGee introduced **Representative Eskridge**, who gave the rationale for **H 546**. He stated that **H 546** provided that part of I-90 be a part of the Purple Heart Trail. The trail originates in Virginia and goes throughout the United States to California. States dedicating highway to the Purple Heart Trail that are not connected to the "lower forty-eight" include Hawaii, Puerto Rico and Guam.

The Idaho Department of Transportation uses money provided through grants, funds and awards for this purpose. No state funds are used.

Chairman McGee clarified that he understands that there is another designation on this freeway, but this designation of the Purple Heart Trail would not interfere with the original designation of the freeway.

MOTION:

Senator Little made a motion to send **H 546** to the Senate Floor with a do pass recommendation. **Senator Hammond** seconded the motion. The motion passed by **voice vote**.

ADJOURNMENT:

There being no further business, **Chairman McGee** adjourned the meeting at 2:05 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** March 13, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst, and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- GUESTS:** See attached sign-in sheet.
- Chairman McGee** alerted the Committee of letters from Bryan Whipple with the Amalgamated Sugar Company regarding the inquiry from the Committee about "beet bombs" and from Lance Holmstrom with the Local Highway Technical Assistance Council explaining the additional information requested by the Committee.
- Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary [see Attachment 1 and 2].
- GUBERNATORIAL APPOINTMENT** **Lee Gagner** appointment to The Idaho Transportation Board.
- MOTION** **Senator Little** moved to send the appointment of Lee Gagner to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Sagness**. The motion carried by **voice vote**.
- GUBERNATORIAL APPOINTMENT** **Robert A. Hoff** appointment to The Aeronautics Advisory Board.
- MOTION** **Senator Little** moved to send the appointment of Robert Hoff to the Senate floor with a do pass recommendation. The motion was seconded by **Vice Chairman Hammond**. The motion carried by **voice vote**.
- RS 18096** **Relating to the Idaho Transportation Board**; to define "full build out" and "transportation access plan." To authorize the Idaho Transportation Board to enter into a transportation access plan with local units of government and to provide the terms and conditions of a transportation access plan.
- Senator Corder** explained that this bill will provide a tool for local land

use planning authorities and the Idaho Transportation Department to enter into agreements to control and manage access on State highways. This would be a benefit because it will allow entities involved in planning to get together and make a plan that will reflect the needs of communities and protect safety and mobility of motorists. He introduced Julie Pipal from the Idaho Transportation Department.

Julie Pipal, Legislative Liaison for the Idaho Transportation Department (ITD), said that the Idaho Transportation Department does not have land use planning authority. By entering into a plan such as this proposed plan, the Department would be able to work cooperatively with those entities that do. They would be able to come up with something that these communities want to see, instead of the Department try to enforce their rule on access and communities working with developers. This would allow them all to come together.

Vice Chairman Hammond asked what is preventing ITD from doing this right now. **Ms. Pipal** deferred this question to Greg Laragan.

Greg Laragan, Engineer with Idaho Transportation Department (ITD), said there really isn't anything that prevents that from happening right now except that any plans that are developed right now have to be enforced through land use planning authorities because the ITD is bound by their administrative rule that addresses access and locations. He said one thing ITD has found is that their rule does a good job of addressing rural situations where there isn't a lot of development going on. In those areas where there is rapid development and growth occurring, they found their rule doesn't allow them to keep up with those in terms of having the ability and flexibility to be able to work with the locals. This is one of the reasons they believe this transportation access plan being in statute would allow them to do that. **Vice Chairman Hammond** asked Mr. Laragan to help him better understand what the ITD will be able to do differently with this proposed bill that they can't do now. **Mr. Laragan** said it will allow the ITD and the local land use planning organizations with all the rest of the stakeholders that have an interest in access on a particular segment of highway to enter into binding agreements that would establish what the access is in that particular area. In those cases where agreements have been struck, it would become the access standard for that area. ITD does not have the ability to do that now.

Senator Little said it appears to him that what the Department is asking for is the ability to totally and voluntarily enter into an agreement with an entity of government - county A. County A says they want to do access management, and ITD sits down with them, looks it all over, everyone knows what the rules are, and they come up with a plan and everyone signs on to it. In essence, that land use planning, whether it is the county commissioners or the city council, when they sign on to it with ITD from the beginning they realize that ITD will be the enforcement agency downstream. When a new county commissioner or a new city council or a new planning and zoning comes in and then when people come in and say they want to change it, they will turn to the ITD and the ITD will be the one to say no. **Mr. Laragan** said this is one thing they hope to address. **Senator Little** said the Land Use Planning Act is a dynamic document.

The poster child for the State is Eagle Road where, had the ITD entered into the project, those curb cuts would not have been allowed because the State would have enforced it. **Mr. Laragan** said he agrees.

Senator Heinrich asked if the county and local planning and zoning have the ability to enter into such a contract with the current structure of land use planning. **Mr. Laragan** said they already have the ability to do that without this legislation, and in some areas of the State that is being done either through a local ordinance or whatever mechanism they have. However, as it stands right now, the full burden lies with the local land use planning organization. Because of ITD's administrative rule, ITD is not allowed to be an equal partner with them in that. This will elevate ITD to be an equal partner with the locals and can make these agreements have that much more effect and weight behind them. **Senator Heinrich** said he agrees with that, but is there a need to educate some of the counties to change their local ordinances to enable this. **Mr. Laragan** said ITD has been doing some education effort already. They have gone around the State to each district and local agencies, and they averaged 25 people in attendance. In virtually every location they received strong support. In those areas of the State that aren't undergoing a lot of growth they don't have to do this because things are working well. So, this has flexibility and isn't mandatory, but where all parties involved choose to enter into this process, it can be a tool. **Senator Heinrich** asked if this will enhance ITD's ability to enter into and protect some corridors. **Mr. Laragan** said he believes it absolutely will.

Ms. Pipal said that ITD moves slowly sometimes, and there is sometimes a turnover in government as Senator Little said. The Eagle bypass is an example because as soon as this was completed there was a change in government and the new government came and told ITD they wanted something different. This bill would provide longevity and balance and will be something everyone involved is bought into.

Senator Langhorst referred to page 2, line 6 of the bill. It says the binding agreement was approved by ITD and the local units of government. He asked which units of local government this is referring to. In a case like State Highway 16, where Eagle is on one side of the road and Star is on the other side, he asked if the county would also have to sign onto that. He then asked if any city that touches that highway would have veto power on this. **Ms. Pipal** said this legislation was drafted with the express purpose of being voluntary and all inclusive. It wasn't intended to exclude. This is written as admissive as possible, but that isn't to say that someone couldn't come forward and say they don't like what is being done. ITD is hoping this will provide the vehicle to reach agreement. It may not be perfect, but it is better than what they have today.

Senator Little said Senator Langhorst's question is a good one. It is all in the jurisdiction of Ada County right now and there is a huge battle in Star and Eagle about that. If ITD and Ada County entered into a voluntary agreement, maybe the Department could research whether that agreement is binding on heirs and successors in the differing local governments that might come afterward. Highway 16 would be a classic example if it were somewhere near CanAda Road, if Ada County entered

into an agreement but Canyon County didn't, ITD's decision about the location of a major corridor might be that they would enter into the corridor with whoever signs an agreement so that they know there won't be curb cuts on a State highway that all the taxpayers in the State pay for. **Ms. Pipal** said page 4, Section 10a provides that "it shall be developed in cooperation with local governments, highway districts, metropolitan planning organizations and the Idaho Transportation Department." This was intended to cover all the groups and the intention was that ITD would have to engage all of the relative groups rather than choosing to engage just Ada County District, or just a particular city. That is why that language was inserted. She said she was told that in Colorado this helped avoid the problem Senators Little and Langhorst described. **Mr. Laragan** said right after the section Ms. Pipal referred to, in paragraph 10, subparagraph b, it says that "public notice of the initiation of the tab shall be provided in accordance with *Section 67.6509, Idaho Code.*" This is the section of Idaho code for notice for land use change decisions. So ITD has used the same section of code for notification to property owners and anyone else who might have an interest in that section of highway to make sure that they know about what is going on. This ensures it will be as open as possible.

Senator Little said he still has the question of whether it is binding on successor entities of government. ITD could start planning with counties but, hypothetically, someone could even create a new city to get around an agreement so that they become the new sovereign as far as authorizing curb cuts and that could create a problem. **Vice Chairman Hammond** said all parties have to agree to a change. **Senator Little** said today if a county made an agreement with ITD about limiting access on Highway 16 and tomorrow it was annexed into Star, Star could say they weren't a party to the agreement, their names weren't on it. The intent of this is to say that ITD is to serve as an enforcer about the increasing allowance of curb cuts and they don't even have a signed document with that city. He said that is his concern. **Vice Chairman Hammond** said ITD now has the right to limit access. If an individual doesn't have current access onto the highway, ITD can either grant or not grant an access. **Senator Little** said Eagle Road and Highway 44 are examples of where commercial access points are being offered onto what everyone thought was somewhat limited access. The problem is, if there isn't an enforceable agreement, people say there are takings and the takings lawyers show up and sue the Department.

Senator Langhorst said it looks like the Committee feels this is a worthwhile tool and he believes the Committee wants to support it. He suggested that when there is a full hearing on this maybe someone from the city associations could come to address this. **Chairman McGee** said Senator Corder's intention is to have this printed this year and let further discussion be held on this over the interim.

Senator Corder said he sees no down side to proceeding as though this could go further but, if it looks like there won't be sufficient time, that is what will happen.

**UNANIMOUS
CONSENT
REQUEST**

Senator Corder asked unanimous consent that **RS 18096** be sent to State Affairs Committee for printing. No objections to this request were heard.

H 565

Relating to Riparian and Littoral Rights; to provide that certain riparian rights and littoral rights shall not be deemed transferred or abandoned to the State by virtue of right-of-way deeds or easements.

Representative Bob Nonini gave some history about this bill. In the past couple of years there have been some issues with constituents in his area trying to work with the Idaho Transportation Department (ITD) and the Department of Lands. The issue has to do with dock permits and riparian and littoral rights - riparian rights being those rights you have if you live along a river and have waterfronts and littoral rights being those rights you have if you live along a waterway (i.e. Lake Coeur d'Alene) in this specific bill. If a property owner wants to put a dock in they request and fill out a permit with the Department of Lands. Over the last couple of years there have been some issues where the Department of Lands has asked ITD to weigh in on some of the permit requests because some of the areas in question are along State highways. Representative Nonini described the areas in question in which the dock permits have been denied by the Department of Lands based on ITD weighing in on it. He said this is the history of the frustration some of his constituents have with ITD weighing in on what they feel may not be necessarily ITD's territory, although they do understand that State highways are along there. They have had meetings with ITD to get them to work with constituents to make some conditions. ITD hasn't even offered conditions. This legislation is a result of lack of progress in negotiating with ITD.

Representative Nonini said as transportation needs have increased, the State acquired additional right of ways. This legislation refers to pre 1953. Prior to March 4, 1953 right of way acquisitions accomplished through right of way deeds were in the nature of easements rather than fee interests. On March 4, 1953, the Legislature amended that law to require that the State acquire fee interests when acquiring a right of way over private property. Under Idaho law, easements for a specific purpose negate the claim that other real property interests have been acquired. For example, an easement for ingress or egress does not grant the benefitted party the right to expand an easement for a well, drain field or other uses not related to the ingress or egress. So, if ITD comes in and wants easement over property it is solely for the purpose of the road.

A fundamental aspect of littoral rights is the right to maintain the property owner's adjacency to the water, the water being the controlling aspect to the value of the property, and then, the ability to build a dock out. These concepts are long standing in jurisprudence and in Idaho law. ITD does not deny that littoral and riparian are personal property rights. What is in question, then, is whether a person gives up that right by giving an easement for the ITD to put a highway along their property. Representative Nonini said he believes they have not given up those rights. This legislation says unless expressly written in the contract, those property rights are retained by the property owner.

Representative Nonini summarized the legislation.

Senator Little asked if the State Land Department issues dock permits. **Representative Nonini** said that is correct. **Senator Little** said that Representative Nonini's interpretation of this new section is that the Land Department will be somehow compelled to grant dock easements because the Legislature has said that despite what appeared to be the purchase of the land. He then asked if they have access.

Representative Nonini said they do have access off the State highway. **Senator Little** said it is a little ironic to him that the Committee just asked unanimous consent for an RS to try to have traffic control on highways and now there is a House bill before them that would have people running back and forth across the State highway, after those people sold and received more than fair market value from the State to enhance commerce in the State. He asked Representative Nonini to explain that to him. **Representative Nonini** said most of the highways in North Idaho are two lane roads and are not highly traveled roads. So the issue of running back and forth across the roads isn't an issue. He said these people are still using the water, they just don't have a dock. **Senator Little** said this bill applies to everywhere in the State. He asked what if it is an area with a six lane freeway. This grants a right for someone to put in a dock across an interstate to run back and forth and water ski. **Representative Nonini** said he doesn't know of any place in Idaho where there would be riparian or littoral rights adjacent or along side an interstate. **Senator Little** said riparian rights not only apply to a lake, but they also apply to a river. **Representative Nonini** said that is true.

Vice Chairman Hammond said we must remember that we are talking about easements that were acquired prior to 1953. After that it won't apply. Interstate highways are all under a deed, they are not just an easement, so it wouldn't apply to those. Most newer State highways are deeds, so it wouldn't apply to those either. He said in all fairness, Highway 97 probably shouldn't even be a State highway because it is such a narrow, two lane road that will never be expanded - there just isn't room to expand it. It is a different situation.

Senator Keough said there is a difference between the last piece of legislation and this legislation. This is talking about pre-existing property rights that existed before the road went in and before it became a State highway. This is waterfront property and the owner of the waterfront property owned out to the high water mark. Then the highway came on top of that, and prior to 1953, the property owner gave an easement, but he didn't give away his right to go and seek a dock permit. That is what makes this legislation different than the access issues of RS 18096.

Vice Chairman Hammond said RS 18096 was really commercial and industrial build out. That is different because that is what creates the desire for all the accesses along those highways. This bill is different and has a very limited application. The Department of Lands still has the final say, but ITD is asking them to object. Senator Hammond said he asked ITD to show him what potential problem could be caused by allowing these docks. There are plenty of docks around that lake right now where the dock is split from the property by a two lane road. He asked ITD to

show him where there is either degradation of the roadway or where it has created a huge safety problem - none has been provided to him.

Senator Langhorst asked if there is a lawsuit pending on this.

Representative Nonini said there is and there will be a couple more filed. The lawsuit that is pending has been heard by the courts and is before the judge. They have been told that the judge will make a ruling on it sometime in March. This legislation, if passed and signed into law, would not become effective until July 1. This legislation will clear up ambiguity in the law. **Senator Langhorst** asked if the resolution of the lawsuit would also clear up the ambiguity. **Representative Nonini** said possibly, but if the judge's decision is in a negative way to the constituents, he wants to do what is best for his constituents. He said these are personal property rights and they were not given away. This legislation just clarifies that these rights would be retained unless expressly given away in that contract.

Senator Corder asked if the basis of this lawsuit was denial to the water.

Representative Nonini said that is exactly right. This particular dock permit request went to the Department of Lands who talked to ITD. ITD said they didn't think it was a good idea to have a dock there. **Senator Corder** said ITD has the mandate from us to guard closely those accesses and they have a mandate for public safety on the roads as well. He said he is having trouble seeing the connection to the road and access to that water. He asked what ITD objected to. **Representative Nonini** said ITD's issue is degradation of the road. For floating docks you drive pilings in, and there is a concern that driving in the pilings might shake up the roadway or might degrade the bank. This is the issue on one section of the road. On other sections ITD, addresses safety concerns. However, he said on the 25 mile stretch of Highway 97 between Interstate 90 and Harrison, Idaho, where people don't own any property, people stop all summer long, jump out and run across the road to swim. If ITD wanted to compensate people for these rights there would be no problem. **Senator Corder** said that is what the judge will have to determine. The judge will weigh the mandate that ITD has against everything else. He will make that decision. **Representative Nonini** said that is true, but that is the worst place for law to be decided. That is the job of legislators, to set policy.

Senator Sagness said if the court decides negatively for the constituent and this bill is passed, and then another issue comes up later and a suit is brought based on the court decision, what happens then. **Representative Nonini** said this legislation would address that issue on both sides.

Senator Geddes said pre 1953 when the right of way was granted, wasn't it assumed that people would still have access to the property that lies between the road and the lake or river. **Representative Nonini** said it was assumed, and what has happened over the years, is that the waves crashing along the old Highway 10, which is now East Lakeshore Drive, caused the road to slough off and ITD then fixed the road. ITD said people in Region 1 don't have any beach front property. It is now all State highway because they have added fill and pavement. **Representative Nonini** said he feels that docks will help the road by acting as a break

water to some degree. **Senator Geddes** said if the ITD said there will no longer be access between the road and the lake or river, wouldn't you assume that the ITD would have purchased the land in between the road and the lake or river. **Representative Nonini** said he would assume that.

Julie Pipal, Legislative Liaison for the Idaho Transportation Department (ITD), said first she would like to answer a couple of questions. She clarified that Carl Voigt did not provide testimony in the House Transportation Committee. The Attorney General frowned upon that happening without prior approval. Mr. Voigt simply accompanied Ms. Pipal and was called out of the audience by the Chairman to answer questions. He did, indeed, answer that riparian and littoral rights are property rights. She said that ITD was aware of concerns from Legislators through the legislative outreach process. ITD scheduled meetings with Legislators to try to understand issues. That meeting was hamstrung by the invitation to the meeting of one of the litigants, which makes it impossible for folks to speak freely because in a lawsuit you are bound by what can and can't be said.

Ms. Pipal stated that ITD has tried to relinquish highway to local units of government time and time again. It is very difficult to come to agreement with a local unit of government because most of the time they want possession and control of it, but they want ITD to maintain it. She said the answer to Senator Sagness' question is a constitutional one which she will address in her remarks.

Ms. Pipal said it will be up to the court to determine what rights were part of the transfer that took place prior to 1953 when the State purchased property from a landowner for a right of way for the purpose of highway construction. The other question before the court is whether or not the ITD has the ability to regulate activities in their rights of way. Both of these issues will need to be resolved before ITD will consider a permitting process. She stated that passage of H 565 will complicate the judicial process because a resulting constitutional question will have to be answered. That question is: can contracts transferring property rights be changed decades after the sale.

Ms. Pipal said she was asked to share ITD's fundamental safety and liability concerns regarding this issue and the approximately 30,000 parcels of land that comprise their right of ways. If ITD were to look at a permit process they would consider safety, liability and structural issues that would protect the highway. They would also look to ensure that the public did not have to pay for the costs of maintenance or repair to any structure erected through a permit process - even if the Department had to make repairs to the highway that impacted a permitted structure, and that the costs of the permit processing and inspections would be recovered from the permittee. The Board would also look to ensure the safety of the traveling public and seek to limit the liability of the State in the agreement with the permittee. She noted that third parties are not subject to such limited liability agreements.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary [see Attachment

3].

Senator Little said he knows there is property around Coeur d'Alene at issue, but he assumes there are hundreds, if not thousands, of miles of property that were acquired prior to 1953 where it was assumed that the littoral right was severed by that easement. He asked if there is any kind of accounting of the magnitude of this Code change. **Ms. Pipal** said in conversations with council, it could apply to any of the parcels she mentioned - 30,000 parcels. But the actual transaction and documentation of each one would have to be judged individually. **Senator Little** said everyone would have to be looked at, but the people who purchase the ground not knowing they had a right, now may have a right that they never expected to have. He wanted to know if that was fair. **Ms. Pipal** said that is her understanding.

Representative Nonini closed his comments by stating that he feels that this is an issue of taking personal property rights without any just compensation. He asked for Committee support for this legislation.

Vice Chairman Hammond said a lot of good and fair questions have been brought up about this bill. The essence of this bill is that people have bought waterfront property and, by the efforts of the ITD, have had that property converted from waterfront to a secondary view lot without any compensation for that. Up until very recently the docks were allowed. It isn't a matter of buyer beware, it was accepted that docks were allowed. It is totally unfair and goes against basic principals of private property rights in Idaho.

MOTION

Vice Chairman Hammond moved to send **H 565** to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Keough**.

Senator Little said those dock rights belong to the people of the State of Idaho. There is a riparian right, but the dock permits are issued by the State. If we pass this legislation, there is not a guarantee that one dock permit will be issued, other than there may be some cases launched against the State. People are denied dock permits every day. He said his preference is to see the result of the litigation, because even if the bill is passed, the Land Board can put a moratorium on additional docks. He said he is concerned about the unintended consequences of going back to 1953. He said the Committee has talked this entire session about the cost of transportation. One cost of transportation is access. He said he has uneasiness about retroactively changing the rules, particularly if he hasn't seen the language in the deeds. He said he assumes the deeds don't read the same. He feels this bill is laced with unintended consequences and that gives him an uneasy feeling.

Senator Langhorst said he is sympathetic to the land owners and is tempted to vote for this bill. But Senator Little voiced his concerns as well. He said he is very concerned about unintended consequences. He hopes that the lawsuit goes in favor of the constituents so they don't feel they've been treated wrongly, but also that more people can be brought into this over the next year to find a solution that doesn't leave anyone with an uneasy feeling. He said he will vote against it.

Vice Chairman Hammond said he agrees with Senator Little's comments but wants to remind the Committee that this is still in the hands of the Department of Lands. They don't have to grant dock permits. All this bill clarifies is that when you allow access across your property in the form of a right of way that is an easement, you aren't giving up your littoral rights. The Department of Lands can still make a decision as to whether it is appropriate to grant a dock or not. But the argument they are receiving from ITD is that these people have given up their rights, even though there is nothing in the deeds that shows that. This is just a clarification.

Senator Geddes said if these land owners gave up some aspect of their land in the form of a right of way or easement, he doubts they ever thought they were giving up all access to the water by doing that. They would have told ITD to buy their whole property so they could go invest their money someplace else if that were the case. He said he believes there was at least inferred understanding that there would still be access to the water. He said he sees that there could be some problems, but he can't imagine anyone knowingly giving up their waterfront access.

Senator Little said he imagines that in 1953 a lot of these stretches were one or two landowners, and they were delighted to have the road through for better access. In 1953 the fair market value that was paid for that easement was predicated on the highest and best use at that point in time. He said he is sympathetic but he would like to wait and hear from the Department of Lands about the docks, and wait to hear what the litigation does and maybe have ITD report to the Committee on any unintended consequences elsewhere. He said he will vote no.

Senator Sagness said he is extremely sympathetic to the landowners in this case, but he thinks the complex issue of the litigation has the potential to make a difficult situation worse. He believes it would be better to wait and see what happens with that.

Senator Keough requested a role call vote. **Senator Sagness** Nay; **Senator Langhorst** Nay; **Senator Heinrich** Nay; **Senator Corder** Nay; **Senator Little** Nay; **Senator Geddes** Aye; **Senator Keough** Aye; **Vice Chairman Hammond** Aye; **Chairman McGee** Aye. **Chairman McGee** said the Nays have it and **H 565** will be held in the Senate Transportation Committee.

ADJOURNMENT

There being no further business, **Chairman McGee** adjourned the meeting at 2:45 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** March 20, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. and asked the secretary to take a silent roll call.
- HCR 57:** **A Concurrent Resolution** stating findings of the Legislature encouraging and supporting proactive efforts, such as those of the Blake Webb Motorcycle Safety Awareness Foundation, to educate and inform Idahoans about the importance of motocross riding safety both on and off the track.
- Representative Marge Chadderdon** gave the rationale for **HCR 57**. She handed out a pamphlet on the Blake Webb Safety Awareness Foundation and list of all motocross tracks in Idaho. [These documents may be found as attachment 1 and 2.]
- She stated that motocross is a popular sport in Idaho and safety awareness is needed in Idaho. The Blake Webb family contacted **Representative Chadderdon** in order to find out if there was a possibility that legislation should be sponsored for the awareness of statewide safety on motocross tracks. Blake Webb lost his life in March of 2007 when there was a 145 lb. bike with a nineteen year old riding it on the same track as an 87 lb. bike with a twelve year old boy, Blake, riding it. There were no flaggers and as a result the Webb family has created the safety foundation. Their interest in creating this foundation is to increase accountability and safety where motocross is concerned.
- DISCUSSION:** **Senator Little** asked how people in Idaho can access this foundation. **Representative Chadderdon** proceeded with a history of why she proceeded with the Resolution. She requested that Legislative Services check into where this could be located in Idaho Code. Idaho does not have any regulation regarding motocross. People from State Parks and Recreation have contacted her in order to find out how they can become further involved with this foundation. With this answer, she implied that by contacting her or by contacting the Idaho Department of Parks and Recreation, Idahoans may become involved with the Blake Webb Safety Awareness Foundation.

MOTION: **Senator Hammond** made a motion to send **HCR 57** to the Senate Floor with a do pass recommendation. **Senator Heinrich** seconded the motion. The motion carried by **voice vote**.

HCR 50: **A Concurrent Resolution** Stating findings of the Legislature and requesting the Joint Legislative Oversight Committee to direct the office of performance evaluation to commission an independent evaluation of the Idaho Transportation Department.

Representative Leon Smith gave the rationale for **HCR 50**. He stated that the bill has been a long time coming as many people have been working on the bill for an extended period of time. This bill is designed to develop questions for an independent auditor to go through ITD. This audit is designed to find ways that spending within ITD may be decreased, and at the very least, to give information to the Senate and House Transportation Committees. Additionally, this audit is especially necessary since there hasn't been a performance audit in over 30 years.

The State of Washington, Department of Highway Maintenance and construction management underwent an audit similar to that being proposed for ITD. The result of that audit was \$41 million in savings.

Senator Little asked for an explanation of the amendment.

Representative Smith stated that the only amendment made to the bill was to strike "in order of priority."

Senator Hammond asked who selects the audit firm. **Representative Smith** answered that JLOC would select the audit firm. A preliminary report would be given in January of 2009 and a final report would be delivered in December of 2009.

Senator Keough stated, for clarification, that the Office of Performance Audits and the Office of Financial Audits would officially evaluate the Department first. She explained the process stating that, to begin with, an individual legislator or a House Concurrent Resolution has to request the audit and then the Office of Performance Evaluations can perform an audit. She stated that scope of this audit project is large and the results coming back to next year's Legislature would be initial results. She stated that this may be the first step of a multi-year process.

Senator Hammond asked if those who drafted this bill expected \$550,000.00 that was spent on the audit to be subtracted from the Department's budget. **Representative Wood**, Chairman of the House Transportation and Defense Committee replied that there are one-time funds available through the Joint Finance and Appropriations Committee for an audit.

Chairman McGee introduced **Rakesh Mohan**, the Director of the Office of Performance Evaluations (OPE). He stated that the Joint Legislative Oversight Committee (JLOC) is a separate agency that works for the Department of Performance Evaluations. Committee approval must still be approved by JLOC for an evaluation to be done. JLOC will talk to the pertinent people, being the Department Heads of the pertinent Department, to see what is going on and to create the preliminary

evaluation.

Senator Geddes asked **Director Mohan** if he had ever engaged in an evaluation of the transportation departments in another state or in a department as big as ITD. **Director Mohan** replied that he had not performed an audit of another transportation department, but has audited a large department in the State of Washington.

Senator Geddes asked how many people would get involved in this kind of study and if it is possible to do a performance evaluation in one year. **Director Mohan** replied that this kind of evaluation would take at least eighteen months and would be a multi-year project. He stated that it is possible to control an evaluation process with consulting firms and to get it done in a manageable way.

MOTION: **Senator Keough** made a motion to send **HCR 50** to the Senate Floor with a do pass recommendation. **Senator Hammond** seconded the motion.

DISCUSSION: **Senator Geddes** stated that he will vote for this HCR because it is good to examine these things from time to time. He also stated that he has faith in OPE and in JLOC.

Senator Hammond stated that he would welcome a new set of eyes to view the Department and he will be voting for the HCR.

Senator Keough stated that she was a part of the group of both House and Senate Members that began down this road last year. The House and the Senate have common goals. As a result of the increase in revenue, the Committees have a responsibility to make an investment to have a fresh set of eyes to look at the system so that constituents know that their money is going to be used wisely when they are asked to pay more toward transportation needs of the state.

Senator Corder stated that he will support the HCR, but hopes that this legislation isn't reading into things more than it is worth. He stated that he does not believe this legislation is comparing apples to apples. It is entirely possible that evaluations could come back with a list of suggested changes to be made and the Department won't want to make any of the suggested changes. It is important to understand that the Committees will not have these answers for at least two years.

Senator Little asked ITD what it will cost the agency, from a fiscal standpoint, to get the materials necessary for an audit that are not easily accessible. He stated that he will want this information before this bill goes to the Senate Floor.

VOTE: The motion carried by **voice vote**.

RS 18127: **Relating to Exemptions from Motor Vehicle Operating Fees;** amending Section 49-426, to delete exemption from operating fees for motor vehicles owned or leased by certain governmental entities.

Senator Geddes presented the rationale for **RS 18127**. He stated that this legislation eliminated sixteen and a half lines of code. It rids the code of exemptions from registration fees, especially for state owned vehicles.

He stating that one reason for presenting this legislation is to look at all possible revenue sources. State, counties and cities have \$31,000.00 in potential money saved. He also suggested having an auction or sale of state vehicles not being used or which has a use that is not justified.

Chairman McGee handed the gavel to **Vice Chairman Hammond** to preside over the meeting while **RS 18127** was being discussed because he is listed as a cosponsor of the bill and he wished to participate in the debate. **Chairman McGee** stated that the Committee has looked for more revenue outlets and each step helps incrementally. He stated that an addition \$2.3 million from this revenue source is a step in the right direction, especially in revenue coming from the State during a time when the State is asking car owners to pay more money to the State themselves.

Senator Heinrich asked if the bill will take effect July 1. **Chairman McGee** responded that it would.

Senator Keough stated that she would like to visit the potential impact of this bill upon the budgets already set.

Senator Geddes stated that since this cannot take effect until July, there will be time for the budgets to be evaluated.

Senator Keough replied that school districts are setting their budgets now and don't have much room for increased gas and other increases. Some state agencies may probably be able to absorb the additional costs. Others may not be able to.

Senator Langhorst stated that he would like to see more work done along the lines of what Senator Keough said; to evaluate the potential impact upon budgets before this bill is passed.

Chairman McGee stated that he will try to see what he can find out before this bill comes back to the Senate Transportation Committee.

Senator Little asked what is included in the category of applicable fees. **Julie Pipal**, Legislative Liaison, ITD, replied that only registration fees are included. **Senator Little** clarified that fuel taxes are not included. **Ms. Pipal** replied that state vehicles are not currently exempt from state fuel taxes. **Senator Little** clarified and **Ms. Pipal** confirmed that the discussion pertinent to this bill is regarding registration, title and registered vehicles.

Senator Little asked what fee Idahoans are currently not paying that they will be paying come July 2, 2008. **Ms. Pipal** replied that vehicles will be paying the same fees that the passenger vehicle or commercial vehicles that are not government vehicles already pay. Examples of those fees are registration fees to have a trailer put behind a truck to make it a commercial vehicle over 80,000 lb.

Senator Corder clarified that these fees could be construed as fuel tax. Highway districts don't currently pay the fuel tax. Highway districts, therefore, could be dragged into paying the registration fees and fuel

taxes.

Senator Geddes stated that he was told by the State Tax Commission and the Transportation Department that all state vehicles pay the fuel tax.

Senator Hammond clarified that cities don't pay the federal fuel tax, only the state fuel tax.

Senator Geddes stated that any vehicle owned by any entity of government would be required to pay the fuel tax.

Senator Hammond stated that currently, state vehicles buy the sticker and license plate, but never renew that registration. **Ms. Pipal** confirmed that these entities of governments which have vehicles have a regular cycle and are kept in the system after being registered once.

MOTION: **Senator Geddes** made a motion for the Committee to grant unanimous consent to send this bill to a privileged committee. There were no objections granted and the bill was sent to State Affairs.

MOTION: **Senator Keough** made a motion to approve the minutes from February 12, 2008 and February 14, 2008. **Senator Langhorst** seconded the motion. The motion passed by **voice vote**.

ANNOUNCEMENTS: **Chairman McGee** added that the Committee is anxiously awaiting action from the House of Representatives on revenue enhancement. He anticipates meeting at least once more. He asked the Committee to be flexible.

ADJOURNMENT: There being no further business, **Chairman McGee** adjourned the meeting at 2:45.

Senator John McGee
Chairman

Lizzie Kukla
Secretary

MINUTES

SENATE TRANSPORTATION COMMITTEE

- DATE:** March 25, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 211
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Geddes, Little, Corder, Heinrich, Langhorst and Sagness
- MEMBERS ABSENT/ EXCUSED:** None
- CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m. and asked the secretary to take a silent roll call.
- H 483a:** **Relating to Appraisalment, Lease, and Sale of Public Lands;** to provide that any person owning real property contiguous with surplus real property for sale by the Idaho Transportation Department (ITD) shall be notified and have first option to purchase the surplus real property for an amount not less than the appraised value.
- Representative Phil Hart** presented the rationale for **H 483a**. He defined surplus property as property that ITD has no other use for and cannot identify another city or county or taxing agency that has any other use for this property. He stated that the exception is maintenance yards and office buildings, which are handled by a different section of Idaho Code. If another agency was interested in the property, statutes allow for trade between agencies for that property. Both properties would have to be appraised at fair market value and whichever property was appraised higher would have the difference compensated for by the recipient party.
- The statute also allows the Department to sell surplus property at less than market value if it is bought by another agency and that agency uses it for public purposes. Assuming that does not happen, the property would be first offered to contiguous property owners if the property is assessed at less than \$10,000.00. A private auction or private sale would be set up if there is more than one contiguous property owner that is interested in the property. If the property is valued at more than \$10,000.00, the statute requires that it be sold at public auction. The public auction costs about \$5,000.00. It seems silly to have a property that is valued at \$10,001.00 and have a process that costs \$5,000.00 to sell the property. That is how this issue came up. This bill eliminates the \$10,000.00 requirement for a property to go to auction. This deals with about ten to fifteen properties per year. No property can be sold unless it is appraised by a licensed appraiser and sells at its appraised value for the administrative use associated with it.
- Senator Langhorst** asked what the higher end value on property is that

is sold this way. **Representative Hart** replied that mostly these properties are not high-end properties. He gave an example of a property that was bought by two property owners and was appraised at \$95,000.00 and sold for \$135,000.00. He stated that this example was on the high-end of price-range for the properties sold this way.

MOTION: **Senator Sagness** made a motion to send **H 483a** to the Senate Floor with a do pass recommendation. **Senator Hammond** seconded the motion.

DISCUSSION: **Senator Hammond** stated that in his experience he has seen property acquired for the purpose of being a right-of-way. He said that this ensures that people abutting on the property are typically the ones who originally sold it or provided it in the first place are provided the first opportunity to reacquire that property. It takes property that is currently sitting in the public domain and gets it back on the tax roll. This legislation is a win-win.

Representative Hart added that there are two definitions in the rule for surplus property. There are ITD definitions. The definition of real property is defined as improvements within the right-of-way. Property outside of the right-of-way and is not a maintenance yard or an office building, it is defined as surplus real property.

VOTE: The motion passed by **voice vote**.

H 602A: **Relating to All-Terrain, Utility Type Vehicles and Motorbikes;** to revise fees and uses of all-terrain vehicles.

Representative Marv Hagedorn presented the rationale for **H 602a**. He stated that he has worked with ITD and the Department of Parks and Recreation to create this legislation. He stated that about eighteen years ago, a change in Idaho Code was implemented that allowed ATVs to be issued motorcycle licenses. A motorcycle license allows a motorcycle to ride on highways and freeways. That means that currently we are issuing on-highway license plates to off-highway vehicles. Motorcycles are required to be certified to be safe through the Federal Highway Safety Administration. ATVs do not have this same requirement. Granting ATVs motorcycle licenses was a mistake because ATVs are not highway friendly. The Department of Transportation in Washington, DC has now pulled all of the Idaho's codes as to the classification of off-road vehicles and are going through those to ensure that Idaho State codes are complying with Federal Motor Vehicle Safety Standards.

Not implementing this legislation could risk federal highway dollars going into the highway distribution account, which is short right now anyway.

Certain definitions have been further refined. The definition for ATVs has been further refined. Mopeds will not be required to be registered because people use those in town and they are not a highway vehicle. Utility Vehicles have also been further refined. Because we have not had a bill that has pulled all the different entities together including ITD, Parks and Recreation, and ATV users, we have fragmented rules and regulations for all the different types of vehicles. We have tried to

consolidate all of those rules and regulations so that all off-road vehicles are placed on a level playing field. Local authorities will be able to identify where ATVs, UTVs and motorbikes will not be able to go, besides the federally mandated restricted access roads which are state highways and freeways. Everything else is open game. County Commissioners and City Officials can get together so that local users can get together and define what areas should be restricted to off-road vehicles. Off-road vehicle recognition has been limited to anything 50CC and above. Standard rules of the road will apply so that law enforcement can chase down drunk drivers and enforce the rest of the rules that apply to the roads.

Another important change is that a restricted vehicle plate has been created. This plate is black and white and is the same size as a motorcycle plate. The reason for the black and white color is to reduce the cost of the plate; so that \$0.50 does not have to be paid to the Heritage Fund. It will be very easy for law enforcement to read these plates, especially in an off-road environment. Parks and Rec will issue a sticker to go on the off-road plate that will expire January 1 of every year and will have a different color every year.

Representative Hagedorn yielded the remainder of his time to **Representative Wills**, the cosponsor for this piece of legislation. **Representative Wills** stated that he would review things that still need mentioning or need to be reemphasized. He stated that the State has been very fortunate to have not had an issue raised in regard to an illegal license plate or a plate that was done in a wrong fashion. He said that he uses the word "illegal" because he wants it to be understood that there are potential liability issues at hand. Additionally, only a handful of counties allow this license plate to be used, whereas others do not even allow the plates to be used in their county. ATV users could be driving across county lines, unaware that they are violating county laws. Many ATV users are not even aware that they are not allowed to use the motorcycle plate in certain counties. He stated that the black and white plate will be \$3.00.

There has been some confusion in Northern Idaho because there are those who still want to run an ATV on state highways, but that is not legal. He stated that this legislation allows for ATV users to cross state highways, to get to one trail from another. In order to operate an ATV, one has to be sixteen years of age and wear a helmet until he or she is eighteen years of age. He asked that we pass this bill without the amendments proposed by those from Northern Idaho.

TESTIMONY: **Tom Glass**, an advocate for motorized recreation, stated that this bill will straighten out the mess that came with the growth in Idaho and the growth of motorized recreation. He asked that the Committee send this bill to the Senate Floor without the amendments. He stated that without this bill, ATV riders are in limbo. They will be sold license plates which they will not be able to use.

TESTIMONY: **Arlene Reed-Cossairt** from Boise, who owns a business selling ATVs and UTVs in Caldwell, stated that she is in favor of the bill because it will

provide some much needed clarity on the legal use of UTVs as compared to ATVs. Under current laws there is a distinction made between UTVs and ATVs that restrict UTV travel more tightly than its counterparts. The minitrucks, which she sells have many safety features including windshields, horns, light signals, and seatbelts. They are not allowed to be licensed in the same way as an ATV. There are certain trails that are not appropriate for a UTV and should only be accessed by an ATV. Her customers are often confused as to why an ATV can travel on certain roadways, but a UTV cannot. On several occasions, her company has lost a sale because her minitrucks could not be titled and licensed for restrictive road use. Some customers choose to operate their UTVs on certain roadways, regardless of the law, either because they are confused, or simply frustrated. Because of the difference in ATV and UTV law, law enforcement officers are also confused. Therefore, enforcement of the current law is also inconsistent. **H 602a** will even the playing field in the ATV and UTV market, end confusion, and will make the job of law enforcement easier. She recommended that the Committee vote in favor of this bill.

Senator Little asked if this bill will make her vehicles licensable. **Ms. Cossairt** replied that it would for restrictive use.

Senator Hammond asked what a UTV is defined as. **Ms. Cossairt** replied that a UTV is a Utility Type Vehicle, defined as longer and heavier and wider. Examples are Mules and Rangers.

TESTIMONY:

Dean Sangry, Division Administrator of Operation, Idaho Department of Parks and Recreation (IDPR), spoke on behalf of the IDPR on **H 602a**. He stated that the Department's concerns are shared in a letter dated March 13, 2008. [That letter may be found as Attachment 1 in the appendix].

Senator Corder noted that he understands that **Representative Wills** has experience patrolling areas where these vehicles frequent during the summer and has probably issued many citations for violations relating to this legislation. He asked about one of the proposed amendments, noting that the area patrolled by **Representative Wills** belongs to the Mountain Home Highway District (MHHD). Since there are only ordinances, rather than resolutions also, which one proposed amendment suggests inserting into the bill, the MHHD could not do anything to legally change anything regarding this bill. **Senator Corder** asked if that would prevent MHHD from having the ability to adopt resolutions that would have a legally changing effect anyway. **Representative Wills** answered that no, the fact that there are only ordinances in this bill does not preclude MHHD from doing that. It is very clear in this bill that the authority is granted to do that. He added that most of these roads which are being discussed are federal lands which are Bureau of Land Management (BLM) or Forest Service roads. He stated that it isn't necessary to insert resolutions into this bill.

Senator Corder followed his question asking about the other three proposed amendments and stated that they seemed like valid concerns, especially the one which discusses the possibility of including people in this bill that wouldn't be under the control of any other laws without these

changes suggested. Recognizing the professional opinion of **Representative Wills** as a police officer as well as a representative, he asked, if, in his professional opinion, these changes were valid. He then asked if these are issues that might be addressed in future legislative sessions. **Representative Wills** responded that he believes that all three issues are already included in this bill and are addressed in a different form and fashion. He also stated that from a law enforcement officer's perspective, he does not see any potential confusion and believes the bill to be very clear. He added that enforcement, as far as monetary concerns, will need to be addressed in the future.

Senator Sagness asked if snowmobiles are in a category all by themselves. **Representative Wills** answered that they are. They come under a different provision. **Senator Sagness** then asked if all ages are required to wear helmets when riding snowmobiles. **Representative Wills** replied that depending upon where in Idaho those people are, that is certainly the case.

Senator Heinrich asked if, logistically, there is time to amend this bill and still send it to the Governor. **Chairman McGee** replied that he could not speak for the time factor as well as a member of leadership would be able to, although he does understand that the Senate will be going into the Fourteenth Order at least one more time. He referred to the President Pro Tem, **Senator Geddes**, who stated that there are bills in the Fourteenth Order and there are others that are prepared to be sent to the Fourteenth Order and therefore, the Senate will visit the Fourteenth Order at least one more time. He stated that, from a leadership standpoint, he would try to decrease the workload rather than increase it.

Representative Hagedorn commented that during the development of this legislation, the law enforcement aspect was very important. The governor's office has worked to ensure that there will be a funding bill next year to tie into this foundational document of how ATVs, UTVs and motorbikes will be managed. This bill must be considered as a foundational document that will have adjustments made to it as time goes on.

Senator Little asked for an explanation of the fiscal aspect of this bill. He noted that the plate will only cost \$3.00. He asked if this will cover all costs of this program and if this program is revenue neutral. **Julie Pipal**, Legislative Liaison, ITD, stated that the \$3.00 will cover the cost of the plate. That \$3.00 goes directly to the plate manufacturer's account for the express purposes of production and distribution of that plate.

Senator Little asked if the State can anticipate a whole bunch of new plates as a result of this legislation. **Amy Smith**, Vehicle Services Manager, ITD, replied that there will not be a bunch of new plates because many ATVs already have the motorcycle plate on them and those people would just be exchanging them for the black and white plate. **Senator Little** followed his question asking if it will take money out of the Highway Distribution fund in order to automate this program. **Ms. Smith** stated that it won't. **Senator Little** asked where the money is going to

come from since the plates only cost \$3.00. **Ms. Smith** replied that the only roll that ITD will play will be in providing the plates. The county assessors will retain \$1.50 when a person attains a Parks and Recreation registration fee.

Senator Geddes stated that he is aware that there is a problem from a registration standpoint and also a sales tax standpoint when ATVs are purchased out of state. He asked if there is any way that the State could anticipate that since ATVs now have to buy a license plate to be legal, could the State also not have the ability to verify registration in the State of Idaho and also that sales tax has been collected. **Ms. Smith** replied, stating that ATVs still have to be titled. ITD does check at the point of title applications and ITD will have better records now because Parks and Recreation registration will be coming to the ITD system. Therefore, ITD could track down any sales tax for purchases in other states.

- MOTION:** **Senator Heinrich** made a motion to send **H 602a** to the Fourteenth Order. There was no second. The motion failed for lack of a second.
- MOTION:** **Senator Keough** made a motion to send **H 602a** to the Senate Floor with a do pass recommendation. **Senator Langhorst** seconded the motion.
- DISCUSSION:** **Senator Keough** stated that she has a deep respect for those people who have worked so hard on this bill for so long.
- VOTE:** The motion passed by **voice vote** with **Senator Heinrich** voting nay.
- MINUTES:** **Chairman McGee** announced a review of the minutes from the Joint Meetings, January 22nd and February 26th. **Senator Little** announced that he had read and approved the minutes from both January 22nd and February 26th. **Senator Sagness** also announced that he had read and approved the minutes from January 22nd and February 26th.
- MOTION:** **Senator Little** made a motion to approve the minutes from January 22nd and February 26th. **Senator Sagness** seconded the motion. The motion passed by **voice vote**.
- ADJOURNMENT:** There being no further business, **Chairman McGee** adjourned the meeting at 2:20 p.m.

Senator John McGee
Chairman

Lizzie Kukla
Secretary