

MINUTES

(Subject to approval of the Task Force)

TASK FORCE TO IDENTIFY ALTERNATIVE FUNDING SOURCES FOR THE IDAHO STATE POLICE AND THE IDAHO DEPARTMENT OF PARKS AND RECREATION

September 29, 2009

Boise, Idaho

All members in attendance: Co-chair Senator Dean Cameron; Senator Patti Anne Lodge; Senator Jim Hammond; Senator Diane Bilyeu; Co-chair Representative Maxine Bell; Representative Rich Wills; Representative Raul Labrador, and Representative Shirley Ringo.

Legislative Services staff in attendance: Ray Houston, Richard Burns, Keith Bybee, Paul Headlee, and Margaret Major.

Others in attendance: Colonel Jerry Russell, Director, and Marsi Woody, Idaho State Police; Nancy Merrill, Director, Dave Ricks and Dave Claycomb, Idaho Department of Parks and Recreation; David Hahn and Roger Brown, Division of Financial Management; Doug Benzon, Idaho Department of Transportation; Lance Hebdon, Idaho Department of Fish and Game; Betsy Russell, The Spokesman Review; Andy Brunelle, U.S. Forest Service; Sandra Mitchell, Tom Glass and Karen Crosby, Idaho Recreation Council; Adena and Jeff Cook, Blue Ribbon Coalition; Tom Crimmins, North Idaho ATV Association; Mike Brassey, Idaho Rental Car Association; Greg Dickerson, Western Whitewater Association; W.A. Coome, Ken Nungesser and Alicia Columbus, Treasure Valley Back Country Horsemen; Bert Marley, Idaho Education Association; Dan John, Tax Commission; Randy Nelson, Associated Taxpayers of Idaho; Larry Benton, Benton, Ellis & Associates; Jason Ronk, Idaho Association of Commerce and Industry (IACI); Dennis Tanikuni, Idaho Farm Bureau; Hugh O'Riordan, Givens Pursley LLP; Benjamin Davenport, Risch Pisca, PLLC; Suzanne Budge, SBS Association LLC; Colby Cameron, Sullivan and Reberger.

Folders were distributed to committee members, with materials to augment binders.

Presentations are available online at:

<http://www.legislature.idaho.gov/budget/HCR32/index.htm>

The meeting was called to order at 9:36 a.m. by **Co-chair Senator Dean Cameron**.

The minutes for August 11, 2009, were accepted as written.

Senator Cameron introduced **Keith Bybee** as the analyst now assigned to the Department of Transportation budget. **Mr. Bybee** explained revenue distribution from the Highway User's

Fund, to include motor fuel taxes, vehicle registration, licenses, and fines. He went on to explain the H338 amendment related to the 3% transfer to the Department of Parks and Recreation.

Senator Bilyeu asked how long it has been since the distribution from the gas tax to the railroad grade crossing account and the local bridge inspection account were changed. **Mr. Bybee** responded that he believed it was over the last decade, but was not certain and deferred to **Mr. Paul Headlee**, the analyst formerly assigned to the budget. **Mr. Headlee** did not have that information and deferred to **Mr. Doug Benzon**, Idaho Department of Transportation. **Mr. Benzon** stated that the railroad grade crossing amount was \$250,000 per year, and the local bridge inspection amount was \$100,000 per year.

Co-chair Representative Maxine Bell asked **Mr. Benzon** if he felt those funds were sufficient, or at risk for changes. **Mr. Benzon** replied that those figures were fairly static over the past fifteen years. **Representative Bell** then asked if they maintained a fund balance and **Mr. Benzon** responded, no, not as far as he knew.

Mr. Bybee then reviewed and responded to follow-up questions from the last meeting (available online at <http://www.legislature.idaho.gov/budget/HCR32/index.htm>). **Mr. Bybee** identified federal fund opportunities missed in Idaho that could be gained through tighter regulation of seatbelt use and motorcycle helmet use. He went on to clarify that those potential funds must be earmarked for direct safety spending only, and could not be easily diverted to the Idaho State Police or the Department of Parks and Recreation. It was noted that the table presented should include H226 Trailer Bill: \$5 million to ITD. Further, that the fiscal impact of Senate Bill 1130, limiting the number of trip permits, is \$855,000 in FY2010 and \$1,026,000 in FY2011.

Senator Cameron asked for the amount charged by the State of Idaho for a DUI license reinstatement. **Mr. Headlee** responded: the fine is based on the level of infraction, between \$180.00 and \$220.00, per Title 18. **Senator Cameron** further asked if we have an estimate on whether we will achieve the projected amounts on the four fiscal notes we did pass. **Mr. Bybee** responded that, of the approximated \$27 million, the best estimate from ITD is that only \$20 million of the \$27 million will be realized.

Representative Labrador asked for clarification; he wondered if the \$20 million of \$27 million comes from the trailer bills combined. **Mr. Bybee** clarified that HB226 and HB338 may have estimated too high and the aforementioned figures are from the four bills passed. **Mr. Bybee** went on to point out that the FY2008 figures remained the same, and the 2009 adjusted actual collections came in at \$154.54 million. Refunds are the area that brought a rippling effect to the

ISP and IDPR, with actuals coming in well below the \$4.76 million in 2008, and down to \$1.38 million in 2009.

Senator Cameron thanked **Keith Bybee** and welcomed **Colonel Jerry Russell**, Director, Idaho State Police. The **Colonel** thanked the Committee for the opportunity to present before them. He responded to questions, including those about support to local agencies, vehicle registration rates and seatbelt violation rates by state.

Senator Cameron inquired about the percentage of arrests; wondering if data was pulled from arrests only, or also from traffic citations issued on state highways that pass through cities. The **Colonel** then gave an example of the highway running through the city of Boise, stating ISP responded to about 90% of the activity along that stretch. **Senator Cameron** asked what governing body determines speed limits, and if code allows for a city to set the speed for a state highway that runs through their jurisdiction. The **Colonel** stated that he believes the Board works together to set limits, but he will confirm and report back to the Committee.

Senator Cameron queried who receives revenue if the state issues a citation within a city. **Senator Hammond** offered that he believed it does not matter where it happens, rather, who is responding. **Representative Wills** offered a different position, suggesting it is where, not who, is issuing the citation. **Senator Cameron** stated that it was his concern that the split was “fair” given the funding stream. **Senator Hammond** went on to express that fair distribution should involve who is issuing: whatever officer is doing the work, that agency is where the money should go.

Representative Ringo noted that there appears to be a high number of citations issued for lack of insurance, and suggested that the data may need to be adjusted. The **Colonel** confirmed that data reflected registered vehicles only.

Representative Labrador questioned data accuracy on the vehicle registration table, pointing to a wide disparity in rates between states. **Mr. Benzon** from ITD explained that the given figure, depending on the state, may vary widely, as some wrap other fees into the base fee. Further, some figures in the same table represent a yearly charge, while other states require re-registration less frequently. **Mr. Benzon** offered to forward the data collection sources to **Mr. Bybee**.

Senator Cameron introduced **Ray Houston**, the budget analyst assigned to the Department of Parks and Recreation. **Mr. Houston** gave an extensive historical background and responded to

questions from the previous meeting (available online at <http://www.legislature.idaho.gov/budget/HCR32/index.htm>). **Senator Bilyeu** added that our park fees appear to be comparable to other states, and to national park fees.

Mr. Houston reviewed the 1990 Petroleum Clean Water Trust Act, and the 1993 ruling that it was a constitutional violation. Appealed in 1996, the Idaho Supreme Court ruled it was not, in fact, unconstitutional, only the way in which it was being distributed. The distribution was changed in 1997 and immediately challenged. The Idaho Supreme Court stated it was reasonable to distinguish between “highway” and “off-road” vehicles. The Legislature has the right to assess tax and distribute a reasonable amount for off-road vehicles.

Senator Cameron then addressed the Decision Tree before the Committee and possible approaches to consider, pointing out that other options are also open for consideration. **Mr. Houston** presented the Decision Tree for the Department of Parks and Recreation, and **Richard Burns** presented the Decision Tree for the Idaho State Police.

Representative Labrador referenced a change in the Law in 1972, resulting in an off-road loss in refunds. He asked if the loss figure of \$2.9 million was correct and **Mr. Houston** stated he did not have that figure immediately available.

Representative Bell asked if it were accurate that, the way the current legislation stands, there is no automatic avenue for them to gain refunds without further legislation. **Mr. Houston** responded that yes, **Representative Bell** was correct, it was removed in 1972 and would have to be put back in. She went on to comment that snowmobilers are double taxed; on soda pop and fuel and the revenues are going to the highways, not off-roads, and it looks like the highway tax will not collapse this year.

A motion was introduced by Senator Hammond regarding the Department of Parks and Recreation, to reinstate funding until 2011, to allow the Governor’s Task Force to proceed. **Representative Ringo** stated that she could support the motion, but would prefer to abandon the task completely. She would prefer a motion to permanently reinstate that budget as it stood, and also see a reasonable stream of funds for transportation.

With no further discussion, Senator Cameron instructed the Committee that there was a motion before them; Senator Lodge seconded the motion to, “recommend to the Legislature to delay implementation of HB 376, 2009, and reinstate the 3% diversion of the gas tax to the Department of Parks and Recreation, until July 1, 2011.” The motion passed unanimously by roll call vote.

Representative Labrador asked if it were permissible to have two alternative motions coming out of the Committee; he supports **Representative Ringo's** stated preference.

Senator Cameron spoke to the mission and direction of the Committee. He responded yes to the question about bringing forward more than one motion, but further stated that the question might be to repeal and allow the Governor's Task Force to do their job. He went on to say that this forum's dilemma is that the Governor recognizes that significant funding shortages exist, that this was a last effort to cover the GARVEE indebtedness, and if we stepped back and did not have the dollar amount or time, why take the step? He stated that the Co-chairs had an opportunity to discuss this with the Governor and his response was, in effect, that he would consider a repeal if the Legislature would provide additional funding to highways. He stated that we have unanticipated funds, and that this forum does not wish to be out in front of the Governor's committee, and the Governor will accept a delay of a year with repeal upon finding additional resources for transportation.

Representative Labrador introduced a motion, seconded by **Senator Bilyeu** to, "include in the Statement of Purpose that the portion of HB 376 pertaining to (the Department of) Parks and Recreation be repealed, and the 3% be permanently reinstated." The motion passed unanimously by roll call vote.

Representative Labrador stated that we need to look at the imbalance in funding to ISP that then supports service to cities and counties. **Senator Hammond** cautioned that we must recognize that city emergency responders also provide assistance to events on state highways; there is mutual support and we do not want to discourage that and possibly delay a response.

Representative Bell introduced a motion, seconded by **Senator Hammond** to, "delay HB 376 and the 5% allocation (from ISP to ITD) for one year, from July 1, 2010 to July 1, 2011". The motion passed unanimously by roll call vote.

Senator Cameron said that further discussion is appropriate, including possible motions advising the Transportation Task Force to consider these issues. He advised that the Committee can make recommendations to the Governor's Task Force, if we have options that we feel are appropriate, or conversely, highly inappropriate. He gave the example of an incorrect recommendation: funding ISP out of the General Fund, given its condition.

Representative Wills introduced the following motion, seconded by **Representative Bell**: "it is the intent of this Committee to work in collaboration with the Governor's Task Force, to find alternative dedicated funding sources for transportation".

Representative Labrador objected to additional funding sources being attached to a motion, stating it is the responsibility of the Transportation Committee. He reiterated his position that we should reverse the decision, and hand the funding issue to transportation. **Senator Hammond** commented that there is a direct nexus between how that money is generated and how it is spent, and that the political reality is that a motion to reinstate with no funding creates a wall, a challenge, and a lost opportunity to resolve this. **Senator Cameron** agreed with **Senator Hammond** that a motion to simply repeal will not make it through both chambers and the Borah Building.

With no further debate, Senator Cameron instructed the Committee that there was a motion before them. The motion passed by roll call vote with seven ayes; one nay was recorded from Representative Labrador.

The Committee discussed economic impact to small recreation-based communities. They discussed the possibility of drafting a letter of recommendations to submit to the Governor's Task Force; to include the numerous alternatives for funding already reviewed by this committee for consideration, and also possibilities not yet reviewed, such as arrangements between cities, counties and the state. The recommendations would include reviewing the connection between how money is generated, and how it is spent. **Representative Labrador** requested that the letter reference the 80% ISP support to local level response, but **Colonel Russell** said that the figure is not entirely accurate. **Representative Ringo** added that we do not wish to inadvertently create further hardship to small communities already in economic downturn. **Representative Wills** suggested keeping percentage figures out of the letter and **Senator Cameron** agreed.

In closing, the Committee agreed to send a Letter of Intent to the Governor's Task Force. The letter will include this Committee's intent to delay and repeal, and collaborate with the Governor's Office to find alternative dedicated fund sources. **Senator Cameron** announced that this would be the last meeting for this forum, pending recommendations from the Blue Ribbon Task Force. He thanked the legislative budget office staff and agency directors, and also thanked the Committee as well. He invited further comments and none being heard, the meeting was adjourned at 12:05 p.m.