

# Senate Transportation Committee

Minutes  
2009



MINUTES

**SENATE TRANSPORTATION COMMITTEE  
and  
HOUSE TRANSPORTATION and DEFENSE COMMITTEE**

**DATE:** January 20, 2009

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

**PLACE:** East Conference Room, J. R. Williams Building

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

**HOUSE MEMBERS:** Chairman Wood, Vice Chairman Hart, Representatives Smith(24), Roberts, Bedke, Wills, Nonini, Hagedorn, Jarvis, Labrador, Mathews, Shepherd (2), Ringo, King, and Ruchti

**ABSENT/  
EXCUSED:** None

**OTHERS IN ATTENDANCE:** The signature sign-in sheets 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.

**Senate Chairman McGee** called the joint committee meeting to order at 1:40 p.m.

**Chairman McGee** explained that this was the first meeting for the Senate Transportation Committee this legislative session. He introduced the Senate Transportation Committee Secretary, Betty Osborn, and the Page, Kaela Olson. Roll was called for the Senate. Silent roll was taken for the House.

**Rakesh Mohan**, Director of the Office of Performance Evaluations, introduced the audit team presenters and thanked several people from various government offices, the Idaho Transportation Department (ITD), and the ITD Board. He explained that the audit team has about 140-years combined experience in many areas of government and the private business sector. Besides Director Rakesh, the presentation team consisted of the following people: **Michael Huddleston**, Consultant, Woodinville, WA; **Robert M. Williams**, Robert M. Williams & Associates, Clinton, WA; **Bob Thomas**, Robert C. Thomas & Associates, Olympia, WA; **Jim Brock**, MBA, PMP - Project Manager, Avant IMC, LLC, Camp Hill, PA; **Roberta Manshel**, Sr. Consultant, Avant IMC, LLC, Camp Hill, PA.

**Mr. Michael Huddleston** thanked the legislators and the ITD for letting them participate in the project, and explained that the questions in the legislation passed last year were the cornerstone for their work. These questions are in Appendix B of the audit report, and in a power point handout.

The audit focus was on the ITD highways, though ITD has a much greater breadth. **Mr. Huddleston** reviewed the summary of the findings, which can be seen on slides #13, and #14. He mentioned that while several things are lacking, some ITD districts are better than others. There is some good innovation, much hard work, and some areas are exceptional. These successes should be elevated and expanded statewide.

Some themes in the audit report include the following: It is very important to catch-up and manage the State network of highways. Idaho is behind peer states in keeping the road network at a high level of serviceability. Bringing them up to a higher level of serviceability will save hundreds of millions of dollars because it is cheaper to maintain a road than it is to rebuild. Even though we want to capture the savings that audit recommendations would realize, these savings will not solve the highway funding shortage.

**Mr. Huddleston** explained that they hope the Legislature will develop explicit policies to promote maintenance and preservation as the highest priorities for the transportation program. Policies should not allow new capacity projects that take money from preservation. Project planning should include long-term maintenance costs for any new roadways. He emphasized that addition of new resources as a simple solution with "business as usual" is not the recommendation. There are some specific management tools and practices that also need to be implemented.

**Chairman McGee** asked that committee members hold questions until the end of all the presentations.

**Mr. Jim Brock** explained that the slides he would show were a subset of ones already presented (to the Joint Legislative Oversight Committee (JLOC)). He emphasized the effort that went into the audit, which included interviews with approximately 200 people, 40 from nine comparable states. They went over more than 1,000 electronic data files and 400 hard copy documents, and had a Ph.D. expert who has published many studies, and who provided them with a number of research studies as well as contemporary literature. These sources are listed in the back of the audit report.

**Mr. Brock** used slide #18 to explain the audit approach. Peer states (slide #19) were based on methods established by the University of California, and from other literature. Virginia and Washington were used as high performing states. They assessed the ITD against these standards and determined gaps, recommended remedies, and identified solutions.

The audit report is broken down into Management and Performance with four subsections (slide #20). It is based on House Concurrent Resolution 50. Each section had an audit objective to help determine whether the questions for that section had been adequately covered.

Audit findings included the following (slide #22): 1) Regarding organization, the national trend for transportation departments is toward decentralized districts or regions, to be closer to the constituents. The ITD is structured this way. 2) Staff size is legislatively limited. The Highway Division has approximately 1,329 full-time positions. This impacts contractor selection

and outsourcing. 3) The high professional turnover is significant and affects decision making.

Recommendations (slide #23) included that there should be a stronger central guidance. District engineers and other people in the districts are very professional, and have a great work ethic. But districts have autonomy that needs to be coordinated from a central guiding position: from the Board, to the Department to the districts. Performance should be reported against strategic goals. And goals should be consistent statewide.

In terms of addressing the professional and technical turnover, a formal management succession and leadership development process should be developed and implemented. This will have qualitative benefits for moral, recruitment, and retention. In the last year, the ITD has begun some recruitment and retention practices that have shown benefit. These should be continued.

The discussion was turned over to **Mr. Bob Williams**. The second audit objective was financial planning (slide #25). Financial planning captures the implications of revenue and expenditures over a period of time. A short term period is in the range of 5-years, and a long-term is in the range of 20-years. They wanted to look at the maintenance, preservation, and improvement expenditures and revenues as they relate to a plan. At the Department, plans are in place that are critical. The first is GARVEE, (Grant Anticipation Revenue Vehicles), a \$997 million financing plan, which is a commitment of federal revenue for a series of projects. There is a series five-debt issuances, two of which have already taken place for a total of \$400 million, and prospective issuances of another \$600 million that will extend through the year 2010. The implications of this are reflected in the delivery of projects and also the debt service, which will extend over the next 20-plus years.

The second plan is the Department's 8-year plan that forecasts revenues and looks at operating and capital expenses. Within those capital expenses, there is a mix of projects in the 5-year State Transportation Improvement Program (STIP).

There is a 20-year plan, an 8-year plan, and a 5-year plan.

The last plan they looked at was the proposal of a \$240 million statewide revenue increase, of which the ITD would receive \$137 million. The Department has submitted a plan regarding how they will use this. But the 8-year plan did not integrate that \$137 million. A subsequent slide shows what the implications of that increase would be.

Relative to the GARVEE financing plan, (slides #26 and #27) approximately \$1 billion dollars plan to be issued through 2010. The first issue was in 2006 for about \$200 million. The market was very favorable when those bonds were issued relative to the way the bonds were structured. The State has a policy of issuing bonds before the first dollar is spent. For example, when the \$200 million was issued, there was a forecasted cash flow that extended for approximately the next two-years. The bonds were issued at a time that was sufficient to meet any commitments that were planned over that period. This resulted in a very large cash balance that would be spent down over an extended period of

time. Due to market interest rates at that time, the State could issue taxable long-term bonds paid at a rate of about 4.5 percent, and then reinvest the large cash balances at short-term taxable rates that were sufficiently high so there was no net cost of borrowing. The State earned more money on those cash balances than they were paying. Due to IRS regulations, those funds had to be captured and sent back to the federal government, but there was no net cost.

For subsequent fund issues, the market has changed. Long-term tax-exempt rates are higher than short-term tax-exempt rates. So for the second issuance for another \$200 million, the State will incur a cost of \$2.5 million of negative arbitrage. That's a consequence of carrying those large cash balances, and having financed them with long-term debt.

For the next three issuances (totaling \$600 million), the bond advisers forecast that the cost will be \$19.6 million, based on a late summer snapshot. Last week, as part of the Governor's response, the cost estimate was \$15.7 million. The situation has improved, and will continue to change as markets change daily due to market dynamics beyond the control of the State. The cost results from the State's policy of issuing long-term debt for construction period financing, and issuing it in the number of issuances that it does and in the time that they occur. The audit recommends that the State evaluate other alternatives (Slide #26).

It is important to ask what the \$137 million will do in the context of the 8-year plan (slide #28). The 8-year plan is very useful, but this missing element affected the requirements of adequately funding restoration and preservation. The ITD said that of the \$137 million, they would commit \$127 million to restoration and preservation. Slide #28 indicates that except for the first year of the increase of \$137 million, the State will face increasing shortfalls in restoration, unless the spending base materially changes. So planned priorities and expenditures in the 8-year plan were revised.

The findings regarding financing plans (slide #29) relate to the idea of using a fully developed financial plan before making long-term commitments. Long-term commitments would describe any debt issuances, or commitments to any major capital projects.

Recommendations are shown on slide #30. Financial plans are critical for any major governmental or business organization. You want to see what the implications are for everything being done over an extended period of time. Relative to capital project financing, the State should reevaluate policies on debt issuance and capital financing relative to the next three GARVEE issuances. The State has the Idaho Credit Enhancement Committee, which is a wonderful vehicle for that. Make sure that deliberations and analyses are made available to the Legislature so that everyone knows the implications of the debt financing structure.

**Mr. Jim Brock** spoke about the audit objectives of scheduling and budgeting (slide #31). Findings are shown on slide #32. A subfinding was that the rate of increase in commodities costs are outstripping the rate of increase in budget allocations to the district. Also, decision support tools that are standard operating practices in other states are not being used by the ITD. So costs are increasing and budgets are remaining static.

Seal coating is an example. The amount being spent is about the same every year. But costs are increasing considerably and will keep going up, which has resulted in a reduction in the number of roads being seal coated over the last three-years. So, there is a worst-first strategy. The worst roads get treatment first.

A preservation-first strategy is an industry best practice (slide #33) and is a current practice in the comparable states that the team talked to.

The most recent comparable states' data is 2006. More Idaho roads are in poor and mediocre condition compared to other states (slide #34). This is significant because of the rate of deterioration. If 35 percent of the lane miles are in poor or mediocre condition and maintenance is diminishing, then we can assume (according to evaluation by engineers, including a former chief engineer from one state and a deputy chief engineer from another state and someone who spent 35-years in planning and programming) that the chart on slide #35 illustrates the acceleration of deterioration over time if roads are allowed to deteriorate to a certain point. A best practice is that a road is maintained. It deteriorates to a certain trigger point, has some remediation done to it, it returns back to an excellent condition, deteriorates to a trigger point...and over time, the deterioration takes a bit longer. The best practice is that a road is maintained (using seal coating as an example) at least twice during its lifetime. On the basis of the data evaluated, the number of miles of roads being maintained on that basis do not equate to this. It is more like once in a lifetime. So once a good road reaches fair condition, the deterioration accelerates. Once it achieves poor, it reaches fail very quickly.

Several studies suggest that spending \$1 on maintenance can delay spending \$6 to \$10 on reconstruction. In general, reconstruction can run \$600,000 to \$1 million per mile. An asset management strategy of preserve first (slide #37) can save hundreds of millions of dollars down the road. The right treatment to the right road at the right time is best practice.

There are three systems in best practice asset management (slide #36) that drive preservation first. The current Pavement Management System (PMS) that the Department has is dated, and does not have all the capabilities that the ITD would require for full asset management. The current Bridge Management System is reasonable, and is used in the industry. There is no Maintenance Management System (MMS). Having an MMS is standard practice. Integrated with a PMS as well as a financial system, it allows the consolidation of data so that decision makers can evaluate opportunities and look at costs/benefits in terms of outsourcing, overhead rates, etc. With an MMS, they can evaluate how well resources are being deployed. State of the art PMSs have optimization routines to mix and match the different categories of pavement. For example, if you want to achieve a certain level of service, you could run through one of those routines to determine how much that will cost based on the different categories. Or, given X amount of dollars, you can find out the level of service you can optimally achieve. And if integrated with a financial system, everything is in tune with the most current information.

The recommendations regarding scheduling and budgeting are shown on slide #38.

**Ms. Roberta Manshel** then talked about performance metrics (slide #41). The audit compared the Department with peer states and industry best practices. Using performance measures to provide public accountability as well as improve performance is an industry best practice. Some of the peer states have good systems that you can see on their Web sites. For example, Virginia has a wonderful dashboard system. Anyone can see if a project is on budget, on schedule, and whether there are environmental issues. It is helpful externally and internally for the Department.

The audit found that the ITD is moving toward using project management performance measures better. They are not there yet. The other findings and recommendations are shown on slides #41 and 42.

**Ms. Manshel** talked about contractor selection from slides #43 through #45. The slides deal with consultant selection also. Standard procedures are in place, but standard sufficient oversight tools are not. For example, standard use of the same kind of scheduling, and the same kind of work breakdown structure of one project to another. They could use some training in project management to oversee large projects more effectively. The Department needs good tools. The design-build strategy is one part of a good toolbox that helps share risk. This works well on certain projects, and the ITD should be able to use this.

The Department needs an office of project management oversight. This would quickly champion project management tools, and get them embedded within the districts.

**Mr. Bob Thomas** spoke regarding major findings of the audit (slide #49) and ways to address the current "untenable situation" (slide #50).

The Department needs accountability. He read from page 17 in the audit report: "The key to the Department's success will be how it transforms itself from performing necessary day-to-day activities to meet short-term needs, to a forward-looking organization that is performing those activities in pursuit of overall strategic goals and objectives."

The Legislature should hold the Department accountable for achieving success. The audit report provides about 50 recommendations with subrecommendations. The Department does many things very well. But the recommendations result from finding things that should be in place, but are not. All of these will be necessary to achieve success. Preservation-first will save many dollars. But dollars are not the only goal. The recommendations help them achieve success. However, doing that type of analysis on an ongoing basis would be difficult, because a lot of information has to be put together. At least once in the last year, the Department tried to determine what an overhead rate was, and it was labor intensive and took a lot of effort. An MMS helps make those cost/benefit decisions.

In response to a request to address the situation with engineers and training, **Mr. Brock** said that the report shows a slight discrepancy between Idaho and other states in terms of salaries. They recommend that the ITD pursue management succession and leadership development, because this is a growing trend in other state transportation departments and is showing positive results.

In response to a question about why the team thinks that local road funding lacks basic oversight, **Mr. Huddleston** said that they did not specifically audit the practices of local jurisdictions. They did note that many state resources are going to local road activities. But the activities do not roll-up into a state plan. It isn't clear that city, county, and regional entities are building toward the same outcomes as the ITD. There should be a single plan that all entities are trying to accomplish. It seems that 38 percent of funding is not being held accountable. This was called to attention by the Governor and other stakeholders in the audit process.

A follow-up question asked which Idaho codes needed changing. **Mr. Huddleston** said that they did not flag the specific codes in today's presentation. There were some procurement issues and other recommendations that relate to state government. In a followup session, they could isolate the specific codes. **Both Chairmen** agreed that they would like to have this information.

In response to a question regarding whether the team was recommending additional software and training for staff (to use the \$6 million), and whether the MMS they were recommending was similar to the maintenance management that the ITD did previously.

**Mr. Brock** answered that the first part of the question was "Yes." Regarding the second part, an MMS was used until 2006, but was discontinued when a new financial system was implemented that made the platform obsolete on which the MMS ran. Since that time, an MMS has been lacking. They recommend that it be replaced.

In response to a follow-up question, **Mr. Brock** said that he could not think of any state that is not using an MMS, and there are a variety of systems and vendors.

In response to a question about why Idaho is considered a peer state to Arizona and Nevada, **Mr. Brock** said that this determination was based on a national study, and based on a number of criteria and put states into peer groupings.

In response to a question about benchmarks that could be recommended so that changes to "business as usual" can be monitored, **Mr. Huddleston** said that there are measurable outcomes that could be put in place. For example, an asset management system is important and could be procured right away. Idaho is almost alone among peer states in not having one, and this lack makes it hard to catch up in maintaining the roads. Establishing a project management office is important. Establishing project selection criteria could be advanced in the first year. Many other communities have those in place, and they provide some transparency and predictability in the project selection process. This is going to be important (especially if the federal government provides resources to stimulate the economy) so that there is a sense of equity, and so that projects can be advanced. And the development of pavement standards, the smoothness of pavement, how often resurfacing should happen, signage, striping, etc., could all be established in the first year.

Some things could take a little longer, including a unified 20-year state



plan. This needs to have the integrated financial planning piece. Also, a review of how revenue is being allocated to the local governments should be considered because they should be partners in the statewide system. They may be doing some things better than the State. But everyone should be building to the same standards. Also, risk management strategies (such as design-build) could be started now and tried to see how they go. This would provide information for the next legislative session.

A question was raised regarding the acquisitions talked about on page 4 of the audit report. Acquisition usually means new things. How does “growth” relate to maintaining and preserving?

In response, **Mr Brock** stated that since the audit, a lot has changed in the economy. At the time of the analysis, there was anticipation of growth in an overall construction program. When looking at the conditions of the roads, it would seem to a professional (a decline in the economy notwithstanding) that to make improvements would mean some growth in the construction program. Right-of-way acquisitions are in there because (and GARVEE funded projects are included as some of the right-of-way acquisitions) they wanted to be all-encompassing in their description of what growth would be.

In response to a question, **Mr. Williams** stated that the capital planning chart on page 52 of the audit report was based on current practices. In response to a follow-up question regarding the effect of implementing the asset management system, the MMS, and the financial management system, **Mr. Williams** stated that the impact would be to reduce the shortfall in terms of the same level of work. They do not know if the data from the Department captures the current infrastructure. They totally relied on the Department’s assessment of what the shortfall is on an annual basis, assuming current practices. In theory, each of the recommendations will reduce the ultimate cost of remediation. But they do not know the total cost of remediation.

The following questions were raised: If we fail to implement the recommendations, how will future costs be affected if we assume status quo operations? If we would have implemented them 10-years ago, what would the results have been?

**Mr. Brock** answered that there are several “plans” that they referred to. There is the STIP, and there is also a listing of projects called the HORIZONS documents (short-term, mid-range, and long-term). There are a variety of documents that list projects. But the condition of all the roads are not necessarily reflected in a plan. It may be that the entire condition situation, theoretically, could be larger than what is in the STIP. If you just look at this as the sole basis or representation of the condition of all the roads in the state, you might presume that if these systems had been in place some time ago, they may have had a beneficial effect, but there is no way of determining what the effect would be.

To clarify, asset management is a management philosophy of preservation first as well as sophisticated planning and programming processes. It is an umbrella over those processes that use good systems—pavement management, bridge management, maintenance management, and financial management. But it is not just having the systems. There is a

management approach and philosophy that surrounds that. So my answer would be that asset management would (theoretically) have been beneficial.

At this point, **Chairman McGee** suggested that the joint committee could submit some written questions to the Department and the audit staff, since today would not allow enough time for everyone's questions. Then, the answers could be distributed to all committee members. **Director Rakesh** agreed to this, as long as the questions deal with what has already been found by the audit. Other issues could not be addressed.

Several more questions were entertained as follows.

In response to a question regarding the maintain and preserve approach, **Mr. Brock** stated that they are not recommending only preserve and maintain. But by using the right tools, the ITD could realize better decision making and could develop a better plan for mixing the work among good, fair, and worst roads. Preserve first calls for doing more than just the worst.

In response to a follow-up question regarding the chart on Page 52 of the audit report, **Mr. Williams** stated that the chart captures the money currently in the STIP being used for preservation and maintenance, and what the implication would be if everything but a baseline of \$10 million of new money, which would go to operations, went for preservation and restoration. So this slide does presume that all the money goes there without regard for expansion. They focused this way because they asked the question, "How would the Department use new money?" And this corresponds to what they found regarding what the long-term consequences and liabilities would be of not allocating a significant amount of new money, or reallocating existing money to preservation and rehabilitation. These liabilities would ideally have been captured in a long-term financial plan.

A senator commented regarding the GARVEE negative arbitrage that some people think the ITD has already lost \$22 million. Also, he asked whether bond anticipation notes are allowed.

**Mr. Williams** explained that the exhibit on page 49 of the audit report is a projection provided by the financial advisor for a point in time. The circumstances in terms of interest rates are not in our control. Originally, there may not have been a likelihood of incurring negative arbitrage, so it may have never been discussed. But given current circumstances, the \$2.5 million is probably a good estimate. The only question now is what the cash balances will be as the project spends down. The \$4.9 million and the \$10.6 million and the \$4.1 million were projections based on a snapshot in August/September. The sum (\$19.6 million) has been re-estimated to be \$15.7 million based on the Governor's office figures that were received last week. So again, estimates are based on interest rates and reinvestment amounts.

There are alternative strategies, such as bond anticipation notes (BANS). (He did not think the State had used these.) The State currently issues tax anticipation notes that are used for the general fund. It is a revolving 12-month contract at a very attractive rate. Some other jurisdictions have used

BANS very successfully during construction period work, and when the construction is completed, they've issued long-term debt.

The State has made some good points about why they maintain their current policies in terms of the timing of debt and the use of long-term debt, but the audit team does not totally agree. They think the policies merit additional review because of the large amount of money involved. The current policies are not generally being generated by the ITD.

**Chairman McGee** introduced **Mr. Gerald Hunter**, Executive Director, Idaho Housing and Finance Association, as an expert in bond financing, and asked him to address the funding questions.

**Mr. Hunter** explained that negative carry is a hot topic, and it is quite standard in project financing. When you borrow long and invest the proceeds temporarily on a short-term basis, and you have a normal yearly curve in the marketplace, you're going to incur some negative carry. The recommendations represent some tools to mitigate negative carry. But there are tradeoffs to consider.

For example, we have considerations for the third series of bonds. We had to postpone financing last fall because of turbulent markets. In October/November, we had a 6.5 percent rate as the borrowing cost for the GARVEE issue. In December, markets had improved to 5.5 percent. We waited because at the first of the year, investors usually step up, and the rate did drop so that the current rate is about 4.5 percent. Negative carry is the cost of issuing bonds at a fixed rate and holding the proceeds temporarily while the money is drawn down. Our bankers have estimated that the cost to us is about 1/4 of 1 percent for the upcoming transaction. This tells us that we can go into the market today and incur a cost of about 4.75 percent (plus the .25 percent of negative carry).

An alternative is to issue variable rate bonds, which we have done a lot. You can go out short-term and not fix the rate until, say, two years out when the roads and bridges are constructed. Then the question is, will the rate be better in 24 months, or do we take the 4.75 percent rate we can get today, even though there is a negative carry? We pay 1/4 percent more to tie down a rate.

Is it better to take a good rate now or wait to see what rates will be later? Historically, anything under 5 percent is usually a good rate. So given a 4.75 percent rate, the idea is usually to take the rate now.

In this market, given the volatility and uncertainty, it may make sense to tie down the rate now. Sometimes it is okay to have negative carry given the market. But other strategies are legitimate in other times.

Regarding BANS, you are generally talking about a state-issued debt instrument like tax anticipation notes. Based on GARVEE legislation, the State does not guarantee any of this debt, which means that issuing traditional tax anticipation notes from the State Treasurer's office is not authorized in current legislation. However, we can try to do that in the marketplace with other types of variable rate instruments, and we have done that in our other financing activities.

**Mr. Brock** responded to a question regarding how legislative interaction with the ITD can be improved. On page 87 of the audit report, the following is stated: "ITD should provide more frequent performance reports to the Legislature."

**Mr. Brock** said that during their interviews, they wanted to find out the flow of information between districts and to stakeholders, to the Legislature, to board members, etc. They did not find a lot of communication with the Legislature. Rather, information was provided to other departments and to constituents. Assuming that the Legislature represents the citizens of Idaho, they wondered how the State at large could know what is going on.

They recommend that the Legislature and the Transportation Board ( in conjunction with performance expectations) collaborate and agree upon communication on an ongoing basis, and agree on what the expectations are. Since this is a policy issue, things like frequency and the form this should take depend on what the ITD Board and Legislature deem to be appropriate.

When asked for examples from peer states wherein the Legislature is more engaged and what happens there, **Mr. Brock** said that he could not point to a specific state. But a good process (called a balanced scorecard) derived from the private sector ties performance to metrics, and then the Department provides this information to the public at large. There are several documents that are made available on a regular basis.

Virginia communicates well by using their Web site. Anyone in the country can go to the Web site and see a dashboard (which also initiates from the private sector). You can look at the indicator and click on it to drill down to specific projects, and get an indication of what the status of state initiatives are. Washington State also provides a great deal of information and metrics through their Gray Book.

**Director Rakesh** stated that there is a policy. In 2005, the statute was modified so that each agency must provide a performance report every year to the Germaine committees. If there is a clear communication of what the committees expect from the agencies, then negotiations can be made about what is possible. The Department needs to know what the committee expectations are, and the Legislature needs to know the goals the Department has to meet those expectations, and the plan to accomplish those goals. Then reports can be made about how the plan is implemented and evaluations can be made. In a week, he plans to send a letter to every Germaine committee saying that the Office of Performance Evaluation (OPE) would be happy to provide training regarding the information that should be looked at regarding performance measurements.

**Mr. Brock** responded to a question about design-build (as discussed on page 104 of the audit report), and what is the statutory prohibition against using this.

**Mr. Brock** explained that this is a gray area. They received information from the Department that the use of design-build, while it is allowed in legislation, is precluded as related specifically to highways. Design-build

isn't popular in certain circles. There are a lot of up-front requirements. It works best on larger projects. They suggest that legislation be drafted to specifically state that design-build is allowed for highway projects. Studies indicate that design-build results in savings by reducing costs in the initial phases of a project, and by increasing the speed of project completion.

Responding to a question about how safety and miles driven fall in the preservation first ideal, **Mr. Huddleston** referred to slide #34 and said that it represents federally reported criteria. The numbers are based on smoothness of pavement and adequacy of roads, etc. More roads are shifting into poor condition. It is counterintuitive to put more money into a road that is in relatively good shape to keep it functioning vs. putting a lot of money into a road that is in poor condition. These federal criteria do look at accident rates and other statistics that can be measured.

The emphasis is that Idaho should try to keep more roads in the upper categories. The emphasis is not on economic development or other social agenda factors, but on just trying to reduce the net cost to maintain the roadway network. While it doesn't seem to make sense at first blush, it does prove best to put more money into the maintenance piece of it up front. The numbers (which do include safety factors) demonstrate that as a winning strategy, and it does take some technology to measure where those opportunities exist.

**Mr. Brock** added that project selection criteria should be used, and the criteria should include safety.

The team was asked to clarify slide #19. Do the employee numbers represent the number of actual employees or the number of authorized positions? **Mr. Brock** stated that they contacted the states' Human Resources Department and were given the number of full-time positions, but they did not find out whether the positions were authorized or current.

A representative commented that the Legislature seems to have let down the ITD somewhere because there are several things lacking, yet a third of the positions are unfilled. What legislative improvements could be made?

**Mr. Brock** answered that the audit focused on the Highway Division's employee count, which is 1,329, and there has been a 6 percent vacancy rate, rather than a 33 percent. They don't consider the staffing situation in the Highway Division to be dire. However, there are some steps that could be done quickly in the first year. The structure in place is quite common. Accountability is a key. Having key performance metrics agreed to by the ITD Board is a critical first step.

Having a project management office, within the Highway Division, to drive standards and best practices would go a long way to having some consistency. They suggest taking the GARVEE office and moving it within the Highway Division and (with some transformation) call it a project management office that drives these things. They can have representatives at each district to work toward consistency.

Responding to a question about how much new road we can add while still managing our current roads, **Mr. Huddleston** said that within the money allocated to the Department, there is not enough to maintain the roads and bridges. Some money could be reallocated. For example, local

governments could use local options, freeing up the State's funds. But new resources are needed, too.

Their observation is that if the ITD does not change the way it does business but the Legislature increases taxes and fees as proposed, the ITD will still be short in five-years. They will make it for a year or two, but they will fall behind again.

As examples of some alternative funding strategies, in some other jurisdictions, policies have been adopted that allow basic safety or bridge structure and road characteristics to be maintained as part of the fuel tax or motor vehicle fees. Also, they have considered things like having trucks pay more money because they beat up the roads more, and putting tolls on some roads. There have been some pilot projects started recently in Washington, Oregon, and California to generate more dollars for capacity issues.

**Mr. Thomas** added that currently, part of the frustration is that the effect of a new capacity project (or any project) cannot be quantified. If the recommended management systems and plans are put into place now, then questions about projects in the queue could be answered much more easily if we were to have a similar hearing two-years from now.

**Director Rakesh** stated that the Department, Legislature, and Board need a common understanding and agreement on what constitutes the strategic plan. They need to decide what it will take to move forward, and how will it be measured. They want to be able to communicate with lawmakers and the public in simple terms and measures, even if there are more complex things that go into determining the measures. Otherwise, they will continue to have the transparency and accountability problems.

Responding to a question about slides #34 and #35, **Mr. Brock** explained that the information came from the Federal Highway Administration and was scientifically derived. It came from a federal report compiled by information provided by the states.

In response to a question about how many times one dollar will need to be spent, which apparently saves six or seven dollars later, **Mr. Brock** replied that when you spend the first dollar, you save about six. You spend today to maintain the road because in 12 to 16 years, you'll spend \$6 to \$10 for significant repairs.

**Chairman McGee** thanked the audit team and **Director Rakesh** for the depth of the report, and the speed at which they compiled the report. Both he and **House Chairman Wood** concurred that the report was very valuable for both the Legislature and for the ITD. They also concurred that the committees would compile a list of further questions to present to the Department.

**ADJOURN:** The meeting was adjourned at 4:12 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

MINUTES

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

**DATE:** Thursday, January 22, 2009

**TIME:** 1:00 p.m.

**PLACE:** Governor's Conference Room

**NOTE:** This was a joint meeting of the Senate Transportation Committee and the House Transportation and Defense Committee with the Idaho Transportation Department (ITD).

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

**HOUSE** - Chairman Wood (35), Vice Chairman Hart, Representatives Smith (24), Roberts, Willis, Nonini, Hagedorn, Jarvis, Labrado, Mathews, Shepherd (2), Ringo, King and Ruchi.

**MEMBERS ABSENT/ EXCUSED:** Representative Bedke, District 27.

**OTHERS IN ATTENDANCE:** Review sign-up sheets.

**NOTE:** The signature sign-in sheets 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. Refer to Attachment #1 for a complete review of the Power Point, 43-page slide report, and Attachment #2 for a complete Office of Performance Evaluation audit report.

**CONVENED:** **Chairman McGee** called the meeting to order at 1:03 p.m.

**Chairman Wood** announced the House Transportation and Defense Committee would convene on Monday, January 26, to review rules, the ITD audit report and annual review.

**Darrell Manning**, Chairman of the Idaho Transportation Board, introduced board members: **Jim Coleman** from Coeur d'Alene; **Bruce Sweeney** from Lewiston; **Monte McClure** from Meridian (Vice Chair who is retiring after 12-years of service); **Gary Blick** from Castleford; **Neil Miller** from Blackfoot, and **Lee Gagner** from Idaho Falls.

He explained that collectively, these gentlemen have 48-years of service on the Board. **Director Lowe** will present the ITD FY10 budget request. That request has been reviewed and approved by the Idaho Transportation Board. We work closely with the staff through our regular meetings and budget workshops to understand, guide, and wisely invest



the State's transportation dollars.

The Board believes the budget delivers the tangible products and services our customers, the citizen of Idaho, expect. You will also hear a report on GARVEE, and from the Idaho Transportation Department (ITD) division administrators. He also introduced **Pamela Lowe**, Director of the Idaho Transportation Department.

**Director Lowe** introduced the ITD Executive Team members: **Scott Stokes**, Deputy Director; **Tom Cole**, Chief Engineer; **Alan Frew**, Administrator, Division of Motor Vehicles; **John DeThomas**, Administrator, Division of Aeronautics; **Dave Tolman**, Administrator, Division of Administration; **Randy Kyrias**, Administrator, Division of Public Transportation; **Matt Moore**, Administrator, Division of Planning; **Mollie McCarty**, Government Affairs Manager; **Jeff Stratten**, Manager, Office of Communications, and **Rick Hinton**, Assistant to the Director.

She explained she would cover the ITD revenue outlook and FY10 budget request, and Deputy Director **Scott Stokes** will give an update on the GARVEE (Grant Anticipation Revenue Vehicles) program.

**Mission and Vision** (slide 4): Last year, **Director Lowe** reviewed with the committees the new ITD mission statement, "your mobility."

The ITD's vision is to be an industry leader in transportation. To help achieve that vision, the ITD has four teams working in four focus areas: improving the customer service culture; leading through agency performance; expanding and enhancing partnerships, and investing in the people.

In December, the teams presented the ITD's action plans to the Transportation Board. The ITD mission statement, vision, focus, and action plans are the foundation of ITD's future success.

**FY08, FY09, and FY10 Holdbacks** (slide 5): Due to the impact of the slow economy and high fuel prices on revenue being generated to the Highway Distribution Account, the Department held back more than \$19 million from its budget over the last two years. In fiscal year 2008, the ITD reduced its budget by \$10.4 million. In fiscal 2009, we cut another \$9 million. The ITD made reductions in personnel costs, its office and equipment building program, the State construction program, out-of-state travel, and the new and replacement equipment.

The ITD economist is predicting further reductions of up to \$3 million in FY09 and another \$4 million in FY10, based on his review of the trends so far.

**Administrative Cuts** (slide 6): In addition, the Department reduced its administrative costs an additional \$1.6 million, primarily by transferring 18 administrative positions to such critical front-line services such as bridge inspection, snow plowing, and road and bridge maintenance. The Department transferred 18 vacant administrative positions to front-line operations in December. Already winter maintenance on highways across

the State has improved with these positions being in the field. The transfer of the 18 employees and additional cost-cutting measures are a 6 percent reduction in the Department's administrative costs.

The Governor requested the ITD to reduce our administrative costs. The ITD supported the request. The Department's shift in personnel to the field not only supported the Governor's request, but it was the right thing to do and supported our goal of decentralization.

**Economic Stimulus** (slide 7): The Department is ready to quickly put any economic stimulus dollars to work in Idaho. Working with the State's local jurisdictions, the ITD identified more than 152 projects totaling in excess of \$817 million that could qualify for stimulus money. All of these projects could be ready to go in 180 days, if funding was available.

Idaho's estimated share of the stimulus package for transportation projects range from \$75 million to \$221 million. This is one-time money and does not address ITD's on-going maintenance needs.

The Transportation Board authorized the Department staff to prepare eight projects to utilize up to approximately \$180 million in possible stimulus money. These projects will address serious safety, deteriorating infrastructure, and congestion problems.

**FY10 Budget, Governor's Recommendation** (slide 8): The pie chart shows approximately \$667.2 million FY10 budget request, and ITD's fund sources. The Department has a full-time position count of 1,833.5 employees.

The bulk of the ITD's budget is dedicated to contract construction and to the construction, right-of-way, and design funded by the GARVEE bond proceeds.

**FY10 Funding Allocation** (slide 9): The ITD is developing alternate ways to show you and the public how we spend its money. All the money ITD spends can be placed into five simple categories, plant it, build it, maintain it, use it, and manage it. This chart (slide 9) shows the percent of the budget that will fall into each of these categories:

Plan it - includes planning and designing highway projects.

Build it - includes construction and acquiring right-of way.

Maintain it - includes maintenance work such as patching potholes and snowplowing.

Use it - includes public transportation, aeronautics and the Division of Motor Vehicles (DMV).

Manage it - includes program administration, financial, and information resources, supply and facilities.

As the ITD continues to refine this method of displaying its budget, the ITD would like to have your input on its potential usefulness to you.

**Peer Review** (slide 10): As part of the ongoing efficiency efforts, the ITD requested a peer review from the American Society of Civil Engineers. Volunteers from businesses, state, city and county governments came to Idaho to review the highway operations.

The report found several strengths. They are: management and structure; staff attitude and capability; mission, vision and goals; new management team; executive management/board relationship; engineering standards, and highway staff's pride in their work.

**Peer Review** (slides 11 through 15): Also, they reported several areas the ITD can build on. They are highlighted in bold text (on the slides). The bulleted items show the action plans the Department has developed for each area. The items already completed or well underway have a red checkmark (on the slides).

**Office of Performance Evaluation** (slide 16): The audit had findings in six primary areas: the lack of transportation revenue, the need for a comprehensive statewide strategy for capital improvements, the need to strengthen our performance measures, the need to purchase systems and tools to help manage the transportation system, the need to enhance the financial planning process. The audit also recommended ways to improve the ITD's GARVEE financial planning.

The audit largely validated the direction the Department has been headed for the past two-years. The ITD essentially agrees with the audit findings. Further, when you look at the ITD's agency response, you will see the action plans for each of the areas and shows when the work started.

Reviewing each finding separately:

- The audit stated transportation funding was inadequate, and that the Department basically has squeezed all it could out of efficiencies. The ITD agrees it needs revenue, and even with continuing to work on efficiencies, the Department cannot close the funding gap.
- The audit said the ITD needed a comprehensive statewide strategy for capitol improvements. The ITD agrees, and started developing a statewide plan last year.
- The audit stated the ITD needed to strengthen its performance measures. The ITD agrees, and have identified 11 performance measures the Department would like to focus on.
- It is said, the ITD needs to purchase new maintenance, pavement and project scheduling systems to provide additional data to make the best possible decisions. The Department agrees. The ITD has put a lot of time this past year identifying the specific systems it needs to have. The Transportation Board heard the final report at this morning's meeting. The next step is getting the money to buy these type of systems. The Department, until now, chose not to take the money off the road.
- The audit recommended the ITD enhance its financial planning process. The Department has a good financial system that provides important reports, and helps meet all state and federal requirements. To accomplish the upgrade, and the enhanced system, the audit recommends a new maintenance management system, pavement management system, project scheduling system, the statewide plan, and performance measures will all need to be in place and funding provided.
- And finally, the audit recommended ways to improve GARVEE

financial planning that possibly could save the State money. Central to these recommendations is to use more short-term borrowing. But short-term borrowing in a volatile bond market can lead to more risk.

As you know, the Transportation Board, following the lead of the Legislature, decided to take a more conservative approach. The bonds are sold and the cash is in the bank before awarding contracts. This approach kept Idaho out of the trouble that many states, cities and counties had when the bond market collapsed last fall. Many agencies awarded contracts, but then could not sell the bonds, to either start or in some cases finish the jobs, or pay the contractors. Idaho avoided this problem with the conservative approach. The approximately \$19 million in negative arbitrage translates into a 2% cost of borrowing money for the \$1 billion GARVEE program. But inflation for the \$1 billion GARVEE program is expected to be 6% or above. The Department's full response is in the audit report.

**Leading Through Agency Performance** (slide 17): The ITD recognizes it needs to do a better job of tracking and measuring performance, so the Department and you know how we are doing.

Over a year ago, the ITD established a team focused on Leading Through Agency Performance. The team looked at hundreds of performance measures from across the country. The Department identified these measures as our starting points. The Transportation Board concurred in December. The next step is to get your, and other stakeholder's, input to learn if these are the right performance measures to start with. And, are there others that should be looked at long-term?

The Department is flexible on these. The next step is to talk to you and other groups you think should have input.

Deputy Director **Scott Stokes** presented a **GARVEE Overview** (slide 18): He stated that it has been a great year in the implementation of the GARVEE program. He discussed financing, and management topics.

**GARVEE Program Overview** (slide 19): The sum of the prior year authorization for GARVEE bonding totals \$597 million. Your authorizations allowed the ITD to issue bonds, as needed, to cover the contract amounts on projects. The ITD only issues bonding as needed to cover contracts.

Including the bonds being priced in the market today, the total of issued bonding stands at \$568 million. The Department holds active contracts in the amount of \$364 million, and has a significant package of contracts ready to bid with this current bond sale.

**GARVEE** (slide 20): The colored bars (on the slide) show the bonding authorizations of \$213 million, \$250 million, and \$134 million. The heavy blue line shows the history and forecast of contracting levels. One year ago, as shown with the red circle, the level of contracts issued at \$156 million for December of 2007.

The Department was engaged, at that time, in working through

improvements at the ITD and with our GARVEE team to see dramatic acceleration of projects. The Department was then projecting that within one-year it would be contracted at over \$400 million.

**GARVEE Contracts** (slide 21): Since that time, these are the projects that have gone to construction. The size of these projects fits local contractors, the scopes of the projects are tailored to get quicker final completion, and the sequence of the projects will result in nice functional segments.

**GARVEE** (slide 22 - red dot #2, December 30, 2008) With the addition of those projects, the next red dot is the current report back to you on that prediction one-year ago. The ITD has currently contracted (December 2008) at \$365 million. Had the bond markets been intact in October and November, the ITD would have very easily achieved the stated goal by exceeding \$400 million in contracts issued.

(Slide 22 red dot #3 December 31, 2009) One year from now, what will the next year bring in GARVEE construction? The report to you is that one-year from now (December 31, 2009) should have the ITD holding on the order of \$650 million in contracts. During this period, the Department will quickly complete the contracting for the \$250 million, the \$134 million, and well into the proposed \$125 million authorizations.

**GARVEE - Safely Navigating the Economy** (slide 23): Navigating through today's economic environment with safety and confidence involves balancing some important factors. Primary consideration is given to credit markets, federal revenue, project readiness, and operations maintenance.

For instance, the bond markets have had some challenging times. The Department has seen first-hand the loss of a sustainable bond market, followed by temporary elevation of interest rates. There are now significant differences in the nature of the bonding markets compared to a year ago. These dynamics are very important as the ITD carefully steps through this process. Extreme caution and conservative decisions define our mode of decision making.

**GARVEE Federal Funding Concepts** (slide 24): Now, federal transportation revenues, over the last 8-years, the Federal Government has apportioned to the states more highway dollars from the Federal Trust Fund than is being collected. The nation had built-up a surplus in the fund. A few months ago, the surplus was deleted. So the ITD is faced with a situation where the revenues into the Trust Fund will not sustain distributions the states are accustomed to receiving.

The formula for defining the federal distribution ratios to the 50 states is defined on a 6-year cycle in the Federal Highway Re-authorizations. This coming October marks the end of the current authorization SAFETEA-LU (Safe, Accountable, Flexible, Efficient, Transportation Equity Act), and a new 6-year authorization will be needed.

Since income to the Federal Trust Fund is less than historic distributions, and with the opportunity for a national reconsideration of the formulas, the ITD has taken a cautious approach considering the worst case

possibilities. The \$125 million proposal for bonding takes a conservation look at addressing these issues, covers worst case, but yet moves the Department forward on some of the most key project needs.

**GARVEE Projects in FY10** (slide 25):

- Widening of I-84 to 4-lane each way from Cole to Broadway, including Vista.
- Widen and reconfigure the bridges at the Garrity Interchange.
- Final design of the SH16 segment from SH44 to Chinden.
- Management of the program.

The Department expects all of these listed activities to be contracted by this fall.

**GARVEE November Bond Issuance** (slide 26): Last fall, the ITD had planned to issue bonds for \$116 million to cover the contracts on Orchard Interchange and the US-30 projects. Due to the collapse of the bond market, the ITD was forced to cancel the bidding of the Orchard Interchange and delay the sale of the bonds. Some important points to keep in mind:

This delay only affected the issuance of the projects awaiting bid. This had no bearing or threat to projects underway.

Other infrastructure bonding projects in portions of the country had serious cash flow problems in making contractor payments. The Department's conservative approach which includes bonding for the contract value prior to signing construction contracts, worked greatly to its advantage, and prevented even the hint of contractor payment concerns, or even worse, the threat of halting progress in a highway work zone.

Yesterday, the Department re-entered the bond markets - seeing that it was safe, prudent, and economical to do so. The ITD was pleased to see good interest rates at 4.48% for this new issue. The Department greatly values its close partnership with Idaho Housing and Finance Association. The Department extends to **Gerald Hunter, John Sager, and Rick Skinner** its greatest appreciation.

The credit worthiness of Idaho's GARVEE bonds was recently affirmed at the very respectable levels of AA3 by Moody's Investor Services, and the A+ by Fitch Ratings. The ITD is confident that this approach has been successful, and is pleased that the interest rates are very comparable to past ITD bond sales.

**GARVEE CIP Contract** (slide 27): The Department report on the improvements being made to the Contract for Program Management Services. With the original authorization of \$200 million, the ITD contracted with Connecting Idaho Partners (CIP), a joint venture of URS Washington Division and CH2MHill. This contract was initiated back in August of 2006, at the startup of the program.

During the Legislative Session of 2008, you requested that the new ITD management look for ways to address topics of cost, transparency,

delivery schedule, and consultant overhead and fee. In June 2008, the ITD signed a supplemental agreement with Connecting Idaho Partners to address the new authorization.

The theme of the negotiations included primarily - get projects on the ground - and improve these contract specifics.

You can see a comparison of key items of the initial 2006 agreement to the 2008 supplemental. Significant improvement was achieved. Now in 2009, the ITD and Connecting Idaho Partners are looking at a new theme for the coming year called "The Transition Plan." This will investigate the best way to quicken the transition of management components back to the ITD as the work load allows.

**GARVEE Job Creation** (slide 28): The final topics on GARVEE relates to the positive impacts it has on the economy. An analysis was conducted by Idaho Commerce and Labor Department in 2005. The report states that Idaho is estimated to generate nearly 20 jobs for every million dollars spent. A \$100 million project would generate almost 2,000 jobs. This works out to be estimated at 12,000 jobs, and more for the program depending on your choice of future bonding levels.

**GARVEE Program Overview** (slide 29): The GARVEE projects are hitting the ground. Just under \$300 million will go to contract this year including the projects in the new authorization proposal. The ITD's investments now go primarily to the road, and will accelerate and implement the construction phase of these upcoming projects in accordance with direction it receives from you.

**Director Lowe** explained that last year, she reported to the committees on the Department's efficiency efforts. She is pleased to share the progress in 2008 at becoming even more efficient. The Department implemented more than 120 efficiency measures, saving millions of dollars in 2008.

The ITD is improving customer service, cutting red tape, solving problems and saving money. The largest savings came through the Department's no-frills plan to meet the State's transportation needs while cutting costs - the Practical Design program.

**Tom Cole**, the ITD's chief engineer, will elaborate on savings in Practical Design and other areas. Each of the division administrators will then report on their efficiency efforts.

You have received copies of the report. It is also on the ITD's Web site at [itd.idaho.gov](http://itd.idaho.gov).

**Director Lowe** reviewed two key indicators.

**Key Indicator Shrinking Value of a Transportation Dollar** (slide 31): Here is one of the primary reasons why efficiencies are not the sole answer to solving the funding problems. This chart shows the shrinking buying power of the transportation dollar. The graph is from an AASHTO's publication called BRIDGING THE GAP.

The ITD has done a lot with efficiencies and will continue to do even more, but cannot close the funding gap with efficiencies. The Office of Performance Evaluation audit of the ITD confirmed the need for additional revenue. Due to inflation in the construction industry, the purchasing power of the dollar has eroded 50% in the past 15-years.

**Key Indicators FTP Growth** (slide 32): **Director Lowe** shared one of the key indicators of the Department's efficiency.

One key indication of the Department's efficiency is how many employees it has - and is it growing?

The red line (on slide 32) is the ITD employees, the blue line is the rest of state government. As you can see from this chart... the Department added 75 employees over 18 years. That's a 4.2% increase. During that same time period, the rest of state government increased 36%.

**Tom Cole**, Administrator, Division of Highways, presented accomplishments, efficiencies, and future plans.

Slide 33 and 34: The Division of Highways is the largest of the six divisions within the ITD. We have 1,335 full-time employees to carry out the mission of designing, constructing and maintaining the State's highway system. These dedicated employees are located from one end of the State to the other, serving the public in six operating districts and supported by the headquarters operations. In support of these operations, the FY2010 budget request totals \$447.9 million.

**Pavement Deficiency Rating** (slide 35): **Mr. Cole** created an image of the condition of Idaho's roadways. The first core was taken from a newly overlaid road. It shows asphalt that is tightly bound together and rich in color, with a well adhered seal coat to the top. This second core shows a surface that looks very similar to the first core, with one exception, there is a crack. As you follow the crack downward in the core you see it splits with one crack continuing vertically and one horizontally. The horizontal crack has delaminated the last overlay from the asphalt below it. This section will cause the surface to break away rapidly. As the crack continues downward, you will see that it has striped the asphalt from the rock basically turning it back to gravel. This condition will cause the underlying material to fail, creating potholes and large settlements. Currently, approximately 19% of Idaho's roads are in conditions similar to the second core, in five-years without additional funding available to do the right thing at the right time in the right place, the number will increase to 36%.

**Bridge Inspection and Repairs** (slide 36 and 37 (video clip): The division is very concerned for its ability to maintain the bridges, He showed a short video that illustrated the challenges the ITD faces with its bridges.

**Idaho Fatalities** (slide 38): In 2008, Idaho had 230 highway fatalities, this is down from 252 in 2007, and though this is an improvement it is still too much. The division will continue to do everything within its power to reduce this number even more. The division will continue its safety education programs dealing with reduction of impaired driving, reduction



in aggressive driving, and increasing the seat belt usage throughout the State. When I was a district engineer all the fatality reports within the district went across my desk. The first place I would look on all the reports was the box for "protective devices," I would estimate that greater than 90% of the reports indicated no device was used. The ITD can only wonder how many people could be alive today if only they had taken the time to buckle-up.

**EPA (slide 39):** The Department wants to spend taxpayers' dollars as effectively and as efficiently as possible. The Department continues to make improvements where it can; this is an area where that has improved, but still have a ways to go. The consent decree from the ITD's violation of the Clean Water Act in 2006, allowed the EPA (Environmental Protection Agency) to fine the ITD \$325,000 in 2006. He emphasized that in no case were any of these fines for the ITD allowing "dirty" water to enter Idaho's streams and rivers. Most were for not filling out a form right, or not checking a box, or not filling the form out in time. Though the ITD has not received a total for fines during 2007, it anticipates there will be fines. The ITD has made numerous changes to our policies and procedures in order to eliminate the fines, and relieve the ITD from the consent decree in a timely manner. An example of some change is: the decree requires 8-hours of training for inspectors; the ITD has elected to develop training and required 24-hours of training. The ITD goal is to become an industry leader in environmental concerns.

**Practical Design Philosophy (slide 40):** In 2007, the ITD adopted the philosophy of "practical design," a philosophy where it will design more good jobs than great jobs, without sacrificing safety or quality. This is a projected savings of \$5.6 million savings in our FY08 projects. Now that those projects have actually been developed and bid, the ITD knows what the actual savings was, which is \$18.2 million. All these extra savings were put back in the district that generated the savings where they bid more jobs.

**Practical Design Philosophy (Rest Areas) (slide 41):** The division recently reviewed its rest area program, and applied that practical philosophy to it. The division identified a savings of \$7.8 million where the savings will be put to other roadway projects within the districts generating the savings.

**Materials/Testing Program (slide 42):** The Department worked with the Association of General Contractors to identify and implement efficiency improvements to its materials and testing specifications. The improvements reduced manpower requirements, increased contract flexibility, and reduced costs. In 2008, they implemented 23 efficiencies into the spec books and contracts. These changes affect everything from aggregate to concrete, to asphalt. The division continues to meet with the AGC and have identified 8 specifications to examine this year.

**Using Wing Plows (slides 43 and 44) (Video clip):** The division added 16 wing plows in 2008 to the existing fleet of 61 trucks. A truck with a wing plow can clear a 12-foot lane and shoulder in one pass - rather than requiring two trucks to plow in tandem. A short video of a wing plow in action was viewed.

**Future Efficiencies** (slides 45 and 46): Lastly, the Division of Highways continues to look for efficiencies. One district is making agreement with property owners to have rows of corn left standing in the fields in strategic locations to create natural snow fences to reduce snow drifting problems. They have a task force looking at pavement design and development on projects to create opportunities to tap into changes in technology, and equipment to produce better designs for less, and we are incorporating practical design practices and policies in all the projects. Currently, the division is developing a practical design guide.

**Alan Frew**, Administrator, Division of Motor Vehicles, presented an overview regarding the division.

**FY10 Budget Request** (slide 48): Products and services provided by the Department's Division of Motor Vehicles (DMV), directly or indirectly, touch the lives of every Idaho citizen. The division has only one product, Customer Service. Through partnerships with county assessors and sheriffs, the division tests and issue driver licenses to more than one million Idahoans, and process/issue more than 10,000 vehicle titles every week.

**DMV Print On-Demand** (slide 49): In the past year, the DMV has implemented a print on demand decal program that has been very well received at county assessor offices. County assessors can now print plate decals when they need, rather than having to stockpile large quantities of pre-printed decals. This system also reduces opportunities for fraud, reduces county inventory requirements, has saved \$360,000 in one-time printer replacement costs and produces an annual savings.

**DMV** (slide 50): The DMV continues to work in close partnership with the State's Web portal provider, Access Idaho. This past year, the DMV rolled out two additional online services, saving dollars and expanding customer services. The DMV is proud of the new Driver License Reinstatement process which has been in production since August. Nearly 3,100 customers have used this service, collecting more than \$383,000 in reinstatement fees.

**DMV Online Transaction Trend** (slide 51): As you can see by this diagram, the DMV has been very successful implementing DMV online services - saving resources, improving customer convenience, and expanding customer services.

**Workload Increase** (slide 52): This chart graphically depicts the large workload increases that the DMV has been able to handle without corresponding staff increases. This is attributable to staff's commitment to customer service and partnering to ensure the successful implementation of Web services.

**DMV Virtual Ports of Entry** (slide 53): Nearly one-half of the DMV is comprised of commercial vehicle services. One way this section has improved operational efficiency is through the use of virtual weigh sites. This is a picture of one installed on US-95, north of Bonners Ferry.

**DMV Future Efficiency** (slide 54): Commercial Vehicle Services is also

improving efficiency through the use of smaller roving vehicles, deployment of kiosks and expanding online services to our permit customers.

**DMV** (slide 55): In conclusion, the Department and DMV are committed to serve Idahoans. The DMV is able to meet the service and technology challenges through the efforts of a workforce of dedicated professionals. Our people are wonderful.

**John DeThomas**, Administrator, Division of Aeronautics, presented a report regarding the division (slide 58 - 62): The Division of Aeronautics is requesting a \$3.4 million appropriation of which \$800,000 will be federal funds. The bulk of these funds will go out as grants to seven commercial service airports, and 30 general aviation NPIAS airports to help them with their local match for FFA funding. We will also provide most of the funding for six small community airports that are not eligible for FAA funds. The DMV will also maintain 30 State operated airfields and support Idaho's pilots and aircraft owners.

**Division of Aeronautics** (slide 58): We have also worked hard to increase advertising in the quarterly aviation newsletter, thereby saving publication money.

**Improving Idaho's Aviation System** (slide 60): Last year, the DMV received a small increase in dedicated funding, and none of that funding went to internal operations. The bulk of it went as grants to various Idaho airports, mostly to the smaller, community airports that are not eligible for FAA funds. The DMV has also begun efforts to republish the Idaho Aeronautical Chart, and the Idaho Airport Facilities Directory, which have not been published for the last ten years due to a lack of funds. The division has a statutory requirement to coordinate search for downed or missing aircraft, and use volunteers for that effort. Over the last few years, the DMV has been unable to train these volunteers for search due to lack of funds. So, a small amount of the increase has been designated to support the Idaho Airstrip Network, a government and non-government organization that works to maintain and improve back country airstrips in the State.

**Future Efficiencies** (slides 61 and 62): The DMV has plans to continue improvement efforts including an online pilot and aircraft registration system which will improve services to our customers, and streamline our procedures. The division will piggy-back with the Motor Vehicle Division to develop print-on-demand aircraft decals, streamlining procedures, and are now in beta test of an online flight scheduling system that will allow any state employee to check our flight schedule to see if one of the planes is flying somewhere that they need to go, thereby saving travel money for the State.

**Dave Tolman**, Administrator, Division of Administration, reported on the following.

**FY10 Budget Request** (slide 64): The Division of Administration's FY10 budget of \$26.5 million and 203 FTP (full-time positions) provide central support services to the rest of the Department. These Department-wide

services include: Idaho Transportation, Finance and Budgeting, Purchasing, Legal, Human Resources, Building program, the Director's office, and the ITD Board.

**Practical Design Philosophy** (slides 65 through 68): Efficiency and cost effectiveness are what all employees in the division strive to do. He highlighted some of those efficiencies.

- Staff accomplished a thorough review of the Board's approved 5-year Building program, and made a recommendation to the Board that was approved in August. This building program change removed \$77 million. A majority of this came from the elimination of a future bond request to replace the District 3 location on Chinden to a more favorable location, to improve service, and a headquarters building replacement that will consolidate headquarter sections that are currently housed in rented facilities, modular office buildings, and improve operations of the rest of the headquarter staff.
- More consumers are using online map functions and as a result, the ITD is printing maps every two-years saving approximately \$62,500 a year. The division worked with the Department of Commerce in this effort to ensure continuity with that agency.
- The ITD has worked with the Idaho Government portal provider to pass on credit card fees to the consumers that use credit cards to pay for services, saving \$45,000 annually. The division will continue to work on other methods to continue to reduce this cost at the ITD which is consistent with the direction of the Governor.
- The division worked to reduce out of state travel costs by \$32,000 department-wide cutting 19 trips. This was accomplished by sending fewer employees to national training conferences. Important travel to inspect project specific materials that are necessary to ensure quality were not compromised.

**Future Efficiency** (slide 69): Future efficiency work efforts will be focused on:

- Implementing new electronic tools via the internet so that employees can be more productive in sharing file and working collaboratively together.
- Replacing the aging phone system with a new "voice over internet" based system that will improve employee efficiency, and add needed functionality.
- Implement a data warehouse that will be initially focused on financial and human resource data to provide necessary information in a much quicker and flexible method than is currently available.

**Division of Administration** (slide70): The Division of Administration is focused on delivering the best service possible through great employees.

**Randy Kyrias**, Administrator, Division of Public Transportation (slide 71): reported on the division.

FY10 Budget Request (slide 72): The division's FY10 budget request is \$10.3 million, of which approximately \$9.6 million is in the form of "trustee and benefit" payments that flow directly to local service providers.

This past year, the division began collecting performance data to help define the scope of public transportation in Idaho.

- Transportation partners estimate approximately 6.3 million passenger trips per year, which translates into approximately 34 million annual passenger miles traveled.
- Each year Idaho receives approximately \$15.5 million in federal funding, and \$9.6 million in local and fare revenue.

**IMAP** (slide 73): This last year the division championed an initiative that redefined its fundamental understanding of public transportation and mobility in Idaho.

Local partnerships across the State are constructing a statewide public transportation system that is coordinated, efficient, and relevant. This system of local networks will ultimately allow a passenger to board a vehicle in Pocatello, for example, and travel to Sand Point with ease.

With this initiative, local partnerships are also constructing Idaho's first statewide comprehensive plan for public transportation helping to reduce costs, and generate better mobility options.

The division's efforts has captured the attention of the federal transit administration in Washington D.C. as they have requested to receive continual program updates, and the State of Alaska is currently considering a system design similar to ours.

This initiative is referred to as "Idaho's mobility and access pathway" or IMAP.

**Consolidated Mobility Planning** (slide 74): IMAP operates within a structure of seventeen local mobility networks. One benefit of this network structure is that it gives the ability to consolidate the planning process giving all Idaho communities, regardless of size, equal access to federal funding opportunities.

**Mr. Kyrias** stated he is proud to announce that the division will be finalizing the first draft of the seventeen network plans in nine days, on February 1<sup>st</sup>, and are hoping to have all plans finalized by the end of February.

This approach has also allowed the division to quickly generate, and submit, a preliminary list of mobility projects to be considered within a possible economic stimulus package.

**Rideshare** (slide 75): This past summer, when gasoline topped out over \$4 per gallon, the division heard from communities across the State that they were struggling with commuting costs. This concern was even more

pronounced in the rural communities as they typically have much longer travel distances. Sharing a ride is the simplest and quickest method to directly reduce commuting costs. Therefore, the division sponsored a Web based ride-match system that is available to all communities in support of rideshare and vanpool programs.

**Vehicle Resources** (slide 76): The division fully funded the vehicle investment program which has funded 145 vehicles since it began in 1999. These vehicles have helped senior homes and rural communities provide reliable transportation options, and also are often a lifeline for the delivery of food and supplies.

**Future IMAP Efficiencies** (slide 77): The division has also generated efficiencies through vehicle-sharing partnerships. As an example, last summer the ITD was notified by the Gem County senior home that their only shuttle van was no longer safe to operate, and they had no funding available to replace that vehicle. This organization did not necessarily put many miles on the vehicle, but they needed it to transport residents to doctor appointments, and also to make deliveries of food.

Through the IMAP network, the division broadcasted a call for a replacement vehicle. Shortly after, the division was notified by Treasure Valley Transit that they had a used vehicle that was just sitting on their back lot ready for service, and was in good condition. Treasure Valley Transit subsequently leased this vehicle to the Gem County senior home for only \$1 a month. This was a win-win situation for both organizations, and has significantly improved the safety and level of service provided to that community.

As the full IMAP program rolls out, and new partnerships are formed, the division will continue to implement efficiencies and system improvements.

**Public Transportation** (slide 78): **Matthew Moore**, Administrator, Division of Transportation Planning, presented an update related to the division.

**Division of Transportation Planning** (slides 79 and 80): The Transportation Planning Division's \$5.5 million budget request allows the division to effectively research, plan, and analyze transportation systems across Idaho. Specifically, the division monitors and assess thousands of miles of pavement condition, count tens of millions of vehicles, and partner with local and regional governments to ensure effective planning and development.

**Partnering** (slides 81 through 83): In terms of efficiency efforts, the division has:

- Partnered with local highway jurisdictions to collect traffic data, saving \$120,000.
- Provided the Statewide Transportation Improvement Program or STIP on compact disc, saving \$21,000 annually in printing and mailing costs.
- Researched the best options for managing maintenance and pavement improvement projects, alongside financial and geographic information through the use of management software.

Planning anticipated the need to acquire such software for improved applications well ahead of the Office of Performance Evaluations (OPE) audit findings.

**Future Efficiencies** (slides 84 and 85): As the division moves forward, it will:

- Utilize remote computer technologies to fix or reset traffic counters for a total savings of \$5,000 annually in staff time, travel, and fuel costs.
- The Department agrees with the OPE audit finding that the ITD should develop a Statewide Transportation System Plan that unifies all of the business, vision, strategic and modal plans with the Statewide Transportation Improvement Program over the next 20-years. The new plan, with initial development already underway, will clarify how projects are prioritized and connect to the long-range capital improvement plan (Horizons).

A lengthy discussion was held pertaining to the presentation and the audit.

**Chairman McGee** and **Chairman Wood** each expressed their appreciation to **Director Lowe** and the ITD staff for a very informative, rapid, and very efficient presentation.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

Attachment #1 - Power Point 43-page slide report  
Attachment #2 - Office of Performance Evaluation Audit Report

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, January 27, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/  
EXCUSED:** None
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Chairman McGee** called the meeting to order at 1:35 p.m. He introduced new committee members for the 2009 Legislative Session, and welcomed secretary, Betty Osborn. He also introduced his wife and baby to the committee.
- PRESENTATION:** The Idaho Transportation Department (ITD), Division of Highways, extended an invitation to the American Society of Civil Engineers (ASCE) to provide a public agency peer review of their organization. **Thomas Eggum, P.E., F. ASCE**, co-chaired the review team consisting of 13 members, all government engineering managers with a combined 350 years experience. Prior to the visit the team reviewed documents, budgets, policies and procedures and customized this review to meet ITD's goal for the review: to ensure that the Division of Highways is prepared to carry out its responsibilities now and in the future. The team had several teleconferences with highway division managers prior to the on-site visit and added their concerns to the review process. The team also requested that employees complete a questionnaire that focused on basic management. The review team spent a total of 57 person days actually on site in the districts and at headquarters with three teams over a three week period. One-on-one confidential interviews were conducted with 217 staff members. **Mr. Eggum** noted that the staff had been particularly easy to work with. They were open and non-defensive which made this challenging review much easier.
- Mr. Eggum** presented slides outlining the review process and summary of findings (see Attachment #1) as he reviewed the team's conclusions and recommendations (see Attachment #2, ASCE Peer Review). He then took questions of the committee.
- Senator Heinrich** asked **Mr. Eggum** to share specifics regarding



attributes or qualifications of applicants that makes the Department hesitant to hire. **Mr. Eggum** stated that in one instance a foreman advised him that he badly needed help to get his work done, but the salary level did not attract quality applicants. In his judgment, he would prefer not to hire than to take some of the people they could afford to hire.

**Senator Winder** asked that since the report seems to recognize some pitfalls with decentralization, is there a way to provide some guidance in the overall organization to get away from those? **Mr. Eggum** stated that it is not the team's official roll to judge whether a policy is good or not, but to judge how well it is being carried out. However, the team thought decentralization is worthy to pursue with certain caveats. Activities that ought to be kept centralized should be carefully thought through. You don't let each district pick what e-mail system they want. You need consistency with engineering standards. Specialty services might be much more efficiently provided centrally or by having one district provide to others. He stated that perhaps it is a matter of when authority gets delegated, accountability and responsibility ought to be stated clearly so the districts have leeway to act but they are accountable for their actions. The team did not see that as a flawed step, in fact given the geography and what little we know about the history of the districts, the strength is in the districts owning their operation. Staff does seem proprietary in ITD and the Highway Division -- they own their jobs.

**Senator Winder** asked if **Mr. Eggum** had the statistics to tell the committee how many other states are decentralized or if there is a management system that ACSE has experienced that works well in other states? **Mr. Eggum** stated that they do not have intelligence on other states to offer a performance management assessment system. What they did conclude is that there ought to be more performance assessment but they did not specify what it ought to be. **Senator Winder** asked if **Mr. Eggum** had an opportunity to review the Legislative Audit? **Mr. Eggum** stated that he did so briefly last week by reviewing the Executive Summary and Findings chapters. He complimented the auditors and stated that they had reached some of the same conclusions in a little different way.

**Senator Corder** asked **Mr. Eggum** to expand his response in the area of accountability and responsibility, specifically, how does one do that within an engineering organization? **Mr. Eggum** responded that you do it by mandating it happen, not accept that it won't happen, but be patient and good humored about getting engineers to pin themselves down. He stated that for decentralization to produce good results and avoid problems, you delegate ability to act, but it isn't abdicating your responsibilities on reporting systems. **Senator Corder** further inquired about the innovations mentioned as a result of GARVEE and asked **Mr. Eggum** to comment on those and asked whether there were some old methods that were found to be abandoned in this pursuit of innovation? **Mr. Eggum** stated

that he really did not have enough detail to answer that question well, but pointed to one example of staff being able to come up with some innovations outside the box on acquiring right of way much more efficiently. He stated that the review team did not spend a lot of time on GARVEE and had they been uncomfortable with it, they would have spent more time on it.

**Chairman McGee** thanked **Mr. Eggum** for the valuable presentation and passed the gavel to **Vice Chairman Hammond** for rules review. **Vice Chairman Hammond** stated that time constraints may not allow completion of the agenda today and inquired as to whether any of the presenters would have a problem returning on Thursday if necessary. No responses were received.

**RULES:  
39-0207-0801**

**Pending Rule:** Relating to Idaho Transportation Department Rules Governing Titling of Salvage, Specially Constructed, and Reconstructed Motor Vehicles. **Amy Smith**, Vehicle Services Manager, Idaho Department of Transportation, presented Rule No. 39-0207-0801. (See comments, Attachment #3.) This rule is being amended to comply with the provisions of House Bills 364 and 365, 2008 Legislative Session, which change the processes and procedures for the titling of vehicles which have been declared salvage or total loss. Changes provide that disclosure will be required upon sale of a vehicle which had been declared salvage or is branded as rebuilt salvage. This change streamlines the process for titling and eliminates inspections and portions of the rule no longer required, which simplifies the process for branding of such vehicles as "rebuilt salvage." This rule also clarifies and defines what a brand is, and when it shall be used. It eliminates motorcycles, trailers, and vessels as exceptions for the purpose of declaring salvage vehicles as well as require a branded title of rebuilt salvage for these types of vehicles. It provides for a number of definitions and clarifies that assembled and replica vehicles must meet federal safety standards and emission requirements in effect for the model year being titled.

**Ms. Smith** advised no public comments were received during this rulemaking. Industry representatives and the Dealer Advisory Board have reviewed these changes. She then took questions of the committee.

**Senator Broadsword** stated that she does have constituents with concerns about this rule. Some new vehicles may get slightly damaged at the point of transfer from the manufacturers plant. Rather than deal with repairing those vehicles the manufacturer or insurance company declares them a total loss and sells them as salvage. Her constituents buy those slightly damaged vehicles and repair them. This rule does not give them an opportunity to sell that vehicle then for what its value is. They must put a salvage title on them and they become worth pennies on the dollar compared to what they are actually worth. **Ms. Smith** responded that typically a vehicle is deemed salvage or a total loss vehicle when it costs more

to repair than what its pre-crash value was. This is set by insurance laws, not necessarily within the motor vehicle code. The Department relies on the insurance industry to tell them when something has been declared a total loss. **Senator Broadsword** advised that she had talked with the Department of Insurance about this concern as the value of the vehicles can be substantial and this change in the law will cause problems for some of her constituents. **Ms. Smith** asked **Daryl Marler**, Dealer Operations Manager Supervisor, Vehicle Services, Idaho Department of Transportation, for a more technical response to the question. **Mr. Marler** advised that where an estimate of damage is less than 6% of the value of the vehicle, Idaho Code provides that a regular title can be issued. However, if the insurance company or the manufacturer does declare the vehicle a total loss, then by the definitions we have in the Idaho Code, they are a total loss vehicle and we must treat them that way. His understanding from talking to manufacturers is that they do not want the inherent liability that might be involved in that vehicle if it were put back on the road. That is their intention in declaring it a total loss. **Senator Broadsword** asked if **Mr. Marler** had any suggestions that she could take back to her constituents to help them resolve this situation. **Mr. Marler** stated he did not, but definitely could research it.

**MOTION:**

**Senator McGee** moved to approve Docket No. 39-0207-0801. **Senator Heinrich** seconded, and the motion carried by **voice vote**. **Senator Broadsword** requested her “no” vote be recorded.

**39-0260-0801**

**Pending Rule:** Relating to Idaho Transportation Department Rules Governing License Plate Provisions. **Ms. Smith** presented Rule No. 39-0260-0801. (See comments, Attachment #4.) This rule is being amended to comply with the provisions of House Bill 602, 2008 Legislative Session, to address the new plate type to be issued to all-terrain vehicles, utility type vehicles, and off-road motorbikes, to be known as an “Idaho Restricted Vehicle,” and the process for the new plate type and validation by registration through Parks and Recreation. It also adds the ability to issue a temporary (30-day) registration when the automated system is not available. Clarification is established in the acceptability of personalized plate messages, as well as defining the length of personalized plate messages to include spaces as part of the message.

**Ms. Smith** advised that no public comments were received on this rulemaking. She then took questions of the committee.

**Senator McGee** asked to be assured that this rule change would not affect the committee’s work on a “fix” to the ATV bill from last year. **Ms. Smith** stated that legislation would not be affected.

**Senator Bilyeu** asked why the Department would want to risk issuing a registration with a wrong ownership on it, since the ownership could only be proved through the computer system?

**Ms. Smith** advised that unfortunately the system does have a

tendency to go down frequently and this puts counties in a position where they are unable to assist their customers coming in with renewal cards. This rule simply creates a manual form for them to accept the fees that are due and issue a 30-day temporary registration. It is not a temporary ownership, but a temporary registration based upon payment of the fees so the customer is provided with proof of having attempted to register the vehicle. **Senator Bilyeu** stated that she does have constituents who are concerned about the possibility of issuing registration to someone who does not own a vehicle. **Ms. Smith** responded that if the customer is uncomfortable, they do not have to use the procedure.

**Senator Keough** communicated a concern from a constituent who had a license plate "BFHS69". He graduated from high school in Bonners Ferry in 1969 and has been disallowed his plate under this number. She is not certain that is progress.

**MOTION:**

**Senator Broadsword** moved to approve Docket No. 39-0260-0801. **Senator McGee** seconded, and the motion carried by **voice vote**. **Senator Keough** requested her "no" vote be recorded.

**INTRODUCTION:**

**Senator Hammond** recognized a guest, Penelope Borden, a agricultural student at the University of Idaho. He welcomed her to the meeting..

**39-0222-0801**

**Pending Rule:** Relating to Idaho Transportation Department Rules Governing Registration and Permit Fee Administration. **David Metcalf**, Commercial Vehicle Services Program Supervisor, Idaho Transportation Department, presented Rule 39-0222-0801. (See comments, Attachment #5.) This rule change will clearly state that motor carriers shall not participate in future registration installment payment plans as allowed in Idaho Code 49-434(10) and 49-434(11), if previous registration installment payment plans have been suspended due to non-payment or payment with an insufficient funds check. **Mr. Metcalf** stated no comments were received when this rule was published and took questions of the committee.

**Senator Corder** asked if the intent of the rule is to prevent an individual who defaults on an installment plan to ever participate in another installment plan with the department? **Mr. Metcalf** responded that would be correct for that customer account.

**Senator Corder** stated that seems to be harsh and if an individual cures the default, they should not later be penalized. **Mr. Metcalf** advised that he would double check, but it does appear there is a gap between the due date and the suspension where the default could be cured. In that case the customer would be eligible for future installment plans. He stated that there are 1200 of these plans a year and currently about 25% default each year. A large portion of those defaults are repeat offenders. That is the motivation for this rule.

**Senator Winder** stated that Section 05 allows for a reinstatement

fee for a payment plan, and asked how this would affect a customer? **Mr. Metcalf** advised that once a plan is suspended the customer can reinstate their account under this section by paying the reinstatement fee and then continue to operate vehicles. The customer, however, would be unable under this rule change to request a future installment payment plan.

**Senator Broadsword** asked what kind of penalty and interest amounts the Department is realizing from these defaults and whether the program is paying for itself or causing a loss to the Department? **Mr. Metcalf** advised he could get that information. He did state that the estimated administrative cost per payment plan is about \$85.00. He believes the administrative cost exceeds the amount of payment on interest that is collected.

**Senator Werk** asked if he were a business that entered into an installment payment plan, would he pay some extra cost to get the program? **Mr. Metcalf** advised there is no interest charged if the plan is paid on time. **Senator Werk** asked if a business changed names and transferred vehicles, would that be considered a new account eligible for a payment plan? **Mr. Metcalf** advised that the Department uses the Federal DOT number and the Tax Commission for identification numbers to help identify an entity so that the customer cannot circumvent the system by making a slight name change and start up as a complete new entity. **Senator Werk** stated that he agreed with **Senator Corder** that the one-strike-you're-out policy is not a fair policy.

**Senator Corder** stated that the Department should consider charging for the service of providing installment plans to at least cover the cost of providing the administrative service. He asked what percentage of the total registrations actually go to the installment plan and if that is specific to a fleet size? **Mr. Metcalf** advised about 20% of registrants choose a payment plan. He stated that the Department has payment plans for customers with one truck and also have large fleets involving thousands of dollars. **Senator Corder** stated that he would like to see the Department rework the language of the rule so that it does not penalize a one time default and implement a minimum fee for the use of the plan.

**MOTION:**

**Senator McGee** moved to approve Docket No. 39-0222-0801. **Senator Winder** seconded the motion. Under further discussion **Senator Keough** asked why the current rule was not adequate as Section 06 provides for suspension for delinquent installment payment two or more times in one payment plan year? **Mr. Metcalf** advised that the Department has some accounts that default one time each year and this has not stopped those accounts from participating. **Senator Broadsword** expressed concern that in today's economy this rule is too harsh. **Senator Werk** expressed his feeling that this rule is too harsh and the rule needs some more thought. **Senator Winder** stated that this is really a privilege for the customer, it is voluntary and should be punitive if the privilege is

abused. He is willing to look at how this could be improved in the future. **Senator McGee** spoke in support of the motion stating that this interest free installment payment plan is a business friendly practice, but it sounds like there are consistent problems with some customers and this rule allows the department to deal with those repeat offenders. **Senator Keough** stated that the installment plan has not been a favorite of the Department over time. She has a concern that a customer, having a genuine reason for being late with an installment payment, has no opportunity to enter into an installment plan ever again is a bit harsh.

The voice vote on the motion was in doubt and **Vice Chairman Hammond** requested the secretary take a roll vote: **Senator Bilyeu** - Nay; **Senator Werk** - Nay; **Senator Winder** - Aye; **Senator Broadsword** - Nay; **Senator Heinrich** - Nay; **Senator Corder** - Aye; **Senator Keough** - Nay; **Senator Hammond** - Aye; **Senator McGee** - Aye. The motion **failed**.

**ADJOURNMENT:**

**Vice Chairman Hammond** stated that time constraints did not allow the committee to complete the agenda today, and that the remainder of the Rules on the agenda will be moved to the agenda for the Thursday meeting. He then passed the gavel back to **Chairman McGee** who adjourned the meeting at 2:55 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, January 29, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** None

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

**Chairman McGee** convened the meeting at 1:34 p.m. **Vice Chairman Hammond** conducted the portion of the meeting pertaining to the rule review of dockets.

**Docket No.  
35-0105-0801**

**Randy Nilson**, Tax Policy Specialist, Idaho Tax Commission, presented pending Docket 35-0105-0801, Rule 130, 135, and 185, relating to the distributor's fuel tax report. If approved, the rule becomes effective at the Sine Die of the Legislature. The proposed rule was published in October 2008.

Rule 130 relates to distributor's fuel tax reports, and is being amended to add annual gaseous fuels permit fees to Paragraph 130.2 to add biodiesel and biodiesel blends to the fuels in Paragraph 130.6, to show in Paragraph 130.2 that the payment of annual gaseous fuels permit fees is also required on the fuel distributor report, and to show in Paragraph 130.6 that biodiesel and biodiesel blends are also received by a distributor subject to the fuels tax and transfer fee.

Rule 135 relates to alternate reporting for persons who produce motor fuels or import motor fuels into Idaho only for use in their own aircraft, motor vehicles, and equipment. It is being amended to add biodiesel producer to the appropriate sections of this rule, and to add to the definition of a "qualified consumer" who is a person that produces biodiesel for his own use. These changes would allow this type of biodiesel producer to file his report annually, instead of monthly.

Rule 185 relates to the authority to give the consent to jurisdiction of Idaho Courts. It is a new rule to implement the requirements in Idaho Code, Section 63-2427A(4) found in HB 249a that passed during the 2007 legislative session.

Rule 185 requires that all Idaho Fuel Distributor License Applications be signed by an individual with the authority to give the consent to jurisdiction

of Idaho Courts on behalf of the applicant, and to waive the sovereign immunity of certain entities with a separate authorization by its governing authority. The application must constitute an irrevocable submission to the jurisdiction of Idaho State Courts, and waiver of any sovereign immunity.

**MOTION:**

**Senator McGee** made a motion and **Senator Broadsword** seconded, to approve Docket No. 35-0105-0801. The motion carried by **Voice Vote**.

**Vice Chairman Hammond** returned control of the meeting to **Chairman McGee**.

**Greg Broemeling and Vernon Adams**, from Lewiston, Idaho, presented the Idaho Tote, a piece of equipment to be towed behind a recreational vehicle. **Mr. Broemeling** read a letter from **Randy Squires**, Motor Vehicle Investigator, Idaho Transportation Department.

**Mr. Squires** wrote that in Idaho it is non-titled and non-registered. The "tote" is connected in a permanent fashion by bolting to the towing vehicle. The axle is a steering axle, which turns according to the pressure, going both forward and rearward. The standard sized platform is 8 feet 5 inches in width, 6 feet in length. The weight is about 500 pounds.

The Idaho Division of Motor Vehicles has discussed the situation of titling on this unit, but It does not meet the standards for either titling or registering. It is considered an attachment to the towing unit, rather than an independent trailer.

**Mr. Broemeling** also presented a handout (Attachment #1) which was reviewed by the committee members. The attachment included a letter from **Daryl Marler**, Dealer Operations Program Supervisor, Division of Motor Vehicles, Idaho Transportation Department (ITD), regarding a request from **Mr. Broemeling**, pertaining to a request for clarification of the determination of the ITD that the Idaho Tote is classified as a "utility trailer" in the State of Idaho. Pictures in Attachment #1, pages 3, 4, 5, and 6, were reviewed and discussed.

**Chairman McGee** expressed his appreciation to the gentlemen for coming to the committee, and encouraged them to work with their local delegation.

**RS 18362**

**Senator Corder**, District 22, presented RS18362, motor vehicles and rules of the road. He explained that cities and counties attempt to enact ordinances addressing covers or tarps for materials hauled on trucks and other vehicles. Most ordinances are not successful in defining every possible situation. The result is confusion for drivers, noncompliance and frustration for law enforcement may only cite for littering after material has fallen to the highway.

This legislation provides some general guidelines that make compliance easier, eliminates confusion, and gives law enforcement the ability to correct violations before they become hazards for motorists.

There is no negative fiscal impact to the state general fund or local units of government.



**MOTION:** **Senator Hammond** made a motion and **Senator Werk** seconded, to Print RS18362.

Discussion: A general discussion was held regarding penalties and if this is just another entanglement for the public.

The motion carried by **Voice Vote**.

**RS 18184C1** **Laura Johnson**, Bureau Chief of Marketing, Department of Agriculture, presented RS18184C1, relating to the rural economic development and integrated freight transportation program. This legislation, if approved, would amend Section 49-2902, Idaho Code, to provide for annual funding for the administration of the program.

This legislation amends the funding calculation provided to the Department of Agriculture for planning and operating expenses, and staff assistance for the Rural Economic Development and Integrated Freight Transportation Program revolving loan fund. The legislation will change the funding from a one-time amount not to exceed 3 percent of the total assets, and limits the funds to interest only. Through the zero based budgeting process, the Department identified that the current statute will limit the ability of the Department to service new and current loans in the long-term. This legislation will provide ongoing operating and personnel expenses to support the program into the future.

**MOTION:** **Senator Broadword** made a motion and **Senator Hammond** seconded, to Print RS18184C1. The motion carried by **Voice Vote**.

**RS 18237** **Amy Smith**, Vehicle Services Manager, Idaho Transportation Department, presented RS18237, regarding the collection of personal information for the purpose of vehicle titling and registration.

This legislation is being proposed to enable the Department to require the collection of owners and businesses identifying information, including full legal name, driver license number, or social security number, or a business' employer identification number. It will also enable the Department to collect both physical and mailing addresses. The collection of this information, if approved, will allow the Department to bring standardization and efficiency to the title and registration records of the Department, in concert with the same information collected for a driver license.

The collection of this information will position the Department in its modernization efforts, to use a one-customer, one-record vision, eliminating individual stove-pipes of information. By obtaining full identification information, the Department will help to protect consumers and vehicle owners and their vehicle interest and ownership, by ensuring that a vehicle is titled and registered to the rightful legal owner.

It is envisioned that upon complete modernization, an individual will have one record with all vehicle interests\ownership, and registration within a single record. Without the ability to start collecting such information, the Department cannot be successful in this endeavor, as records for titles and registrations will continue to be issued in a variety of forms of the owners' names.

One other factor in this request to collect personal information will be the ability to comply with Idaho Code 49-1210, which is currently in sunset until July 1, 2009, unless a proposal to extend the date is passed this session. Essentially, it requires the Department to cancel registrations of owners who are required to provide proof of financial responsibility for certain driver license suspensions.

Under the current system and inability to collect personal identification information, the ITD cannot comply with this requirement. By passing this bill, the ITD can begin to populate its database with this additional information in preparation for system modernization, and to move the Department closer to an automated method of carrying out the provisions of Section 49-1210, Idaho Code.

Law Enforcement supports this proposal and believes this would be an asset to law enforcement, and a tremendous aid in all types of investigations, and to help curb title fraud and vehicle theft.

This bill does not have a fiscal impact to the Department as the record layouts currently designed can accommodate the majority of the new requested information.

**Ms. Smith** stated that this is a general overview of what this proposal does, and respectfully requested that RS18237 be approved for print.

**MOTION:**

**Senator Heinrich** made a motion and **Senator Bilyeu** seconded, to Print RS18237. The motion carried by **Voice Vote**. **Senators Werk** and **Keough** voted "NAY."

Discussion: Committee members wanted to know why the ITD must have an individual's social security number. **Ms. Smith** agreed to provide additional information pertaining to RS18237.

**ADJOURNED:**

There being no future business to discuss, the meeting adjourned at 2:41 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

Attachment #1 - Idaho Tote publication, and a letter from the Idaho Transportation Department, Randy Squires

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, February 3, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet 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 1:34 p.m.

**MINUTES:** **Senator Corder** reported he had reviewed the minutes of January 29, 2009, and moved they be approved as presented. The motion was seconded by **Senator Hammond** and carried by **Voice Vote**.

**Senator Broadsword** reported she had reviewed the minutes of January 22, 2009 and moved they be approved as submitted. The motion was seconded by **Senator Bilyeu** and carried by **Voice Vote**.

**Senator Hammond** reported he had reviewed the minutes of February 3, 2009 and moved they be approved as presented. The motion was seconded by **Senator Heinrich** and carried by **Voice Vote**.

**Chairman McGee** reviewed contents of the committee's folder, drawing attention to a questionnaire form that has been recommended by the Leadership for use with all gubernatorial appointments. This form will collect background information from the nominee prior to coming before the Senate for confirmation, and responses will be available to the committee at the time the nominee appears. This will not preclude other questions by the committee, but will be a baseline for judging all potential conferees.

**RS 18545** Relating to off-highway vehicles was presented by **Representative Hagedorn**, District 20. The purpose of this legislative change is to clean up language from 2008 HB602, codify insurance requirements for off-highway vehicles, and to allow for the use of a "sticker" only registration option for ATV/UTV/Motorbikes. A new classification for "Restricted Use" vehicles has been defined creating a "Specialty" category for those vehicles outside of current definitions. Further, it defines the definition of UTV and ATV vehicles and allows the purchase of restricted vehicle stickers and plates by nonresidents that use Idaho's trail systems.

On January 1, 2010, users wanted to create a user fee account like that of the Idaho boating users that will be used by the County Sheriffs for off-highway related law enforcement activities and by the Department of Lands for off-highway related law enforcement activities and by the Department of Lands (DOL) for off-highway opportunities and repair damage caused on State land by off-highway vehicle use. The language also limits the State's liability of State or political subdivisions for restricted vehicle use.

In 2010, users will register and identify the county where they primarily use their restricted vehicles. \$2 will be added to an account from that registration, and will be provided to the DOL and County Sheriffs for use in managing these vehicles, just like the Idaho Parks and Recreation Boating Program. Funds available will be dependent on registrations and the counties selected by the user of primary and secondary use of the vehicles.

A correction is required to RS18545, page 18, line 19, to read "shall become effective on January 1, 2010." **Representative Hagedorn** will ensure the correct date - 2010 - is placed in the legislation, and he will meet with the committee on Thursday, February 12, 2009, with a corrected RS18545.

There was a general discussion regarding RS18545 pertaining the purpose of the legislation, how the money shall be used, the amount of funds generated in Idaho, vehicle operator under age 16, licenses to drive vehicle, co-sponsors involved in the drafting of RS18545. Appreciation was expressed for all the work people did in drafting RS18545.

**S 1055**

**Senator Corder**, District 22, presented S 1055, relating to Motor Vehicles and Rules of the Road.

**RS 18447**

Relating to Snowmobiles; amending *Idaho Code*, Section 67-7112, to provide that certain vehicles shall not be allowed to operate on groomed snowmobile trails. **Senator Heinrich**, District 8, presented RS 18447. He stated that there is nothing in the Code that prohibits motor vehicles from driving on groomed snowmobile trails, and further that nothing in the Code allows county commissioners to post signs stating "No Motor Vehicles" on a groomed snowmobile trail. This amendment to the Code will make a violation of driving a motor vehicle on a groomed snowmobile trail an infraction.

There was a discussion regarding the enforcement of the legislation, and **Senator Heinrich** advised that generally those who violate this end up having to be towed. It is pretty easy to arrange to have a Sheriff's Deputy at the towing site.

**MOTION:** **Senator Keough** made a motion and **Senator Broadsword** seconded, to Print RS 18447. The motion carried by **Voice Vote**.

**Chairman McGee** passed the gavel to **Vice Chairman Hammond** for the continuation of the rules review.

**RULES:**  
**39-0306-0801** **Pending Rule:** Relating to Idaho Transportation Department Rules Governing Allowable Vehicle Size. **Regina Phipps**, Vehicle Size and Weight Specialist, Idaho Department of Transportation, reviewed Docket 39-0306-0801, which ensures compliance with *Idaho Code*, Section 49-1010(4)(b), as amended in 2005 by HB 181. This change clarifies that the maximum legal overhang allowed from the end of a vehicle is no more than 10 feet. She advised no comments were received when this rule was published

It was discussed that if a pickup hauling a load has the tailgate down, is the end of the box or the end of the tailgate considered the end of the vehicle? **Ms. Phipps** advised that if the tailgate is down and holding part of the load, the end of the tailgate would be considered the end of the vehicle.

**MOTION:** **Chairman McGee** made a motion and **Senator Winder** seconded, to adopt Docket No. 39-0306-0801. The motion carried by **Voice Vote**.

**39-0317-0801** **Pending Rule:** Relating to Idaho Transportation Department Rules Governing Permits for Manufactured Homes, Modular Buildings and Office Trailers. **Ms. Phipps** reviewed Docket No. 39-0317-0801. This change will allow industry to haul manufactured homes, modular buildings, and office trailers when wind speeds are up to 30 miles per hour. Previously, transport was prohibited when wind speeds exceeded 20 miles per hour. The restriction was established for the safety of the operator and the traveling public. The weight and construction of these structures has improved sufficiently to withstand greater wind speeds while in transit. This change also eliminates the wind-velocity exemption for hauling these structures on a five-axle truck tractor or semi-trailer combination, which provides consistency for the industry and compliance personnel.

Committee members had numerous questions related to the occasion for this rule-making and whether this rule change was industry driven or incident driven. **Ms. Phipps** responded that this is a request from the industry and was based on a survey of surrounding states. That survey indicates that many neighboring states have no wind speed restriction on movement of mobile homes. Those who do have wind speed restrictions of 25 or 35 mph. If we keep Idaho's wind speed restriction at 20 mph, that may be unduly restricting the movement of the manufactured housing being built in Idaho and transported to other states. **Ms. Phipps** advised with today's mobile homes being built stronger, the Idaho Transportation Department does not view it as unreasonable or unsafe to increase the wind speed restriction to 30 mph.

Committee members asked several questions related to safety concerns. **Ms. Phipps** reviewed the changes that have occurred in moving mobile

homes. She stated that if a mobile home is towed on its own axles, federal regulations now govern axle weight limits. She further advised that most mobile homes being moved today are not being moved on their own axles, but are being transferred and bolted down on special hauling units. **Senator Corder** stated he felt the committee should be cautious about changing this law based on industry preference and a survey.

**Ms. Phipps** explained that all ports of entry are equipped with wind speed monitoring equipment. They also have various highway sites that are regularly tested and posted on the internet. When a mobile home carrier passes through a port of entry the wind speed is checked at the port and along the carrier's route. If at any point that wind speed exceeds the maximum, the carrier is not allowed to leave the port. This regulation is based on safety and liability concerns of the Department in allowing units to leave a port where wind speed is under the limit, but they have information that it is gusting up ahead. She also stated that the industry is good at monitoring itself due to the risk of loss or citation.

She explained that this rule has been in place as a temporary rule for more than a year, and there have not been any incidents or reports of accidents.

**Ms. Phipps** also explained how this change would impact the movement of older mobile homes. They would be able to move under this rule if they were allowed to move at all. She stated that many Idaho counties have ordinances in place that mobile homes manufactured prior to about the mid-seventies are not allowed to be relocated within that county. Those ordinances would restrict movement of the older mobile homes. She is unaware of any official study regarding 30 mph, and she has not heard of any major issues even in those states with no wind restrictions. She advised that the Transportation Department is not recommending that there be no restriction, but is saying 30 mph may be an appropriate number and still satisfy safety aspects.

**MOTION:** **Senator Broadsword** made a motion and **Senator Heinrich** seconded, to approve Docket No. 39-0317-0801. The motion carried by **Voice Vote**.

**39-0322-0801** **Pending Rule:** Relating to Idaho Transportation Department Rules Governing Overlegal Permits for Extra-length Vehicle Combinations. **Ms. Phipps** reviewed Docket No. 39-0322-0801. Changes to this rule provide consistency with changes to statute which clarify that permitted, longer combination vehicles, with multiple axle configurations, such as tandem and tri-axles, may operate with single tires on those multiple axles as long as the 600 pounds per inch of tire width is not exceeded, per Section 49-1022, *Idaho Code*. It will also allow single tires on single axles as long as those tires are 15 inches wide or wider.

**MOTION:** **Senator Heinrich** made a motion and **Senator Keough** seconded, to approve Docket No. 39-0322-0801. The motion carried by **Voice Vote**.

**39-0345-0801** **Pending Rule:** Relating to Idaho Transportation Department Rules Governing Sale of No Longer Useful or Usable Real Property. **Marvin Brown**, Senior Right-of-Way Agent, Idaho Department of Transportation,

reviewed Docket No. 39-0345-0801, which ensures compliance with changes made to Section 58-335A, *Idaho Code*, by House Bill 483aa, in 2007. This rule removes the \$10,000 valuation cap and provides that all surplus real property will be offered first to the adjacent land owner. This legislative change also correctly identifies the order in which properties are then offered to other tax supported agencies and finally to a public sale if a sale or exchange does not happen along the way. There is also a small housekeeping change in the definition of an appraiser. There were no public comments received on the rulemaking.

**Mr. Brown** advised that the Transportation Department has historically offered financing at its discretion on term sales. It was discussed whether the purchaser should arrange independent financing and the State not be acting in that capacity. He explained that local districts have the ability to finance sales in this manner, and they offer it, but under a different statute.

**Mr. Brown** reported that Section 301 specifically deals with removing the \$10,000 valuation cap on property that can be sold under this rule. The other references to \$10,000 in the rule apply to the ability to finance and to the terms of finance.

**MOTION:**

**Senator Heinrich** made a motion and **Senator McGee** seconded, to adopt Docket No. 39-0345-0801.

**Mr. Brown** stated that if the value of property sold is under \$10,000 the Transportation Department can only finance for a 5-year term; however, if the value is over \$10,000, the Department may finance property sold under this rule for up to 20-years.

The motion carried by **Voice Vote**. **Senator Broadsword** requested her "Nay" vote be recorded.

**39-0404-0801**

**Pending Rule:** Relating to Idaho Transportation Department Rules Governing Idaho Airport Aid Program. **Bill Statham**, Project Manager of the Airport Planning and Development Section in the Division of Aeronautics, Idaho Transportation Department, reviewed Docket No. 39-0404-0801. This rule change is in response to a Legislative Services Office Audit finding that Aeronautics was allowing maintenance and safety supplies to be provided to Idaho public airports without a written request from the airports. The revised rule requires that maintenance and safety supplies be requested with a written, electronic or telephonic request. All changes to this rule reflect addition of required language, modification to delineate division of Aeronautics current practices or changes in response to new Federal Aviation Administration Rules or directives. No public comments were received on this rulemaking.

**Mr. Statham** responded to questions related to the definition of the term "use restrictions" and types of supplies provided by the Division of Aeronautics.

**MOTION:**

**Chairman McGee** made a motion and **Senator Keough** seconded, to adopt Docket No. 39-0404-0801. The motion carried by **Voice Vote**.

**ADJOURNED:**     **Vice Chairman Hammond** passed the gavel back to **Chairman McGee**, who adjourned the meeting at 2:12 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary



## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, February 5, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/  
EXCUSED:** None

**NOTE:** The sign-in sheet 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 1:33 p.m. and requested the Secretary take a silent roll.

**RS 18429** RS18429, relating to Motor Carrier Inspections; amending Section 67-2901B, *Idaho Code*, to provide that certain intrastate motor carriers shall be exempt from driver qualification regulations and hours of service regulations, and to revise exemptions was presented by **Senator Tim Corder**, District 22. He advised that it is the intent of this legislation to remove exemptions to vehicle safety only. The vehicles being removed are regulated carriers under other state provisions or by definition fall administratively under the Code of Federal Regulation (CFR). It is not the intent of this legislation to suggest that drivers otherwise regulated under 49 CFR are hereby exempt. The carriers who remain on the list will still be exempt from the hours of service regulations in 49 CFR Part 395, and the driver qualifications in 49 CFR Part 391. He advised the original purpose of the exemption had to do with drivers and not vehicles.

**MOTION:** **Senator Werk** made a motion to send RS 18429 to Print. The motion was seconded by **Senator Heinrich** and carried by **Voice Vote**.

**PRESENTATION:** **Pamela Lowe**, P.E., Director, Idaho Transportation Department (ITD), reviewed her response to the ITD's performance audit.

The audit reported that transportation funding is insufficient, and that the ITD uses a "worst first" instead of a preventative maintenance strategy. She stated this is true; however, because of insufficient funding the ITD has been forced into operating in a "worse first" manner. She also stated that 19% of the ITD roads are currently cracked, rutted, have potholes, and are generally falling apart. This

will increase to 36% within five years without additional revenue. The ITD needs enough revenue to repair roads in poor condition and get ahead of the curve with preventive maintenance. She explained the ITD would like to drive down pavement deficiencies to 15%.

The audit indicated the ITD lacks a comprehensive statewide strategy for capital improvement. The ITD agrees with that finding, and began developing a statewide transportation plan last year. **Director Lowe** distributed a copy of an outline of that plan prepared by **Matthew Moore**, Deputy Director, Planning Division. This plan will give guidance to districts on project selection, and will assure that projects meet Idaho's long-term transportation goals.

The audit indicated the ITD should strengthen performance measures. **Director Lowe** stated that the ITD's performance measures certainly could be stronger, and more widely reported and tracked. In November 2007, the ITD identified "leading thru agency performance" as one of four major focus areas in its strategic plan. In December 2007, the ITD formed a team to identify which measures the ITD should be using, and how it could do a better job of integrating them throughout the Department and reporting them to the Legislature, the public and the ITD Board. **Director Lowe** stated that in September 2008, based on the team's recommendation, she reorganized the ITD and created a centralized Performance Management Office, under **Dave Tolman**, Administrator, Division of Administration ITD. The team spent a large part of last year looking at hundreds of performance measures across the country. In December 2008, the team identified 24 suggested performance measures.

**Senator Werk** requested that the attachments **Director Lowe** used in her presentation be e-mailed to the committee members. **Director Lowe** advised she would do that.

At this time, **Director Lowe** responded to questions from the committee related to future deficiency estimates on pavement maintenance, whether the ITD is scheduling any increased capacity work, and what the effect on Idaho's economy would be if the ITD focused mainly on preservation, and did not schedule any capacity building projects. She advised that the ITD Board has taken some proactive steps, making more money available for pavement and bridge preservation; however, without additional funding, she still projects a deficiency estimate of 36% in five years. Although preservation needs could consume the entire budget, **Director Lowe** stated she feels it would be a strategic error, with potential unintended consequences, to commit all funds to preservation. Safety concerns may arise, and she stated there are also some grey areas such as I-84 through the Treasure Valley. To rebuild and still maintain traffic you must put down some temporary lanes; if you put down temporary lanes, you must widen bridges. If you know you need additional lanes in that area, it is a good use of taxpayer

money to just put down permanent pavement.

**Director Lowe** stated that she would like input from the committee on the Suggested Performance Measures. After receiving comments from the committee and other stakeholders, the ITD will assign the Suggested Performance Measures to key staff for accountability. Those measures will then be tied to the appropriate areas in the ITD, and the Performance Management Office will be fully staffed. The Performance Management Office will be responsible for putting the ITD performance measures into a publication that is clear, easy to understand, and is widely distributed.

The audit stated that the ITD does not have the necessary systems and tools to run the most cost-effective highway program. **Director Lowe** stated that the existing Maintenance Management System and Pavement Management System are not robust enough to do the types of analysis the ITD needs, and is recommended in the audit. She advised that in September 2007, with some research money, the Planning Division began a project to evaluate a Maintenance Management system and the current Pavement Management system. A final research report on the Pavement and Maintenance Management Systems was presented at the last ITD Board meeting. She stated that the ITD has learned a lot from this report and from a Pavement Management pilot project running in District 6. The ITD needs funding of approximately \$6 million to purchase these two systems.

**Director Lowe** again took several questions from the committee related to how the ITD systems are funded; whether Local Highway District systems are compatible with the ITD systems; and how the ITD can maximize communications, and the sophistication of management systems at all levels, so people could be assured that their transportation dollars are being spent on the highest and best use. **Director Lowe** deferred the finance questions to Administration Division Administrator, **Dave Tolman**, who advised that the ITD systems are funded from gas tax and registration fees. **Director Lowe** asked **Tom Cole**, Chief Engineer, ITD's Highway Division, to respond to the question of compatibility with Local Highway Districts. **Mr. Cole** stated that the program being piloted in District 6 is very capable of running smaller highway districts, he would give them the information they need to make good decisions for the future, and is substantially less expensive than what the ITD is looking at. The only Local District that might need the sophistication of the system being evaluated for the ITD is the Ada County Highway District (ACHD).

Due to feed back from Local Highway Districts, **Senator Werk** suggested that the ITD evaluate the feasibility of providing compatibility for Local Highway Districts, and particularly explore compatibility with ACHD. **Chairman McGee** asked that this information be provided to the committee by e-mail.

**Director Lowe** continued her presentation reviewing the ITD's project schedule. She reported that in 2007, District 6 also began a Pilot project for a Project Scheduling System. It is still being tested, and later this year, if funds are appropriated, the ITD plans to purchase the Project Scheduling System for the State.

The audit states that the ITD needs to improve its financial planning process, and recommended a more elaborate system that would integrate with new Maintenance Management, Pavement Management, and Project Scheduling Systems. **Director Lowe** stated she feels this recommended system is a lower priority than the other systems. She advised that the ITD currently has a good financial planning system, which meets all state and federal requirements.

**Director Lowe** advised that the audit recommended the ITD change the GARVEE financial planning process by using more short-term bond financing rather than the long-term financing. She stated that short-term financing would have much more risk in this volatile bond market, and she could not recommend it. She indicated that a recent bond sale received 4.54%, and locking in that rate long-term makes sense. However, with future bond sales, the ITD will consider the audit's recommendations.

The committee had a general discussion regarding the fact that Idaho is unique in that the GARVEE bond program is not backed by the full faith and credit of the State. The risks of short-term and long-term financing were reviewed, and it was the feeling of several committee members that financing bonds in the manner suggested by the audit would not only be more aggressive and potentially more dangerous, but might require a pledge of full faith and credit of the State. The committee was in general agreement that this audit finding should be disputed.

**Director Lowe** provided the committee with a copy of her response to a memo issued by Office of Performance Evaluation (OPE), providing a prioritized list of tasks for the ITD to implement recommendations in the audit, and a copy of the ITD's three-year plan to improve its performance.

**Senator Keough** brought to the attention of the committee that although there may be some disagreement with the OPE prioritizing audit recommendations, there is a lot on the table; and OPE was responding to a direct request from the Legislature. **Chairman McGee** agreed that the committee should recognize that the work of the auditors was in direct response to the committee's requests.

**Director Lowe** reviewed the ITD's three-year action plan to implement recommendations of the audit, and took several questions from the committee. She indicated they would be looking for feedback from the Legislature, and would be receptive to including a member of the OPE in the data gathering stages of the

plan. **Director Lowe** estimated management systems and tools would require funding of \$10 million. She indicated the ITD is looking at off the shelf systems, and will look at other states for best practices information. She stated the ITD would attempt to coordinate geographical information systems requirements with other state agencies wherever possible.

The audit's final recommendation was that the ITD use Washington State as a model for best practices. **Director Lowe** stated that she had visited with the former director and current director of the Washington Department of Transportation with regard to implementing changes and reducing costs. She stated, however, that the Hartgen Report, a national ranking of transportation departments, ranks Idaho at 14, while Washington is ranked 39<sup>th</sup>. For that reason she would prefer to continue the ITD's practice of looking at all states to learn best practices rather than force one state's template to fit Idaho.

In conclusion, **Director Lowe** stated that the ITD will prepare an annual report, will have an accountability website up and running this year, and will continue to report to the committee as requested.

**Chairman McGee** asked **Director Lowe** to provide the committee with an electronic copy of the Hartgen Report.

A general discussion was held among committee members and **Director Lowe** regarding the ITD's method of reporting progress on audit recommendations. **Chairman McGee** asked **Director Lowe** to submit a written report on how she intends to report the ITD's progress to both the Senate and House Transportation Committees. The report will then be provided to the JLOC (Joint Legislative Oversight Committee) to ensure the efforts are on track.

Following a discussion related to the responsibility for oversight of local highway districts and what reporting is required, **Director Lowe** deferred questions to **Dave Tolman**, who advised the committee that local highway districts are required to submit standard annual financial reports. State funding appropriated to a local district is withheld until that report is received. **Director Lowe** stated that although the ITD's oversight of local highway districts is limited, communicating a statewide vision is important.

**Chairman McGee** thanked **Director Lowe** for her presentation, and adjourned the meeting at 2:45 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

- Attachment #1 - Letter to Director Rakesh Mohan, January 12, 2009, by Director Lowe
- Attachment #2 - Draft Transportation System Plan
- Attachment #3 - Letter to the Honorable John McGee, February 4, 2009, by Director Lowe
- Attachment #4 - Idaho Transportation Department's Performance Audit by OPE
- Attachment #5 - ITD Research Project RP183
- Attachment #6 - Suggested Performance Measures for the Idaho Transportation Department

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 10, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheet(s) 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** convened the meeting at 1:34 p.m., and welcomed the participants and guests.
- MINUTES:** **Senator Corder** reported he reviewed the minutes for Thursday, January 29, 2009 and moved they be accepted as presented. **Senator Hammond** seconded the motion, and it carried by **Voice Vote**.
- Senator Broadsword** reported she reviewed the minutes for Thursday, January 22, 2009 and moved they be accepted as presented. **Senator Bilyeu** seconded the motion, and it carried by **Voice Vote**.
- Senator Hammond** reported he reviewed the minutes for Tuesday, February 3, 2009 and moved they be accepted as presented. **Senator Heinrich** seconded, and it carried by **Voice Vote**.
- RS 18545** **Representative Hagedorn**, District 20, presented RS18545 relating to off-highway vehicles. The purpose of this change is to clean up language from 2008, HB 602, to codify insurance requirements for off-highway vehicles and to allow for the use of a "sticker" only registration option for ATV/UTV/Motorbikes. A new classification for "Restricted Use" vehicles has been defined creating a "Specialty" category for those vehicles outside of current definitions. It further defines the definition of UTV and ATV vehicles and allows the purchase of restricted vehicle stickers and plates by nonresidents that use Idaho's trail systems. These changes become effective upon approval.
- On January 1, 2010, users wanted to create a user fee account like that of the Idaho boating users that will be used by the County Sheriffs for off-highway related law enforcement activities, and by the Department of Lands (DOL) for off-highway opportunities, and repair damage caused on State land by off-highway vehicle use. Language also limits State liability of State or political subdivisions for restricted vehicle use.

In 2010, users will register and identify the county where they primarily use their restricted vehicles. Two dollars (\$2) will be added to an account from that registration and will be provided to DOL and County Sheriffs for use in managing these vehicles, just like the Idaho Parks and Recreation Boating Program. Funds available will be dependent on registrations and the counties selected by the user of primary and secondary use of the vehicles.

**Chairman McGee** expressed his appreciation to **Amy Smith**, Vehicle Services Manager, Idaho Transportation Department, and the many others involved in developing this proposed legislation.

A discussion was held pertaining to page 18, line 19, and will be corrected to read "shall become effective on January 2010." **Representative Hagedorn** will ensure the correction is made to RS18545, and reappear before the committee on Thursday, February 12, 2009. The committee will vote on RS18545 on February 12. Other issues discussed included how the funds would be used, how much is expected to be generated in Idaho, and the need for additional clarification of operators under age 16.

**S 1055**

**Senator Corder**, District 22, presented S1055, relating to motor vehicles and rules of the road to revise provisions prohibiting certain materials on highways, to provide for exceptions, and provides for an infraction.

He explained that cities and counties attempt to enact ordinances addressing covers or tarps for materials hauled on trucks and other vehicles. Most ordinances are not successful in defining every possible situation. The result is confusion for drivers, noncompliance and frustration for law enforcement personnel. Currently, enforcement may only cite for littering after material has fallen to the highway.

This legislation provides some general guidelines that make compliance easier, eliminates confusion, and gives law enforcement the ability to correct violations before they become hazards for motorists.

There is no negative impact to the State General Fund or local units of government.

A letter from **Lee Flinn**, Executive Director, Conservation Voters for Idaho, was submitted supporting S1055. Also, a letter from **Frank Priestley**, President, Idaho Farm Bureau Federation, was submitted in opposition to S1055. **Captain Lamont Johnson**, Idaho State Police, testified supporting S1055.

A general discussion was held related to the effects on mining and logging companies, road safety, grain leaking from trucks, hazardous waste, individual law enforcement officer's judgement, 6-inch sideboards and secured loads on trucks, and the current statute.

**MOTION:**

**Senator Werk** made a motion and **Senator Keough** seconded, to send S1055 to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Heinrich** voted "No."

**S 1061**

This legislation, S1061, was presented by **Senator Heinrich**, District 8, relating to snowmobiles, and amending Section 67-7112, *Idaho Code*, to



deter the utilization of groomed snowmobile trails by various motor vehicles. These vehicles are not only destructive to the groomed snowmobile trails, but also create an adverse public safety hazard. This amendment would make any violation an infraction.

He explained this is simple legislation, and will increase public safety. There would be a minimal fiscal increase from the Court's distribution of infraction fees.

**Tom Glass** testified to support S1061. **Dean Sangrey**, Administrator, Idaho Division of Parks and Recreation, indicated he supports S1061.

**MOTION:**

**Senator Broadword** made a motion and **Senator Winder** seconded, to send S1061 to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

**Chairman McGee** gave the gavel to **Vice Chairman Hammond** who conducted the rest of the meeting.

**S 1053**

**Amy Smith**, Vehicle Services Manager, Idaho Transportation Department (ITD), explained S1053, regarding the collection of personal information for the purposes of vehicle titling and registration.

She explained this legislation is being proposed to enable the Department to require the collection of owners and businesses identifying information, including full legal name, driver license number, or identification card number, or social security number if the applicant does not have a driver license or identification card. If it is a business, then the employer identification number will be collected.

Within the current Division of Motor Vehicles (DMV) system there exists stove pipes of information that were built many, many years ago. The ITD has one for driver license, one for titles, one for registrations, commercial vehicle registrations, and dealer and salesman licensing. Essentially, the ITD archaic systems are people specific or vehicle specific. Since these systems do not talk to each other, common identifying information is not shared from one subsystem to another. Under the current title and registration system, there is no standard, and no authority to collect full legal names, or driver license numbers; therefore, records can and do exist in many variations of people's names. This makes it virtually impossible to identify vehicle records that may all belong to one in the same person.

Without standardizing information collected for all DMV records, and not just driver license and identification cards, the ITD will not be able to continue moving forward with replacing its outdated and archaic systems to replace it with a modern one-person, one record concept that allows all records to be associated to a person.

**Ms. Smith** explained, to illustrate a point, she searched the ITD title database, and entered a common name, something that law enforcement might do when looking for an individual, to see what vehicles may be owned or to search for an address. First she tried Jack Jones, being that is a common name, and she came up with 159 possible matches. Unless you knew the make, model or year of vehicle, or were looking in a specific

geographic location, those would be the only fields to limit the search. If you want to look for John Jones, the number goes up to 378 possibilities. This is due to owners using so many variations of their names, i.e., Jack Jones, can be J. Jones, J..A. Jones, Jack, or Jack Anthony Jones. These possibilities do not even take into account if Jack or John Jones is listed as a second owner of a vehicle; this search was just checking the first owner names.

If the Department collected the full legal names, and driver license or identification card number, then the ITD could more easily retrieve the correct records, and ensure that the ITD does have the correct customer.

**Ms. Smith** explained that she addressed in the committee's print hearing, social security numbers are already collected as part of the process to get an Idaho driver license or identification card. It is also required for dealer and salesman licensing to be able to verify identity. The collection of social security numbers or driver license numbers are protected from record release under the Driver's Privacy Protection Act, these Codes are listed in *Idaho Code*, Title 9, Chapter 338, and further defined in Title 49, Chapter 2, Sections 203, 203A, and 204.

She stated there was also concerns about the security of the ITD databases, and would like to share with the committee the fact that the ITD's technology systems and related security processes have been reviewed and approved by the Social Security Administration, which is a requirement for driver licensing matters and verifying social security numbers at the time of license or identification card issuance.

The ITD systems all operate in the same environment, even though they end up in different buckets at the Department. The Department is also very proactive in the protection of the public's personal information, not only does the Department have policies and procedures in place, but each employee must sign acknowledgment, and receive training on public trust and responsibility. The Department has also instituted background checks for employees who will work with personal and sensitive information. Within the current systems lies the ability to review any and all records which have been accessed by any employee for any period of time. This ensures that proper recourse can be taken against any employee who misuses their authority.

**Ms. Smith** explained there were also concerns about requiring a physical as well as mailing address for titling and registration, she believed by **Senator Heinrich**, and she wanted to point out that this is already a requirement in Section 49-401B, *Idaho Code*, for collection of the physical address for the purpose of registration, to ensure that the appropriate county and highway district receive their funding from the registration fees. The ITD certainly understands, and want you to understand, that this information would be for the ITD records and that the mailing address is what is used for correspondence and requested records. It would also be available to law enforcement for assistance in locating individuals and next of kin.

She reported that as she was preparing for this legislation, she asked other jurisdictions via a survey how they handled this same issue for titling

and registration. Of the 36 responses received, 20 jurisdictions indicated it was mandatory, five indicated they collect it but it is not mandatory, three are currently seeking legislation to mandate the collection, and eight responded that currently they do not mandate it.

Law enforcement has given their full support, and believe that this would be an asset to law enforcement. And, a tremendous aid in all types of investigations and will help curb title fraud and vehicle theft.

The proposal was also presented to the Dealer Advisory Board in August and October of 2007, at which time there were no concerns, both Auto Associations believe that since they already require most of this information for financing and sales that it would not be an undue burden on dealers in completing title work for their customers. Additionally, since this information is already required for the purpose of getting an Idaho driver license or identification card, there would be no undue burden on customers applying for title and registration.

Without the collection of this vital information, the ITD will not be able to comply with *Idaho Code* Section 49-1210 which is currently sunset until July 1, 2009. This Code requires the Department to cancel the registration of drivers who are required to file proof of financial responsibility, who fail to file and maintain this special insurance filing after a conviction for offenses such as no insurance, DUI, reckless driving and leaving the scene of an accident. Without knowing the full identify of owners on titles and registrations, the Department has no way to know which registration belongs to which person with the same name and are; therefore, unable to accurately cancel any registration, which is in violation of what Code mandates.

She stated, finally, there were questions asked about whether the ITD could do something different in regards to collecting the social security number, which would only be collected if the owner did not possess an Idaho driver license or identification card. There are only two options that she believes would be viable, one would be to require the owner to have an Idaho driver license or identification card, (which in some jurisdictions is required), or moving toward a mandatory insurance reporting state. The second obviously would have tremendous impact on all vehicle owners and insurance companies, and on the Department.

This would involve that all books of records be sent to the ITD, and matched against vehicle registrations, canceling those that do not have insurance, which is done in many other states, but would require authorizing legislation and funding to create the programs and processes to accomplish it.

**Ms. Smith** apologized for the length of her testimony, but wanted to ensure that she addressed the issues raised during the Print hearing. She also stated that in the past twenty-five years she is unaware of any hackers getting into the ITD's systems.

**Senator Werk** asked **Ms. Smith** to send committee members an application form, used at the county level, for their review.

There was a discussion relating to privatizing, filing at the county level

then forwarding the application to the ITD, county employee training, and registering a vehicle in one county while residing in a different county.

**MOTION:** **Senator Heinrich** made a motion and **Senator Broadword** seconded, to give S1053 a do pass recommendation. The motion carried by **Voice Vote**.

**NOTE:** Agenda items RS18430C1 and S1054 will be rescheduled for hearing on another date.

**ADJOURNED:** **Chairman McGee** adjourned the meeting at 3:00 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, February 12, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet 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** convened the meeting at 1:35 p.m., and welcomed the participants and guests. He requested the Secretary to take a silent roll.

**RS 18365C1** Relating to an Increase in Motor Vehicle Permit and Service Fees; to increase fees for services relating to issuing titles and registrations. **Alan Frew**, Administrator, Motor Vehicles Division, Department of Transportation, presented RS 18365C1. He stated that this proposed legislation would raise the fees for the Division of Motor Vehicles (DMV) services. Many of these fees no longer pay for the cost to provide the service. Some of these fees were established more than 30 years ago, and many have not been increased or changed in more than 20 years.

Fees for services include, but are not limited to, issuing driver licenses; title transfers; furnishing copies of drivers license records, title or registration records, replacing registration stickers; and issuance of assigned or replacement vehicle identification numbers. Funds from these fees will be deposited into the State Highway Account, and will be used to offset program increases and related costs, modernize and maintain the DMV automated system, as well as develop and maintain an asset management system within the Division of Highways, as recommended by the recent audit of the Idaho Transportation Department. This bill also provides for increased fees to third-party motorcycle and class A, B, C, and D drivers' license skills testers.

**Mr. Few** advised that The Idaho Transportation Department estimates this change will increase revenue to the State Highway Account by \$13.1 million. The one-time cost associated with implementing this legislation is estimated to be \$72,000.

In response to questions from the committee, **Mr. Few** advised that the percentage increase in proposed fees differs due to the fact that three of

the fees also have a county component. He stated that additional fees generated by this legislation would be used for the asset management systems recommended in the ITD audit. He further stated that this legislation is not part of the Governor's package, but does have the backing of the Governor.

**MOTION:** **Senator Hammond** made a motion and **Senator Winder** seconded, to print RS 18365C1. The motion carried by **Voice Vote**.

**RS 18545C1** Relating to Off-Highway Vehicles; to provide exceptions to uninsured motorist and underinsured motorist coverage for automobile insurance. **Representative Hagedorn**, District 20, presented RS18545C1. He stated that this bill was previously before the committee, and that the committee's recommended changes have been incorporated. The purpose of this change is to clean up language from 2008, H602, codify insurance requirements for off-highway vehicles and to allow for the use of a "sticker" only registration option for ATV/UTV/Motorbikes.

A new classification for "Restricted Use" vehicles has been defined creating a "Specialty" category for those vehicles outside of current definitions. It further defines the definition of UTV and ATV vehicles, and allows the purchase of restricted vehicle stickers and plates by nonresidents that use Idaho's trail systems.

**MOTION:** **Senator Werk** made a motion and **Senator Hammond** seconded, to print RS 18545C1. The motion carried by **Voice Vote**.

**RS 18656** Relating to Excepting ATVs, UTVs, and Motorbikes from Insurance Requirement. **Representative Hagedorn**, District 20, introduced **Russ Hendricks**, Idaho Farm Bureau, who presented RS18656. He stated that in the past off-highway vehicles (OHVs) have not been required to have insurance for off-road recreation, and were required to have liability insurance coverage for any incidental travel on roads. This was typically provided through a homeowner's type policy or a farm and ranch type policy. That has worked well, but has been blurred somewhat by H602.

Recently the Idaho Department of Insurance issued a bulletin interpreting that OHVs now must carry "auto type" insurance coverage whenever they operate on the road. The intent of this legislation relates to clarifying insurance requirements for off-highway vehicles. OHVs which have an unrestricted license plate (red, white and blue plate) must meet the same insurance requirements as other motor vehicles.

Under this RS18656, OHVs which have a restricted vehicle license plate (black and white plate) are not required to carry an "auto-type" insurance policy, if they have other general liability coverage such as is provided by a farm and ranch insurance policy or homeowners's insurance policy covering their use on public roads. OHVs that do not have either an unrestricted license plate or a restricted vehicle license plate are excepted from the insurance requirements.

In response to questions from the committee, **Mr. Hendricks** stated that because of the dilemma faced in identifying "off road" vehicles, the

insurance requirement is based on how the vehicle is registered. **Senator Corder** indicated he would like to see the Attorney General's opinion related to this issue.

**MOTION:** **Senator Broadsword** made a motion and **Senator Heinrich** seconded, to print RS 18656. The motion carried by **Voice Vote**.

**RS 18312C1** Relating to Motor Vehicle Registration; to provide for an Idaho Freemason License Plate. **Senator Pearce**, District 9, presented RS18312C1. He stated that the purpose of this amendment is to create an Idaho Freemason license plate. It will raise funds and give recognition to the Shriners who donate a million dollars a day to injured children in the northwest through their medical services and hospitals.

Responding to questions from the committee, **Senator Pearce** indicated that he had been advised that tax dollars passing through the State to a private foundation, as in this instance, is not a problem. He deferred a question regarding regulations for maintaining a plate program to **Amy Smith**, Vehicle Services Manager, Division of Motor Vehicles. **Ms. Smith** informed the committee that if a plate program does not meet a minimum of 1,000 sales annually for three consecutive years, the Idaho Transportation Department can cancel that plate program. She stated that provision has been in the Code for approximately five years.

**Ms. Smith** further advised that the cost of starting a plate program is paid for by the entity requesting the program, and that the amount the State receives from special plate programs does cover the cost to administer the programs.

**MOTION:** **Senator Keough** made a motion and **Senator Heinrich** seconded, to print RS18312C1. The motion carried by **Voice Vote**. **Senator Corder** requested his "No" vote be recorded.

**RS 18572** Relating to Motor Vehicles and Passenger Safety for Children. **Senator Broadsword**, District 2, presented RS18572. She stated that the purpose of this legislation is to remove two exemptions in Idaho's Child Safety Seat Statute. The first exemption does not require restraints for a child safety seat if all restraints are utilized by other passengers. This language assures protection for adults, but leaves children unprotected. The second exemption allows a child to be removed from his or her safety restraint for virtually any reason so long as it is to accommodate the child's "psychological needs." This term is undefined and extremely broad. **Senator Broadsword** stated this loophole makes enforcement nearly impossible for law enforcement, and puts our children needlessly at risk. She further stated that this legislation would have a positive fiscal impact. These exemptions prevent the State of Idaho from receiving Federal monies which could be used to provide child safety seats for low income families.

**MOTION:** **Senator Hammond** made a motion and **Senator Heinrich** seconded, to print RS18572. The motion carried by **Voice Vote**.

**RS 18469** Relating to Special Motor Vehicle License Plates; to provide a code reference and to make a technical correction. **Senator Heinrich**, District

8, presented RS18469. He stated that the purpose of this proposed legislation is to provide for an Idaho Earth Sciences and Lapidary license plate. The net proceeds will go to the Idaho Gem Club, and be used for the purpose of educating kindergarten through grade six to promote understanding about earth sciences and lapidary. He stated that this would provide the "Gem" State with a "Gem" license plate.

**MOTION:** **Senator Hammond** made a motion and **Senator Broadsword** seconded, to print RS18469. The motion carried by **Voice Vote**. **Senator Corder** requested that his "No" vote be recorded.

**RS 18430C2** Relating to Public Highways and Utilities; to provide that certain public highway agencies or private party working with such agency on a project may require relocation of utility facilities. **Edward Lodge**, Director Public Affairs, Qwest Communications, presented RS18430C2. He stated the purpose of this legislation is to provide for a proactive, coordinated process early in the development of public highway projects in an attempt to minimize costs, limit disruption of necessary public and private utility services, and limit or reduce the need for present or future relocation of such utility facilities.

RS18430C2 recognizes that the owner of utility facilities must recognize the essential goals and objectives of the public highway agency in proceeding with and completing a project, but provides the opportunity, by early involvement in the process, for the parties to actively seek ways to eliminate costs arising out of the relocation of utility facilities. If elimination of such costs is not feasible, to minimize relocation costs to the maximum extent reasonably possible.

**Mr. Lodge** stated that this bill is supported by utilities, highway districts, and the Idaho Transportation Department.

In response to questions from the committee, **Mr. Lodge** stated that it is not a universal practice for Qwest to participate on local area transportation committees, but it is certainly something he feels is important and would like to be more engaged in. **Mr. Lodge** deferred a question pertaining to the definition of highway districts to **William Roden**, the attorney drafting the legislation. **Mr. Roden** advised the legislation would apply to any public agency involved in highway construction as the term "highway agency" is defined in the Code.

**MOTION:** **Senator Heinrich** made a motion and **Senator Keough** seconded, to print RS18430C2. The motion carried by **Voice Vote**.

**Chairman McGee** announced to the committee that a special print hearing will be held on Monday, February 16, 2009 at 1:00 p.m. in Room 117. He explained that if committee members have additional RS's to be heard, they should advise him or the Secretary before close of business on Friday, February 13.

**ADJOURNED:** There being no further business, the meeting was adjourned at 2:13 p.m.



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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Monday, February 16, 2009
- TIME:** 1:00 p.m.
- PLACE:** Room 117
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Corder, Heinrich, Broadsword, Winder, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Senators Keough and Werk
- NOTE:** The sign-in sheet 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** convened the meeting at 1:02 p.m.
- MINUTES:** **Senator Corder** made a motion and **Senator Heinrich** seconded, to approve the Minutes for Thursday, February 5, 2009. The motion carried by **Voice Vote**.
- RS 18528** **Chairman McGee** presented the committee's gavel to **Vice Chairman Hammond** while he presented RS18528.
- RS18528, relating to highways, will amend Chapter 5, Title 40, *Idaho Code* by the addition of a new Section 40-513D, *Idaho Code*, to designate the Maple Grove Interchange on Interstate I-84 near Boise, Idaho, as the "Steven D. Symms Flying Wye Interchange."
- If enacted, the Idaho Transportation Department shall identify areas suitable for posting markers indicating the designation of the Steven D. Symms Flying Wye Interchange.
- Steven D. Symms served the State of Idaho in Washington D.C., continuously for twenty-years. His service on key committees is credited with obtaining critical funding for building Idaho's federal highway infrastructure.
- There is no fiscal impact to the general fund, and any signage will be privately funded. **Chairman McGee** explained that private interest will pay for the cost of the signs and labor to install them. There will be no cost to the State.
- MOTION:** **Senator Broadsword** made a motion and **Senator Heinrich** seconded, to print RS18528. The motion carried by **Voice Vote**.
- Vice Chairman Hammond** returned the committee's gavel to **Chairman McGee** to continue the February 16 hearing.

## RS 18659C1

**Chairman McGee** explained that RS18659C1 was listed on the committee's agenda as RS18659, but corrections were made and it is being presented as RS18659C1. Committee members will vote on RS18659C1.

RS18659C1 was presented by **Senator Winder**, District 14. This proposed legislation relates to contracts for design-build highway projects. RS18659C1 defines the procedures to allow the Idaho Transportation Department to solicit and award contracts using design-build and construction manager/general contractor methods of procurement for highway projects. Design-build projects were authorized for public-works projects in 1987 by Section 67-5711A, *Idaho Code*. However, Section 40-902(3), *Idaho Code*, specifically states that contracts for highways be "let to the lowest responsible bidder." There are no provisions allowing the Department to solicit and award construction manager/general contractor contracts.

If enacted, RS18659C1 would allow the Department to begin soliciting contracts using these alternative contracting methods for projects, which can be designed and completed faster than standard projects. Shorter project-completion times can save money due to the lower contractor costs, and the reduced effects of inflation on construction materials.

A study by Warne and Associates ("Design-Build Contracting for Highway Projects - A Performance Assessment; 2005") found that 76 percent of the studied design-build projects were completed ahead of the established schedule, and 100 percent were completed faster than if a design-build schedule were used.

As reported in the January 2009 Performance Audit of the Idaho Transportation Department, a survey conducted as part of the "Design-Build Effectiveness Study, as required by TEA-21 Section 1307(f)," prepared for USDOT - Federal Highway Administration, January 2006, showed that design-build saves on time and cost for the same quality as design-bid-build. The results of the study indicated, on average, design-build project delivery reduced overall project duration by 14 percent; reduced the total cost of projects by 3 percent; and maintained the same level of quality as compared to design-bid-build project delivery. The study indicated a potential savings of \$30,000 for construction manager/general contractor projects would be similar.

**Senator Winder** outlined the changes to RS18659 that is now RS18659C1. They are:

Page 3, lines 33-35, to read "While design-bid-build is the preferred method of contracting, the Department may select design-build firms and award contracts for design-build highway projects as provided in this section."

Page 4, lines 15-17, to read "The Department shall employ for the duration of each design-build highway transportation project, a design professional, either in-house or retained, who shall act as the Department's project manager, to provide technical advice, preliminary studies, designs and other information needed or for the preparation of

the RFQ or RFP, construction review services and professional expertise on behalf of the Department.”

Page 5, lines 28,-32, to read (8) “Prior to the opening of sealed bid proposals, the Department shall score the technical proposals using the selection criteria provided in the request for proposal. At a minimum, fifty percent (50%) of the technical proposal shall account for the final score and at a minimum, fifty percent (50%) of the qualifications of the design-build professional or firm shall account for the technical proposal.”

**MOTION:** **Senator Heinrich** made a motion and **Senator Hammond** seconded, to print RS18659C1. The motion carried by **Voice Vote**.

**ADJOURNED:** There was no other business, The meeting adjourned at 1:15 p.m.

**NOTE:** Idaho Transportation Department acronyms:  
USDOT - United States Department of Transportation  
RFQ - Request for Quote  
RFP - Request for Proposal  
TEA-21 - Transportation Equity Act for the 21<sup>st</sup> Century

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 17, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheets 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** convened the meeting at 1:35 p.m., and welcomed the participants and guests.
- MINUTES:** **Senator Corder** made a motion and **Senator Broadsword** seconded, to approve the Minutes of Thursday, February 12, 2009. The motion carried by **Voice Vote**.
- S 1072** **Senator Corder**, District 22, presented S1072, relating to motor carrier inspections. If enacted, this legislation would clean up some of the language of *Idaho Code*, Section 67-2901B, inspection of motor carriers - exemptions....The vehicles that are being deleted are regulated carriers under other state provisions or by definition fall administratively under the Code of Federal Regulation. It is not the intent of this legislation to suggest that drivers otherwise regulated under 49CFR are hereby exempt. It is the intent of this legislation to remove exemptions to vehicle safety only. The carriers who remain on the list will still be exempt from the hours of service regulations in 49CFR Part 391. It is expected that Administrative Rules will be promulgated appropriate to this statute and the requirements of 49CFR.
- There is no fiscal impact to the state general fund or local units of government.
- Senator Corder** explained the genesis of this legislation involved a cement truck, and a class of vehicles exempt from safety regulations. His own personal commitment is to try to do something about that situation, and to remove vehicles from exemptions. He explained he wants to try and clean up the statute. He emphasized this legislation is about fairness and safety. **Senator Corder** explained that without rules to accompany S1072, if the statute went into effect, would make people uncomfortable,

because the rules are needed to define the relationship with the Code of Federal Regulations, and this statute. For the record, he reiterated this legislation is just about fairness and safety, and he believes no vehicle should ever have the right to be exempt from the safety requirements. Every vehicle should be subject to minimal safety standards such as good tires, breaks, and lights, etc., that will make them safe to operate.

**Senator Corder** requested unanimous consent that S1072 be held in committee.

**Chairman McGee** called for any objections, and hearing none, S1072 will be held in the committee as requested.

**S 1054**

Laura Johnson, Department of Agriculture, presented S1054. relating to the rural economic development and integrated freight transportation program. This legislation, if enacted, amends the funding calculation provided to the Department of Agriculture for planning, operating expenses, and staff assistance for the Rural Development and Integrated Freight Transportation Program revolving loan fund. The legislation will change the funding from a one-time amount not to exceed 3% to an annual amount not to exceed 3% of the total assets, and limits the funds to interest only. Through the zero based budgeting process, the Department identified that the current statute will limit the ability of the Department to service new and current loans in the long-term. This legislation will provide ongoing operating and personnel expenses to support the program into the future.

There is no fiscal impact to the state general fund.

Numerous questions were asked pertaining to the language in S1054, the actual name of the Department's account, zero based budget, revolving loan funds, the Department having access to funds, the need for additional operating funds, and what happens if the Department has a negative return on investments.

**Ms. Johnson** explained that if the fund did not earn any interest, then the Department would not have the ability to use the fund. Currently, the Department has \$4.3 million in loans, out on the ground, and earning between 2% and 4% interest, depending upon the terms of the loan. When the Department says "total assets" that language has been taken actually from the agricultural development loan, and total assets is principal or fund balance, and accounts receivable. That is where the "total assets" number comes from, but if the Department did not have any interest they would not have the ability to use any of the funds for operating expenses.

She reported the fund is in the Office of the Treasurer, and when the fund was transferred to the Department of Agriculture, it was \$5.3 million. From that point forward, the Department tracks the income from two sources, interest paid on the loans, and interest earned.

**Keith Bybee**, Budget and Policy Analysis, Legislative Services Office, explained that **Ms. Johnson** is correct. Currently, the fund balance has about \$200,000 in interest already generated.

**Chairman McGee** explained that based on the amount **Ms. Johnson** had discussed, it does not appear that 3% is a big amount of the fund; therefore, the program should remain soluble and continue to provide those grants.

**Ms. Johnson** explained that the Department has two caps that the statute provides. One of those is the 3% on the total assets, currently it is \$5.5 million. In addition, the Department has the interest only forces, and other regulatory statutes.

**MOTION:** **Senator Hammond** made a motion and **Senator Broadsword** seconded, to send S1054 to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

**S 1097** This proposed legislation, S1097, was presented by **Edward Lodge**, Director of Public Affairs, Qwest Communications. The purpose of this legislation is to provide for a proactive, coordinated process early in the development of public highway projects in an attempt to minimize costs, limit disruption of necessary public and private utility services, and limit or reduce the need for present or future relocation of such utility facilities. The legislation recognizes that the owner of utility facilities must recognize the essential goals and objectives of the public highway agency in proceeding with and completing a project, but provides the opportunity, by early involvement in the process, for the parties to actively seek ways to eliminate costs arising out of the relocation of utility facilities. If elimination of such costs is not feasible, to minimize relocation costs to the maximum extent reasonably possible.

There is no fiscal impact on the state general fund. It is anticipated that substantial savings may result from the process, not only to the public highway agencies but also to the public users of such utility facilities who will not be burdened with higher than necessary cost of such relocations through increased user fees or rates. **Mr. Lodge** stated he is unaware of any opposition to S1097.

**Mr. Lodge** explained that in the print hearing (Tuesday, February 10, 2009) **Senator Hammond** had a question regarding the definition of a public highway agency. He provided copies of Title 40, Chapter 1, Highway and Bridges, Definitions (4) "Public highway agency" means the state transportation department, any city, county, highway district or other political subdivision of the state with jurisdiction over public highway systems and public rights-of-way."

**MOTION:** **Senator Corder** made a motion and **Senator Heinrich** seconded, to send S1097 to the Senate floor with a do pass recommendation. The motion carried by **Voice Vote**.

**Chairman McGee** requested **Mr. Lodge** to appear before the committee during the 2010 legislative session or send a letter to the committee to provide an update regarding the outcome of this legislation, S1097.

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

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary



## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, February 19, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/  
EXCUSED:** Senator Corder
- 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.
- CONVENED:** **Chairman McGee** called the meeting to order at 1:35 p.m., and asked the Secretary to take a silent roll. He welcomed the participants and guests.
- PRESENTATION:** **Chairman McGee** introduced **Julie Pipal**, Director of Legislative Affairs, Boise Valley Economic Partnership. **Ms. Pipal** provided the committee with a position statement and membership list of the Idaho CEO Coalition on Transportation (Attachment #1). She is not a part of the Idaho CEO Coalition on Transportation (Coalition), but has been loaned by her organization to assist them in their work. **Ms. Pipal** introduced three coalition members, and asked each to tell the committee about their involvement in the transportation issue, and why transportation infrastructure funding is important to the business community.
- Mark Bowen**, Vice President and Area Manager, CH2M Hill, Boise, has more than 23 years of experience. **Mr. Bowen** is responsible for CH2M Hill's Boise office operations (more than \$14 million in annual billing and 200 consulting staff). He coordinates services for private- and public-sector clients in water, wastewater, environmental, transportation, and facilities markets in Idaho, as well as works closely with project and client service managers to ensure project quality and client satisfaction is consistently met.
- Mr. Bowen** has served on the Boise Metro Chamber of Commerce Executive Committee since 2001, and is currently serving as Chairman of the Board. He also serves on several other boards, including the St. Luke's Children's Hospital Board, the Boise State University College of Engineering, and the College of Social Sciences and Public Affairs Advisory Boards. He also has been active in the Boy Scout Programs, serving as a Scoutmaster for several years. He received a Bachelor of Science in Civil and

Environmental Engineering from Utah State University, and a Master of Science in Structural Engineering from Stanford University.

**Scott Gipson**, Vice President and Publisher, Caxton Printers in Caldwell, is a native Idahoan, born in Moscow and raised in Caldwell. He attended the University of Idaho, obtaining his Bachelor of Science in Political Science in 1990, and Juris Doctor in 1993. He began work with Caxton Printers, Ltd., in 1993, and was named Vice President and Publisher in 1999.

**Mr. Gipson** has served on the Board of Directors of Junior Achievement of Idaho, the Log Cabin Literary Center, and is on the national board for the Vandal Scholarship Fund of the University of Idaho. He currently serves on the Board of Directors of the Caldwell Chamber of Commerce, and on the Board of Managers of the Whittenberger Foundation.

**Mike Hess**, President and CEO, Hess Pumice Products, Inc., Malad City, was born in Malad. He is a third generation pumice miner. After graduating from Utah State University in Business and Economics, he returned to the family business to develop an export division which has been a two-time recipient of the Governor's Export Marketing Award. With offices, warehouses, and distributions in more than 30 countries, Hess Pumice has become the world's largest producer of fine ground pumice.

**Mr. Hess** has served as President of the Malad area Chamber of Commerce, and as a board member on the Oneida County Airport and Zoning Commission. He currently serves on the Selection Committee Board for the Idaho Community Foundation, and on the Executive Board of the Grand Teton Council, Boy Scouts of America. He is also a Director for Idaho Minerals, U.S. Grout, P&P International, Hess Europe, and Malad Short Line Railroad. He is currently the President of the Malad Idaho Stake of the Church of Jesus Christ of Latter Day Saints.

**Scott Gipson** stated that he saw the Coalition as an opportunity to address pressing transportation issues, in a broad way, that might overcome some of the regionalism that has hindered moving forward on this issue in the past. He stated that although each member may differ in terms of approach, there is unanimity among the members that this is a problem that cannot be ignored any longer, and must be addressed now.

**Mr. Gipson** stated that his business, Caxton Printers, is located in Caldwell and delivers school and office supplies throughout the Treasure Valley. In addition, his business delivers 90% of text books going to schools in the State of Idaho. He must deal with the congestion issue in the valley, as well as statewide transportation issues. He advised that the traffic congestion between Boise and Caldwell has been a factor in his company losing project bids, even

though it may have submitted the lowest bid. It now takes longer for a delivery driver to complete a route. The delivery volume has not changed that much, but the difficulty of getting north-south and east-west in this valley has changed dramatically. He has also lost employees who live in Boise because of the time it takes to complete the drive between Boise and Caldwell.

**Chairman McGee** inquired whether the Coalition had made any attempts to quantify business losses due to traffic congestion and transportation issues. **Ms. Pipal** responded that the members have shared information, and although she has some national data, nothing has been compiled locally, at this time.

**Mark Bowen** stated that he manages an operation of about 200 consulting staff here in the valley. When his company recently made a commitment to stay in the downtown core area, he found that parking and the lack of public transportation was a significant problem for employees. He advised that in his work with the Boise Metro Chamber of Commerce, transportation had always been a top priority issue for the business community. After realizing a need to reach out across the State and get the perspective of other business communities, he made a personal effort to visit with other business leaders in all parts of the State and with all kinds of businesses. That was the beginning of this Coalition. He stated that every person he had approached agreed that transportation is one of the most important issues that face our business community and State. He resolved to constructively be a part of the solution.

**Mike Hess** stated that in Malad he does not deal with congestion, but does have some significant traffic issues. His company exports 90% of its goods to foreign countries, and 100% of goods leave the State. His concern lies in the ability to be competitive with neighboring states in transporting goods on Idaho highways, and the ability to get his goods efficiently to shipping ports.

**Mr. Hess** indicated his business transports heavy loads which are limited to 105,000 pounds on the federal highway system in Idaho, whereas neighboring states can transport 129,000 pounds. That is a 20% differential and he pointed out we all have the same infrastructure, the federal highway system. He complimented the Legislature on the work it has done in obtaining private pilot routes for intrastate transportation, and advised that a bill recently introduced by federal legislators seeks to raise the transport limit. However, he is concerned that the bill does not include the portion of I-15 from the Utah-Idaho border up through Pocatello and across to the junction of Interstate Route 86 (Attachment #4). He stated that he has a meeting scheduled with U.S. Representative Simpson and is hoping this is just an oversight, rather than an exception. **Mr. Hess** stated that he had recently found good research data from the University of Michigan that indicates when the weight limit is raised from 105,000 to 129,000 the braking ability increases by 50%, and we are actually safer.

**Mr. Hess** discussed with the committee his concerns about dyed diesel fuel inspection and regulation, the lack of an intermodal ramp in Idaho, and the need to consolidate the 289 highway districts to achieve efficiency and properly use resources. He emphasized how important he felt accountability will be to Idaho's return on investment, and expressed that as a business community the Coalition can perhaps bring that to the table.

In response to questions of the committee, **Mr. Hess** explained the use of an intermodal ramp in exporting goods. **Senator Keough** reported that the Legislature established a section of code to support development of intermodal sites. Some studies are now taking place in the Magic Valley and in Northern Idaho concerning an intermodal hub. It was suggested that **Mollie McCarty**, Budget, Policy and Intergovernmental Relations Manager, Idaho Transportation Department, provide an update on that project at a future time.

In response to questions of the committee, **Alan Frew**, Administrator, Motor Vehicle Division, Idaho Department of Transportation, provided information on the highway weight restrictions and the 129,000 pound Pilot Project. **Chairman McGee** asked **Mr. Frew** to coordinate an update for the committee on the 129,000 pound Pilot Project.

The committee discussed the fact that the gas tax is likely to become a dying source of revenue with the push for high mileage cars, and **Senator Heinrich** inquired as to whether the Coalition had discussed an alternative method of funding for highways. **Mr. Bowen** stated that members of the Coalition had a serious discussion related to revenue and accountability. They came to a strong agreement that Idaho needs a diverse source of revenue, and should not rely on any one source. They recognize that in five or ten years the world, relative to the gas tax, will look very different, and as that evolves on the national stage the Coalition feels strongly that Idaho needs to be on that wave as we move to different models.

**Chairman McGee** thanked **Ms. Pipal**, **Mr. Gipson**, **Mr. Bowen** and **Mr. Hess** for their presentation, stating that their business perspective is very helpful.

#### HCR 17

Stating Findings of the Legislature and Rejecting a Certain Rulemaking Docket of the Transportation Department Relating to Rules Governing Registration and Permit Fees. **Chairman McGee** reminded the committee that they rejected a rule brought forth by the Idaho Transportation Department. He had conferred with the House Transportation and Defense Committee and the House has sent a Concurrent Resolution that also rejects the rule.

#### MOTION:

**Senator Hammond** moved that HCR 17 be sent to the floor with a do pass recommendation. The motion was seconded by **Senator Keough** and carried by **Voice Vote**.

**S 1092**

Relating to Mufflers and Prevention of Noise. **Senator Andreason**, District 15, presented S1092 stating that this legislation amends Section 49-937, *Idaho Code*, to prohibit motor vehicles equipped with a glass pack muffler from operating on the highways of this State. This legislation prohibits the use of such mufflers due to their ability to create excessive noise, which is very disturbing to citizens in their homes, and distractions to other traveling motorists on Idaho roads. This legislation provides for penalties for any person violating the provisions of this legislation, which will encourage law enforcement to enforce the law.

**TESTIMONY:**

**Craig Hlousek**, Boise, representing his neighborhood association, spoke in favor of S1092, and presented a written copy of his testimony (Attachment #2).

**Chairman McGee** stated that this law already exists and this appeared to be more of an enforcement issue. **Senator Andreason** responded that he was advised by the police association that the \$100 fine involved was not sufficient to justify the time involved in tracking the offender and making a citation.

**Deanna Rostock**, Boise, also spoke in favor of S1092, and presented a written copy of her testimony (Attachment #3).

**Will Goodnight**, Past President of United Street Rods of Idaho, spoke in opposition to S1092.

When asked by **Senator Keough** for his opinion on increasing the fine to encourage enforcement, **Mr. Goodnight** stated that he felt the current \$100 fine is sufficient.

**Paul Martin**, a member of United Street Rods of Idaho, spoke in opposition to S1092.

**Tom Ammerman**, Owner, Ammerman's Custom Exhaust, spoke in opposition to S1092. When asked by **Senator Keough** for his opinion regarding increasing the fine to encourage enforcement, **Mr. Ammerman** stated that he felt the proposed fine of \$1,000 is not in line with other infractions.

**Rod Page**, Owner, Boise Muffler, spoke in opposition to S1092.

**MOTION:**

**Senator Werk** moved to send S1092 to the Amending Order. The motion was seconded by **Senator Keough**.

**Senator Winder** made a substitute motion to hold S1092 in the committee. **Senator Hammond** seconded the substitute motion. The **Voice Vote** on the substitute motion was in doubt, and **Chairman McGee** requested the secretary take a roll call vote: **Senator Bilyeu**, Nay; **Senator Werk**, Nay; **Senator Winder**, Aye; **Senator Broadsword**, Nay; **Senator Heinrich**, Aye; **Senator Keough**, Nay; **Senator Hammond**, Aye, **Chairman McGee**, Nay.

The substitute motion failed.

**Chairman McGee** called for a vote on the motion to send S1092 to the Amending Order. The motion carried by **Voice Vote**.

**RECOGNITION:**

**Chairman McGee** recognized Kaela Olson for her support as a Page for the Senate Transportation Committee, and presented her with a gift and letter of commendation from the committee.

**ADJOURNMENT:**

**Chairman McGee** adjourned the meeting at 3:10 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

Attachment #1 - CEO Coalition on Transportation, statewide coalition of business leaders urge support for Governor's leadership on transportation report

Attachment #2 - Testimony of Craig Hlousek

Attachment #3 - Testimony of Deanna Rostock

Attachment #4 - Report, United States Congress, Idaho delegation introduces transportation bill

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, February 24, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session, and will then be located on file with the minutes in the Legislative Services Library.
- CONVENED:** **Chairman McGee** convened the meeting at 1:30 p.m., and welcomed the participants and guests, including a group of students from Caldwell High School.
- GUBERNATORIAL APPOINTMENT:** **Bruce Sweeney**, a member of the Idaho Transportation Board, and father of **Mark Sweeney**, introduced the gubernatorial appointment.
- Mark Sweeney**, Nez Perce County, Lewiston, Idaho, has been reappointed to the Idaho Aeronautics Advisory Board by **Governor Butch Otter**, to serve a term commencing January 31, 2009 and expiring January 31, 2014. **Mr. Sweeney's** original appointment to the Aeronautics Advisory Board was in 2006. He is a graduate of the University of Idaho with a degree in finance. He obtained his commercial and airplane flight instructor licenses in 1980. He has more than twenty years of accident-free flying with no violations. His diverse background in aviation has given him experience in many aspects of general aviation from flight instruction to charter flying, to corporate travel. He is the only member of the Board with a helicopter license. He is married, and his political affiliation is Democrat. He stated it has been a privilege for the past two years to serve the State of Idaho and the Aeronautics Advisory Board.
- Mr. Sweeney** took questions of the committee related to his ability to meet the time commitment necessary to serve on this Board. Also, the challenges facing aviation in Idaho, his position on back country airports, whether the recent aeronautical fuel tax increase is evident in airport improvements, and the value of Idaho's non-commercial airports.
- Chairman McGee** thanked **Bruce** and **Mark Sweeney** for appearing before the committee, and announced the committee will consider and vote on the gubernatorial appointment on Thursday, February 26, 2009.

**S 1088**

**Senator Heinrich**, District 8, presented S1088, relating to special motor vehicle license plates. The purpose of this proposed legislation is to provide for an Idaho Earth Science and Lapidary license plate. The net proceeds will go to the Idaho Gem Club, and will be used for the purpose of educating Kindergarten through grade six to promote understanding about the earth sciences and lapidary.

This legislation, if enacted, will amend Section 49-402, *Idaho Code*. There is no fiscal impact to the general fund.

**TESTIMONY:**

**Joe Nielson**, Idaho Gem Club, Boise, Idaho, spoke in favor of S1088. He provided the committee with a history of gold, silver, and prospecting in Idaho (attachment #1). He stated that as ranching, farming, gardening and working the land increased in Idaho, so did the discovery of rocks of all colors and patterns. People became attracted to the hobby of rock hounding and learned that the beauty of the rocks could be greatly enhanced by sanding and polishing. Jewelry making followed. As rock hounds learned of other rock hounds, rock clubs were created. Boise's own Idaho Gem Club was established on February 10, 1934. The club was the second in the northwest to come into existence and the twelfth in the entire United States. The Owyhee Gem Club, started by several teachers at the College of Idaho, followed in 1938.

**Mr. Nielson** stated that of the many minerals and crystals found in Idaho, one, Bruneau Jasper with spectacular color and pattern, is only found along the Bruneau river in southwest Idaho. Idaho is also home to a very striking Willow Creek Jasper, which is mined north of Eagle. Both of these Jaspers have national acclaim. The Emerald Creek Garnet, many containing stars, is from northern Idaho.

**Mr. Nielson** stated that Idaho is a great rock hounding paradise and is well known across the nation as an excellent rock hound State. He advised that just as the events of the past have successfully brought the hobby to the present, the things we do today will successfully take the hobby into the future.

**TESTIMONY:**

**Eugene Stewart**, Boise, Idaho, spoke in favor of S1088. He identified for the committee the popular stones found in Idaho (attachment #2) and indicated on a map of Idaho where each is found. He stated that when he travels throughout the United States to gem and mineral shows and tell people he is from Idaho, their response is, "Oh, you are from the Gem State."

**TESTIMONY:**

**Charles McCreath**, Idaho Gem Club, Boise, Idaho, spoke in favor of S1088. He presented an outline of educational programs and shows sponsored by Idaho rock clubs (attachment #3). He stated that the Idaho Gem Club has a membership of 170 people. There are approximately 800 registered rock hounds in clubs. He estimates that approximately twice that many are involved in some aspect with rock collecting.

**Senator Werk** inquired what type of auditing process or oversight is in place to monitor the distribution of the revenue from the special license plate. **Mr. McCreath** responded that the Idaho Gem Club is a non profit organization



and must keep the funds in a separate account, but he is not aware of what auditing procedures might be set up. **Chairman McGee** asked **Amy Smith**, Idaho Transportation Department, Vehicle Services, if she would advise the committee in this area. **Ms. Smith** advised that most specialty plates are for non-profit organizations, and revenue is transferred into a specific account. Once funds leave the Department it has no oversight or control over them. **Senator Broadsword** inquired if the funds would be distributed throughout the state. **Mr. McCreath** advised that the intent is to return a portion of the revenue to those clubs within the State who have helped to sponsor this bill. **Senator Bilyeu** inquired if the Idaho Gem Club had a Board that would oversee the distribution of funds. **Mr. McCreath** indicated they did.

**Senator Winder** asked **Ms. Smith** how many plate sales are needed to maintain a specialty plate program. **Ms. Smith** advised that there is no minimum requirement for the first three years. After that, a plate may be cancelled by the Department if plate sales fall below 1,000 in any two consecutive years.

**TESTIMONY:** **Ed Moser**, Idaho Gem Club, Middleton, Idaho, spoke in favor of S1088. He stated that he is a member of the Board of Directors of the Idaho Gem Club; a Board Member of Owyhee Gem and Mineral Society, Caldwell; and a Director of the Northwest Federation of Mineralogical Societies. He provided a summary of the Youth Merit Badge Program sponsored by the American Federation of Mineralogical Societies (attachment #4) and its benefits in educating youth.

**TESTIMONY:** **Charles Osgood**, Idaho Gem Club, Meridian, Idaho, spoke in favor of S1088. He provided background information on the request for the Earth Science and Lapidary Special Vehicle License Plate (attachment #5). He described the plate for the committee, and displayed a sample.

**MOTION:** **Senator Broadsword** made a motion and **Senator Keough** seconded, to send S1088 to the floor with a do pass recommendation.

Committee members discussed concerns related to lack of oversight and accountability for funds in this instance, and whether the membership could sustain the minimum requirements to maintain the special plate program. **Senator Corder** stated that although the Idaho Gem Club has a noble motive in this request, he cannot support the special plate program due to the problems created for law enforcement and, in this instance, the potential problems of equitable distribution of revenue.

The voice vote on the motion was in doubt and **Chairman McGee** requested the secretary take a roll call vote: **Senator Bilyeu** - Nay; **Senator Werk** - Nay; **Senator Winder** - Aye; **Senator Broadsword** - Aye; **Senator Heinrich** - Aye; **Senator Corder** - Nay; **Senator Keough** - Aye; **Senator Hammond** - Nay; **Chairman McGee** - Aye. **The motion carried by the roll call vote.**

**S 1098** **Representative Hagedorn**, District 20, presented S1098 relating to off-highway vehicles. The purpose of this proposed legislative change is to clean up language from 2008, HB602, codify insurance requirements for off-

highway vehicles, and to allow for the use of a “sticker” only registration option for ATV/UTV/Motorbikes. A new classification for “Restricted Use” vehicles has been defined creating a “Speciality” category for those vehicles outside of current definitions. It further defines the definition of UTV and ATV vehicles, and allows the purchase of restricted vehicle stickers and plates by nonresidents that use Idaho’s trail systems. These changes become effective upon approval.

On January 1, 2010, users wanted to create a user fee account like that of the Idaho boating users that will be used by the County Sheriffs for off-highway related law enforcement activities, and by the Department of Lands (DOL) for off-highway opportunities, and to repair damage caused on State land by off-highway vehicle use. The language also limits the liability of the State or political subdivisions for restricted vehicle use.

In 2010, users will register and identify the county where they primarily use their restricted vehicles. Two-dollars will be added to an account from that registration and will be provided to the DOL and County Sheriffs for use in managing these vehicles, just like the Idaho Parks and Recreation Boating program. Funds available will be dependent on registrations, and the counties selected by the user of primary and secondary use of the vehicles.

**Representative Hagedorn** stated that this legislation is back before the committee after a review by the Attorney General. The legislation has been amended to remove the reference to specialty vehicles only where the specialty vehicles are not eligible for plates. He advised that those types of specialty vehicles would still need a sticker if they are running on state or federal lands. A sticker would not be required to run on private land. He stated that this legislation will give those with motor bikes a choice to either get a sticker to ride on trails or a sticker and a plate to ride on trails and roads.

**Senator Corder** inquired why the reference to specialty off-highway vehicles was removed from the definition of dealer. **Representative Hagedorn** deferred that question to **Amy Smith** for response. **Ms. Smith** advised that those utility type vehicles that have to be titled and have the option of having the plate are the types of vehicles where dealers are regulated. The specialty off-highway vehicles category was created as a catch all for everything that did not fit into other definitions. The intention was to give those vehicles the opportunity to get the off road sticker but ITD does not want to regulate mass market dealers who may sell those types of vehicles.

In response to questions of the committee, **Representative Hagedorn** advised that roads and highways open to ATV/UTV vehicle operation would be under the purview of the particular county or political subdivision where the road or highway is located. He further stated that highway crossings are established by the ITD Board. The signage is paid for through the sticker fees from Parks and Recreation.

**Senator Bilyeu** inquired where owners would purchase stickers and plates. **Representative Hagedorn** responded that they are available through the ITD contractors, typically courthouses and Department of Motor Vehicle

Offices. He stated that the ITD may look at the possibility of using Parks and Recreation for this purpose as well as the possibility of putting stickers on at some retailers. He advised that non residents would be required to purchase plates and stickers at the ITD contractors.

**TESTIMONY:**

**Andy Brunelle**, U.S. Forest Service, Boise, Idaho spoke in opposition to S1098. His area of concern deals with the language on Page 11 allowing an exception from State driver's licensing law for underage drivers. It gives an opportunity to drive off-highway vehicles, ATV's and UTV's on Forest Service, BLM, or other state roads that are not under the jurisdiction of the county, highway district or state. He stated that the Forest Service can identify places where underage travel on national forests would be acceptable. And in some cases obviously enhances the enjoyment of the lands, especially the particular roads that connect trail systems that may be disjointed in certain areas. They are also aware of many areas where traffic such as commercial trucks, logging trucks, construction trucks, or recreational vehicles pulling horse trailers mixing with ATV's. In particular, ATV's operated by underage youth who have no training and have no license, would be risky and deserves some attention.

After conferring with national forests across the state and with regional offices about this legislation, the Forest Service requests that proposed language dealing with underage operators be stricken from this legislation or that an attempt be made to amend the language. He suggested taking a look at how our neighboring states of Utah and Montana deal with this situation.

**Senator Broadsword** pointed out the legislation states that an underage operator must be supervised by a licensed adult operator. **Mr. Brunelle** responded that the definition of "supervised" is the issue.

**TESTIMONY:**

**Mike Kane**, attorney, representing Property Casualty Insurers Association of America and Idaho State Sheriff's Association, spoke in support of the section exempting ATV's, UTV's and specialty off-highway vehicles or motorbikes from the requirements for liability insurance. He stated that an unanticipated consequence of last year's bill was a bulletin from the Department of Insurance stating that all insurers had to offer uninsured and underinsured motorist coverage to these UTV's and ATV's. This would create a very large expense on both the insurers and the UTV and ATV users, not in the sense of the insurance itself, but rather the paperwork back and forth under the mandatory coverage language. What this amendment allows is that certain carriers will in fact offer uninsured and underinsured motorist coverage should they so choose and others are not required to do so.

**Mr. Kane** stated that his clients have a concern that the \$1.00 portion of registration fees to be set aside for the Sheriff's Association for enforcement of the rules may not be adequate. He stated they would not oppose that portion of the bill at this time, but may work with the sponsor and if funds generated are not sufficient for enforcement, will seek a more appropriate amount in the future.

**TESTIMONY:**

**Russ Hendricks**, representing members of the Idaho Farm Bureau, spoke in support of S1098. He stated that members appreciate all of the work that the coalition did over the last year to bring this important fix forward. There are many off-highway vehicle operators who do not intend or have no desire to ride on the roads, and they very much would appreciate the opportunity to have an off road sticker only and not have to have a restricted vehicle plate.

**Senator Werk** inquired what **Representative Hagedorn's** position would be on further amendments to the bill. **Representative Hagedorn** responded that it is his opinion that the vetting process to change the language related to underage operators could not be completed during this session. He sees two choices (1) eliminate the language dealing with underage operators; or (2) leave the language as it is and work through the summer on alternate language that would be acceptable. He stated that he would make a commitment to work with everyone concerned and possibly bring back better language next year.

**MOTION:**

**Senator Hammond** made a motion, seconded by **Senator Heinrich** to send S1098 to the **14th Order for amending**.

After a committee discussion regarding the merits of advancing a bill that needs improvements, **Chairman McGee** advised that if the vote is in favor of sending the bill to the amending order, he would also commit to working with all parties to try to find language that compromises and satisfies all parties.

**The Motion carried by voice Vote.**

**MOTION:**

**Senator Corder** made a motion, seconded by **Senator Broadsword** to approve the minutes of Tuesday, February 17, 2009, as presented. **The motion carried by voice vote.**

**ADJOURNED:**

Agenda item, Aeronautics Fuel Tax by John DeThomas, was transferred to Thursday, February 26. There was no further business and **Chairman McGee** adjourned the meeting at 3:08 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, February 26, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** None

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

**CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m.

**MINUTES:** **Senator Winder** moved and **Senator Werk** seconded that the minutes of Thursday, February 19, 2009, be approved as corrected. **The motion carried by voice vote.**

**CONFIRMATION VOTE:** **Chairman McGee** announced the first item on the agenda is action on the Gubernatorial Appointment of **Mark Sweeney** to the Aeronautics Advisory Board for a term expiring January 31, 2014.

**Senator Winder** moved to approve the appointment of **Mark Sweeney** to the Aeronautics Advisory Board for a term expiring January 31, 2014. **Senator Bilyeu** seconded the motion. **Senator Stegner** will be the sponsor of the candidate. **The motion carried by voice vote.**

**RS 18740** **Senator Goedde**, District 4, presented RS18740 relating to motor vehicle financial responsibility. He stated that *Idaho Code*, Section 49-1210, required that certificates of insurance be issued as proof of financial responsibility for certain traffic related violations, typically DUI's. In 2003, the Idaho Transportation Department asked for a delay in the implementation date to July 1, 2009, to allow time to acquire the necessary technology. They still do not have the technology required, and have asked for an additional extension. This bill provides an extension until June 30, 2014. It requires that the Department submit annual reports to the House and Senate Transportation Committees, by January 1 of each year, regarding what progress has been made toward creating a system that will allow compliance with the statutory requirement.

**UNANIMOUS CONSENT REQUEST:** **Senator Keough** asked for unanimous consent that RS18740 be sent to the Senate Judiciary and Rules Committee for printing, with the request that it be referred back to the Senate Transportation

Committee for further action. **There were no objections.**

For the convenience of presenters, **Chairman McGee** changed the order of the next two agenda items.

**RS 18766**

**Russ Hendricks**, representing Idaho Farm Bureau Federation, presented RS18766, relating to motor vehicle financial responsibility. He stated that this issue has been before the committee recently and was introduced as S1090. The Idaho Transportation Department has suggested language to further clarify this legislation. He advised that the intent of the bill is not to diminish or change insurance requirements for off-highway vehicles when they are on the road, but simply to clarify that some provisions of automobile insurance are not applicable to off-highway vehicles.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Senator Hammond** asked unanimous consent that RS18766 be sent to the Senate State Affairs Committee for printing, with the request that it be referred back to the Senate Transportation Committee for further action. **There were no objections.**

**RS 18750**

**Senator Corder**, District 22, presented RS18750 relating to motor vehicle registration. He stated that the Legislature previously passed legislation to double temporary permit fees in an attempt to stop repeat applications for temporary permits. This legislation is proposed in an attempt to further control that abuse by limiting the number of temporary permits that can be purchased to three.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Senator Keough** asked unanimous consent that RS18750 be sent to the Senate State Affairs Committee for printing, with the request that it be referred back to the Senate Transportation Committee for further action. **There were no objections.**

**PRESENTATION:**

**John DeThomas**, Administrator, Division of Aeronautics, Idaho Transportation Department, presented an update for the committee on the application of funds generated by the Aircraft Engine Fuel Excise Taxes enacted by the 2008 Legislature (attachment #1). **Mr. DeThomas** stated that it is anticipated the 1.5 cent increase in aviation fuel tax will generate \$426,000 in Fiscal Year (FY) 2009, which is about a 17% increase in revenue for the Division. The bulk of those funds for FY 2009 has been granted through the Idaho Airport Aid Program to various airports in the State. The seven primary airports received \$175,000; and smaller airports, not eligible for FAA funding, received \$202,000. The fund to replenish airport supplies distributed to public airports received \$3,000. He stated that the Division purchases stands that are used to hang wind socks from the vocational education class at Bruneau High School.

**Mr. DeThomas** advised that of the remaining funds, \$26,000 was expended to republish the Idaho Aeronautical Chart. This had not been republished for 10 years due to lack of funding, and is prized by aviators in the State because it is tailored to the Idaho conditions with a lot of back country air strips. The Division's plan is to alternate publication of the Aeronautical Chart with the Idaho Airport Facilities Directory each year. The directory has the details of

runway conditions and facilities at all of the airports in the State. This also has not been published for ten years. The Division set aside \$10,000 to upgrade its search volunteer effort. The Division is statutorily required to search for down or missing aircraft, and relies on volunteer pilots for most of the searching. During the last ten years, the volunteer group has atrophied due to lack of funding. The Division is working hard to recruit more search pilots, and to conduct some training for those folks. Finally, \$10,000 was applied to support the Idaho Airstrip Network. This Network is a collection of government and non government agencies that works to maintain and upgrade the back country airstrips in the State.

In response to questions of the committee, **Mr. DeThomas** stated that with the exception of a couple of airports, the bulks of the funds for FY 2009 have been disbursed. He talked about the process of FAA matching funding, and explained carryover funding used by some airports to hold grants until sufficient funds are available for larger projects. He stated that one of the Division's primary goals is to make sure airports eligible for FAA funding gets the necessary funding percentage to ensure they do not lose federal dollars. He stated that when the FAA funds are withheld due to disagreements on how airports are operating, the Division does what it can to facilitate negotiation between the parties.

In response to a question by **Senator Werk**, **Mr. DeThomas** reviewed some of Idaho's airports having refurbishment and maintenance facilities. He advised that some of those facilities attract business from all over the country.

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

**Senator McGee** stated that he had been advised that the agencies and users' groups have reached an agreement on language they would like to use in S1098. He hopes to have that available to present on the floor on February 27, and will get copies to committee members as soon as it is available.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, March 3, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheet 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 welcomed the participants and guests. He explained the committee has two Routing Slips for proposed legislation, and this is a call for a unanimous consent to transfer them to a privileged committee for consideration to print.
- RS 18501** **Senator Schroeder**, District 8, presented RS18501, relating to Safety Restraints. This proposed legislation will amend Sections 49-315, and 49-2444, *Idaho Code*, to provide that persons applying for either an Idaho driver's license or an Idaho identification card, and who present written certification from a licensed physician that the person qualifies as a person who is either entirely or partially exempt from the safety restraint requirements of Section 49-673, *Idaho Code*, due to a medical condition. It shall have the notation "safety restraint exemption" or "upper belt safety restraint exemption" imprinted on the back of the card, and the notation "MED" imprinted in red on the front of the card. This proposed legislation will also amend Section 49-673, *Idaho Code*, to provide an exemption for safety restraint use for those possessing such a card. There will be no impact to the general fund from this legislation.
- Senator Schroeder** stated that some medical conditions make it uncomfortable or even potentially injurious for an individual to wear a vehicle safety restraint. This legislation is a request from a constituent who had open heart surgery. Although the current law allows an exemption from safety restraint use by an occupant of a motor vehicle who possesses a written statement from a licensed physician that he is unable for medical reasons to wear a safety restraint, this change would allow a notation to that effect on the driver's license or identification card. It will eliminate the need to carry the physician's statement.
- MOTION:** **Senator Hammond** asked for unanimous consent that RS18501 be sent



to the Senate Judiciary and Rules Committee for printing, with the request that it be referred back to the Senate Transportation Committee for further action. **There were no objections.**

**Senator Broadword** requested that if the bill is printed and referred back to the Senate Transportation Committee, the sponsor address the issue of State liability.

**RS 18763**

This proposed legislation, RS18763, was presented by **Senator Jorgenson**, District 3, and related to the Safe Boating Act. The purpose of this legislation is to amend previous legislation, *Idaho Code*, Section 67-7038, in order to confirm that it is not a violation to operate a motorboat which has been purchased from a manufacturer with stock equipment that may exceed the noise levels described in this law. There is no fiscal impact in this legislation to the general fund.

**Senator Jorgensen** stated that this amendment has to do with a motorboat that has a Captain's Select or Captain's Choice, an original equipment manufactured device that allows the muffler to vent from the side of the boat rather than into the water. This equipment increases the performance of the boat, and exhausts directly into the atmosphere rather than the water. Current law states that the mere existence of the device on a boat is cause for a citation. This change makes such a device legal if the boat is manufactured with it, and it is not an add on. However, the boat is still subject to the law related to maximum decibel rating.

**Senator Broadword** inquired whether a recent incident had brought about this requested change. **Senator Jorgensen** advised that a constituent had requested the change, and that the Sheriff's Association supports the change.

**MOTION:**

**Senator Hammond** asked unanimous consent that RS18763 be sent to the Senate Judiciary and Rules Committee for printing, with the request that it be referred back to the Senate Transportation Committee for further action. **There were no objections.**

**PRESENTATION:**

**Stuart Davis**, Executive Director, Idaho Association of Highway Districts, presented an update regarding the status of the Highway Districts. He related the difficulties in the past of projecting funding needs for the 290 Districts having responsibility for over 33,000 miles of road, when there was no centralized repository of information. To remedy that situation, in March 2008, a consultive review put together the first needs study on the local system since 1996. The 1996 study contained a very small sampling of the local system. This 2008 study, which will be introduced by **Lance Holmstrom**, is a complete review of the local system, and is the first ever done in the State solely on the local system. He advised the committee that the local systems have not received any increase in transportation funding since 1996.

**Senator Corder** asked why the smaller highway districts do not have pavement management systems like the larger ones do. **Mr. Davis** stated that there is a great diversity between highway districts and

counties in terms of budgets and the number of miles of road they maintain. Some of the smaller districts have only one full time employee, and do not even have a computer; it is just not cost effective.

**Senator Heinrich** asked **Mr. Davis** to comment on the report that indicated local highway districts do not have any oversight or accountability of their expenditures. **Mr. Davis** stated that local highway districts cities and counties must submit an annual report, called the Local Street Finance Report, listing every expenditure and every revenue source. If they do not fill out that report, they get no funding from the highway distribution account. In addition, all local governments must have a budget. That budget is printed in the newspaper and they hold hearings on it. The highway district commissioners, the city council members, mayors, and county commissioners are living and working within these communities. I would think that if people at the local level are not allocating their resources properly, they are going to hear about it. **Mr. Davis** stated he thinks the local highway districts are the most accountable.

**PRESENTATION:** **Lance Holmstrom**, M.U.P., Local Highway Administrator, Local Highway Technical Assistance Council (LHTAC), reported the organization had completed its 2008 annual report in accordance with Title 40-2404, *Idaho Code*. The committee members were presented with a copy of the 2008 Fiscal Year Annual Report (attachment #1).

A summary of the LHTAC 2008 report reads: The Local Highway Technical Assistance Council, continues to provide technical support to the 290 Local Highway Jurisdictions to expand the communication between the Local Highway Jurisdictions, the Idaho Transportation Department (ITD), and the Federal Highway Administration as well as other agencies including the Department of Environmental Quality, Idaho Water Resource Board, Bureau of Homeland Security, Department of Agriculture, Department of Commerce and Labor, The Department of Lands, U.S. Forest Service, and the Bureau of Land Management.

The LHTAC continues to provide technical participation in the three Associations' Annual Conventions, and this gives the LHTAC recognition by the Local Highway Jurisdictions, which improves communications between all agencies.

The LHTAC continues to receive numerous questions about how to establish speed limits and interpretation of the regulations dealing with speed limits. In conjunction with that, the signage for warnings as well as speed control situations, continues to be asked on a weekly basis.

Request for data, whether it be financial data, crash data, bridge, rail-crossing condition data, software recommendations, hardware recommendations, and completing various forms and applications continues to be a part of our daily activities at LHTAC.

The LHTAC continues to see significant improvements in the reporting on the Annual Road and Street Financial Reports from the Local Highway Jurisdictions as well as the Annual Local Road Mileage Reports. The LHTAC continues to see a reduction in the Administrative

charges to the Road Management Category, and more of the Highway Distribution Account funds going toward road construction and maintenance.

As with the Legislature, the number of newly elected local officials continues to provide the challenge of education to those elected officials. The LHTAC is committed to training through staff, as well as, that of the Idaho Technology Transfer Center to educate those elected officials in a most efficient and productive manner of managing the local highway system throughout the State.

The LHTAC manages the Local Bridge Program and the STP-Urban and Rural Programs through Stewardship Agreements with ITD. In addition, the LHTAC manages the Asset Management Program, the Local Rural Highway Investment Program and the Local Highway Inventory Program through Cooperative Agreements with ITD.

The LHTAC looks forward with great anticipation to fiscal year 2009 and the challenges ahead with reduced funding and the increased needs.

Attachment #1 is a complete copy of the LHTAC fiscal year 2008 report.

**Mr. Holmstrom** provided a 32-page power point slide presentation in response to the Idaho Transportation Department (ITD) performance audit (attachment #2). He reviewed several slides such as the summary analysis of the 2007 Road and Street Finance Report, 2007 Fuel Tax Percentage to locals, and 2007 Federal Aid Percentage to locals.

**Senator Werk** stated that he feels the concern is not necessarily accounting for every dime, but in having a consistent plan or goal in the expenditure of funds so that ITD and the highway districts of cities and counties are all on the same page. **Mr. Holmstrom** advised that one of the LHTAC's missions is to develop uniform standards and procedures. He listed ten procedures that have been adopted to address performance and standards of use. He pointed out how difficult it is to set up standard regulations when you have such a diverse set of highway jurisdictions. Some have mostly all gravel roads, some have mostly all paved roads, some have mountainous conditions, and some are flat. Some jurisdictions have to deal with very serious weather issues, snow removal, and winter maintenance, while others have less severe weather conditions. He stated that coming up with a specific set of standards is challenging, and feels that coming up with a process to promote best management practices is exactly what the LHTAC is doing. He feels they are making great progress.

In response to a question raised by the ITD audit **Mr. Holmstrom** reviewed the percentage of fuel tax going to Idaho local districts with those of neighboring states in 2007. The lowest is 30% in Utah; the highest is 44% in Nevada; Idaho's distribution is 38%. He also reviewed 2007 Federal Aid going to local districts. The lowest is Idaho at 9.4% and the highest is Washington at 30%.

**Mr. Holmstrom** continued his power point presentation with a review of the Idaho Local Highway Financial Needs Summary which was prepared in response to requests of the committee in 2008 (attachment #3). He stated that Idaho's economy requires both state and local systems, and most users don't know or care whether the road is a State highway or local road. Both are needed to ensure the transportation network in Idaho operates safely and effectively. He stated the purpose of the study is to accurately and clearly define the financial needs of local highway jurisdictions, and the primary emphasis was to determine the cost to improve 80% of paved roads to good or better condition. This study concluded that: (1) \$4.9 billion more is needed over 20 years to maintain local highways; (2) \$4.5 billion more is needed over 20 years to reconstruct roads in very poor condition; (3) locals should receive 36% of all user fees per the 1995 Needs Assessment study; and (4) \$50 million is needed in year one of the funding program.

**Mr. Holmstrom** described local road characteristics, stating that locals maintain nearly seven times more centerline miles of road than does the State. He reviewed historical changes in local roadway mileage since 1996, and stated that local roads are projected to increase to 40,000 miles by year 2028. He reviewed vehicle miles traveled on local, State, and interstate highways, stating that local highway use increases as congestion increases on State roads.

**Mr. Holmstrom** reviewed actual funding versus 1995 Needs Assessment recommendations, stating that actual funding has been \$500 million short of what was recommended in 1995. He concluded his presentation with a summary of total primary funding needs for local highway districts for the next 20 years using a 4% annual inflation rate. He projects a shortfall of \$4,975,397,297 over the current budget.

**Mr. Holmstrom** took several questions from the committee. In response to questions by **Senator Winder**, he advised that there is no legal requirement to provide a percentage of federal aid funds to the local highway districts. He stated that the budget analysis was based on today's dollars with a four percent inflation factor for both expenditures and revenue. **Senator Heinrich** inquired whether the study assumed that Craig Wyden money would continue. **Mr. Holmstrom** stated he was unsure but, if that was assumed, the shortfall would be even more. He advised he would follow up on that question for the committee.

**Senator Corder** made several inquiries related to how the funding percentage between the State and local highway districts was arrived at in the 1995 Highway Needs Assessment recommendation. **Mr. Holmstrom** advised that it had to do with the amount of use between the system, essentially, vehicle miles traveled. He stated he believed the recommendation holds for both the local system and State system in trying to achieve a balance of 70 percent user fees and 30 percent non user. **Senator Corder** stated that increasing our fuel tax at this point would actually aggravate that percentage balance, and **Mr. Holmstrom** acknowledged that it would. **Senator Corder** further inquired what the LHTAC's fee would be to administer the stimulus funds and how those

funds would be distributed. **Mr. Holmstrom** advised that the LHTAC had already spent hundreds of hours without any fee whatsoever trying to coordinate this process and make sure the local districts understand the opportunities and have a chance to participate. He stated that the ITD is meeting at this time to prepare a recommendation for the Governor. As it stands right now, the council recommends a cap of \$500,000 on projects so that more districts can participate. He advised that the LHTAC's fee for administering a \$500,000 project, including engineering and project management advice, would be in the neighborhood of \$2,000. He referred the committee to the 2008 Annual Report (attachment #1) for more detail on the LHTAC's funding.

**Chairman McGee** thanked **Mr. Davis** and **Mr. Holmstrom** for their presentations and suggested the Lieutenant Governor might like to receive a copy of the Power Point presentation.

**PRESENTATION:** **Roy Lewis Eiguren**, Attorney and Legislative Advisor, representing The Right Truck for Idaho Coalition, an organization that has sponsored the 129,000 pound Truck Pilot Project, (a/k/a 129 Pilot Project) provided the committee with an update on that Project (attachment #4). He introduced **Brian Whipple**, Transportation Manager, Amalgamated Sugar Company; **Troy Smith**, Dairygold; and **Alan Frew**, Administrator, Division of Motor Vehicles (DMV), Idaho Department of Transportation, who will assist him with his presentation. He provided the committee with a document listing members of the Coalition and comparing the results of different truck weights on safety, the environment and the economy (attachment #5). He stated that these statistics prove that 129,000 pound trucks really are safer, better for the environment, and much more efficient (attachment #6).

The U.S. Ecology has been able to effect savings of \$1.5 million dollars per year in reduced transportation costs due to these more efficient trucks being made available to them. In terms of safety, the bottom line conclusion is: the fewer truck trips you have the greater safety. The safest truck on the road is the truck that is not there and that is why the Coalition feels that more efficient trucks are important from a safety standpoint.

**Mr. Eiguren** provided a map showing Pilot Project routes in red, and stated that today there are approximately 500 miles of state highway in Idaho that are in this Pilot Project (map, attachment # 7). He explained that Legislators from Northern Idaho did not want to participate in the Pilot Project and, therefore, all highways in the Pilot Project are south of the Salmon River.

He advised that since his last report, the Coalition has been successful in convincing the Idaho Congressional Delegation to introduce legislation that would allow the more efficient truck to be on selected portions of the Southern Idaho interstate system that is outlined in blue on the map. That bill was introduced last year but died at the end of that session. All four members of our current delegation plan to reintroduce that bill both in the House and the Senate sometime later this spring (attachment #8).

That bill would essentially do two things: (1) it would remove for a limited period of time the current federal law restriction that precludes trucks operating in weights greater than 105,500 pounds on Southern Idaho interstates system and allow weights up to 129,000 pounds; (2) it will interconnect the freeway system with state highways in Southern Idaho, to allow the same sort of analysis and review that is being conducted by the ITD on impact to bridges, pavements and to highway safety. Coming along with that legislation is a commitment from Congressman Simpson, who sits on the House Appropriations Committee, that there will be appropriations made to Idaho for use by ITD to conduct those studies on freeways.

In response to questions of the committee, **Mr. Eiguren** stated that the portion of Interstate Highway 15, from the Utah border to the I-80 Junction near Pocatello, had been initially left out of the Interstate identified in the legislation. That oversight has now been corrected. He also stated, in reference to trucking versus rail transport, that the Coalition encourages both methods of transport. Coalition members list transportation generally as the first or second highest cost of production, and anything that can be done to make transportation costs lower through efficiency is strongly supported.

**Mr. Whipple** stated he had been with Amalgamated Sugar for 25 years, and that his company has been a supporter of the 129,000 Pilot Project since 1998. He outlined the success achieved because of the Pilot Project (attachment #9). He advised the committee that for the crop year 2008-2009, Amalgamated moved a total of 750,000 tons via 129,000 pound roads. The estimated savings was \$300,000; estimated number of trips saved was 3,600; number of gallons of diesel saved was 123,750; and the average weight distribution per tire was 2,260 pounds versus 2,540 pounds. He further stated that as impressive as this is, the 753,000 tons that Amalgamated moved is not quite 20% of the total beets delivered and the benefits could be even more with the addition of the Interstates to the Pilot Project.

In response to questions of the committee, **Mr. Whipple** stated that Amalgamated Sugar contracts with a trucking company to haul its products rather than owning trucks, and he sees that relationship continuing. He feels they do pay appropriately in terms of road maintenance costs.

**Mr. Smith** stated that Dairygold, with plants in Jerome, Caldwell and Boise is part of a growing industry in Idaho that is a major contributor to the State's economy. He stated Dairygold is excited about the concept of the Interstate Highway system being added to the 129 Pilot Project as they move five trucks each day between Jerome and Caldwell. Under the 129,000 pound limit this would require only four trucks. Each truck must be washed every 24 hours, so there would also be potential savings in the time it takes to wash those trucks as well as the hot water and chemicals required.

He stated they also move approximately 20 to 25 loads of fresh milk

every day to Layton, Utah. They utilize some rail transportation but have a tremendous amount of need to move product within the state and the larger load would provide a huge economic advantage and allow growth within the industry. He stated that the Perrine Bridge in Twin Falls is not an approved route under the 129 Pilot Project, and it is his hope that can be added in the future.

In response to a question from **Senator Corder** related to the higher weight limit in Utah, **Mr. Smith** stated that a 129,000 load originating in Utah does not cross the Idaho border; it stops in Layton.

**Mr. Frew** stated that the ITD's role in the 129 Pilot Project is essentially one of regulation. There are 49 different companies and 171 vehicles currently enrolled in the Pilot Project, and they have experienced very little with those vehicles. A few overweight citations have been issued, but relatively few compared to the number of vehicles operated and the number of vehicle miles.

He stated that American Ecology in the Mountain Home area is another Idaho company who is very pleased with the results of the Pilot Project.

The committee discussed with **Mr. Frew** several questions related to the increased stress on bridges within the approved 129 Pilot Project. He deferred those questions to **Greg Larrigan** an ITD engineer, who advised that the ITD is not at this point in time prepared to offer any conclusions relative to any change in deterioration. It is continuing to monitor all bridges that are a part of the 129 Pilot Project, and that information will be provided in the report to the Legislature next year.

**Mr. Larrigan** discussed the challenges related to collecting data and analyzing results. He stated that he is not confident that definitive conclusions can be arrived at on the allocation of damage or any additional damage relative to the 129,000 pound trucks versus all the other trucks that are on the roadways. He did state the ITD is able to do calculations based on the engineering of each structure. **Senator Werk** stated that it would be helpful to have an understanding of what the bridge inventory within the 129 Pilot Project looks like and what kind of load stresses those bridges are currently under. **Mr. Larrigan** provided **Senator Werk** with a copy of last year's report on the 129 Pilot Project. He also expressed a concern related to understanding what Idaho may be taking on in terms of bridge replacement if the Interstate system is included in the Pilot Project. **Mr. Larrigan** advised last year's report would not contain that information, but it will be included in the report to the Legislature next year.

The committee discussed with **Mr. Frew** and **Mr. Larrigan** the need for some baseline data that could be used to compare with the data on roads and bridges within the Pilot Project and any other studies that might be available comparing types of vehicle traffic.

**Senator Winder** inquired whether the ITD would establish the same procedure to certify Interstate Highway system included in the Pilot

Project as was used with the State highways. **Mr. Frew** advised that the same procedure would be followed, however, the Interstate system is built to a much higher standard. The ITD has done an analysis of all of the freeways in the system and concluded they are able to handle the 129,000 loads.

**Mr. Eiguren** concluded the presentation by advising that if Congress allows the higher weight limits on the Interstate system, the Legislature will still need to include them in the Pilot Project.

**Chairman McGee** thanked **Mr. Eiguren** and his clients for their presentation.

**ADJOURNED:** There being no further business to come before the committee, **Chairman McGee** adjourned the meeting at 3:00 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary



MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, March 5, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** Senator Keough

**NOTE:** The sign-in sheet 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 welcomed the participants and guests. He requested the secretary to take a silent roll call.

**MINUTES:** **Senator Corder** made a motion and **Senator Heinrich** seconded, to accept the minutes of Tuesday, February 24, 2009 and Thursday, February 26, 2009 as submitted. **The motion carried by voice vote.**

**RS 18791** **Senator Winder**, District 14, presented RS18791, and stated he would request unanimous approval to transfer RS18791 to the Senate State Affairs Committee for printing. RS18791, relates to contracts for design-build highway projects.

He explained that he had worked with the Idaho Transportation Department (ITD), the Legislative Services Office, the Associated General Contractors of Idaho (AGC), and several engineering associations to fulfill a recommendation of the Office of Performance Evaluation (OPE) for the Idaho Transportation Department. He originally had three drafts of legislation to work with, and after much consideration and discussion with the stakeholders, he had chosen the draft legislation he believed would accomplish the most for Idaho.

The Senate Transportation Committee had previously held a print hearing, and that legislation was introduced as S1103. However, he was unable to get the support of one of the major stakeholders; therefore, **Chairman McGee** agreed to hold S1103 in the Committee to allow additional time to negotiate an acceptable legislation. This draft, RS18791, has been significantly shortened, and deals only with the Design-Build. It does not contain any provision for the delivery process known as Construction Manager/General Contractor.

The Association of General Contractors and the engineering community want to continue working on this portion, and bring it back as a separate

piece of legislation. This legislation, [RS18791](#) defines the procedures to allow the Idaho Transportation Department to solicit and award contracts using the design-build method of procurement for highway projects.

Design-build projects were authorized for public-works projects in 1987 by Section 67-5711A, *Idaho Code*. However, Section 40-902(3), *Idaho Code*, specifically states those contracts for a highway are let to the lowest responsible bidder. There are no provisions allowing the Department (ITD) to solicit and award construction design-build contracts.

If enacted, this legislation would allow the Idaho Transportation Department to begin negotiated rule-making for the purpose of promulgating rules to solicit contracts using the design-build alternative contracting method for projects, which can be designed and completed faster than standard projects. Shorter project completion times can save money due to the lower contractor costs and the reduced effects of inflation on construction materials. Design-build will reduce possible conflicts between the project's design engineer and the contractor contracted to build the project.

A study by Warne and Associates ("Design-Build Contracting for Highway Projects - A Performance Assessment; 2005") found that 76% of the studied design-build projects were completed ahead of the established schedule and 100% of these projects were completed faster than if a design-bid-build schedule were used.

As reported in the January 2009 OPE performance audit of the Idaho Transportation Department, a survey conducted as part of the "Design-Build Effectiveness Study, as required by TEA-21 (Transportation Equity Act for the 21<sup>st</sup> Century), Section 1307(f)," prepared for USDOT (U.S. Department of Transportation) Federal Highway Administration, January 2006, showed that design-build saves on time and cost for the same quality as design-bid-build. The results of the study indicated, on average, design-build project delivery reduced overall project duration by 14%; reduced the total cost of projects by 3%; and maintained the same level of quality as compared to design-bid-build project delivery. The study indicated a potential savings of \$30,000 for every \$1 million of cost, and a reduction of about seven and one-third weeks for every project-year.

**MOTION:**

**Senator Corder** asked for unanimous consent to send [RS18791](#) to the Senate State Affairs Committee for printing, with the request that it be returned to the Senate Transportation Committee for further action. **There were no objections.**

**H 152**

**Representative Thompson**, District 33, presented [H152](#), relating to Rural Economic Development. He explained this legislation works with research and planning for additional intermodal commerce authority in Idaho. It is important for train and truck transportation centers, including commerce, economic development, and job creation. If a private sector business intermodal commerce authority would provide the additional services businesses need, such as better use of loading and storing, shared time-certain space is better than building personal warehouses; therefore, increasing overhead and shared cost is less for rails and roads. This 2009 amendment allows the Department of Agriculture to issue more than one intermodal commerce authority research and planning grant per

year, but only if surplus interests are available.

This legislation, H152, amends the planning and development grant sections in the Rural Economic Development and Integrated Freight Transportation (REDIFIT) Program. It allows grants to be issued by the REDIFIT Advisory Committee as they deem feasible, but only from accumulated interest monies available within the fund in the State Treasury, and administered by the Department of Agriculture.

There was a discussion held pertaining to who is eligible for a grant such as railroads, private entities, or trucking companies; the need for additional language to allow more than one grant per year, and what grant is currently in existence.

**MOTION:** **Senator Hammond** made a motion and **Senator Winder** seconded, to send H152 to the floor with a do pass recommendation. **The motion carried by voice vote. Senator McGee** will sponsor H152.

**S 1104** **Senator Darrington**, District 27, presented and supports S1104. This legislation relates to Motor Vehicle Registration Fees and Emergency Medical Services Fees. In October 2005, the Emergency Medical Services (EMS) Bureau contracted for the development and implementation of a statewide Trauma Registry in compliance with *Idaho Code*, Section 57-2003. The purpose of the registry is to collect data needed to analyze the incidence, severity, causes, costs and outcomes of trauma in Idaho in order to improve emergency medical systems, and to prevent serious injuries. Injuries are the leading cause of death for Idahoans aged one to 44 years, and among the leading causes of death for Idahoans overall.

According to preliminary data from the registry, motor vehicle collisions are the second leading cause of traumatic injuries in Idaho. Only 29% of traumatic injuries are covered by private insurance, about one-third were covered by government insurance, and an additional 22% were reported as self-pay.

The registry has been funded through the Bureau of Emergency Services. The EMS funding for the Idaho Trauma Registry has been discontinued. This proposed legislation increases the Emergency Medical Services fee portion of the motor vehicle registration fee by 30-cents, and dedicates that amount to the operation of the Idaho Trauma Registry.

There will be no fiscal impact on the general fund as fees approximating \$470,000, based on the 2008 vehicle registrations, would go into the Emergency Medical Services Fund established in Section 56-1018, *Idaho Code*.

**Senator Darrington** explained he previously was a member of the Senate Transportation Committee from 1982 to 1984. He stated that S1104 deals with the Idaho Trauma Registry which is seven years old. When the registry was created, he was chairman of the task force, and it was agreed there would be no general funds available to fund the registry. The Trauma Registry is contracted with the Hospital Association to administer the program, as they do the Cancer Registry. What little

funding received was from the Emergency Medical Services (EMS) Bureau for the pilot project to get the registry started. The Trauma Registry was developed to improve trauma outcomes and evaluated in such a way as to develop statewide policy to improve trauma outcomes.

He explained that the basis of S1104 is whenever a vehicle is registered, \$1.25 of the fee goes to the EMS Bureau; that is the current law. This legislation simply will raise the fee to \$1.55, and will give 30-cents to fund the Trauma Registry. The 30-cent is adequate to fund the Trauma Registry to try to affect the outcome of trauma.

**John Watts**, Legislative Advisor, representing the Watco Railroad Company, testified to support S1104. He also represents other entities and none objected to S1104.

**Susie Pouliot**, Chief Executive Officer, Idaho Medical Association, testified to support S1104. She provided additional details pertaining to the Trauma Registry. The Idaho Medical Association was an entity that helped develop the Trauma Registry when it first became implemented in Idaho, and the Idaho Hospital Association monitors the program.

She explained the purpose of the Idaho Trauma Registry is to collect data needed to analyze incidences, severity, causes, costs, and outcomes of trauma in Idaho in order to improve emergency medical services and prevent serious injuries.

**Fred Foss, M.D.**, Saint Alphonsus Hospital, testified to support S1104. He explained trauma is all about development to enhance outcomes for patients through data that can be developed for those systems, and improve those systems to look at the outcomes. With Idaho being a rural state, it is extremely important to develop systems to care for trauma patients. In rural settings, the mortality rates for any given injury doubles. In a recent survey, Idaho was given a grade of "D" for emergency service preparedness. The Trauma Registry allows a look at that and, hopefully, improve Idaho's system.

**Mary Hunter**, Highway Safety Manager, Idaho Transportation Department (ITD), testified to support S1104. She discussed the combination of Idaho's Trauma Registry and the ITD's crash data that makes the only window where you can evaluate crash data and victim outcomes. The ITD's crash data gives motor vehicle crash aspects, the location, the contributing circumstance, and an estimate of the injuries and severity of the victim. The Idaho Trauma Registry captures the injury, the hospital length of stay, and the outcomes after the crash. Without the Idaho Trauma Registry data, you do not fully understand the issue. The Idaho Trauma Registry, along with the ITD's crash data, will help in developing and making program decisions, and will aid the State Highway Improvement Program. The Idaho Trauma Registry can help the ITD evaluate its resources. The ITD wants to have all the data available so it can make the best choice of limited dollars. The Trauma Registry will also assist the ITD to fulfill the Governor's position for the Department.

The systems are not integrated at this time, but the registry does use the ITD's data in putting together the Idaho Trauma Registry. It is a

combination of records from many locations that goes into the registry.

**Jane Smith**, Administrator, Division of Health, Department of Health and Welfare, testified to support S1104. She stated the Idaho Trauma Registry was established in 2002. At one time there was a surplus of dollars that were generated toward dedicated accounts, but the dedicated accounts are no longer generating sufficient funds. Today, there is not sufficient funding available.

She discussed the public health impact on the data available for public health decisions. Even though the registry is still in the infancy stage, Idaho can still generate some information that is useable, such as the usage of restraints. Unrestrained usage for adults is 40%, and 48% for children. That data is captured by the Trauma Registry.

**Steve Millard**, President, Idaho Hospital Association, testified to support S1104. He explained the purpose of this legislation is to link all the collected medical data clear up to discharge, what went wrong, and what systems are wrong. This legislation completes the picture. He reported the Idaho Hospital Association met with the Governor, and reported the Governor supports S1104. He also explained that if this legislation does not pass, the Trauma Registry will shut down as it has no funding without this proposed funding. If this happens, Idaho will need to repeal the law that requires hospitals to report trauma, because there would be no place to report.

**MOTION:**

**Senator Heinrich** made a motion and **Senator Werk** seconded, to send S1104 to the floor with a do pass recommendation. **The motion carried by voice vote. Senator Darrington** will sponsor S1104.

The Committee discussed the amount of revenue fees estimated to be raised, examples of improvements, how to integrate information into the system, avoidance of trauma injuries, would collected fees be adequate, and an education process so the public would actually understand just where registration fund-dollars are going.

**S 1131**

**Russ Hendricks**, Legislative Advisor, representing the Idaho Farm Bureau Federation, presented S1131, relating to Motor Vehicle Financial Responsibility. The intent of this legislation is to clarify that certain auto insurance features are not applicable to off-highway vehicles (OHVs).

He reported that as long as off-highway vehicles have been around in Idaho, many off-highway vehicle owners, particularly those covered by Idaho-based insurance companies, have obtained needed coverage through an endorsement on a general liability policy, such as a homeowner's policy or a farm and ranch insurance policy. The coverage provided under these policies must meet or exceed State liability insurance minimums.

This system has been effective and affordable, and is well understood by off-highway vehicle owners and the insurance industry.

Unfortunately, last year's H602 inadvertently has thrown a wrench in the works. There was no intent in H602 to address insurance requirements for off-highway vehicles, but since it changed the registration procedures for off-highway vehicles, the Idaho Department of Insurance recently issued a

bulletin interpreting the law to now require, for the first time, that insurance for off-highway vehicles meet the requirements for automobile insurance, even though several of those requirements have never applied, nor were they ever intended to apply to off-highway vehicles.

He stated that S1131 seeks to restore insurance requirements for off-highway vehicles to the way it has so effectively operated for years.

It does this by clarifying that four specific sections of Title 49, Chapter 12, *Idaho Code*, do not apply to off-highway vehicles as long as the owner/operator has liability insurance that meets State minimums, as required in Section 49-1428, *Idaho Code*.

Without S1131, thousands upon thousands of current off-highway vehicle liability policies will no longer technically meet the requirements to provide coverage because of this new interpretation of the law. This will cause off-highway vehicle owners to scramble to find suitable coverage which will necessarily be more expensive.

**Mr. Hendricks** reported that it is his understanding that some Idaho-based insurance companies do not even have an insurance policy to offer their current clients that would meet the new technical requirements. This means they will have to cancel their current off-highway vehicle policies and begin to develop a new, separate “autotype” policy to provide coverage, and in the meantime, they will have to refer their clients to another company for coverage.

The Idaho Farm Bureau has been working with the insurance industry, off-highway vehicle rider groups, the ITD, and the Department of Parks and Recreation to address this important situation. The result is S1131 which corrects this unintended consequence, and restores off-highway vehicle insurance to the effective and affordable way it has functioned for many, many years.

**Woody Richards**, Legislative Advisor, representing the Farm Bureau Mutual Insurance Company, testified to support S1131. He explained the legislation had been discussed with numerous other entities and none had any objections to S1131. If this legislation is not passed, *Idaho Code*, Section 49-1212, states that we must provide motor vehicle coverage to the insured for the use of any motor vehicle owned by him.

There was a brief discussion regarding S1131 and a requirement for carrying an insurance identification card as proof of insurance, the difficulty of storage of such a card on ATVs, operating an off-highway vehicle on private property, the need to rewrite insurance policies if S1131 fails, and the increased cost for insurance premiums.

**MOTION:** **Senator Winder** made a motion and **Senator Hammond** seconded, to send S1131 to the floor with a do pass recommendation. **The motion carried by voice vote. Senator Hammond** will sponsor S1131.

**PRESENTATION** **Pamela Lowe**, Director, Idaho Transportation Department (ITD), presented the ITD’s JFAC (Joint Finance Appropriations Committee) stimulus report. **Director Lowe** stated the Idaho Transportation Board met on Tuesday, (March 3), in a special board meeting regarding the stimulus. She explained the Board’s recommendations are:

- Highways and bridges in Idaho will receive \$181.9 million
- Public transportation in Idaho will receive \$18.4 million

She reported the highways stimulus legislation requires 3% funding “off the top” for enhancement projects. Enhancement is a specific funding category for projects like sidewalks, bike paths, landscaping, and other amenities. Enhancement projects are Federal mandates.

There will be \$5.5 million and the Board recommends that this be used for irrigation systems, hardscape, and some planting for the ten-mile interchange. The legislation also requires 30% suballocation by population areas. However, even with the suballocation by area, (with population criteria) there is still a great deal of flexibility.

Where there is no flexibility is the amount being suballocated to the TMA (transportation management area). The TMAs are population centers greater than 200,000. Super MPO’s (Metropolitan Planning Organization) are metropolitan planning organizations. For Idaho, the TMA portion of COMPASS (Community Planning Association of Southwest Idaho) is basically the Boise urbanized area. There are, of course, many other entities within COMPASS, however, the funds must go to the TMA. The amount required to go to the TMA is \$11.5 million.

By policy, the ITD’s Board has shared the Federal revenue with the local jurisdictions:

- 12.6 percent or \$23 million
- 50 percent rural, \$11.5 million
- 50 percent urban, \$11.5 million

The amount going to urban includes the TMA.

What changed with the most recent stimulus legislation is the amount that is prescribed to go to the TMA. The TMA amount would come out of the urban, potentially leaving no stimulus funds for the urban areas outside of basically the Boise urban area.

At the ITD’s special Board meeting on Tuesday, the Board decided to provide the urban areas \$5 million in stimulus funds that they would not have gotten without this adjustment in Board policy. With giving urban areas, outside the TMA, \$5 million of the stimulus funds, the ITD would get \$148.4 million and \$5.5 million in enhancement funds.

In January, the Board directed staff to get eight projects ready to go, and the ITD has been doing that. The eight projects total \$149.9 million, based on current estimates. The Department never knows for sure until bids are opened. The eight highways’ economic stimulus projects could be advertised in the order they are ready.

The ITD will have \$148.4 million in stimulus funds, and the estimate for all eight projects is \$149.9 million. **Director Lowe** explained the Department is within a couple of a million dollars, but cannot know for certain until the bids are opened.

The earlier the ITD can get these projects to the contractors, and four are ready to bid by March 17, the better bid prices the Department is going to

get.

In the legislation, 50% of the non-suballocated funds need to be obligated within 120 days - \$64 million.

With the Board's emphasis on "ready to go" projects, and with the latest bid advertisement date being May 19, the Department is going to be able to obligate, at a minimum, more than 120% of its funds.

**Director Lowe** believes this will put Idaho in an outstanding position to benefit when there is redistribution of funds from states that were unable to obligate their funds after 180 days.

In January, the Transportation Board had quite a lengthy and through debate on the benefits of using the stimulus funds on expansion projects, rather than on pavement rehabilitation, maintenance, and restoration projects.

The Board selected the expansion projects for the following reasons:

- They are ready to go. There is no wait period to get these out the door to contractors.
- Expansion type projects employ multiple trades. With a pavement rehab-type project, you get to hire paving guys. With an expansion project, ITD's is hiring paving workers and other crafts like earthwork, steel, and concrete workers.
- Many of these jobs are not going to get done in one construction season, so there will be continued employment and economic stimulus for multiple seasons.
- The projects are in every district in Idaho, so you will be stimulating all of Idaho's economy.
- In addition, when the ITD is done with the projects, there will be an additional improved infrastructure there, whether it is additional lanes, a new bridge or an interchange, that will continue to enhance that area's economy, and make it more attractive to commerce.
- All of these jobs address serious safety and infrastructure needs. If it were not for the stimulus money, there is no other way to build some of these large, yet desperately needed, projects.

The Federal stimulus funds for airports will be handled entirely by the FAA (Federal Aviation Administration). The ITD expects this in addition to its regular FAA Airport Improvement Program (AIP) funds. The Department expects it will include between \$5 million to \$7 million additional funds for Idaho airports although the FAA is keeping their plans close-held at this time. The FAA will provide these funds to accelerate airport projects from their existing planning effort, with some adjustment to keep the new funds geographically balanced. There will be no local match requirement for the additional funds.

Idaho will get \$18 million for its public transportation. By FTA (Federal Transportation Administration) requirements, \$9.6 million will go to MPOs and Kootenai Metropolitan Planning Organization (KMPO), and COMPASS (Community Planning Association of Southwest Idaho).



- KMPO in Coeur d'Alene \$1.3 million.
- Lewis-Clark MPO in Lewiston \$547,000.
- COMPASS - Boise urbanized area, \$3.6 million.
- COMPASS - Nampa, \$1.8 million.
- Bannock MPO in Pocatello, \$1.2 million.
- Bonneville MPO in Idaho Falls, \$1.3 million.

There is no flexibility.

This will leave roughly \$8.7 million to go to Idaho's rural areas. By Board policy, the ITD will distribute that funding by district and by population. The Department anticipates providing that money to locals, but there is no requirement to do that. Both the urban and rural areas are identifying "shovel ready" projects.

On both the highways side and on the public transportation side, the ITD has been actively working with the local jurisdictions identifying "ready to go projects," and has had multiple meetings with the local jurisdictions during the past two weeks.

**Director Lowe** distributed three handouts. This concluded her presentation. The attachments are:

1. Highway Economic Stimulus Projects - advertisements subject to legislative stimulus budget approval and bidding environment.
2. Mobility Stimulus Summary - published February 19, 2009.
3. DRAFT Suballocation Scenario Economic Stimulus Conference Results - Idaho total highways and bridge dollars (000's).

There was a discussion pertaining to several issues such as hiring Idahoans for jobs to be created, shovel-ready projects, etc.

ADJOURNED:           The meeting adjourned at 3:00 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, March 10, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/  
EXCUSED:** None

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

**CONVENED:** **Chairman McGee** called the meeting to order at 1:30 p.m.

**MINUTES:** **Senator Heinrich** made a motion and **Senator Hammond** seconded, that the minutes of the March 3, 2009 meeting be approved as submitted. **The motion passed by voice vote.**

**Senator Heinrich** made a motion and **Senator Winder** seconded, that the minutes of the March 5, 2009 meeting be approved as corrected. **The motion passed by voice vote.**

**S 1089** **Senator Broadsword**, District 2, presented S1089 relating to motor vehicles and passenger safety for children. She stated that the purpose of this legislation is to remove two exemptions in Idaho's Child Safety Seat Statute. The first exemption does not require restraints for children unprotected. The second exemption allows a child to be removed from his or her safety restraint for virtually any reason so long as it is to accommodate the child's "physiological needs." This term is undefined and extremely broad. This loophole makes enforcement nearly impossible for law enforcement, prosecution, and judges.

This legislation would have a positive fiscal impact; these exemptions prevent the State of Idaho from receiving Federal monies which are used in public awareness and education.

**Senator Broadsword** provided a letter from Safe Kids USA expressing support for S1089 (attachment #1).

**TESTIMONY:** **Jeannette Risch**, Child Passenger Safety Instructor, spoke in support of S1089. She stated that she teaches the curriculum to allow certification for car seat technicians. The technicians make sure car seats are installed properly, and educate parents on the proper use of car seats or child restraints. When instructing parents,

she talks about Newton's Law of Motion – an object in motion stays in motion until acted upon by an outside force. **Ms. Risch** pointed out that parents think they can drive down the block or in a parking lot with a child in their lap and it's okay. She reminds them of the equation that weight times speed equals restraining force. If you have a ten pound baby in your lap and you are traveling 30 mph down the road, you need 300 pounds of restraining force to keep that child in your arms and on your lap.

There are two exemptions currently in *Idaho Code* allowing children to be unrestrained in moving vehicles. She stated that as adults we should be able to make our own choices, but we have so many children in the State of Idaho who are relying on the adults in their lives to make good choices for them. Although car seat checkups are held throughout the entire state, only a small percentage of parents are properly educated in child safety restraints. She strongly urged support for this bill eliminating the exemptions allowing unrestrained children in vehicles.

**Chairman McGee** complimented **Ms. Risch** on the quality of her instruction program, having personally experienced it.

**TESTIMONY:**

**Jerry Hirschfeld, M.D.**, Administrator, St. Luke's Children's Hospital, spoke in support of S1089. He stated that unintentional injury is a leading cause of death and disability of children under 14 in this state and throughout the country. Data from 2007 shows 12,000 children died in this country and three million went to emergency departments because of traumatic injury. The leading cause of death and disability among that group is car crashes.

**Dr. Hirschfeld** advised that he had been working for many years on improvements to child safety and noted success in reducing injuries and deaths in each year that legislation has been improved, making parents and others accountable for protecting their children when traveling. Despite that, he believes a need to address this with aggressive intent to protect every Idaho child. He does this personally and professionally at the Children's Hospital in three ways:

1. **ENGINEERING** of child restraint devices should be the best available. Over the course of the last two decades engineering has improved, and more children are protected from direct injuries as a result of both head on and side crashes. However, there is still work to be done, and we need to continue to address it.
2. **EDUCATE** every parent and every custodian of a child in the importance of always putting their child in an infant or child restraint device or a seat and lap belt, depending on their age and size. Parents of every child delivered at the hospital are provided with a car seat if they do not have one. These are provided without cost if they have an inability to pay.

3. ENFORCEMENT of the law. It falls within the purview of law enforcement, and certainly the legislative body to identify how to enforce the rules, regulations, and laws that are passed.

Regarding Idaho's "nursing baby" exemption, **Dr. Hirschfeld** stated that there should not be a physiologic reason to remove a child from a car seat while the car is moving. There are plenty of roadside opportunities to pull over when you want to breast feed, change a diaper, or pick the baby up because their crying is compromising your ability to focus. He stated that Idaho's second exemption, allowing children not to be restrained because there are not enough seat belts in the back of the car to put them into a restraint device is disingenuous. We do not provide that opportunity to adults, and making the right choice for a child is incredibly important.

**Dr. Hirschfeld** pointed out the other important thing about this bill is – dollars drive strategies. We have an opportunity to recruit unmatched federal funds of between \$100,000 and \$250,000 a year if we adopt this legislation. Idaho would have other opportunities for federal funding by raising the fine to \$25, making it a primary offense, and raising the requirement for use of child restraint devices to children eight years of age and under. Those funds could be used to educate parents, and provide infant or child car seats. He urged the committee to send this bill on to the House.

In response to a question by **Senator Bilyeu**, **Dr. Hirschfeld** advised that federal funding depends on how many states are included in the program. He stated the maximum amount is \$250,000, with the lowest limit being \$100,000.

**TESTIMONY:**

**Rob Shoplock**, representing Professional Firefighters of Idaho, spoke in support of S1089. He stated as the father of two daughters, he is very passionate about this legislation. He set the stage for what it is like for a first responder to an auto accident where children are involved. He stated that a child becomes a projectile when not in a car seat. He further stated that parents must protect the children who do not have a choice. **Mr. Shoplock** urged passage of this bill to protect Idaho's children, and provide funding to educate parents and guardians.

**TESTIMONY:**

**Mary Hunter**, Highway Safety Manager, Idaho Transportation Department, spoke in support of S1089 and the importance of this legislation to the Idaho Transportation Department (attachment #2). She emphasized that although federal funds are available, Idaho has received zero funding from the Federal Government because of the exemptions in the law. Idaho does not meet the criteria. This does impact the ability to have effective education and enforcement programs. Over the last ten years the state of Montana actually received \$1.7 million, while Idaho received zero funding because of the exemptions in our law. Idaho does have an education and enforcement program for children and adults, but the "nursing baby" exemption keeps us from the ability to meet this funding provision.

**Ms. Hunter** stated that we do not know what the future is going to hold regarding the availability of funding, but if this legislation fails, it is certain that Idaho will continue to be one of the lowest funded states in the country for highway safety programs. If funds are made available with the passage of this legislation, they would be used for programs to educate the public and work with the Idaho Highway Safety Coalition, the Idaho Chapter of American Association of Pediatrics, and other public health officials.

**Senator Werk** inquired if any other states receive zero federal funds under this program. **Ms. Hunter** advised that only two other states, Michigan and North Carolina have the “nursing baby” exemption and receive no federal funds.

**Senator Broadsword** closed her presentation by emphasizing that with these exemptions in the law it cannot be effectively enforced. She stated it is our responsibility as adults, parents, and grandparents to assure the safety of Idaho’s most precious resource – our children.

**Senator Corder** noted that the Statement of Purpose related to this bill should have a period after the word “Statute” in the first line. He also noted that the Statement of Purpose refers to “psychological” needs of the child and suggested that the correct term should be “physiological” needs. **Senator Broadsword** advised she would have those corrections made.

**MOTION:**

**Senator Corder** made a motion that S1089, with a corrected **Statement of Purpose**, be sent to the floor with a do pass recommendation. The motion was seconded by **Senator Werk**, and **carried by voice vote**.

**RS 18832**

**Senator Goedde**, District 4, presented RS18832 relating to abandoned motor vehicles. He stated that these amendments to Chapter 18 of Title 49 will update and streamline the laws dealing with abandoned vehicles and other vehicles that are impounded by law enforcement officials during the course of their duties, as well as make some technical corrections. It raises the threshold of a low value vehicle from \$200 to \$750. The \$200 value was set in 1982. This bill will also change the mailing requirements to keep them consistent with other notifications made by the Idaho Transportation Department, and require personal responsibility for persons who are arrested and their vehicles impounded.

He stated there will be no impact to the State general fund, and this should increase income to the Abandoned Vehicle Trust Account by being able to serve citations on persons by certified mail who fail to claim abandoned vehicles within the statutory limits. There will also be the potential for substantial savings for agencies due to the change of certified mail versus first class mail, and the ability to post announcements of sales in lieu of having to publish advertisements.

**UNANIMOUS  
CONSENT REQUEST:**

**Senator Hammond** asked unanimous consent that RS18832 be sent to the Senate Judiciary and Rules Committee for printing, with the request that it be referred back to the Senate Transportation Committee for further action. **There were no objections to the request.**

**Senator Werk** noted the need for additional parentheses in the bill text. This will be treated as a clerical correction.

**S 1134**

**Senator Goedde** also presented S1134 relating to motor vehicle responsibility. He stated that this bill will extend the sunset provided in Section 49-1210, *Idaho Code*, dealing with certificates of insurance used as proof of financial responsibility until June 30, 2014, and provide for a report issued annually to the House and Senate Transportation Committees on progress being made. He explained that the Idaho Transportation Department computer is antiquated and cannot process the information needed to comply with *Idaho Code*, Section 49-1210. In 2003, the Department requested and received a delay in the activation of this code until July 1, 2009. In again extending the implementation, this bill requires that the Department submit annually the steps it has taken to become compliant with *Idaho Code*, Section 49-1210. Substantial investment is needed and that is why it has not been done to this point.

**Senator Broadsword** inquired why no action had been taken to meet the requirements in the past five years. **Senator Grodde** responded that the primary reason is funding has not been available. He reviewed the Department's proposed plan through 2014, but stated that funds had not yet been budgeted. Thus, the request for an annual progress report from the Department.

**MOTION:**

**Senator Hammond** made a motion and **Senator Keough** seconded, that S1134 be sent to the floor with a do pass recommendation. **The motion carried by voice vote.**

**S 1130**

**Senator Corder**, District 22, presented S1130 relating to motor vehicle registration. He stated the purpose of this legislation is to limit the number of Temporary Permits that can be purchased. The limit will reduce the number of illegal uses of temporary permits and further encourage registration.

This legislation will positively impact the general fund and or local governments an estimated \$400,000 to \$600,000 per year based upon the current registration fee schedule.

**Senator Corder** reviewed for the committee how operators use this temporary permit process. He also reviewed the registration fee schedule for commercial vehicles and noncommercial vehicles with gross weights above 8,000 pounds (attachment #3). He summarized the rationale for this legislation by stating that if a person were to purchase a fourth permit, they would in some

instances be paying the same amount as required by the registration fee. One of the goals of this legislation is to discourage people from using temporary permits as a means to circumvent registration at all. He stated he had received some e-mails opposing this from people who say they are using six or seven temporary permits. Since this would require expending more than would actually be required to register the vehicle, it does not make a lot of sense.

In response to questions of the committee, **Senator Corder** advised that this temporary registration permit is for 120 hours or five days. The need for multiple temporary permits may occur when an operator purchases a new vehicle and needs to immediately get it on the road. The temporary registration process will allow time for the operator to complete the title transaction. Three periods should provide plenty of opportunity to get the paperwork in order.

**Senator Broadsword** pointed out that the Fiscal Note on the Statement of Purpose for this legislation indicates that it will positively impact the General Fund. She asked if vehicle registration fees go to the Highway Distribution Account rather than the general fund? **Senator Corder** deferred her question to **Alan Frew**, Administrator, Motor Vehicle Division, Idaho Transportation Department. **Mr. Frew** advised that monies collected from registrations, or in lieu of registrations, go into the Highway Distribution Account. He recommended the Fiscal Note be amended to reflect zero impact to the General Fund and a positive impact to the Highway Distribution account.

**TESTIMONY:**

**Jerry Deckard**, Capital West Public Policy Group, spoke in support of S1130 on behalf of Associated Logging Contractors. He stated he attended the Governor's Motor Carrier Advisory Committee last December and that broad based membership, representing fifteen trucking companies, endorsed this bill.

**MOTION:**

**Senator Heinrich** made a motion that S1130, with corrected **Statement of Purpose Fiscal Note**, be sent to the floor with a do pass recommendation. The motion was seconded by **Senator Broadsword**, and **carried by voice vote**.

**H 154aa**

**Representative Jarvis**, District 21, presented H154aa, relating to Idaho State Police. This legislation amends Section 49-2427 of the *Idaho Code* to delete the requirement of painting vehicles with a white top that are used as Idaho State Police Highway patrol vehicles. It also changes the word "painted" to "applied" for the stripe that is applied to the Idaho State Police vehicles.

The fiscal impact of this change will save the State of Idaho \$250 per vehicle with an annual savings of \$10,000 or more.

**Representative Jarvis** introduced **Bill Gardiner**, Captain, Idaho State Police, to respond to questions of the committee. **Captain Gardiner** stated that the code requiring white tops pre-dates air

conditioned vehicles, and was an effort to provide relief from summer heat. He stated that there are a host of unmarked black vehicles on the road right now, and there does not appear to be a noticeable difference in gas mileage from white tops. He advised that other states have a variety of different color schemes. The white top seems to be prevalent in large population areas where numbers are also painted on top for aircraft identification. He further stated that an overlay has been used for the stripes for several years rather than painting, and the amendment to this legislation puts the law in line with the current process.

**MOTION:**

**Senator Hammond** made a motion and **Senator Heinrich** seconded, to send H154aa to the floor with a do pass recommendation. **The motion carried by voice vote.**

**ADJOURNMENT:**

There being no further business to come before the committee, **Chairman McGee** adjourned the meeting at 2:27 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary



## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, March 12, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheet 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 1:35 p.m. He welcomed the participants and guests, including the City of Caldwell, Mayor **Garret Nancolas**, and a group of students from Caldwell High School and the Vallivue High School. The students are members of the Mayor's Youth Advisory Committee.
- Mayor Nancolas** explained this group of students are from the Caldwell and Vallivue High Schools, Thomas Jefferson Charter School, and one student from the Nampa Christian High School. There are 40 plus students that he meets with twice a month on a regular basis. The students are involved in student service projects, leadership in many areas, serve as voting members on several boards, the YMCA Steering Committee, Down Town Revitalization Committee, and the Chamber of Commerce, Board of Directors. These students are actively involved in the decision making process in the community.
- They do some fun things. They read to the students in schools, plant flowers in the community, and are involved in the city's clean up projects. The students also go to the senior centers and help there. This is the type of thing young students are doing today. He stated that whoever said these are the leaders of tomorrow, they are wrong, these are the students and leaders of today. He stated that they are really doing a good job.
- Tomorrow, seven of these students are leaving for Washington, D.C., and have taken the time to write a white-paper about the national debt. The students are very concerned about the national debt and how it will affect them and their children. They will meet with Idaho's congressional representatives and present the white-paper. The students plan to discuss their concerns about the national debt, and also offer some solutions.
- S 1086** **Senator Pearce**, District 9, presented S1086, relating to Motor Vehicle

Registration. The purpose of this proposed legislation is to create an Idaho Freemason license plate. It will raise funds and give recognition to the Shriners organization, who donate a million dollars a day to injured children in the northwest through their medical services and hospitals. There is no fiscal impact to the State general fund.

**Senator Pearce** explained the money that can be generated from the sale of the license plates will go into the charities, to the hospitals and that sort of thing; therefore, this is more of a fund raiser for the charity.

**Jim Voyles**, retired and a member of the Freemasons, testified to support S1086. He explained the Masonic family has a number of charities. For example, the Shriners hospitals are the most familiar to everyone, and also charities involving learning disabilities programs. A school in Twin Falls deals with learning disabilities. Charities, as a rule, are for the general public and not for the Masonic family. He further clarified that a Board will oversee the funds, and it is required to follow Section 501(c)3 requirements of the IRS (Internal Revenue Services). All distributions must qualify for Section 501(c)3 distribution.

He explained there is no national or international body of Masons. Each jurisdiction is responsible for its own jurisdiction. What is done is strictly by the Idaho Freemason, and has nothing to do with neighboring states. In 2007, Section 501(c)3 of the IRS was established, and is managed by a charitable trust management board. All investments are required to be under the Idaho Uniform Powers of Trustees Act, and the interest from the fund can be used for charitable purposes. All disbursements are required to be proper under Section 501(c)3 of the IRS Code.

It is the desire of the Freemasons to establish the Idaho Freemason license plate, and put the initial \$25 and then \$15 into the Idaho Grand Lodge Charitable Trust Fund. **Mr. Voyles** stated that the committee's support of S1086 will be greatly appreciated.

The committee members had numerous questions relating to the word "exclusively" on line 22, would the dollars generated in Idaho be used in Idaho; the difference between the previously proposed legislation and the current legislation; six years ago the resistance toward new special license plates; the cost of the special license plate; the drop of membership from 15,000 to 3,500, and the Idaho Transportation Department receiving \$10 from each \$35 sale of a license plate. There is no fiscal impact to the State general fund.

**MOTION:**

**Senator Heinrich** made a motion and **Senator Winder** seconded, to send S1086 to the floor with a do pass recommendation. A roll-call vote was requested.

Discussion: Placing a period after the word "exclusively" on line 22 of the bill and sending the legislation to the 14<sup>th</sup> Order for amending (not a motion - just a point of discussion); having the latitude of leaving the word exclusively in the legislation; most nonmembers of the Freemason will not purchase the special license plate, and if the organization will use all the funds for charitable purposes.

**ROLL CALL  
VOTE:**

Chairman McGee and Senators Keough, Heinrich, Broadsword, Winder, and Bilyeu voted Aye. Senators Hammond, Corder, and Werk voted Nay.  
**The motion carried, 6 Ayes and 3 Nays.**

**S 1137**

**Senator Jorgenson**, District 3, presented S1137, relating to the Safe Boating Act. The purpose of this legislation is to amend previous legislation, *Idaho Code*, Section 67-7038, in order to confirm that it is not a violation to operate a motorboat which has been purchased from a manufacturer with stock equipment that may exceed the noise levels described in law. There is no fiscal impact in this legislation to the general fund.

He explained this bill does not, in any way, change any of the standards. He outlined page 2, lines 17, 18, and 19. This proposed legislation is not requesting permission to add any accessory, it is asking to not make it a penalty simply because this is a manufacturer's installed item. This is not just about noise, as a matter of fact it has a lot to do with businesses in Idaho. There are a number of boat marinas that operate in northern Idaho, and there are many people who have purchased boats that have this feature. Currently, the way the statute is written, it is a sizeable offense to own a motorboat with this device. Most boats cost \$50,000 to \$60,000, and having the device means you are unable to use the boat.

He reported that sheriffs are going out and citing boat owners, if their boat has this device on it, irrespective of whether they are using the device or not. He outlined comparisons of a jake-brake, loud noises, etc., and requested the committee to help business owners, and the people who purchase a boat when it is not an option when the device is on the boat.

**Senator Werk** asked for clarification about the device and how it works. **Senator Jorgenson** explained it is a bypass that routes the exhaust gases from under the motorboat, the way they currently exhaust into the water, and to exhaust directly into the air. He explained the device comes as a standard device on the motorboat. Also discussed was the effect or enhancement the device would have on the performance of a motorboat.

**Senator Broadsword** asked about line 34 of the bill relating to something being installed or altered in some way, not what came originally from the manufacture of the motorboat.

**Senator Keough** questioned if the device does come on a boat, and it is operated in a manner without exceeding the decimal noise level, is someone pulled over simply because they have the device on the boat.

**Senator Jorgenson** explained he is trying to resolve that issue. Currently, marine officers can issue a citation to anyone who has the device whether it is being used or not. **Senator Keough** questioned the effect of striking lines 30 to 34 in the code, Section 67-7038, *Idaho Code*. **Senator Jorgenson** stated that the Idaho Sheriffs' Association had reviewed the law, prepared the language, and he believes this legislation would be the best fix for the problem.

A general discussion was held relating to the device and it no longer being manufactured; noise levels; boat owners being cited simply because the motorboat has the device installed; exhaust methods

optional; boating having a large impact on Idaho's economy, and is a person who installs the device in violation of the law.

**MOTION:** **Senator Hammond** made a motion and **Senator Heinrich** seconded, to send S1137 to the floor with a do pass recommendation. **The motion carried by voice vote. Senator Keough** voted Nay.

**ADJOURNED:** There being no further business to come before the committee, **Chairman McGee** adjourned the meeting at 2:25 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, March 17, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** None
- NOTE:** The sign-in sheet 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. He welcomed the participants and guests. He also presented the gavel to **Vice Chairman Hammond** to conduct a portion of the meeting while the Chair presented an item of proposed legislation.
- RS 18804** **Chairman McGee** presented RS18804. This legislation relates to the Governor's appointment for the director of the Idaho Transportation Department (ITD). It will amend Section 40-503, *Idaho Code*; to provide that the director of the ITD shall be appointed by and serve at the pleasure of the Governor, with advice and consent of the Senate. The legislation will also correct a codifier's error and amend Section 40-505, *Idaho Code*. There is no fiscal impact to the State general fund.
- UNANIMOUS CONSENT:** On request of **Senator Werk**, granted by unanimous consent, RS18804 was sent to the Judiciary and Rules Committee for a print hearing, and to return the legislation for further action. **There was no objection.**
- DISCUSSION:** **Senator Broadsword** inquired about the language pertaining to the director having knowledge and experience in transportation (page 1, lines 33 - 35). **Chairman McGee** explained the bill drafters took the language from other State departments who have a similar structure. The Chair will check with the bill drafters to determine why the language was included in that manner. **Senator Corder** stated that political appointments do not necessarily have specific knowledge of the appointed position, they are administrators not necessarily experts in that field.
- Vice Chairman Hammond** returned the gavel to **Chairman McGee**.
- S 1147** **Senator Winder**, District 14, presented S1147, relating to Contracts for Design-Build Highway Projects. This legislation defines the procedures to allow the Idaho Transportation Department (ITD) to solicit and award contracts using design-build method of procurement for highway projects.

Design-build projects were authorized for public-works projects in 1987 by Section 67-5711A, *Idaho Code*. However, Section 40-902(3), *Idaho Code*, specifically states that contracts for highways be let to the lowest responsible bidder. There are no provisions allowing the Department to solicit and award construction Design-Build contracts.

If enacted, this legislation would allow the Department to begin negotiated rule-making for the purpose of promulgating rules to solicit contracts using the Design-Build alternative contracting method for projects, which can be designed and completed faster than standard projects. Shorter project-completion times can save money due to the lower contractor costs and the reduced effects of inflation on construction materials. Design-Build will reduce possible conflicts between the project's design engineer and the contractor contracted to build the project.

A study by Warne and Associates ("Design-Build Contracting for Highway Projects A Performance Assessment; 2005") found that 76% of the studied design-build projects were completed ahead of the established schedule, and 100% of these projects were completed faster than if a design-bid-build schedule were used.

As reported in the January 2009 Performance Audit of the Idaho Transportation Department (ITD), a survey conducted as part of the "Design-Build Effectiveness Study, as required by the Transportation Equity Act for the 21<sup>st</sup> Century, (TEA-21), Section 1307(f)," prepared for the U.S. Department of Transportation, Federal Highway Administration, January 2006, showed that design-build saves on time and cost for the same quality as design-bid-build. The results of the study indicated, on average, design-build project delivery reduced overall project duration by 14%; reduced the total cost of projects by 3%; and maintained the same level of quality as compared to design-bid-build project delivery. The study indicated a potential savings of \$30,000 for every \$1 million of cost, and a reduction of about seven and one-third weeks for every project-year.

**Senator Winder** explained this legislation is an attempt to get a statute in place and allow the IDAHO Transportation Department to use a project delivery method recommended by the recent audit of the ITD by the Office of Performance Evaluation. The Design-Build was recommended by the auditors as a means of delivery method for major construction projects for less money and less time. This bill will do just that.

He has been working with the Idaho Association of General Contractors (AGC) and the engineering community to reach a compromise on the bill. We have all agreed with the exception of one provision. That provision is on page 2, lines 31 through 34. The provision raised the amount the ITD could allocate design-build projects after the first three years to 25% of the budget. He stated he was willing to lower the cost to 20% as requested by the AGC, but the potential sponsor in the House of Representative wanted the amount to be 30%.

He stated this bill was drafted at 25% hoping to get everyone's support, but he was unable to do that. The AGC met with the potential House sponsor to discuss the 25% cap. The end result was that all parties are willing to use a cap of 20% of the funding.

**MOTION:**

**Senator Winder** made a motion and **Senator Hammond** seconded, to send S1147 to the 14<sup>th</sup> Order for amending.

DISCUSSION: **Senator Winder** explained this is a fairly simple amendment:

Page 2, line 27, delete the alphabetical (a)

Page 2, lines 31 - 34, delete the provision of 25%, in its entirety

**Senator Winder** stated that he believes the amendment has the support of the AGC, and the engineering stakeholders also support it.

There were questions from the committee members pertaining to Design-Build projects; limitations of 20% (page 2, line 27); page 2 lines 23 - 25, listing only two organizations and the rule-making process - are they the only two organizations who can participate; a request to reword lines 23 - 25 to include, but not limit, other organizations and ensure other organizations are inclusive and not exclusive.

**Patrick Sullivan**, representing the Association of General Contractors, testified to support S1147, and explained how the two organizations were listed on page 2, lines 23 through 25. **Senator Winder** asked **Mr. Sullivan** if he would be willing to have the language deleted from lines 23 through 25 or in rule-making, or read "not exclusively limited to." They agreed to meet and discuss the issue.

**Ted Haener**, representing the American Council of Engineering Companies (ACEC) in Idaho, and in his capacity as Chairman of the Governmental Affairs Committee, testified to support S1147. The ACEC Idaho represents nearly seventy engineering firms throughout the State. He also works for the J-U-B Engineers, which is a member of ACEC Idaho.

He reported the ACEC Idaho believes that the design-build process is an acceptable "tool in the toolbox" for project delivery of highways, bridges, and other public works. Under the right set of circumstances and with the proper framework and process, this method can reduce project delivery time without necessarily impacting overall project quality or cost. It is a method that affords the owner some flexibility in approaching projects with extreme time limitations, or when the scope is not easily clarified through a standard design-bid-build format. Under more normal circumstances, those other currently available methods, including the traditional design-bid-build or design-prequalify-bid-build, are the preferred methods.

The ACEC Idaho, therefore, favors the proposed legislation to allow the design-build method of project delivery for highway and bridge projects in Idaho, with the limitations presented in the statute. The ACEC encourages a passage, and look forward to working with the ITD, AGC and other stakeholders to work on implementation of rules that are in the best interest of the public - providing the framework and process needed for long-term success.

Upon request, **Mr. Haener** agreed to send a list of the ACEC members to the committee. There was a discussion pertaining to time saved in the

design, the design-bid-build process, rule-making, is the design-build process used in other states, and the statement of purpose.

**Greg Laragan**, Assistant Chief Engineer for Operations, Idaho Transportation Department, stated there are a number of other states using design-build projects. He stated that the ITD had representatives from Utah and Oregon come and discuss their success with design-build projects. He believes that more than 50% of the states do use design-build projects. **Senator Werk** emphasized that currently 33 states plus the Virgin Islands are using design-build contracting.

The committee questioned **Mr. Laragan** relating to cost and time savings. **Senator Heinrich** emphasized that counties in Idaho are using the design-build method and they work well when used correctly. Also discussed was how the ITD will manage the funds.

**CALL FOR THE  
VOTE:**

**H 147**

**Chairman McGee** called for a vote on the motion to send S1147 to the 14<sup>th</sup> Order for amending. **The motion carried by voice vote.**

**Ed Pemble**, Driver Services Manager, Idaho Transportation Department, presented H147, relating to Commercial Driver's Licenses. He explained the primary purpose of this legislation is to revise commercial driver's license (CDL) and employer penalties for violating an out-of-service order, as required by regulations of the Federal Motor Carrier Safety Administration (FMCSA), implementing provisions of the Safe, Accountable Flexible, and Efficient Transportation Equity Act (SAFETEA-LU), a legacy for users of the Federal Transportation Funding Bill.

He explained the wording on page 1, lines 21 through 28 is not a new concept, it is the same content lined out on pages three and four. The new language is easier to understand, especially in Section 49-335(1)(e). The term "out-of-service order" is defined in Idaho statutes. Violation of an out-of-service order, simply means disregarding an out-of-service order, i.e., driving a commercial motor vehicle after the driver or employer has been notified that the driver or vehicle has been put out of service for an issue related to safety. The term "out-of-service order" is defined in *Idaho Code*, Section 49-116(2).

The number of citations issued for violating an out-of-service order in Idaho in 2006 was zero, in 2007 a total of seven, and in 2008, a total of four.

The new CDL and employers' penalties for violating an out-of-service order as required by regulations of the Federal Motor Carrier Safety Administration, implementing provisions of SAFETEA-LU. This legislation:

- Increases the minimum civil penalty assessments applicable to commercial vehicle drivers convicted of an out-of-service (OOS) violation. Under previous 49 U.S.C. 31310(i)(2)(A) and (B), such violations carried a minimum civil penalty of \$1,000 for both a first and second conviction. The new federal minimum penalty amounts for the first and second convictions are \$2,500 and \$5,000.



- Increases maximum civil penalty assessment on employers who knowingly allow or require operation of a commercial motor vehicle in violation of an out-of-service order. Such violations carried a maximum civil penalty of \$11,000 now increasing to \$25,000.
- Minimum disqualification times are increased for CMV drivers violating an out-of-service order while transporting nonhazardous materials from ninety days to one hundred eighty days for the first conviction, and from one-year to two-years for a second conviction arising from separate incidents during any 10-year period.

If this legislation is enacted, minor system programming will be required that can be accomplished by staff programmers within the existing budget constraints.

If this legislation fails, withholding of Federal-Aid Highway Funds based on the noncompliance with the Commercial Drivers License Program: Section 4124(c)(119 Stat.1730) of the SAFETEA-LU amended 49 U.S.C. 31314(a) and (B) to provide that the Secretary shall withhold from a State, based on a noncompliance with the Commercial Drivers License Program, up to a specified percentage (5% and 10% for the first and subsequent years, respectively) of Federal-Aid Highway Funds apportioned to the State under 23 U.S.C., 104(b)(1), (3), and (4). As the Federal-aid withholding amounts previously were fixed at the above noted percentages, this provision allows FMCSA a certain amount of discretion in determining the amount of Federal aid highway funds to be withheld from a given State.

The sanction would be on apportioned Interstate Maintenance (IM), National Highway System (NHS) and Surface Transportation Program (STP) federal-aid funds. Since FY2010 is beyond the end of SAFETEA-LU, there are no official apportionments for that year so the FY2009 apportionments were used as an estimate. Idaho's approximate amount of apportionments for those three funding categories in FY2009 is \$130 million. Therefore, the sanction in FY2010 would be 5% of that amount or \$6.5 million. In FY2011, and thereafter, the sanction would be 10% of the total or approximately \$13 million per year.

**Lamont Johnston**, Captain, Idaho State Police, and **Mr. Pemble** answered committee members' questions regarding citing violations and out-of-service violations; the ITD does not issue citations; sufficient notification given to the owner of a truck whenever a driver is in violation; penalties being excessive, and penalty amounts are defined in federal requirements.

**Alan Frew**, Administrator, Division of Motor Vehicles, Idaho Transportation Department, reported that the second bullet on the Statement of Purpose of [H147](#) addresses some of the concerns regarding employers who "knowingly" allow or require operation of a commercial motor vehicle in violation. It can be stated this is federal blackmail and the ITD is doing what it must do, and the penalties are exactly as the federal government specifies.

**MOTION:** **Senator Hammond** made a motion and **Senator Bilyeu** seconded, to

send H147 to the floor with a do pass recommendation.

DISCUSSION: **Senator Winder** emphasized that every state does have a choice on how they fund roads. Idaho is on the verge of getting further and further out of balance as to the amount of federal dollars that come to the State. States that have made the choice to use more state dollars are able to do things that the federal government cannot force them to follow, such as all their environmental rules and regulations. We do have choices in Idaho, but they are hard choices. Idaho can turn down the money in the stimulus plan, but on a bill like H147, Idaho probably does not have a lot of choices.

**CALL FOR THE  
VOTE:**

**Chairman McGee** called for a vote on the motion. **The motion carried by voice vote.**

**Senator Keough** voted Nay, and noted we are asking a lot from the trucking companies at a time when there is a truck driving shortage. She stated she does not like this bill.

**ADJOURNED:**

There being no further business to come before the committee, **Chairman McGee** adjourned the meeting at 2:35 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, March 19, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, and Winder
- MEMBERS ABSENT/ EXCUSED:** Senators Bilyeu and Werk
- NOTE:** The sign-in sheet 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. He welcomed the participants and guests, including **Doug Adams** a student from the College of Idaho in Caldwell. The Chair introduced the gubernatorial appointee, **Jerry Whitehead**.
- GUBERNATORIAL APPOINTMENT:** **Jerald (Jerry) Whitehead**, President and owner of the Western Trailers Company in Boise, has been appointed by **Governor C.L. "Butch" Otter**, with the consent of the Senate, to the Idaho Transportation Board to serve a term commencing March 10, 2009 and expiring January 30, 2015. The Western Trailers Company is celebrating its fortieth year in business. **Mr. Whitehead** is a native of Thatcher, Idaho, and now resides in Ada County. He served in the Idaho Air National Guard and trained in advanced design airframe repair. With his interest in trucking and hands-on technical experience, he designed and built the first Western Trailers in 1969.
- He is a former chairman of the Idaho Trucking Association and also the Idaho Truck Pac, Inc., and a past board member of the Western Highway Institute. He has served four Idaho Governors on the Motor Carrier Advisory Committee. He also serves on the boards of Zions Bank, TechHelp of Idaho, and the University of Idaho National Institute for Advanced Transportation Technology. He has been involved in transportation in Idaho for 40 years. He is married, and his political affiliation is Republican.
- Mr. Whitehead** answered questions from the committee members, and he emphasized his commitment to serve on the Transportation Board.
- Chairman McGee** explained the Committee would vote on the gubernatorial appointment on Tuesday, March 24, 2009.
- Darrell Manning**, Chairman of the Idaho Transportation Board, explained **Mr. Whitehead** will replace **Monte McClure** who served fourteen years on the Board. **Chairman Manning** reported he is very enthusiastic about this appointment to the Board. He outlined **Mr.**

**Whitehead's** trucking experience nationwide and in Canada in solving problems on road limits, so trucks can travel all over the area that they serve. He explained **Mr. Whitehead's** experience working with the federal government, and that he is used to dealing with red tape problems. **Chairman Manning** urged the committee to support the gubernatorial appointment.

**S 1150**

**Senator Goedde**, District 4, presented S1150, relating to Abandoned Motor Vehicles. This legislation will amend Chapter 18, Title 49, to update and streamline the laws dealing with abandoned vehicles and other vehicles that are impounded by law enforcement officials during the course of their duties, as well as make some technical corrections. This legislation will also increase the value of a vehicle considered "low value." This has not been changed since, at least, 1982. This bill will also change the mailing requirements to keep them consistent with other notifications made by the Idaho Transportation Department, and will require personal responsibility for persons who are arrested and their vehicles impounded.

There will be no impact to the State general fund. This legislation should increase the income to the Abandoned Vehicle Trust Account by being able to serve citations on persons by certified mail who fail to claim abandoned vehicles within the statutory limits. There will also be the potential for substantial savings for agencies due to the change of "certified" mail vs. "first-class" mail, and the ability to post announcements of sale in lieu of having to publish advertisements.

**Ben Wolfinger**, Captain, Kootenia County Sheriff's Department, testified to support S1150. He explained that he had been approached by people who must process through the quagmire of regulations dealing with the processing of vehicles that have been towed at the direction of a law enforcement officer. The current process is cumbersome, expensive, and sometimes vague. He outlined the bill, section by section.

SECTION 1 - This section addresses *Idaho Code*, Section 49-1801, and clarified that there is a violation to abandon a vehicle on a highway or on private property without the permission of the owner. It makes the violation an infraction. Currently, it is unclear if there are any penalties for abandoning a vehicle at all.

SECTION 2 - This section addresses *Idaho Code*, Section 49-1802, which deals with the presumption that the last registered owner of a vehicle is responsible for the vehicle. It also already requires the last registered owner to redeem the vehicle within seven days or be guilty of an infraction. The problem has been finding the owner of an unclaimed vehicle to serve them a citation. This amendment allows a citation for failure to claim a vehicle within seven days of the tow to be mailed via certified mail to the last registered owner, unless the owner has filed a release of liability with the Department. The mailing must be by registered mail so a receipt will be returned indicating that service has been completed.

SECTION 3 - This section deals with *Idaho Code*, Section 49-1803, and adds language that will include impounds where the driver has been arrested. This brings the section in compliance with *Idaho Code*, Section 49-662. This section also establishes a consistent process for

law enforcement agencies to follow with regards to recovered stolen vehicles. This puts the burden of notification to the original owner on the law enforcement agency that took the original stolen vehicle report.

This section also provides a process for notification to persons arrested which addresses the disposition of their vehicle, and places the responsibility on those persons for the retrieval of those vehicles. This section also clarified the notification that the vehicle has been impounded which is sent to the registered owners or lien holders of vehicles, and needs to be sent within 48 hours of the impound excluding weekends and holidays. It also provides that the notification can be sent via first-class mail instead of registered mail. This does two things: 1) it keeps it consistent with the method of notification that the Idaho Transportation Department uses for their official notifications, and 2) it reduces the cost of the mailings for local agencies from \$5.32 per letter to \$0.42 per letter, a savings per notification of \$4.90 per letter. In the Kootenia County Sheriff's agency alone, where they send more than 1,000 letters annually, the savings will be nearly \$5,000.

Finally, this section raises the dollar threshold for high-value vs. low-value to \$750 from \$200. This has not been changed since the law was first written in 1982. We all know that the value of a car has certainly risen in the past 27 years.

SECTION 4 - This section deals with Section 49-1804, *Idaho Code*, and clarifies that an unregistered vehicle must be on a highway (defined in *Idaho Code* 49-109) in order to be impounded. This protects persons who leave a vehicle that is not currently registered on private property, with the permission of the private property owner. This section also clarifies that the process for notification of the owner is the same as abandoned vehicles that are found under exigent circumstances.

SECTION 5 - This section, dealing with Section 49-1805, *Idaho Code*, adds statutory references when dealing with the post-storage hearing, allows for notice of the hearing to be sent via first-class mail instead of registered mail, and clarifies that the authorities for the impound was the statutory authority.

SECTION 6 - This section, dealing with *Idaho Code*, Section 49-1806, allows for private property owners to have vehicles removed from their property that have been on the property for thirty days or more. This is intended to address what is commonly called "yard cars" that are on property when a person purchases the property. Most of these vehicles are junked hulks. This will allow the property owner to deal directly with the tow service or scrap yard of their choice. It will also require the tow companies or scrap yards to process the notifications and dispositions of the vehicles pursuant to the statute. This will eliminate law enforcement officers from having to tag these vehicles for 48-hours, then have the vehicles towed and the notifications done by the law enforcement agency. This saves the public a great deal of money and minimizes that law enforcement agency from supplementing the private towing or scrape industry.

SECTION 7 - This section, dealing with *Idaho Code*, Section 49-1808, eliminates the need for the impounding officer to record the mileage of vehicles being impounded as well as codify the requirement that the vehicle contents be inventoried. The elimination of the mileage requirement will eliminate officers from having to try to start vehicles that

have electronic odometers. The inventory requirement will bring Idaho statutes in line with existing case law, instead of relying on individual agency policies.

SECTION 8 - This sections deals with *Idaho Code*, Section 49-1810, and again clarifies that notifications can be made by first-class mail instead of registered mail. It also allows notifications of sale of abandoned vehicles to be listed in the newspaper or posted in three public places. This will be consistent with other types of Sheriff's sales and the notification that must be completed.

SECTION 9 - This section deals with *Idaho Code*, Section 49-1814. The amendments only make technical corrections to bring this section in line with the amended statute found in Section 49-1803 as found in Section 3 of this bill.

SECTION 10 - This section deals with *Idaho Code*, Section 49-1815, and also brings the statutes in line with the amended statute in Section 49-1803 as found in Section 3 of this bill. It also makes technical corrections.

SECTION 11 - This section addresses Section 49-1816, *Idaho Code*, and amends the requirement from registered mail to first-class mail for notifications as well as clarifies the threshold for low-value vs. high-value vehicles.

**Captain Wolfinger** stated this draft has been reviewed by law enforcement from the Idaho State Police, the Kootenai County Sheriff's Department, the City of Boise and others, and has received all of their endorsements. It will save money, stream line processes, and improve service for all levels of law enforcement. It has also been reviewed by the Independent Auto Dealers Association who does not think it goes far enough, but do agree that we can work on additions next year. It has even been reviewed by Art Nelson from Valley Towing in Mountain Home. His comment was, "I just read through the impact that your bill will have on Title 49 Chapter 18, and am overall very impressed."

**Captain Wolfinger** stated this is a complex piece of legislation, however, the bottom line is this legislation:

- Will streamline processes for dealing with abandoned vehicles for law enforcement agencies.
- The process will cost less money for all public entities through the elimination of the majority of certified mailings and newspaper advertisements for vehicle sales.
- By being able to mail infraction citations for failure to claim impounded vehicles, the Idaho Transportation Department's Abandoned Vehicle Trust Account, the towing companies, and the responsible agencies should see more money coming in from the administrative fees that are attached to the abandoned vehicle citations.
- This will update a set of laws that has not been updated since their writing in 1982.

The committee made several inquiries related to abandoned motor vehicles on private property, the notification process, value of abandoned vehicles, and the responsibility of a vehicle owner. **Captain Wolfinger** advised that according to the scrap yards in Kootenia County

that deal only with scrap vehicles, they believe it is worth the time to collect the vehicles. They must only hold a low-valued vehicle for ten days. He explained people who buy property, and it has multiple vehicles abandoned on it and they want to get rid of them, this legislation will allow them to notify a tow or scrap company to remove the scrap. After ten days, and notifications have been completed, the company can scrap the vehicles.

**Rex Green**, representing the Idaho State Independent Automobile Dealers Association, testified regarding lien holders and notification of a car being towed, so they can elect to rescue the vehicle. A lot of the time they have been looking for the vehicle. He stated his organization does support S1150.

**Walter Ronk**, a certified auto repair technician, Wizard Auto Specialties, testified in opposition to S1150. He outlined a personal ongoing legal problem regarding a vehicle being towed by a salvage company, and his interest in the vehicle for restoration. He believes the vehicle was not posted correctly by law enforcement. After a lengthy presentation, **Chairman McGee** explained to **Mr. Ronk** that the committee was focused only on the legislation before them, S1150, and could not consider his legal problems.

There was a brief discussion regarding civil or criminal issues, the current process for a constituent to follow with a personal complaint pertaining to abandoned vehicles, and law enforcement procedures.

**MOTION:** **Senator Corder** made a motion and **Senator Hammond** seconded, to send S1150 to the floor with a do pass recommendation. **The motion carried by voice vote.**

**ADJOURNMENT:** There being no further business to come before the committee, **Chairman McGee** adjourned the meeting at 2:42 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, March 24, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/ EXCUSED:** Senator Heinrich
- NOTE:** The sign-in sheet 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. He welcomed the participants and guests, and explained the voting process for the gubernatorial appointment of **Jerry Whitehead**.
- MINUTES:** **Senator Corder** made a motion and **Senator Broadsword** seconded, to accept the minutes of Thursday, March 19, 2009. **The motion carried by voice vote.**
- Senator Winder** made a motion and **Senator Corder** seconded, to accept the minutes of Tuesday, March 17, 2009. **The motion carried by voice vote.**
- GUBERNATORIAL APPOINTMENT VOTING:** **Jerald (Jerry) Whitehead** was appointed by **Governor C.L. "Butch" Otter** to the Idaho Transportation Board, to serve a term commencing March 10, 2009 and expiring on January 30, 2015. **Mr. Whitehead** had appeared before the committee for a confirmation hearing on Thursday, March 19, 2009.
- MOTION:** It was moved by **Senator Winder** and seconded by **Senator Keough**, that the gubernatorial appointment of **Jerry Whitehead** to the Idaho Transportation Board be reported out with the recommendation that the appointment be confirmed by the Senate.
- DISCUSSION:** **Senator Winder** stated that **Mr. Whitehead** will bring a lot of good background and industry knowledge to the Board. He has owned and operated a very significant private business for many years, and very successfully. He will be a great District 3 member to the Idaho Transportation Board.
- CALL FOR VOTE:** **Chairman McGee** called for the vote. **The motion carried by voice vote.**
- H 151** **Relating to Fuels Tax - Dyed Fuel and Other Untaxed Fuel Prohibited for Use On a Highway:**

**Ted Spangler**, Deputy Attorney General, State Tax Commission,



presented H151. He explained this legislation is very straightforward. It proposes to add a civil penalty for violation of the motor fuel tax laws prohibiting the use of dyed diesel fuel on Idaho's highways. The proposed penalty is:

- a) \$250 for the first violation
- b) \$500 for the second violation, and
- c) \$1,000 for the third or any subsequent violation.

**Mr. Spangler** presented a chart pertaining to the monthly gallons of fuel taxed in Idaho. The chart was prepared by the Economics Research Section, Idaho Transportation Department, dated January 29, 2009 (attachment #1). He reported that members should focus on the green and red lines on the chart. The red line represents dyed diesel fuel which has been consumed in Idaho.

He stated there is good evidence of increased unauthorized use of untaxed dyed diesel fuel on Idaho's highways. There is a marked increase in the importation and sale of dyed diesel fuel, and data shows dyed diesel fuel use has essentially doubled since January 2005. The Tax Commission sees consistent anecdotal evidence of increasing violations.

He explained there are increased instances of enforcement officials in other states reporting violations by Idaho vehicles while in their states. The auditors have reported that after viewing purchase invoices they have discovered fuel invoices marked as dyed diesel fuel, but was sold to licensed highway vehicles. This bill does not authorize the Tax Commission to engage in any different enforcement activities. It simply allows, when the evidence comes to the Tax Commission, they can respond to it with the civil penalty.

Under the current law, which is a misdemeanor, enforcing by means of a misdemeanor prosecution is expensive. There is no civil penalty for the improper use of dyed fuel, and this bill will add proposed civil penalties. Civil penalties are expected to be more effective than misdemeanor charges because they do not involve county prosecutors or criminal courts. They will be imposed the same way as unpaid taxes by the Tax Commission issuing a deficiency notice.

**Mr. Spangler** discussed the proposed fiscal increase of \$100,000 to the State Highway Distribution Account in fiscal year 2009. The proposed fiscal increase is not the amount that would actually be raised.

There was a discussion relating to enforcement, volunteer compliance, the number of diesel vehicles, the fiscal note is what is hoped to be raised, the class of vehicles projected to be encompassed as there are no dyed diesel service stations in Idaho, increasing enforcement and whose responsibility is enforcement, and Ports of Entry inspections.

**MOTION:**

**Senator Corder** made a motion and **Senator Werk** seconded, to send H151 to the floor with a do pass recommendation. **The motion carried by voice vote.** **Senator Broadsword** voted Nay. **Senator Winder** will sponsor HB151.

**H 43**

**Relating to the Department of Commerce and Innovation:**

**Brian Dickens**, Administrator, Commercial Innovation Division, Department of Commerce, presented H43. He explained the amendments that have been proposed by the Department of Commerce, and specifically the Commercial Innovation Division, apply to three statutes that refer to Science and Technology related efforts or entities with which the Commercial Innovation Division deals.

The purpose of changing the language in these statutes stems from an effort on the part of Commerce to more inclusively handle economic development relative to innovation. This effort is to expand the scope of innovation development to include the application of innovative technologies to Idaho's traditional industries, in addition to the ongoing effort to develop and attract specific companies and industries that produce innovative products and services.

The first amendment deals with Section 49-416C, *Idaho Code*, and relates to the Science and Technology license plates which were created in 2006 in an effort to raise awareness and funding support for the development of Idaho's Science and Technology industries. Revenues from the plate did not meet expectations, and its limited sales will likely result in discontinuation of the plate later this year. However, renewals of the plates sold to-date will continue to generate revenue for the Commercial Innovation Division. This name change merely lends consistency to Commerce's innovation strategy, and identifies where the future renewal revenue will flow. **Amy Smith**, Vehicle Services Manager, Idaho Transportation Department, reported there had been 89 license plates sold.

**Mr. Dickens** stated the next proposed amendment addresses Section 67-4725, *Idaho Code*, and renames the Office of Science and Technology Fund. This fund was established to hold monies accumulated by the Office of Science and Technology, which has been renamed the Commercial Innovation Division. The source of these monies is defined in the statute, but it was the creation of the Science and Technology license plate that precipitated creation of the fund. The name change of the Office subsequently precipitates the name change of the fund.

Finally, the last amendment affects Section 67-4726, *Idaho Code*, and the Science and Technology Advisory Council. In 2008, the Council, the previous director of Commerce, and the Governor agreed to consider a reconfiguration of the Council that would streamline its workflow and maximize its efficiency and effectiveness. Previously, the Council engaged in activities revolving around commissioning research studies and formulation of strategy. It was generally felt by the Council and the Governor that the time for discussion and strategizing had passed and that the earnest work of the Council in carrying out the strategy needed to commence. The high-level positions of the Council members, however, made it difficult for them to commit time to specific tasks and working groups so it was suggested that the Council be reconfigured to facilitate action, namely: commercialization and ultimately job creation. The Idaho Innovation Council is the outcome of the review and reconfiguration process conducted by the Office of the Governor, the director of Commerce, and himself. This amendment

addresses some of the configuration adjustments as well as the name change which again reflects the effort to be more inclusive of traditional industries.

He explained the fiscal impact of these changes has been, and will continue to be minimal. Due to the anticipated discontinuation of the Innovation license plate, no alteration of marketing literature or signage will be required.

**MOTION:** **Senator Keough** made a motion and **Senator Winder** seconded, to send H43 to the floor with a do pass recommendation. **The motion carried by voice vote. Senators Bilyeu and Corder** voted Nay. **Senator Heinrich** will sponsor HB43.

**Chairman McGee** gave the committee's gavel to **Vice Chairman Hammond** while he presented an item of proposed legislation.

**RS 18880** **Relating to Motor Vehicle Registration:**

**Chairman McGee** presented RS18880. This proposed legislation, relating to motor vehicle registrations, will amend Section 49-402, *Idaho Code*, to provide for provisions relating to wrecker plates. It will also amend Section 49-428, *Idaho Code*, to provide for the display of a wrecker plate. The legislation amends the annual registration fee for operating a pickup truck, neighborhood electric vehicle, and other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds, and complies with the federal motor vehicle safety standards as defined in Section 49-107, *Idaho Code*. There is no fiscal impact to the State general fund.

**UNANIMOUS CONSENT:** On request of **Senator Hammond**, granted by unanimous consent, RS18880 was sent to the Judiciary and Rules Committee for a print hearing, and to return the legislation for further action. **There was no objection.**

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

**ADJOURNED:** There being no further business to come before the committee, **Chairman McGee** adjourned the meeting at 2:17 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, March 26, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/  
EXCUSED:** None

**NOTE:** The sign-in sheet 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 1:32 p.m. He announced that the House is meeting on the floor, and Representatives scheduled to present agenda items may need to be reordered to accommodate voting obligations in the House.

**MINUTES:** **Senator Broadsword** made a motion, and **Senator Werk** seconded, that the minutes of the March 10, 2009 meeting be approved as submitted. **The motion passed by voice vote.**

**H 187** **Representative Patrick**, District 23, presented H187, relating to Motor Vehicles; to provide for notice relating to certain motor vehicle service contracts; and to provide requirements and penalties. He stated this legislation is designed to protect consumers from deceptive advertising in the sale of motor vehicle service contracts. It is not designed to prohibit such advertising, but will require a clearly-worded statement notifying the consumer when such a contract is being offered by someone other than the automobile manufacturer or dealer.

In response to questions of the Committee, **Amy Smith**, Vehicle Services Manager, Idaho Department of Transportation, reviewed the Department's procedure regarding the sale of information from drivers records. She stated that Idaho's Department of Motor Vehicles (DMV), records are protected under the Driver's Privacy Protection Act; however, there is a list of authorized requesters that can and do get vehicle information. The Department contracts with those requesters, and advises them that they cannot resell this information for purposes that are not allowed under the Driver's Privacy Protection Act. There are penalties provided by law for violating this policy, but the Department does not have the means to be able to track down the source of all advertising. She further advised that the Department does not maintain information

regarding automobile warranties with vehicle records.

**TESTIMONY:**

**Trent Wright**, Executive Director, Idaho Automobile Dealers Association spoke in support of H187 (attachment #1). This legislation was developed by the Idaho Automobile Dealers Association in conjunction with **Representative Patrick** to deal with the issue of deceptive motor vehicle service contract offers in Idaho. He stated that deceptive third party vendors have led consumers to believe that the manufacturer or dealer of the consumer's automobile sent the solicitations when in fact these third party vendors are unrelated to any vehicle manufacturer or dealer. He stated that this type of advertising is responsible for a large increase in complaints regarding the automobile industry.

**Mr. Wright** advised that if an individual buys one of these service contracts from a third-party provider that may not have a contract with the dealership, the dealer must provide the level of service that the automobile may need. The dealer then has to deal with the service contract company to get paid for the warranty work. He stated that there are legitimate warranty companies, with sound advertising practices, that work in conjunction with the manufacturers and dealers.

**TESTIMONY**

**Michael Kane**, representing the Property & Casualty Insurers Association of America spoke in opposition to H187. He stated that he represents legitimate insurers who are solidly behind the concept of the proponents of this legislation, but the current language has a direct negative effect on his clients. He stated that his clients do not engage in mailing written offers, but they do advertise with brochures and advertisements at the dealership level. His clients are not manufacturers or dealers; they are insurance companies affiliated with automobile manufacturers. To comply with this legislation, his clients would be required to advise consumers that they are not affiliated with a motor vehicle manufacturer, when in fact they are. He stated that his clients are acting with the express consent of the manufacturers, and suggested modifying the language of the proposed legislation to exempt those entities acting with express consent of the manufacturer from the requirement of providing the consumer notice.

**Mr. Kane** advised the committee that he was unaware of this legislation until recently, and asked that the committee hold this bill for a time certain to allow him to continue to work with the sponsor to come up with language that will not have an unintended consequence.

In response to questions of the committee, **Mr. Kane** advised that his clients do not utilize mailing lists. They work through manufacturers and Idaho dealerships, and provide written information at those dealerships. They have written contracts with those dealers and manufacturers to provide warranty service contracts to clients.

## TESTIMONY

**Roy Eiguren**, representing the Service Contract Industry Council, spoke in opposition to H187. He indicated his clients take the same position as those of **Mr. Kane**. He stated that his clients also offer warranty service contracts through dealerships; they do not advertise. He advised that he was only recently retained, has proposed language to amend this bill, and suggests that the bill be held to a time certain to see if differences can be worked out with the sponsor.

## CLOSING COMMENTS:

**Representative Patrick** was called to the floor of the House for a vote and **Chairman McGee** invited **Mr. Wright** to make closing comments on H187. **Mr. Wright** stated that he believes the clients that both Mr. Kane and Mr. Eiguren represent are very upstanding clients, and has no reason to believe that they are the problem or the concern here. He does feel that by providing any looser language that the proposed legislation contains will not address the problem, and will not provide consumers with any sort of protection when it comes to advertising and subsequently the contracts they sign.

The Committee discussed with **Mr. Wright** alternative language that might be acceptable.

**Chairman McGee** invited **Representative Patrick** to make further closing remarks.

**Representative Patrick** stated that the intent of the legislation is to require advertisers to disclose who they are. He does not believe a delay will accomplish much, but is willing to work on it.

## MOTION:

**Senator Werk** made a motion, seconded by **Senator Hammond**, that H187 be held in Committee until Tuesday, March 31, 2009, to allow the parties time to consider compromise language.

## SUBSTITUTE MOTION:

**Senator Keough** made a substitute motion that H187 be sent to the floor with a do pass recommendation. **The motion failed for lack of a second.**

## VOTE:

The vote on the motion to hold H187 in Committee until Tuesday, March 31, 2009, **carried by voice vote**. **Senator Keough** is recorded as voting "Nay."

## H 241

**Representative Andrus**, District 29, presented H241 relating to Motor Vehicles; to revise provisions for posted speed limits relating to the operation of neighborhood electric vehicles. He stated that the purpose of this legislation is to prohibit the operation of neighborhood electric vehicles (NEV) on any highway with a posted speed limit of more than 35 miles per hour. The legislation also prohibits NEVs from crossing any highway with a posted speed limit greater than 45 miles per hour (mph). Currently, the law prohibits the operation of such vehicles on highways with a posted speed limit of more than 25 mph. This legislation will permit electric vehicles to travel on roads posted with reasonably low speed limits

(35 mph) and will allow such vehicles to cross roadways with a slightly higher speed limit (45 mph).

**Representative Andrus** advised that the City of Pocatello has purchased two of these vehicles in order to be fuel efficient and reduce emissions (attachment #2). One vehicle will be used at the sewer district treatment pond. The other will be used for meter reading. This vehicle is described as a medium speed electric vehicle by the Federal Motor Vehicle Safety Regulations and the National Highway Transportation Safety Administration. The recommended speed is 35 mph. Idaho law currently allows this type of vehicle to travel on a highway with a speed limit of 25 mph or less. The intent of this legislation is to raise that ability to travel on a highway that has a speed limit of 35 mph or less and be able to cross a highway that has a speed limit posted of 45 mph or less. He pointed out that this is a titled, registered, and insured vehicle and it can only be driven by a licensed driver.

**TESTIMONY:**

**Representative Andrus** introduced **John Sigler**, Senior Environmental Coordinator, City of Pocatello, who outlined Pocatello's intended use of the NEV. He stated that meter readers now have to go a devious route winding through town to cross main streets and other arterial streets with speed limits of 35 mph. If this legislation is enacted, it will allow more access to a larger portion of town. He compared the cost of operation of the NEV with other vehicles, emphasizing that the NEV will do the job more efficiently and will reduce air pollution concerns.

In response to questions of the committee, **Ms. Smith** advised that NEVs are classified as low speed vehicles by the National Highway Traffic Safety Administration. Under federal definition for a low speed vehicle, the manufacturer must state that they go no more than 25 mph. The industry is building these to go faster and have more capabilities, but the federal government has not kept up with crash testing and outlining requirements for a medium speed vehicle.

**Mr. Sigler** stated that Montana, Washington, and four other states have passed similar legislation.

**TESTIMONY:**

**Terry Lee** spoke in support of H241. He stated that Montana and Washington both have legislation that separates the low speed vehicle by creating a new class called medium speed vehicles. They identify a medium speed vehicle as being capable of traveling 35 mph. He stated as a citizen of Idaho, he has no financial interest in this legislation, but does have an interest in developing a strong economy for Idaho and a clean environment. He stated there is a strong economic argument for fostering development of electric vehicles in Idaho. Idaho offers some good advantages to attract this industry. Our electricity costs are low, with a large percentage of electricity generated by hydro power. Also, when you consider the development of an energy corridor in the eastern part of the states, having a product and application for

those new energies is really important. Right now the electric car industry is a cottage industry, a bunch of small guys moving faster than the large guys, and eventually a lot of these businesses may be bought by the larger manufacturers.

**Mr. Lee** stated that he would support any legislation that will relax the restriction we currently have on NEVs or medium speed vehicles, as it is being proposed.

**TESTIMONY:**

**Trent Wright** spoke in support of H241. He stated that the Automobile Dealers Association supports this legislation. He advised that the Kootenai County Sheriff's Department, the Coeur d'Alene Tribe and also the Coeur d'Alene police have also endorsed this legislation. He stated that there are 25 states that currently have legislation on these vehicles with the ability to go on 35 mph roads. In the state legislatures in 2009 there are another 22, including Idaho, who are trying to do exactly what we are doing so this is not a unique situation to Idaho; it is a nationwide issue.

The Committee discussed the concerns related to the regulation of the NEVs should the industry grow rapidly.

**MOTION:**

**Senator Hammond** made a motion, seconded by **Senator Bilyeu**, that H241 be sent to the floor with a do pass recommendation.

**SUBSTITUTE MOTION:**

**Senator Werk** made a substitute motion that H241 be sent to the 14<sup>th</sup> Order for amendment. **The motion failed for lack of a second.**

**VOTE:**

The original motion to send H241 to the floor with a do pass recommendation **carried by voice vote**. **Senator Werk** is recorded as voting "Nay."

**H 97aa**

**Representative Jaquet**, District 25, presented H97aa, relating to Motor Vehicles and Traffic; to provide for driving a vehicle in a high occupancy vehicle lane. The purpose of this legislation is to provide enabling legislation for a high occupancy vehicle lane implementation in Idaho, only if desired and designated by the Idaho Transportation Department. This legislation would restrict high occupancy lane vehicles to carry two or more persons, including the driver. Certain exceptions provided are motorcycles and public transportation vehicles as defined in the proposed legislation. The legislation has been amended to provide exceptions for emergency vehicles, authorized maintenance vehicles, and public transportation vehicles. The amendment further states that this legislation applies only in a county with a population of less than 25,000, and where such counties include a resort city as defined in code.

**MOTION:**

**Senator Keough** made a motion, seconded by **Senator Werk**, that H97 as amended, be sent to the floor with a do pass recommendation. **The motion carried by voice vote.**

**RS 18865**

**Chairman McGee** passed the gavel to **Vice Chairman**



**Hammond**, and presented RS18865. This legislation relates to Motor Vehicle Registration and License Plates. It amends Section 49-402, *Idaho Code*, to revise provisions relating to the initial program fees and make a technical correction; amends Section 49-402C, *Idaho Code*, to revise provisions relating to the application of law; amends Chapter 4, Title 49, *Idaho Code*, by the addition of a new Section 49-402D, *Idaho Code*, to provide that any organization seeking to participate in the special license plate program shall be required to complete an application process, provide for an exception, provide requirements, provide for rules, provide additional requirements, provide that the department shall submit completed applications to the Governor's Office, provide for a report, and provide for an appeal.

**Chairman McGee** stated that this proposed legislation will require that nonprofit organizations wishing to apply for specialty license plates meet certain requirements. He reviewed those requirements with the Committee. He advised that the completed application will be submitted to the Governor's office prior to coming before the Legislature, and an accounting of revenues and expenditures will be required from the organization on an annual basis.

**UNANIMOUS  
CONSENT REQUEST:**

**Senator Keough** asked unanimous consent that RS18865 be sent to the Senate Judiciary and Rules Committee for printing, with the request that it be referred back to the Senate Transportation Committee for further action. **There were no objections to the request.**

**ADJOURNMENT:**

**Vice Chairman Hammond** returned the gavel to **Chairman McGee**, who adjourned the meeting at 3:00 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, March 31, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** None

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

**MINUTES:** **Senator Corder** made a motion and **Senator Heinrich** seconded, to approve the minutes of Tuesday, March 24, 2009. **The motion carried by voice vote.**

**Senator Bilyeu** made a motion and **Senator Broadsword** seconded, to approve the minutes of Thursday, March 26, 2009. **The motion carried by voice vote.**

**H 187 Relating to Motor Vehicles:**

This legislation, H187, was first presented to the Committee on Thursday, March 26, 2009, by **Representative Patrick**, District 23. The legislation is designed to protect consumers from deceptive advertising in the sale of motor vehicle service contracts. It is not designed to prohibit such advertising, but will require a clearly-worded statement notifying the consumer when such a contract is being offered by someone other than the automobile manufacturer or dealer.

On Tuesday, there was opposition to H187, and **Chairman McGee** agreed to hold H187 in the Committee, and it would be rescheduled for a hearing on Tuesday, March 31, 2009 at 1:30 p.m. in Room 204.

**Representative Patrick** explained the parties involved had met and discussed H187. They did reach the point of drafting an amendment to the legislation, but was unsuccessful. The parties did make an effort, and he is certain there are still more ideas.

**Senator Corder** asked about the proposed amendment. **Representative Patrick** responded that on page 1, line 12, delete the wording "or written offers" and on line 15, delete the wording "vehicle manufacturer" and insert "without the expressed written consent of the manufacturer." He stated it was not a major change, and we tried to find language to make it work, but were unsuccessful.

**Senator Werk** explained he understood the issue regarding H187 last week was people were somehow representing actual manufacturers, and believed they should not come under the legislation. They did not believe they were doing deceptive advertising. This legislation would apply to them. **Representative Patrick** explained it was not the issue of manufacturers, it was misrepresenting manufacturers as being the ones who sent out the service contract notice. This legislation will clarify the issue.

**Trent Wright**, Executive Director, Idaho Automobile Dealers Association, stated that auto manufacturers do not see any harmful effects in this legislation. Another group approached called Zurich Insurance, which is a member of both the Property and Casualty Insurance Association and the service contract industry, provided written comments that they have no opposition to the legislation. The Zurich Insurance Company also does the majority of service contracts that are distributed through the dealerships in Idaho.

He also stated that today the Senate debated H191 that dealt with a lot of disclosure issues for the real estate industry. Today we are talking about a lot of the same protection and concerns. He supports H187.

**Rex Green**, representing the Idaho State Independent Auto Dealers Association, briefly testified to support H187. He stated the bill had been reviewed by the Board of Directors, and they support the bill as it is currently written.

**Roy Eiguren**, Attorney, representing the Service Contract Industry Council of the United States, who has been in business since 1992 and represents 80 percent of the motor vehicle service contract providers, spoke in opposition to H187. He explained he has been in this business a long time, and it is always difficult to bring an issue like this to a committee where they have tried in good-faith to negotiate a compromise between external parties, but the Committee ultimately must judge this difference of opinion.

He explained that he, **Representative Patrick** and **Mr. Wright** had a very good conversation about this legislation, and he and Mr. Wright met for two hours trying to resolve their differences, but were unsuccessful. The problem for his client is to have the disclosure requirement placed into law will require the industry to go back and reprogram all of the advertisements, Web sites, etc., to have this disclosure. It will be a fairly substantial financial issue. He reported they did attempt to negotiate on the basis of two different approaches. One, simply an addition to the language that would not require the disclosure language to go out, if the contract provider was either getting the express consent of the manufacturer or dealer. We did attempt to actually get that through. Second, the view of the opponents of the legislation is that a disclosure requirement is required. His client respectfully disagrees with that as we think the issue to be addressed is the false and misleading advertisement.

**Mr. Eiguren** discussed Title 49, Chapter 28, Motor Vehicle Service

Contracts (attachment #1) and stated that it has been in Idaho Statute books for a long time. Title 49 is fairly comprehensive legislation. What H187 does is amend one portion of the legislation to require the new disclosure requirement. He stated that currently in the Act there is no enforcement mechanism for what is contained in the Act.

He discussed Section 49-2806, *Idaho Code*, Prohibited Acts:

(a) Any of the words insurance, casualty, surety, mutual or any other words descriptive of the insurance, casualty or surety business; or

(b) A name deceptively similar to the name or description of any insurance or surety corporation, or any other motor vehicle service contract provider.

(2) Neither a motor vehicle service contract provider nor its representative may make, permit or allow to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle service contract.

He stated that is the existing law of the State, however, there is no enforcement mechanism mentioned in the law. His client's proposal is to add an enforcement mechanism such as:

**Mr. Eiguren** proposed the following changes:

Section 49-2811 Civil Remedy. The attorney general may, when in the public interest, bring an action pursuant to the Idaho consumer protection act, Chapter 6, Title 48, *Idaho Code*, against any motor vehicle service contract provider, its representative or any other person for a violation of Section 49-2806, *Idaho Code*. For purposes of such action, violations of Section 49-2806, *Idaho Code*, shall be deemed to be violations of Idaho's consumer protection act. In any such action, the attorney general and district court shall have the same authority as is granted the attorney general and district court under the Idaho consumer protection act.

In closing, this will be a huge administrative and costly burden to change all of the advertising, documents, etc. He asked the Committee to provide for express consent of either party as suggested or consider this language in lieu of H187.

**Michael Kane**, Attorney, representing the Property & Casualty Insurers Association of America, spoke in opposition to H187. He represents Toyota Insurance, GMAC Insurance, and Chrysler Insurance, and they do not do those types of things (warranty cards). His clients hate the people doing the misleading advertising as much as others. Where is the dilemma - where is the problem? He commented on **Mr. Eiguren's** statement but believes there is a much larger issue - the first part of H187 says it is exempt from having to worry about the notice section. It is limited to dealers and manufacturers. His clients are neither dealers or manufacturers, but they work with manufacturers as a separate entity, for example, Toyota Insurance is a separate entity from Toyota such as

GMAC Insurance is a separate entity from GMAC.

His main point is on line 20 of H187 "nor affiliated with a motor vehicle manufacturer or Idaho automobile dealer." His clients are affiliated with Idaho dealers and Idaho manufacturers. This bill would require his clients to lie to the public, to tell an untruth. He had suggested consent language, but the sponsors did not want to do that as they have rogue dealers they want to control. They want to control their own dealers from engaging in these signed contracts with these unorthodox, fraudulent people. He suggested the Committee make it illegal for the practice to send out the warranty cards. He emphasized to make this a consumer complaint and give the attorney general the option of enforcement.

**Valerie (Val) Brooks**, representing the Idaho Credit Union League (ICUL), testified that she had just noticed this bill, and wanted to come and see what it was about since credit unions offer low cost valuable service contracts.

She stated this is her first time before the Committee as the credit union does not often have bills relating to credit unions. Her concern with the legislation is that, as lenders, they already have many disclosures that must provide borrowers and adding another one is of concern. Also, she had not thought of it until the gentleman testified a few minutes ago, being required to add this disclosure to forms, marketing, Web sites and other things would be costly - especially for smaller credit unions.

**Ms. Brooks** explained that something that gives her pause is that if they are required to put this type of disclosure on the credit union contracts - she is concerned it might make the consumer think their product is not a good one because it is not from the dealer or manufacturer. She stated credit unions offer valuable service contracts.

In written testimony, she added the Credit Union would be inquiring with their service contract provider to see if they had a problem with the bill, and if it would cause a problem for Idaho credit unions who offer service contracts. She also emphasized she understands the challenge of deceptive marketing practices, and had seen this happen when our members received similar deceptive solicitations for home insurance after they had obtained a real estate secured loan from the credit unions and other financial institutions. Because deeds of trust are a matter of public record, some insurance companies sent out marketing material that seemed to come from the financial institutions - thus making members very angry thinking we had sold their information.

Legislation was passed in 2007 that made it illegal to represent as though they are from a financial institution, and referred to deceptive practices. Here is the information on that bill. I think it may help the Committee as they make their decisions. At least one of the people who has testified indicated it should be in another section of the law regarding deceptive practices. This information may help in that direction as well.

H136 Business Banking - Amends and repeals existing law relating to banking to remove language referencing personal financial statements

submitted by certain officers and directors; to remove language referencing first liens; to require certain executive officers and directors receiving extensions of credit to submit financial statements to be made available to regulatory agencies; to provide that borrowing from federal home loan banks shall not be included for purposes of computing total borrowings; to allow for extensions of examination periods under certain conditions; to revise definitions; to prohibit specific conduct relating to use of the name, trademark, service mark or logo of a financial institution; to provide for certain actions by financial institutions to enjoin prohibited conduct, and to recover damages.

H136, SECTION 8: (Lines 37 - 51)

(5) To fraudulently make, emboss, encode, or use a financial transaction card, financial transaction card account number, personal identification code or credit card sales draft, as defined in section 18-3122, 18,3123, 18-3124, and 18-3125A, *Idaho Code*, or any successors to those sections, for the purpose of obtaining money, goods, or services from any person; or

(6) While serving as an employee, agent or representative of a financial institution, to obtain or attempt to obtain the money, funds, credits, assets, securities, or other property owned by, held by, or under the custody or control of, the financial institution by means of false or fraudulent pretenses, representations, or promises or by means of any fraudulent device, scheme or artifice, or through the use of a fraudulent monetary instrument.

(7) To use in a manner likely to cause confusion or mistake or to deceive, the name, trademark, service mark, or logo of a financial institution in connection with the sale, offering for sale, distribution or advertising of any product or service without the consent of the financial institution.

**Representative Patrick** summarized H187 and stated the bill is not trying to stop advertising. He emphasized it is just an honest, straightforward thing to say whom you are representing and whom you do not, and all H187 says is whom you do not represent.

He agreed that it may cost \$1200 to fix a power steering and could cost \$1500 for the air condition, that is true, but what is deceptive is saying this is from the Chevrolet dealership and it is not. What is not true is whether it is from a dealer. Therefore, the bill is not trying to make it more difficult or impossible to sell these products, he just wants to keep it honest.- that is all. He realizes it will cost to reprogram ads, but it is still truth in advertising. Truth in the promotion is only fair. He believes the existing laws are to weak. These people are not misrepresenting the product - they are misrepresenting who they represent.

There was a discussion pertaining to the warranty card, and is it different from the notice from Toyota Insurance or the actual Toyota dealer; the warranty card indicating what dealer they represent or are affiliated with;

the consumers' protection act and the authority of the Idaho Attorney General; and the card's deception regarding whom they do represent. **Representative Patrick** reemphasized the card should indicate who they are, or indicate whom they do not represent such as Toyota or GMAC. He believes it is a honest, straightforward thing to say who you do represent and whom you do not.

**MOTION:** **Senator Hammond** moved and **Senator Werk** seconded, to send H187 to the 14<sup>th</sup> Order for amending with the intent to allow additional time to renegotiate the issue.

DISCUSSION: While the bill is in the amending order: add "in addition to" and a disclosure making it clear to the consumer; and on line 12 "all advertisements or be changed to read "all advertisements and written offers."

**Chairman McGee** informed the Committee that while the bill is in the 14<sup>th</sup> Order, he will personally work with all parties involved to try and reach an agreement.

**SUBSTITUTE MOTION:** **Senator Corder** made a substitute motion and **Senator Bilyeu** seconded, to send H187 to the floor with a do pass recommendation. A roll call vote was requested.

**VOTE:** Senators Keough, Corder, Broadsword and Bilyeu voted Aye. Senators Werk, Winder, Heinrich, Hammond and McGee voted Nay. The substitute motion failed, 4 Ayes and 5 Nay.

**ORIGINAL MOTION:** To send H187 to the 14<sup>th</sup> Order for amending. **The motion carried by voice vote.** Senator Corder voted Nay. **Chairman McGee** will sponsor.

**ADJOURNED:** There being no further business, **Chairman McGee** adjourned the meeting at 2:13 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, April 2, 2009

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

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** Senator Corder

**NOTE:** The sign-in sheet 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 1:32 p.m. **Chairman McGee** presented the gavel to **Vice Chairman Hammond** to conduct the meeting as he will sponsor legislation on the floor.

**S 1183 Relating to Motor Vehicle Registration:**

**Amy Smith**, Vehicle Services Manager, Idaho Transportation Department, presented S1183. This proposed legislation, relating to motor vehicle registration, will amend Section 49-402, *Idaho Code*, to provide for provisions relating to wrecker plates. It will also amend Section 49-428, *Idaho Code*, to provide for the display of a wrecker plate. The legislation amends the annual registration fee for operating each pickup truck, each neighborhood electric vehicle, and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and compiles with the federal motor vehicle safety standards as defined in Section 49-107, *Idaho Code*.

**Ms. Smith** explained the legislation is the result of a problem that was brought to the Idaho Transportation Department (ITD) several weeks ago concerning the towing and wreckers hauling either abandoned or wrecked vehicles, and the equipment used to haul these vehicles. One vehicle typically rides on the road with at least two wheels and does not have a valid plate. After discussion with several entities about the issue to developing a license plate to save them from the need to purchase a trip permit.

**Randy Colson**, President, Idaho Towing and Recovery Professionals in Idaho, testified to support S1183. He explained the legislation was an effort that basically started in 2007. He explained there is a difference in operating procedures in different Ports of Entry. In 2007, north Idaho sold six operating permits; therefore, the fiscal revenue generated for the State of Idaho was \$480. In 2008, the towing industry bought zero permits. The



Pocatello Port of Entry allowed them to operate on a dealer plate. A dealer plate specifically states that you have to own the vehicle that it is on, obviously we do not, but that was an acceptable solution that the east Idaho Port accepted. The plate is inexpensive to purchase. The insurance industry requires us to have insurance for that plate because it must cover whatever vehicle it is on - at about a cost of \$1,250 per plate - so for a transporter hauling salvage cars for the insurance companies that is about \$2,500 revenue out-of-pocket yearly. The local Boise Port has started enforcement on this procedure. To-date, the State has sold approximately six permits. What changed is the way we are doing business. Instead of buying permits for a piece of equipment that was designed to haul four cars, now are only hauling three cars. This caused more wear on the highways because that truck is not hauling the four cars it was designed to haul. So this creates an extra trip causing more pollutants in the air and more fuel being burned to accomplish the same task. The insurance industry is the one who is paying the fees to move the vehicles that have been involved in an accident. The license plates are removed so now we are in a situation as to how do we legally move these cars.

He believes the license plates will actually generate more revenue because they will work with local law enforcement to get more enforcement of the law. He emphasized the need for a solution especially for towers located in central Idaho and Valley County. He believes the license plate is the best solution statewide for everyone to remain in compliance with the law the way it is written. He already insures the vehicle that is attached to the truck and it's called "lock-up liability, and he carries \$50,000 to \$150,000 insurance. In some cases he obtains a special insurance rider to transport a vehicle or piece of equipment that costs in the million of dollars.

**Lyndon Skogsberg**, Owner, Country Repair and Towing, testified to support S1183. He outlined the hauling process, and would purchase three license plates for his three trucks.

**MOTION:**

**Senator Broadsword** made a motion and **Senator Werk** seconded, to send S1183 to the floor with a do pass recommendation. **The motion carried by voice vote.**

**S 1182**

**Relating to Motor Vehicle Registration and License Plates:**

**Chairman McGee** explained that S1182 is not necessarily an Idaho Transportation Department bill. This is legislation that he requested **Amy Smith** to draft for him because she is the expert in the field, and knows how the system works. He stated this is not necessarily an ITD bill, but is a bill that he brought forward for discussion.

**Ms. Smith** reported this legislative proposal (S1182) will put requirements into place for a preapproval process for future special organizational license plates. The preapproval process will be through the Idaho Transportation Department (ITD). She outlined details of S1182 as follows:

- This bill will not affect any programs currently in place, or any approved during this legislative session.
- This bill provides that on and after January 1, 2010, that any group seeking a special plate program, must meet certain requirements, no later than September 1, prior to a legislative session in which it desires consideration by the Idaho legislature.
- It provides that the organization must be either a state agency or a nonprofit organization, and that such nonprofit status must be verified. Each nonprofit organization is required to provide that it is based, headquartered or has a chapter in Idaho, provides its articles of incorporation, and provide that the primary activity or purpose of the organization serves the community or contributes to the welfare of others, and is not offensive or discriminatory in its purpose, nature, activity or name.
- Proposed specialty plate programs cannot represent a political party, or exist to primarily promote a specific political belief, nor have as its primary purpose to promote any specific religion, faith or anti-religion.
- The name and purpose cannot promote any specific product, or brand name that is on a product provided for sale. If the special plate program contains a trademark, that written authorization has been provided to the organization and the Department for any name, logo or graphic design suggested for the plate program.
- All organizations shall submit a financial plan for the use of the proceeds from the special license plate program, and that such proceeds will only be used to benefit the citizens of Idaho. (This is a requirement that has never been in place that will help the Legislature know what the money is being used for.)
- In addition to these requirements, the organization seeking a special plate program must also appoint a liaison to work with the Department, and provide a \$4,000 deposit to cover programming costs, as well as provide the names and fees for 250 registered vehicle owners who are committed to buying the specialty plate. (This puts the beginning level at 25% of the total needed within five years.) Such fees shall be refunded, less administrative cost if the program is not approved.
- The Department shall submit the complete applications for special plate programs that meet the requirements of this section, to the Governor's office each year on behalf of the organization to be included for consideration in the next legislative session.
- This proposal further puts requirements in place that will require that the organization sponsoring a special license plate program, shall prepare and submit an annual report to the Department which includes an accounting of revenues and expenditures

associated with the funds received by December 1, of each year. The Department shall compile such reports and forward to the Legislature by January 15, of each year. This requirement shall ensure that funds are being used appropriately, and hold such organizations accountable.

- This bill provides rule-making authority to the Department to implement the provisions of these new sections of code.
- This proposal is based upon a compilation of requirements that exist in states which have a similar process.

She reported the Idaho Transportation Department has issued very few trip permits; therefore, the legislation will have little impact on ITD.

A lengthy discussion and review of S1182 was held regarding the following:

Why is there a requirement to send a special license plate application to the Governor's office, and must have his prior approval before the legislation comes before the Legislature? Would this process affect the responsibility of the Legislature? Would this eliminate people's ability to come before the Legislature with an item of legislation? Could the language be challenged in court, be unconstitutional, or limit free speech? Also discussed was allowable themes on license plates, and the refunding process to the organization or the 250 individuals listed to purchase plates. Would this process become precedent for future legislative things? Will the revenue received from the sell of the special license plate be spent in Idaho, and what is the projected administrative cost?

**Ms. Smith** explained this process is the way a department operates whenever they have legislation to submit. The proposal must first go through the Governor's office for approval before it comes to the Legislature.

**Chairman McGee** explained that a lot of the special license plate bills coming before the Committee for approval makes it difficult for the committee members to determine if an organization has the ability to fund the license plate. He explained an organization may have a good idea and be a great organization, but know they probably would never sell the number of license plates needed in order to fund the plate program . This process could make the Committee's decision easier. Therefore, the thought process when drafting the legislation, was that if the organization had to go through being recommended by a process similar to a bill that would come from a state agency where it would need to be approved by the Department, the Governor's office, and then sent to the Legislature. The process would give an extra layer of eliminating what is probably not an appropriate plate before it comes before the Committee.

He gave an example of how the special license plate process would work, and agreed that possibly there could be a delay in the process. He understands the concerns of the Committee. He outlined the process

used in developing the proposed legislation and putting in additional barriers.

**Chairman McGee** stated he is open and willing to amend S1182 if it meets the desires of the Committee. He stated he has heard excellent objective ideas to the legislation. The Committee can vote to send the bill to the 14<sup>th</sup> Order or it could be redrafted and reworded.

**MOTION:** **Senator Keough** made a motion and **Senator Winder** seconded, to send S1182 to the 14<sup>th</sup> Order for amending. **The motion carried by voice vote.** **Senator Werk** voted Nay.

**H 187** **Chairman McGee** stated he would send a copy of the suggested changes of the 14<sup>th</sup> Order amendments to committee members. He also gave an update regarding H187 that was presented by **Representative Patrick**. On Monday, April 1, he met with the parties involved and they were in agreement on the framework for amending the bill when they left his office. He has not seen the amendments, but has not heard for certain if they are all still in agreement, but yesterday they were in agreement. He had promised to share the amended language in the bill before it comes to the floor in the 14<sup>th</sup> Order, including the civil penalty provision as well as technical changes. He will share the amendments as soon as he receives them.

**S 1147** **Senator Winder** asked if he should give a copy of the proposed amendments to S1147 to the Committee in case the rules get suspended. **Chairman McGee** informed **Senator Winder** that it is his prerogative.

**ADJOURNED:** There being no further business, **Chairman McGee** adjourned the meeting at 2:37 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Thursday, April 9, 2009

**TIME:** 1:00 p.m.

**PLACE:** Room 204

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

**MEMBERS ABSENT/ EXCUSED:** None

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

**MINUTES:** **Senator Heinrich** made a motion and **Senator Broadsword** seconded, to accept the minutes of Thursday, March 31, 2009, as corrected. **The motion carried by voice vote.**

**Senator Broadsword** made a motion and **Senator Bilyeu** seconded, to accept the minutes of Tuesday, April 2, 2009. **The motion carried by voice vote.**

**S 1086aa and S 1088aa** **Chairman McGee** explained the Committee has convened for a very specific purpose based on the House floor actions. He had requested Majority Leader **Senator Bart Davis** to send these two bills to the Senate Transportation Committee for a concurrence hearing. He believed the amendments were substantial enough and committee members had not had a chance to discuss the policy behind the House amendments to S1086aa and S1088aa. He explained that only two motions are in order. There will be a motion to concur with the amendments, or not to concur. These are the only two options to consider. He requested **Amy Smith**, Vehicle Services Manager, Idaho Transportation Department (ITD), to explain exactly what the amendments are. The amendments to both bills can be discussed together.

**Amy Smith** explained these amendments are simply a change in how the special license plate program's fees are distributed for a particular plate. In the original bill it went along the same lines as all the other speciality plates, but this new issue is where the initial fee is \$35, and the State Highway Account received \$10 of the fee. Of the \$25 renewal fee, \$10 goes to the State Highway Account and \$15 to the organization. What these amendments do is change the initial fee where the State Highway Account will receive \$13 and the special plate organization will receive \$23. On the renewal, the ITD will receive \$13, and the special plate organization will receive \$12.

For the benefit of late comers, **Chairman McGee** reiterated the amendments will reduce the amount that goes to the organization and increases the amount that goes to the ITD in the amount of three dollars. The Chair outlined the two motions that would be in order. One, to concur with the amendments, and second would be to not concur with the amendments. He explained the Committee cannot amend the bills. He wanted the Committee to have the option of discussing the policy change as it is a substantial policy change.

**Senator Broadsword** questioned if the amendments are accepted would that amend the Code from here forward that all bills are brought forward for special plates would be a mis-distribution? **Chairman McGee** understands it would not, however, in this case it is just these two plates. **Ms. Smith** agreed and stated there may be an effort next year, but this is only pertaining to these two plates. **Senator Broadsword** commented she is concerned about penalizing only these two organizations, and not everyone involved in the special license plate system. She does not disagree with the thought, but has trouble singling out two organizations over the thirty we have.

**Senator Winder** reported he had talked with **Senator Pearce** about the Shriners' bill, and he is comfortable with the amendments. He is supportive of the amendments.

**Senator Heinrich** stated he and **Senator Pearce** had a discussion, and he has discussed the amendments with the rock club members. They were led to believe this would correct the deficiency in motor vehicles, and they are willing to do it rather than go back to stage-one because of all the efforts put in it. They believe that once they get the plate out to the public, the plates will sell fast.

**Senator Bilyeu** asked if any of the funds will go to the counties? **Ms. Smith** reported not from the special license plate program. The counties do get money from the renewal registration.

**Senator Keough** asked if current cost is not covering the Department's cost? **Ms. Smith** responded there are about 54,000 transactions and only 17,000 carry any fees to the ITD and State Highway Account, and not as primarily brand new first time personalize specialized standard plates. Those do bring in revenue, and the ITD has several different programs that receive no fees such as the disabilities plates which have absolutely no fee attached. The ITD does about 32,000 of those yearly. The handicap plate and a lot of the military plates have no fees attached to go into the State Highway Account. If you take all the personalized plates and all the other transactions that ITD does, it will equal to about 54,000 transactions per year. Each transaction costs approximately three dollars of the State Highway Account that they are not reimbursed for.

**Senator Keough** also asked if the speciality plates are not carrying their weight for the Department, and not meeting the cost of production at the current level? Are they also carrying the cost for the other speciality plates such as disability and military? She also commented on upcoming proposed legislation for next year. **Ms. Smith** responded that is correct,

but the ITD carries them all as speciality plates.

**Senator Keough** asked if the money suggested in the amendments would apply to both these plates? Is that a reflection of the current costs and covers the cost for everything? **Ms. Smith** responded, yes, it will cover the costs.

**Senator Werk** commented about the ITD's 54,000 transactions per year associated with speciality plates, and the distribution of the fees from all of the plates that do pay fees. Would this gain the Department some additional profit going into the highway fund to fund something else? **Ms. Smith** explained the funds will go into the State Highway Account. **Ms. Smith** also explained that certain transactions are in Code, and the ITD cannot charge any fee especially for the disability, but there is a cost to the Department.

**Senator Broadsword** asked if the committee does not agree with the amendments and if the Senator from District 22 wanted to kill two additional license plate bills he would then make a motion to not concur? **Chairman McGee** stated in some respect that is the case. The committee will send a report to the full Senate regarding what the Committee decides, to concur or not to concur. If the Committee does not concur with the amendments, it is the prerogative of the Pro Tem and Speaker of the House to set up a conference committee to work out the amendments. Neither the Pro Tem or the Speaker is obligated to do so, it is their choice.

**Senator Werk** explained he has had some experience where a committee has sent a report to the Senate and had that report rejected by the Senate. The committee could send a concurrence and the Senate decides that they do not concur with the committee's report. There would be a motion on the floor to concur with the committee's report, but the Senate decides not to concur with the Committee.

**Chairman McGee** agreed that could happen, and explained the full Senate does not have to agree one way or the other. The Committee can concur and the full Senate can decide not to concur, but that would be unusual.

**Senator Corder** asked how would the Department propose to fix the error in the funding shortage? **Ms. Smith** was uncertain if the Department would step forward with a proposal to bring this to the attention of the Legislature that there are certain transactions (not audible). **Senator Corder** asked what prompted this surge of errors we keep promulgating? **Senator Heinrich** explained these two amendments were the brainstorm from the good Chairman of the House Transportation Committee. We were assured she was going to develop a fix for the whole thing. The changes are not coming from the ITD. With the two amendments, the good Chairman of the House Transportation Committee agreed to give both bills hearings.

**MOTION:** **Senator Keough** made a motion and **Senator Winder** seconded, to concur with the amendments made in the House of Representatives to S1086aa.

DISCUSSION: **Senator Keough** stated she does not appreciate this policy, and it is unfair to the sponsors or organizations to hold their particular program hostage. She believes it is a discussion that should have been held. The Committee does ask every time they look at a specialized license plate whether or not the cost of the plate will cover the cost of production. It sounds as though we need to have a broader discussion on that. In the meantime, she does not want to upset the Shriners and others. **Senator Corder** stated he will not support the motion for a number of reasons. If they had really intended to fix the whole problem, why didn't they just amend section one, but they choose not to do that. That suggests to him that there were other things going on. He never assumed that the Department was behind it. He stated that his questions did not mean to lay any blame on the ITD. At some point, we must say no. We must say that our policy when it left here was correct. At some point, we must say that is the way we sent them out and that is the way we want them.

**The motion to concur with the amendment on S1086aa carried by voice vote. Senators Corder and Werk** voted Nay.

**Chairman McGee** stated that the Senate Transportation Committee will send a letter to the Senate informing the Senate that the Committee does concur with the amendments to S1086aa. He agreed to discuss the issues with the Chairman of the House Transportation Committee.

**MOTION:** **Senator Keough** made a motion and **Senator Winder** seconded, to concur with the amendments made in the House of Representatives to S1088aa.

DISCUSSION: **Senator Keough** reported the same discussion, and **Senator Corder** reported the same objection. **Senator Bilyeu** asked if the report to the full Senate could be a reluctant concurrence? **Chairman McGee** reported he will send a copy of the minutes to the Chairman of the House Transportation Committee, and agreed that the minutes will note that the Committee has concerns about the amendments.

**The motion to concur with the amendment on S1088aa carried by voice vote. Senators Corder and Werk** voted Nay. **The motion carried by voice vote.**

A report will be sent to the Senate that the Transportation Committee has had under consideration the House amendments to S1086, as amended in the House, and S1088, as amended in the House, and recommends that the Senate concur in the House amendments.

**NOTE:**  
**S1088aa** **Senator Heinrich**, District 8, presented S1088 to the Committee on Tuesday, February 24, 2009. At that time, he explained the purpose of the proposed legislation was to provide for an Idaho Earth Science and



Lapidary license plate. The net proceeds would go the Idaho Gem Club, and would be used for the purpose of educating kindergarten through grade six to promote understanding about the earth sciences and lapidary. After testimonies, the Committee sent S1088 to the floor with a do pass recommendation, with a roll call vote of 5 Ayes and 4 Nays.

The House of Representatives made amendments to S1088 in March 2009 (attachment #2), now S1088aa.

**S1086aa**

**Senator Pearce**, District 9, presented S1086 to the Committee on Thursday, March 12, 2009. At that time, he explained the purpose of this proposed legislation is to create an Idaho Freemason license plate. It will raise funds and give recognition to the Shriners organization who donate a million dollars a day to injured children in the northwest through their medical services and hospitals. There would be no fiscal impact to the State general fund. The legislation was sent to the floor with a do pass recommendation, with a vote of 6 Ayes and 3 Nays.

The House of Representatives made amendments to S1086 in March 2009 (attachment #1), now S1086aa.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Tuesday, April 14, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Heinrich, Broadsword, Winder, Werk, and Bilyeu
- MEMBERS ABSENT/  
EXCUSED:** NONE
- NOTE:** The sign-in sheet 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 1:32 p.m. He welcomed guests and announced the agenda would be reordered and began with H24.
- H 24** **James Adams**, Administrative Support Manager, Division of Veterans Services, presented H24 relating to special motor vehicle license plates; to provide for Gold Star license plates; to provide for crediting certain moneys to the Veterans Support Fund. He provided the Committee with an outline of his comments related to this legislation (attachment #1). **Mr. Adams** stated that this proposed legislation will create a gold star license plate for spouses, parents, and other immediate family members of military service members killed during active military service in a period of war recognized by the United States Congress. Gold Star Family license plates are being adopted across the United States to recognize the sacrifice of families when a service member is lost during a military conflict. Surviving spouses and parents of deceased service members will pay registration fees but will not be required to pay specialty plate fees for Gold Star Plates. He advised that \$10 from the initial cost and \$10 from renewal fees will be retained by the Idaho Transportation Department (ITD) to defray the cost of administering the issuance of the plates. The remainder of the initial plate cost and renewal fees will be deposited in the Veterans Support Fund to be used to provide support programs for veterans.
- Mr. Adams** advised there are 32 states throughout the country that now have Gold Star Plates. The estimated programming costs to add this plate to the statewide registration system is \$4,000 to the ITD. Estimated eligible applicants are 250 - 300 who will not have to pay the additional special plate program fee. Those who do qualify and will be required to pay the special plate program fee will bring in an unknown additional amount of revenue to both the Division of

Veterans Services and the ITD. He further stated that the Idaho Division of Veterans Services will verify eligibility of applicants through the Department of Defense, Department of Veterans Affairs and Department of Vital Statistics. This legislation specifically exempts the Gold Star license plates from discontinuance pursuant to Section 49-402C(6), *Idaho Code*.

In response to questions of the committee, **Mr. Adams** advised that the plates are limited to family members of a veteran killed in combat to conform to a program sponsored by the Department of Defense which is called the Gold Star Family. He stated that some states provide these plates free of cost to parents and spouses. He further stated that the \$4,000 administrative cost to the ITD to provide this specialty plate is a small token to show Idaho's respect and support for families who have lost loved ones.

**Chairman McGee** requested that **Amy Smith**, Vehicle Services Manager, ITD, take questions of the Committee. **Senator Keogh** inquired whether the language in this bill mirrors the amendments that were made to the Lapidary Plates and the Freemason Plates that were previously considered by the Legislature. **Ms. Smith** responded that it does not. **Senator Heinrich** inquired whether those amendments were added to subsidize this specialty plate program. **Ms. Smith** advised that was not the case as this bill actually passed the House earlier in the Session.

**MOTION:**

**Senator Hammond** made a motion, seconded by **Senator Winder**, to send H24 to the floor with a do pass recommendation.

**Senator Broadsword** commented that although she supports the bill and appreciates the sacrifice made by our veterans and what their families endure, she finds it difficult to vote for something that will cost the State money from our highway funds while we are struggling to find money to keep our roads maintained. **Senator Hammond** stated that he agreed with **Senator Broadsword's** comments but this is the ultimate sacrifice that one pays for freedom, and in the overall scheme of things it is a very small amount of money. If we can honor those veterans and their families, it is a good thing to do.

**VOTE:**

**Chairman McGee** called for a vote on the motion to send H24 to the floor with a do pass recommendation. **The motion carried by voice vote.**

**S 1087**

**Alan Frew**, Administrator, ITD, presented S1087, relating to an increase in motor vehicle permit and service fees. He provided the Committee with written comments relating to the principal points of S1087 (attachment #2). He stated that this bill would raise the fees for the Division of Motor Vehicles (DMV) services. Fees for services include, but are not limited to, issuing driver licenses; title transfers, furnishing copies of drivers license records, title or registration records, replacing registration stickers; and issuance of assigned or replacement vehicle identification numbers. This bill provides for

increased fees to third-party motorcycle and class A, B, C, and D drivers license skill's testers. **Mr. Frew** advised that some of these fees were established more than thirty years ago, and many of them have not been increased in more than twenty years.

Funds from these fees will be deposited into the State Highway Account and will be used by the ITD to fund asset management and motor vehicle program costs and needed upgrades, which are currently unfunded. These upgrades were key recommendations of the recent audit of the ITD by the Office of Performance Evaluation. **Mr. Frew** advised the Committee that the DMV computer systems are antiquated and on the verge of collapse. He stated that the programming language is archaic and the Department has difficulty recruiting qualified programmers.

This bill allows for the continuation of fee exemption when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

The ITD estimates that this change will increase revenue for DMV services by \$13.1 million annually to the State Highway Account. The one-time cost associated with implementing this legislation is estimated to be \$72,000 which includes 600 hours of system programming by contract programmers (\$45,000) and forms development/printing (\$27,000).

**Mr. Frew** provided handouts (attachment #3) detailing:

- DMV interfaces with external organizations;
- Major components of DMV fee increases;
- Comparison of Certificate of Title fees with surrounding states;
- Comparison of Certificate of Duplicate Title fees with surrounding states;
- Comparison of Dealer License/Dealer License Renewal fees with surrounding states;
- Identification Card fee proposal and breakdown of how the fee is distributed among various accounts;
- License fee proposal and breakdown of how the fee is distributed among various accounts;
- Summary of uses of fee increases by the ITD for FY 2010 through FY 2014, showing current net surplus (deficit) and projected net surplus (deficit) with a fee increase.

He also provided the committee with a photo of antiquated ITD computer equipment replaced within the last two years and stated that the underlying programs used for those systems still is used in ITD's current systems.

In response to questions from the committee, **Mr. Frew** cleared a typographical error on the Identification Card fee proposal

information by stating that the net receipt for the proposed increase should read 38 cents. He further stated that the EMSII and EMSIII categories fund the first responders. The two different categories occur because of an initial request and a supplemental request for funds. He pointed out his purpose in providing information regarding the division of funds from license fees is to emphasize that although all recipients are worthy, some receive more than the ITD who bears the cost of issuing the card.

**Senator Broadsword** observed that the Summary of Uses for the ITD Fee Increases indicates the ITD will incur a deficit even after the proposed fee increases, and inquired why fees were not increased enough to cover that deficit. **Mr. Frew** deferred the question to **David Tollman**, Administrator, Administration Department, ITD. **Mr. Tollman** advised that the deficit is the result of the DMV systems modernization. At the end of the five-year projection that system should be installed, and ongoing operation cost will decrease.

In response to further questions of the Committee, **Mr. Frew** stated that the ITD does have an implementation plan for the installation of new computer systems. Those systems will require a mix of off the shelf and custom software. He advised that with the idiosyncracies of each state's DMV system, there is not an off-the-shelf system that will cover all the necessary requirements. **Senator Werk** noted that the requested increase comes at a difficult time and inquired whether the ITD could live another year with the current system. **Mr. Frew** stated that the ITD has dedicated staff, and could keep the systems operating for another year. However, the risk in doing so is that seven of nine programmers needed to maintain the current system is eligible to retire within the next three years, and the ITD will probably lose two of those in the next year. He also noted that there is no backup system available should equipment fail, and pointed out the number of different departments which are depending on this fragile system for accuracy and reliability of information.

The committee discussed the timing of this legislation and whether changes had been made to the original bill. **Chairman McGee** advised that the legislation before the Committee is the original bill submitted by the ITD.

**Senator Hammond** noted that the fee increases proposed in the bill do not become effective until January 2010, and inasmuch as it will take several years to put the new systems in place, this is an issue that cannot afford to wait any longer.

**WELCOME GUEST:**

**Chairman McGee** acknowledged the presence and welcomed **Lieutenant Governor Little**, to the meeting.

**MOTION:**

**Senator Hammond** made a motion, seconded by **Senator Keough**, to send S1087 to the 14<sup>th</sup> Order for amendment.

**Senator Werk** questioned the need to amend the bill. **Senator Keough** noted she had received numerous emails from drivers' license testers, motor skills testers and commercial driver's license (CDL) testers regarding this bill. She stated they expressed appreciation for what has been proposed, but indicated there had not been an increase in fees since 1997. Those testers in rural areas are not covering their costs under the current fee schedule. She stated that she would welcome the opportunity to send this to the 14<sup>th</sup> Order.

**VOTE:**

**Chairman McGee** called for a vote on the motion to send S1087 to the 14<sup>th</sup> Order for amendment. **The motion carried by voice vote.** **Senator Werk** and **Senator Bilyeu** are recorded as voting "Nay."

**H 96**

**Jason Kreizenbeck**, Chief of Staff, Office of the Governor, presented H96, relating to fuels; to delete certain deductions. He stated that this legislation is part of the Governor's comprehensive strategy for raising new revenue for the ITD. It will eliminate the current 10 percent (2.5 cents/gallon) tax exemption for biodiesel and gasohol. **Mr. Kreizenbeck** advised that at the time this legislation was proposed, of the approximate 660 million gallons of gasoline taxed in Idaho annually, at least 25 percent of the total, or 165 million gallons, was gasohol. At a loss of 2.5 cents/gallon, this results in a loss in revenue of \$4.1 million a year. He advised that ethanol producers within the State of Idaho support the legislation, and introduced **Doug Benzon**, Economics and Research Manager, ITD, to explain the components of the bill related to the fiscal impact.

**Mr. Benzon** stated that when he did the initial analysis for this bill he had estimated that there would be about 25 percent usage of gasohol in the State of Idaho and that would work out to about 165 million gallons per year of ethanol in the State. He advised that since that time there has been a major change in the way distributors have instituted ethanol usage. The Tax Commission now estimates that almost 90 percent of the fuel in the State is a 10 percent ethanol and 90 percent gasoline blend. This means that of the estimated 660 million gallons significantly more ethanol is in the State, and this has caused a significant reduction for revenue in the Highway Distribution Account. The current estimate is that about \$18 million a year in revenue is lost to the Highway Distribution Account from that significant increase in ethanol consumption in the State of Idaho.

**Senator Werk** inquired who actually loses the 2.5 cents if this bill is passed. **Mr. Benzon** advised the blender of the fuel, not the distributor or retailer, would lose this deduction. He stated that he did not believe this would affect the price of gasoline in the State.

**MOTION:**

**Senator Hammond** made a motion, seconded by **Senator Broadsword**, to send H96 to the 14<sup>th</sup> Order for amendment.

**Senator Hammond** discussed his motion stating that an

amendment, RS18580C1A1, has already been prepared to fix some clerical errors in the original bill and add other essential language.

**VOTE:**

**Chairman McGee** called for a vote on the motion to send H96 to the 14<sup>th</sup> Order for amendment. **The motion carried by voice vote.**

**ADJOURNMENT:**

There being no further business to come before the Committee, **Chairman McGee** adjourned the meeting at 2:25 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** Tuesday, May 5, 2009

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

**PLACE:** Room 204, Capitol Annex

**MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Winder, Werk, Substitute Senators John Broadsword and Brenda Heinrich.

**MEMBERS ABSENT/ EXCUSED:** Senators Bilyeu, Broadsword and Heinrich

**NOTE:** The sign-in sheet 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 1:32 p.m. He introduced and welcomed substitute **Senator John Broadsword** from District 2, and substitute **Senator Brenda Heinrich** from District 8.

**H 286** **Relating to Federally Funded Highway Project Financing:**

This legislation, H286, was presented by **Representative Henderson**, District 5. He explained the legislation is quite simple, but very important as it provides an addition to the original designation of the Garwood to Sagle project, Grant Anticipation Revenue Vehicles (GARVEE) corridor. He read H286, lines 23 and 24, "US-95 Garwood to Sagle (with southern termini of the project at approximately Wyoming Avenue)." He emphasized the importance of this addition which was included in the original GARVEE project bonds. He reported that people traveling north of Hayden enter an area called Garwood which is not a city or a community. It is a rural area. When the GARVEE project bonds were sold, they named the projects and locations. He explained that a representative of the Idaho Transportation Board asked for specificity for where this project starts and ends. Funding was allocated for \$18 million for the first section of the project and \$31 million for the second part of the project; therefore, money has been allocated for this project, but some environmental work was necessary. Apparently, the Transportation Board believes they can do this most southern part of the project, but they need the specific area specified. This legislation would correct the problem.

**Representative Henderson** provided a drawing of the area showing a four-lane highway and what areas are restricted into two-lanes. He stated this area has been a problem for a long time. The project was designed and ready to go at the time the GARVEE program was implemented five-years ago. This legislation will provide the specificity for the project.



The legislation defines the existing U.S. Highway-95, Garwood to Sagle project, to include the section of U.S. Highway-95 from Wyoming Avenue in Hayden (greater Coeur d'Alene urban area) to State Highway-53 (Garwood area).

There is no fiscal impact to the total GARVEE program budget. The estimate cost of improving the additional mileage would be approximately \$15.5 million.

In response to questions from **Senator Werk** regarding the approximately \$15.5 million fiscal cost of improving the additional mileage from Wyoming Avenue to Highway 53, **Representative Henderson** responded there is approximately a 2.5 mile area that needs to be improved, and the cost of \$15.5 was established when the GARVEE projects were first considered. The \$15.5 million was the project's projected cost at that time.

If this project was sent to bid this year, and there had not been money specifically appropriated for the project, the estimated cost would now be \$1 million or \$1.5 million less as construction cost is less expensive now.

**Senator Werk** further questioned adding this project into the GARVEE program and its overall funding. He asked what project would be dropped if this project (H286) was accepted? **Representative Henderson** disagreed and stated this is not an additional project. This legislation only puts specifics to the project.

**Senator Winder** agreed this area does need to be included as it creates a real bottleneck in the project if not included. From a standpoint of how it will be paid for, one of the things we are now seeing with GARVEE is the fact that we are seeing a significant savings on projects. He does not believe it would be difficult to include this project.

**Jason Brinkman**, GARVEE Program Manager, Idaho Transportation Department (ITD), explained the Department has realized a savings of approximately \$36 million. Those funds are currently no longer allocated to a project. The Idaho Transportation Board is responsible for reallocating those funds in the proper manner. This project would be one special candidate for that \$36 million.

**Chairman McGee** asked about the reasons for the \$36 million cost savings. **Mr. Brinkman** responded the Department has seen a substantial competition where the ITD historically may have realized three or four bidders on a project. Lately, the ITD has seen from eight to eleven or more bids on GARVEE projects. The ITD believes this is driving down margins and taking advantage of current availability in material costs.

**Senator Werk** further questioned about the recovered money going into road projects. **Mr. Brinkman** explained the possibility of a stimulus effect that might drive prices back higher, and that is exactly what a stimulus package is designed to do, but the information that ITD has been able to derive that trend has not been observed as yet. Given the particular size and the amount of unemployment and conditions that may not be a substantial effect on prices. It is certainly a concern and the ITD is monitoring the situation. We have no evidence, as yet, to indicate that is

happening.

**Senator Hammond** explained about the projects that were eliminated and the reason why prices may not spike as quickly as you might think. The same contractors that are constructing and paving highways are the same companies that were building new subdivisions that are now not occurring. What we are now doing is taking that work that would have been occurring in the private sector and moving it to the public sector. Because they are not competing with one another they are still at least giving the ITD a window of time to maintain that competitive edge because the private side of development is going to continue to be slow for a substantial term because of the inventory of lots and homes. Therefore, he expects to see particularly in this valley and in north Idaho where growth was occurring, he expects to see continued lack of activity on the private side and will be replaced with more public activity. We will not have that competitive effect that would normally occur.

**Senator Corder** asked for clarification that H286 is nothing more than a technical correction of a legal description. **Representative Henderson** stated that is correct and it is his opinion. He reemphasized that the Idaho Transportation Board member, **Jim Coleman**, felt the Board needed a specific definition so when the date comes to sell bonds H286 will be used to describe where the bond money will be invested in the GARVEE program.

**Senator Corder** questioned the previous funding for this project (\$15.5 million) in 2005. He questioned the previous projections for this project, where the road started and stopped and built a budget for the project.

**Representative Henderson** explained the cost was projected and engineering and design was done prior to the time GARVEE was implemented. Therefore, this project was in the highway improvement project. It was designed and ready to go and there was a projection of cost. **Mr. Brinkman** reported this project is part of the Horizon project which is an unfunded future needs that ITD has identified. The ITD has obtained the environmental clearance and completed the design of this portion based upon prior placement in the Horizon project.

**Representative Henderson** reported he believes the difficulty began with the first GARVEE budget. **Senator Corder** clarified this project was excluded and now should be included in the GARVEE projects.

**Representative Henderson** explained this was an oversight in the total budget presentation.

**Senator Winder**, the former chairman of the Idaho Transportation Board, stated that the information **Representative Henderson** presented is correct.

**MOTION:**

**Senator Hammond** made a motion and **Senator Winder** seconded, to send H286 to the floor with a do pass recommendation.

**SUBSTITUTE MOTION:**

**Senator Corder** made a substitute motion and **Senator Werk** seconded, to send H286 to the 14<sup>th</sup> Order for possible amendment.

DISCUSSION: **Senator Hammond** explained that this project is "shovel ready" and taking advantage of the current savings, if the ITD Board so

desired. He clarified the four-lane road to the north is designed. He has concerns about moving H286 to the 14<sup>th</sup> Order for amending and back to the House of Representatives to concur with the amendments may cause the bill to get lost all together. Then we might lose the opportunity, should the ITD Board so desire, to get it completed this year. This project is designed and ready to go and probably a strong candidate for some of the savings that have accrued.

There was a general discussion regarding the Garwood and Sagle project, the possibility of adding other sections of roads to the amendments, and it will still be the decision of the ITD Board to decide if any work occurs to any one of the possibly added sections. **Senator Hammond** stated that the original intent of the GARVEE project was to take U.S. Highway-95 from Coeur d'Alene (where it was four-lanes) and bring it to four-lanes to the Long Bridge. Somehow, in the process, it became confused and there were two sections left, one on the north and one on the south. The one on the south at one point was intended to be added by the ITD, but there was some political muscle inserted. Both of the discussed sections should be included. He emphasized to let the ITD's Board decide their priorities. H286 will correct an error that occurred.

**CALL FOR THE VOTE:**

**Chairman McGee** requested a roll call vote on the substitute motion to send H286 to the 14<sup>th</sup> Order. The roll call vote was 6 Ayes, 2 Nays, and 1 absent. **Senator Hammond** and **Senator Winder** changed their vote from Nay to Aye. The motion to send H286 to the 14<sup>th</sup> Order for amending carried, 8 Ayes and 1 absent. **Senator Hammond** will sponsor H286.

**ADJOURNED:**

There being no other business to come before the committee, **Chairman McGee** adjourned the meeting at 2:07 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

- DATE:** Wednesday, May 6, 2009
- TIME:** 3:15 p.m.
- PLACE:** Room 204
- MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Winder, Werk, Bilyeu, Substitute Senator Brenda Heinrich, and Substitute Senator John Broadsword.
- MEMBERS ABSENT/  
EXCUSED:** Senators Broadsword and Heinrich.
- NOTE:** The sign-in sheet 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 3:15 p.m. and welcomed the guests. He advised the agenda would be reordered and the Committee would hear H334, H338 and H226 in that order.
- H 334** **Relating to an Increase in Motor Vehicle Permit and Service Fees:**
- Representative Ken Roberts**, District 8, presented H334. He stated that in rewriting this bill, language setting forth the intent of the Legislature has been added as Section 1 on page 1. It is the intent of the Legislature that the moneys raised through the increase in fees set forth in the provisions of H334 be expended in the following order: (a) First, to address any revenue deficit or shortfall that the Division of Motor Vehicles (DMV) is operating under as of June 30, 2009; (b) Second, any moneys remaining should be expended on improvements to the DMV's technology operations and improvements; (c) Third, any moneys remaining after the expenditures relating to (a) and (b) should be spent on department technology operations and improvements including, but not limited to: pavement, maintenance, scheduling and financial electronic management systems. It is also the intent of the Legislature that the DMV review approximately every five years the fees provided for in this bill, and recommend appropriate changes to such fees to the Legislature.
- He advised that one additional minor fee change has been made on page 2.
- MOTION:** **Senator Hammond** made a motion, seconded by **Senator Winder**, that H334 be sent to the Senate floor with a do pass recommendation. The motion carried by **Voice Vote**.

**H 338**

**Relating to Fuels:**

**Representative Roberts** presented H338 which eliminates the current ten percent tax exemption for biodiesel and gasohol. He advised the Committee that the reprint of this bill makes one change on page 2, lines 8 through 9, relating to an emergency clause to provide for an effective date on and after June 1, 2009. He stated that the Department of Transportation has provided an update to the fiscal note and estimates this will be in the neighborhood of \$16.4 million. **Representative Roberts** stated that he is aware there is interest in an amendment to this bill.

**MOTION:**

**Senator Hammond** made a motion, seconded by **Senator Broadsword**, that H338 be sent to the 14<sup>th</sup> order for amendment.

**Senator Keough** asked for clarification on the proposed amendment. **Chairman McGee** explained that the intended amendment would allow the funds that are derived from this bill to bypass the typical transportation funding funnel and go to the State Highway Account. **Representative Roberts** confirmed that what the amendment would do is take a percentage related to the amount that would be generated from the ethanol exemption and put it in the Highway Distribution Account and then move it directly to the State Highway Account to provide additional revenues for the Idaho Transportation Department.

**VOTE:**

**Chairman McGee** called for a vote on the motion to send H338 to the 14<sup>th</sup> order. The motion passed by **Voice Vote**.

**H 226**

**Relating to License Plates for Trailers and Semitrailers:**

**Representative Hagedorn**, District 20, presented H226. He provided a handout detailing the history of this proposed legislation and the benefits it could bring to transportation funding (attachment #1). He stated this legislation will allow the Idaho Department of Transportation (ITD) to compete in a market we currently do not have the ability to compete in. There are 5.6 million semitrailers in the United States. Those trailers do not have to register in their particular states. They are under the IRP program allowing them to register in any state that they wish to register. Canada operates under this system and when Mexico comes on line in the IRP system they can also register under our IRP system in whichever state they choose. There are only about three states that currently compete in this market which is roughly a billion dollar market.

He advised that H226 removes the requirement to retitle and allows the ITD to not only sell a permanent plate, but to customize that permanent plate. ITD could negotiate a plate style that a company might want around a company logo (attachment #2). He stated that this is not a tool that will guarantee Idaho funding, but if marketed aggressively could serve Idaho well.

**Senator Hammond** inquired about the administrative procedure

that would be necessary when a plate is switched to a new trailer and whether there is a fee involved. **Representative Hagedorn** responded that individuals or companies who now have Idaho plates are grandfathered so they can continue to transfer that plate without fee, and when they switch the plate to another trailer they simply advise ITD of the new VIN number. He further advised that any plates purchased after this bill takes effect will be issued for that trailer and VIN number and cannot be transferred to another trailer. To track those trailers, ITD will periodically send out a letter to make sure that trailer is still in service and that plate and VIN number still match.

**Senator Bilyeu** inquired whether a business had to meet any specific qualifications for this program. **Representative Hagedorn** advised that the only qualification is that they own the semitrailer and they have it properly registered in their state or province. They must show proof of ownership before ITD will issue a plate.

**Senator Keough** noted that Idaho businesses now rely on transferring plates to different trailers within fleets, and inquired whether an analysis of the cost impact of this legislation on Idaho businesses has been done. **Representative Hagedorn** responded that any permanent plate a company has purchased before July 1, 2009, can continue to be transferred to the new trailers that they replace their existing fleet with. If they add to the existing fleet and do not have enough permanent plates to transfer, they must purchase a new plate and that new plate, if purchased after July 1, 2009, will only be good on that trailer for the life of that trailer.

**Senator Winder** inquired how the up front costs of producing the special plates would be handled. **Representative Hagedorn** advised that ITD charges \$4,000 to set up a specialized plate, and any company wanting to utilize the special plates would go through the standard approval process with ITD.

**Senator Corder** questioned why any trucking company would decide to spend \$112 a plate to license their fleet with Idaho rather than going to a state with a lower initial cost. **Representative Hagedorn** reviewed some of the state laws, in particular Oklahoma, with an initial cost of \$45 and an annual renewal of \$4. He stated that if administratively a company can ultimately reduce their burden and cut their costs by coming to a state that only charges a one time fee and gives them the ability to have a corporate logo on a license plate, Idaho could give them that choice.

**Senator Corder** also pointed out that as long as the tractors are in an IRP fleet they are exempt from sales tax so they could have come to Idaho at any point but do not because Idaho's current fee of \$105 is higher than some states.

In closing testimony, **Representative Hagedorn** emphasized that this legislation simply gives the ITD a chance to compete for this

business and perhaps leverage the new plate printing machine that has been purchased by bringing in more sales.

**MOTION:**

**Senator Hammond** made a motion, seconded by **Senator Winder**, that H226 be sent to the Senate floor with a do pass recommendation.

In discussing the motion further, **Senator Werk** noted that we are talking about raising fees for roads. He stated that trucks are responsible for tearing our roads apart and yet all session long we have not had a serious discussion about raising rates for trucks so that they pay their fair share. He stated he does not feel this legislation is good service to the public.

**Senator Corder** stated that he disagreed on who does the damage to roads. He concurred that the Committee should have had a discussion about a weight/mile tax, and should have had a discussion on the results of the study that was done that showed big trucks are not paying their fair share. He stated there should also have been a discussion on equity within Idaho based truckers, so more of the burden could be shifted to interstate truckers who are getting the advantage right now. He advised that he looks forward to those discussions next year.

**Chairman McGee** stated that he appreciated the comments of **Senators Werk** and **Corder**, and advised that there have been some behind the scenes discussions about the way heavy trucks are taxed. That, together with how they are registered, will be a major part of a task force study over the summer.

**VOTE:**

**Chairman McGee** called for a roll call vote on the motion to send H226 to the Senate Floor with a do pass recommendation. **Chairman McGee, Vice Chairman Hammond, Senators Keough, Heinrich, Broadsword, and Winder** voted "Aye." **Senators Corder, Werk** and **Bilyeu** voted "Nay." The motion **passed with six "Ayes" and three "Nays."**

**ADJOURNMENT:**

There being no further business to come before the Committee, Chairman McGee adjourned the meeting at 3:55 p.m.

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Senator John McGee  
Chairman

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Betty Osborn  
Secretary

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Lois Bencken  
Assistant Secretary

## MINUTES

### SENATE TRANSPORTATION COMMITTEE

**DATE:** May 7, 2009

**TIME:** 6:15 p.m.

**PLACE:** Room 211

**MEMBERS PRESENT:** Chairman McGee, Vice Chairman Hammond, Senators Keough, Corder, Winder, Werk, Bilyeu, Substitute Senator Brenda Heinrich, and Substitute Senator John Broadsword.

**MEMBERS ABSENT/  
EXCUSED:** Senators Broadsword and Heinrich.

**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.

**CONVENED:** **Chairman McGee** called the meeting to order at 6:15 p.m. and welcomed guests. To accommodate presenters, he reordered the agenda to consider H 376 first.

#### H 376

#### **Relating to Roads:**

**Representative Roberts**, District 8, presented H376. This legislation acknowledges the need to replace the moneys going to the Idaho State Police and the Idaho Department of Parks and Recreation on an ongoing basis. It changes the distribution percentages in the Highway Distribution Account from 57% to 62% for the State Highway Distribution Account, and removes the 5% distribution to the Idaho State Police. It removes the 3% distribution from the gasoline tax to the Idaho Department of Parks and Recreation.

He advised that Legislative Intent language has been added as Section 1. It is the intent of the Legislature to authorize, via concurrent resolution, a legislative task force, comprised of eight members of the Legislature, including both co-chairs of the Joint Finance-Appropriations Committee, to study potential sources of dedicated revenue to offset the reductions that will be sustained by the Idaho State Police and the Idaho Department of Parks and Recreation.

**Representative Roberts** reviewed the specific changes in the bill for the Committee, including additional language in Section 5 acknowledging that providing an ongoing and dedicated source of funds for the Idaho State Police is necessary to safeguard the Idaho State Police from the impacts of future economic downturns.



**MOTION:** **Senator Corder** made a motion, seconded by **Senator Hammond**, that H376 be sent to the Senate floor with a do pass recommendation.

**Senator Werk** commended **Representative Roberts** for his work on this legislation. He stated that although he cannot support the motion because of his concerns about the transfer that is being proposed, he trusts that the task force will work together to find a way to find an answer to funding the affected agencies.

**VOTE:** **Chairman McGee** called for a vote on the Motion to send H376 to the Senate floor with a do pass recommendation. The motion **passed by voice vote**. **Senator Werk** and **Senator Bilyeu** are recorded as voting "Nay."

**HCR 32** **Representative Roberts** presented HCR32, which establishes a task force to undertake and complete a study to identify alternative dedicated funding sources for the Idaho State Police and for the Idaho Department of Parks and Recreation on an ongoing basis and to submit findings and any proposed legislation to the second regular session of the Sixtieth Idaho Legislature. He stated that there are a number of ideas that have been suggested for consideration by the task force.

**Senator Bilyeu** asked **Representative Roberts** to share some of the ideas under consideration. **Representative Roberts** advised that one suggestion involves vehicle registration fees that are currently collected for vehicles in the State of Idaho. There is a \$3 fee that goes to Project Choice within the Idaho State Police Department, and it has been suggested that fee be increased to as much as \$7 or \$10. Another suggestion is to portion off some of the dollars collected under the sales tax code, and send those as designated funds directly to the Idaho State Police and Idaho Department of Parks and Recreation. There also has been discussion of adding some additional recreation fees for the Idaho Department of Parks and Recreation.

**Senator Werk** inquired why the Legislature is not setting up an interim committee for this study rather than the Governor establishing a task force. **Representative Roberts** advised that this resolution does fund the task force and is solely made up of Legislators.

**MOTION:** **Senator Hammond** made a motion, seconded by **Senator Keough**, that HCR32 be sent to the Senate floor with a do pass recommendation. The motion **passed by voice vote**.

**PASSING OF GAVEL:** **Chairman McGee** passed the gavel to **Vice Chairman Hammond** in order to present the next item of business.

**HCR 34** **Chairman McGee** presented HCR34 which supports a gubernatorial task force to consider both traditional and nontraditional sources of revenue for the maintenance and

preservation of highways and bridges including, but not limited to, possible revisions to the rates, methods and manner of calculating any and all taxes, fees and registrations relating to fuels and motor vehicle and motor carriers.

**Senator Bilyeu** inquired whether any other task force in the last year has addressed these issues. **Chairman McGee** advised that he had chaired the Treasure Valley Transportation Task Force which looked at some of these issues. The issues considered were specific to the Treasure Valley, but some of the concepts discussed could be applied statewide. That task force was not nearly as comprehensive as what is now being proposed by the Governor.

**Senator Bilyeu** asked for an explanation between what is proposed and what the Governor did last year when he went into all the communities to talk about transportation needs. **Chairman McGee** indicated that the key difference is that this proposal involves a task force that is designed to come up with answers. The Governor's travels through the state last year was more to educate Idahoans on the problem. This task force will be charged with coming up with concepts that can be used for specific legislation.

**Senator Werk** inquired why the Legislature would not take this on as an interim committee instead of the Governor. **Chairman McGee** advised that the Governor has a great deal of time invested in transportation funding, and this agreement had been arrived at with the Governor and members of the House and Senate leadership.

**Senator Werk** noted his concern that no one has evaluated whether local option authority can play a role as a tool. **Chairman McGee** advised that Line 35 indicates it is appropriate for the task force to consider both traditional and nontraditional sources of revenue, and he does not see anything in the language of this resolution that would preclude that task force from looking at local option tax as a method of funding roads in Idaho.

**Senator Keough** observed that lines 36 and 37 states, "including but not limited to," which seems to be permissive language.

**Senator Bilyeu** inquired about the makeup of the membership of the task force. **Chairman McGee** asked **Representative Roberts** to respond to the question. **Representative Roberts** advised that to his knowledge there is a commitment by the Legislative branch of government that five of the fifteen members will be from the Senate and five members will be from the House. The Lieutenant Governor may also serve, and the Governor will most likely consult with the Pro Tem and Speaker of the House on other appointments.

**Senator Winder** indicated a desire that this task force look at potential funding for expansion rather than just preservation and maintenance. He inquired whether the language of the resolution would allow consideration of these issues. **Chairman McGee**

indicated that this resolution agrees that the task force is appropriate. He agreed that it is difficult to talk about maintenance and preservation without talking about corridors and expansion. He stated that he did not feel the language of this resolution precludes a broad discussion of transportation needs in the State of Idaho. **Representative Roberts** commented that Lines 19 through 32 addresses the transportation funding needs for the next thirty years and he does not construe the language to be constrained to maintenance and preservation only.

**Senator Winder** further stated that one of the uses for local option in the Treasure Valley may well be transit. He stated that several areas of the State are growing, and as we look at the future we need to plan for corridors and design of the freeways. He inquired whether these issues would be considered as meeting the criteria of funding transportation needs over the next thirty years.

**Representative Roberts** and **Chairman McGee** both concurred that they would.

**Senator Werk** inquired whether the minority party would be represented on the task force. **Chairman McGee** advised that in his discussions with the Governor, he has made it clear that members of the minority will be a part of the task force.

**MOTION:**

**Senator Winder** made a motion, seconded by **Senator Werk**, that HCR34 be sent to the Senate Floor with a do pass recommendation. The motion **passed by voice vote**.

**ADJOURNMENT:**

**Vice Chairman Hammond** returned the gavel to **Chairman McGee**, who adjourned the meeting at 6:45 p.m.

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Senator John McGee  
Chairman

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Lois Bencken  
Assistant Secretary