

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Thursday, January 13, 2011

SUBJECT	DESCRIPTION	PRESENTER
	<b>RULES REVIEW:</b> Idaho Transportation Department	
39.0322.1001	Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations	Regina Phipps, Vehicle Size and Weight Specialist
	<b>RULES REVIEW:</b> Idaho State Tax Commission	
35.0105.1001	Motor Fuels Tax Administrative Rules	Dan John, Tax Policy Administrator
35.0105.1003	Idaho Motor Fuels Tax Administrative Rules	Dan John, Tax Policy Administrator

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman James Hammond  
Vice Chair Bert Brackett  
Sen Shawn Keough  
Sen Robert Geddes  
Sen John McGee  
Sen Tim Corder  
Sen Chuck Winder  
Sen Elliot Werk  
Sen Diane Bilyeu

COMMITTEE SECRETARY

Gaye Bennett  
Room: WW33  
Phone: (208) 332-1332  
email: [gbennett@senate.idaho.gov](mailto:gbennett@senate.idaho.gov)

MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, January 13, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Hammond, Vice Chairman Brackett, Senators Keough, McGee, Corder, Winder, and Werk

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

**NOTES:** 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 Hammond** called the meeting to order at 1:37 p.m., welcomed guests, and introduced the new Transportation Committee secretary, Gaye Bennett, and the Transportation Committee page, Sara Jane Stowell of Hagerman, Idaho.

**RULES REVIEW DOCKET NO. 39-0322-1001:** **Chairman Hammond** turned the meeting over to **Vice Chairman Brackett** to proceed with the rules review. **Vice Chairman Brackett** welcomed Regina Phipps, Vehicle Size and Weight Specialist, Idaho Transportation Department. Ms. Phipps introduced herself and referred the Committee members to pages 15 through 18 of their packet for Docket No. 39-0322-1001, rules governing over-legal permits for extra-length vehicle combinations. She reviewed the rule and referred the Committee to the routes designated for extra-length combinations map located in the addendum following page 19 of their packet.

The rule increases the limitations for permitted vehicle combinations on "blue-coded routes," from ninety to ninety-five feet in overall length including load overhang. This still allows the vehicles to operate within the maximum off-tracking limitations. It also eliminates redundant language from subsection 200.04 regarding connecting devices.

**Vice Chairman Brackett** called for comments and recognized **Senator Corder**. Referring to the circled area on the route map near McCall, **Senator Corder** asked if the "dog-leg" was still green and the rest of the route was blue? Ms. Phipps confirmed that it was still classified as a green route. **Senator Corder** asked how many people will make it that far and decide they can't go any further? Is there a turn-around there? Ms. Phipps indicated that there was a turn-around, and that it is posted to let them know that it is a restricted route.

**Vice Chairman Brackett** asked if there were any other questions of Ms. Phipps; hearing none he opened it up for any public comments. He proceeded by stating it was a pretty simple rule where the weights and the off-tracking are the same, and they have tested the routes. Asking **Chairman Hammond's** permission, **Vice Chairman Brackett** indicated to the Committee that they were ready for a motion on the rule.

**MOTION:** **Senator McGee** moved to adopt Docket No. 39-0322-1001. The motion was seconded by **Senator Werk**. The motion passed by unanimous voice vote.

**RULES  
REVIEW  
DOCKET NO.  
35-0105-1001:**

**Vice Chairman Brackett** moved to the next set of rules to be reviewed by the Idaho State Tax Commission. First will be Docket No. 35-0105-1001. **Vice Chairman Brackett** asked for Dan John, Tax Policy Administrator. Mr. John indicated that Mr. Randy Nilson, Tax Policy Administrator, of his staff will review the rules. **Vice Chairman Brackett** welcomed Mr. Nilson to the Committee and asked him to identify himself. Mr. Nilson indicated he was a fuels tax specialist with the State Tax Commission.

Mr. Nilson began his review by indicating there are five different rules he is going to go through. Those rules were created or amended by HB384 passed last year by the legislature. It added ethanol, natural gasoline, and gasoline blend stocks to the definition of motor fuels. Therefore, most of the changes to the rules are dealing with that situation.

First is rule 130 that deals with fuel distributors. Rule 130 is being amended to notify fuel distributors that ethanol, natural gasoline, and gasoline blend stocks are received when the fuels are imported into Idaho, are removed from an Idaho pipeline terminal, or are removed from an Idaho ethanol production facility. It provides a method for distributors to deduct the gallons of ethanol placed into storage inside an Idaho pipeline terminal; and it shows that the motor fuels tax and transfer fee are due when ethanol, natural gasoline, and gasoline blend stocks are received.

**Vice Chairman Brackett** thanked Mr. Nilson. After consulting with **Chairman Hammond**, they agreed to address the rules in the order presented in the handouts. **Vice Chairman Brackett** recognized **Chairman Hammond** who had a question about rule 130; and asked for clarification of whether this rule was procedural in order to ensure the fuels are properly recorded. Mr. Nilson answered that this rule doesn't change what the law intends, it notifies the distributors that these fuels are subject to the tax. Prior to the law change, ethanol was taxed only after it was mixed with gasoline, now it is taxed when it comes into Idaho.

**SPECIAL  
GUESTS  
RECOGNIZED:**

**Chairman Hammond** recognized **Senator Bart Davis** who escorted a number of students into the hearing room. **Senator Davis** introduced students from the debate team at Skyline High School in Idaho Falls. **Chairman Hammond** welcomed the students. He went on to explain the task before the Transportation Committee was to review the rules of legislation passed in the last session of the legislature. Rules help the public understand how to follow the law because they provide the detail and process for a particular law. The Committee is in the middle of reviewing rules. He explained that the Committee's Vice Chairman typically handles rules meetings; and with that **Chairman Hammond** turned the meeting back to **Vice Chairman Brackett**.

**Vice Chairman Brackett** added further explanation that Idaho is somewhat unique. When the legislature passes legislation, the agencies are charged with implementing the policy and that's when they write the rules. Once they write the rules, they come back to the Committee for review and to get a second look at them. It can be a little cumbersome but it's a very important process that is taken very seriously.

**RULES  
REVIEW  
CONTINUES:**

**Chairman Hammond** explained the process going forward. We will hold all motions until all the sections are complete.

Mr. Nilson moved on to rule 137. This rule will require an in-state pipeline terminal operator to report ethanol that was placed into storage at its Idaho pipeline terminal. This information will help the Tax Commission account for all ethanol that was imported into the State by tanker truck or rail car. It is a closed section used basically for tracking fuels as they enter the State so they don't become misplaced.

**Vice Chairman Brackett** thanked Mr. Nilson for the explanation and asked if there were any questions. **Senator Werk** had a clarification question. Is the rule just changing the timing of the report? Mr. Nilson replied that the rule tells the operators what they have to report and that there are no other changes.

**DOCKET NO.  
35-0105-1003:**

The Committee moved on to Docket No. 35-0105-1003, rule 320. This rule is being amended to show that records for all types of motor fuels, not just those for gasoline and special fuels, must be kept for three years. This affects all the fuels including ethanol, natural gasoline, and gasoline blend stocks. It addresses record keeping for all fuels. There were no questions from the Committee.

The next rule is under the same docket but rule 400, subsection 05. It talks about what a trucker has to have to remain legal in the State of Idaho with regard to gas and fuel permits with the special fuels tax laws. One part of it was missing for truckers who operate interstate. It is amended to include motor vehicles powered by gaseous fuels that display a gaseous fuel permit because these motor vehicles do not make the collection of that tax more difficult. **Vice Chairman Brackett** asked for questions. **Senator Corder** asked what is the fuel permit going to look like? It appears to be yet another permit, so you would either have the sticker **or** you would be operating under a temporary fuels permit **or** you would be operating under a gaseous fuels permit. Is that correct? Are you ready to sell the gaseous permit online? Mr. Nilson responded that you don't pay the tax by the gallon but it's a separate fee based on the weight of the vehicle. If they're operating in more than one state they could have both or could be used in combination depending on their circumstances. There were no other questions.

There is one final rule under this docket, rule 510, subsection 05. It is being amended because HB384 imposed the motor fuels tax on ethanol and natural gasoline. It deals with the Idaho Transfer Fee, which is the one-cent fee on fuels. The Tax Commission's current reporting system for fuel distributors requires that the motor fuels tax and transfer fee both be paid when a load of fuel is received. Ethanol and natural gasoline must be included in the definition of petroleum and petroleum products in order to impose the transfer fee on these fuels when they are imported into Idaho or removed from a production plant in Idaho. **Vice Chairman Brackett** thanked Mr. Nilson; there were no questions from the Committee.

**Chairman Hammond** noted there were two dockets and suggested the Committee vote on each docket separately.

**MOTION:** **Senator McGee** moved to adopt Docket No. 35-0105-1001. The motion was seconded by **Senator Corder**. The motion passed by unanimous voice vote.

**MOTION:** **Senator Werk** moved to adopt Docket No. 35-0105-1003. The motion was seconded by **Chairman Hammond**. The motion passed by unanimous voice vote.

**ADJOURNMENT:** **Vice Chairman Brackett** declared the Committee was finished reviewing the rules for the Senate Transportation Committee for 2011, and turned the meeting back to **Chairman Hammond** who thanked the Vice Chairman. **Chairman Hammond** reported he knew of interest in legislation to be considered by the Committee this year – some supported by the Automobile Dealers Association and some supported by the Idaho Transportation Department.

**Chairman Hammond** adjourned the meeting at 2:15 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

JOINT  
SENATE TRANSPORTATION COMMITTEE  
AND  
HOUSE TRANSPORTATION & DEFENSE COMMITTEE  
1:30 P.M.  
Auditorium (WW02)  
Thursday, January 20, 2011

SUBJECT	DESCRIPTION	PRESENTER
	IDAHO TRANSPORTATION DEPARTMENT PRESENTATION	
	Introductions	Darrell V. Manning, Chairman, Idaho Transportation Board
	Idaho Transportation Department Annual Update	Brian W. Ness, Director, Idaho Transportation Department  L. Scott Stokes, Deputy Director, Idaho Transportation Department

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
  
Sen Geddes  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
JOINT MEETING  
**SENATE TRANSPORTATION COMMITTEE**  
**HOUSE TRANSPORTATION & DEFENSE COMMITTEE**

**DATE:** Thursday, January 20, 2011

**TIME:** 1:30 P.M.

**PLACE:** Auditorium (WW02)

**MEMBERS PRESENT:** Senate Committee: Chairman Hammond, Vice Chairman Brackett, Senators Keough, McGee, Corder, Winder, Bair, and Werk

House Committee: Chairman Smith (24), Vice Chairman Hart, Representative(s) Wood (35), Bedke, Wills, Nonini, Hagedorn, Palmer, Bateman, Ellsworth, Henderson, Nessel, Ringo, King, and Killen

**ABSENT/  
EXCUSED:** Senator Bilyeu

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**CONVENE:** **Chairman Hammond** called the meeting to order at 1:32 pm. **Chairman Smith** welcomed all guests, and in particular, the Board members and all representatives of the Idaho Transportation Department (ITD). **Chairman Hammond** recognized Darrel V. Manning, Chairman of the Idaho Transportation Board. Mr. Manning introduced members of the Idaho Transportation Board and other Idaho Transportation Department personnel in attendance. General Manning stated that the Board is pleased with the direction ITD is heading under Director Ness' leadership.

**ITD ANNUAL UPDATE:** Brian W. Ness, ITD Director, and L. Scott Stokes, ITD Deputy Director, presented the fiscal year 2012 (FY12) mission and vision for the Department. Mr. Ness and Mr. Stokes addressed the promises made and promises kept, the FY12 Governor's recommendation, GARVEE, and organizational realignment. The vision of the Department is to be the best transportation department in the country, with emphasis on improving safety, enhancing mobility, and supporting the economy. The promise to be accountable is executed through monthly reports to the Board and through tracking charts of the Department's progress that are available on the ITD website.

Mr. Ness and Mr. Stokes said Department of Motor Vehicles (DMV) modernization is a very important project at ITD because the old system is cumbersome to maintain and cumbersome in meeting the needs of customers. Also, law enforcement's access to the data will be greatly enhanced by the new system. The Director detailed the promise to review every program and expense. In discussing the FY12 budget and Governor's recommendation, Mr. Ness said 90% of the budget is for highway operations and maintenance, bond proceeds for construction, and contract construction. He explained the fund sources and fund distribution projections. Mr. Ness defined the nine layers of management between the frontline workers and the Director; then described the proposed realignment which is more efficient and effective.

**QUESTIONS:**

Mr. Ness and Mr. Stokes responded to questions from members of the two Committees. Mr. Stokes said the five-year Idaho highway fatality rate continues to decline and the Department is working to change the terms of accepted driving behavior. Mr. Ness said the Department continually tracks how Idaho is trending compared to other States; and that the Department is always reviewing ways to expand the life of infrastructure, though some types of bridges have a fixed life span. Mr. Ness said preventive maintenance is the focus. He also said the \$543 million annual shortfall was a Task Force conclusion. Mr. Stokes said the recent economic slowdown has negatively affected traffic flow and registrations. Mr. Stokes said the Department's long-range focus is safety and mobility, as well as making roads and bridges last longer. Mr. Ness explained that the weight of loads on each truck axle spreads the load for less road damage, and that there is a significant bond for repairs, negating extra cost to taxpayers.

Mr. Ness said the Department projects salary savings of \$1.5 million over the next two years, with no layoffs, furloughs, or employee concessions. Mr. Stokes said the Department is focused on preventive maintenance. Mr. Ness noted that labor costs are less and fuel prices are expected to spike up.

**ADJOURN:**

**Chairman Hammond** and **Chairman Smith** expressed their appreciation to the Department for this update.

There being no further business before the Joint Committee, **Chairman Hammond** adjourned the meeting at 2:50 p.m.

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Senator Hammond  
Co-Chairman

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Gaye Bennett  
Secretary

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Representative Leon Smith  
Co-Chairman

**AGENDA**  
**SENATE TRANSPORTATION COMMITTEE**  
**1:30 P.M.**  
**Room WW53**  
**Tuesday, January 25, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>UPDATE</b>	Report on the Governor's Task Force on Modernizing Transportation Funding in Idaho	The Honorable Brad Little, Lieutenant Governor of Idaho
<b>RS20107</b>	Naming State Highway 3 as the North Idaho Medal of Honor Highway	Senator John Goedde
<b>MINUTES</b>	Approval of minutes of January 13, 2011 Committee meeting.	
<b>TOUR</b>	Discussion: Opportunity for Committee to tour a local distribution center.	

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, January 25, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** all present

**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.

**CONVENE:** **Chairman Hammond** called the meeting to order at 1:35 p.m. **Senator McGee** introduced members of the Valley View High School FFA Chapter visiting the Capitol. **Senator Winder** also welcomed the students since he had an opportunity to meet them earlier.

**Chairman Hammond** thanked them for attending this meeting and moved to the first order of business. He introduced and welcomed **Lieutenant Governor Brad Little** to the Committee to report on the findings of the Governor's Task Force on Modernizing Transportation Funding in Idaho. He Chaired the Task Force.

**REPORT ON TASK FORCE:** **Lieutenant Governor Little** thanked Senate Transportation Committee members **Senator Brackett**, **Senator Keough**, **Senator McGee**, and **Senator Winder** for their participation and input as members of the Transportation Task Force that met nine times over a period of 15 months. There is a link to the final report on the Idaho Transportation Department (ITD) website (<http://itd.idaho.gov/>).

The Governor's assignment for the Task Force was to assess transportation needs in Idaho over the next 20 years. The Governor assigned the Task Force two other issues, to which **Lieutenant Governor Little** appointed two subcommittees: (1) public transportation and (2) highway cost allocation.

The Idaho Transportation Board served or attended the meetings and added valuable insight to the discussion. The ITD hired Batelle, a very reputable firm, to perform a highway cost allocation study for the Idaho Transportation Board to be used in conjunction with the Task Force. The Subcommittee on Highway Cost Allocation oversaw the study.

Initially, the issue of future funding dominated Task Force discussions (i.e., what's going to happen with federal funding; what's happening at the local level; etc.). The Task Force was successful at having cities, counties, highway districts, metropolitan planning organizations, and ITD basically speak with a common message. Most States use general fund revenue to fund transportation, but not in Idaho. In the current national economic climate, funding sources are a challenge in all States.

Idaho has geographic challenges and climate challenges; 55% of the State pays very little for highway funding – a small population and large landmass that needs to be covered with roads. This fact is important when Idaho is compared to other States. One method of defining the point is: number of people per lane-mile road. In Oregon there are 31 people per lane mile, in Washington there are 38, in Utah there are 30, but in Idaho there are only 16; in essence, each person has to pay twice as much in Idaho. The trend shows that the Idaho population from 1990-2007 is up by 50%; vehicle miles traveled has increased by 61%; road capacity has increased by 3%; and the purchasing power of federal tax revenue, with the cost-of-living increase, is down by 74%. At the same time, our automotive fleet has gotten significantly more efficient. In 1978, the average mileage of a car was 14.7 miles per gallon; today it is 22 miles per gallon. In the last 20 years, the consumer price index has gone up by 325%; and we're on the cusp of adding cars like the Chevy Volt to the fleet that will pay less than one-tenth per mile driven compared to what our current fleet pays.

ITD has done a good job of talking about the different components of construction. As an example, asphalt oil has increased by 270%. The question becomes how do we protect our \$13 billion investment in roads and bridges in Idaho? Idaho has about 50,000 miles of paved roads. State-of-the-art stewardship dictates that over 20 years, each mile of road should be renovated or reconditioned, which means that 2,500 miles of pavement a year needs to be maintained. We're only able to address about 800 miles of road annually. We need to triple our investment just to maintain our critical infrastructure. When driving down the road, people can see the cracks in the highway; but it's hard to get out and look under each bridge to assess their condition. Our bridge maintenance has increased substantially. Most bridges have a 50 year life span; with current funding, we are having to extend the life of those bridges to 80 years, which is an unacceptable safety risk.

The Task Force unanimously agreed that the starting point was: More money has to go into maintaining roads and bridges. They also agreed that federal funds can no longer be considered a reliable revenue source; in many instances, it costs the State of Idaho \$1.30 of federal funds to do what \$1.00 of State funding will do, because of environmental restrictions, labor restrictions, etc. In short, Idaho has to come up with the revenue itself.

The Task Force took into account recommendations from: (1) ITD and local highway districts; (2) the five-year-old Forum on Transportation Comprehensive Study of the totality of needs; (3) a non-legislative Task Force member did a complex regression analysis; and, (4) the Task Force members completed a survey. Generally, the results were a consensus of agreement: \$155 million annually needed for operation, preservation, restoration on the State system; \$107 million annually needed for operation, preservation, restoration on the local system; \$207 million annually needed for capacity and safety enhancement on the State system; and \$74 million annually needed for capacity and safety enhancement on the local system; for a total need of \$543 million. There was also an agreement that the best group to allocate resources was the Idaho Board of Transportation.

The Task Force created a spreadsheet that took every conceivable idea on how to generate revenue into consideration. They were placed into a matrix independent of what the needs were. The Task Force then considered what is the best policy for the State of Idaho to address the transportation funding needs. **Lieutenant Governor Little** described the matrix that was developed to address funding and needs. The matrix represents the top 25 options. The legislature should consider it a policy tool so that when new revenue is discovered it can be compared to the other sources of revenue through the matrix. At one point there was a sales tax option on the matrix, but given the volatility in the market, putting a sales tax on price was a nightmare to administer for small business fuel retailers, and for large ones, too. Instead of a sales tax on fuel, the Task Force decided to include a transfer fee. Other options include: index fuel tax, excise tax on rental cars, increased vehicle registration, multi-tiered registration for trucks, local option registration, weight/distance, taxing electrical vehicles, dedicated sales tax on transportation products and related areas, tax on tires, taxing all the alternatives, adjusting fees, and even general appropriations. Many others were left off the table based on the recommendations of experts who argued that Idaho doesn't have a large enough volume, and the technology is not in place for vehicle-miles-travelled.

**SUBCOMMITTEE  
ON PUBLIC  
TRANSPORTATION:**

**Senator Keough** and **Senator Winder** served on the Subcommittee on Public Transportation. All members of the Subcommittee were surprised by how many public transportation options there are in Idaho. The Subcommittee added their revenue sources onto the bottom of the matrix. They include: increase current fees charged, local option sales tax, local option resort tax, local option property tax, and impact fees.

**SUBCOMMITTEE  
ON HIGHWAY  
COST  
ALLOCATION:**

As mentioned before, the Subcommittee on Highway Cost Allocation's generally recognized national model was paid for by the ITD Board. The model looks at every weight class of vehicle and measures them against their impact on the roads. The State has done cost allocation studies in the past and the Governor had asked that past reports be updated. The result is a tool in which to start a discussion on different weight classes while other available options are looked at. The data recommended by the Subcommittee and accepted by the full Task Force is a good tool. There are areas of cost allocation that the ITD Board and the Governor can use in developing public policy. The ITD Board policy is: Highways in the State of Idaho are all going to be built for legal limits, which ties back to the cost allocation study.

**POLICY ISSUES:**

Two other policy questions are: (1) When we're looking at cost, how do we allocate GARVEE and what do we do about federal funding? The Task Force was unanimous in their agreement that there is no control over federal funding so federal funding is not going to be used in determining cost allocation. (2) Is GARVEE going to be counted like the whole \$990 million is spent over four years, or will GARVEE be counted like moving from a \$150,000 to a \$200,000 house which can be seen from two perspectives: either payments went up by \$40 per month, or \$50,000 was spent. Both questions were discussed in the Subcommittee, and the Task Force decided that GARVEE would be accounted for in debt service, and funding would be accounted for in State revenues only. The legislature may decide not to accept the recommendations of the Task Force.

Another issue discussed was how to fund the Idaho State Police and State Parks and Recreation. **Sen. Cameron** testified before the Task Force. As the Chairman of an Interim Alternative Fuel Tax Funding Committee, he offered the Committee's recommendation: increasing funding for transportation by \$47 million reallocated from Idaho State Police and State Parks and Recreation. There was an inference that these agencies would be made whole from either another revenue source or out of the general fund. That recommendation added to the Task Force's available options.

**Lieutenant Governor Little** requested that both bodies of the legislature be aware of the consequences of the additional \$47 million. The funding needs to be replaced. There are fuel taxes paid on boat fuel and ATV fuel that are not spent on roads. That revenue is for Idaho Parks and Recreation funding. The total amount is not clear, but there was a consensus that the money collected by the Tax Commission that goes to ITD and back to Idaho Parks and Recreation stands on good Constitutional grounds for that to occur. Safety on public highways revenue has been litigated and ruled on, and goes to Idaho State Police. To insure that legislators are aware of the consequences, the Lieutenant Governor would like to see a vote of the entire legislature on the recommendations.

Two recommendations beyond the scope of the Task Force that the Lieutenant Governor suggested to the Senate Transportation Committee were: (1) collections that we should be making now on electric and propane cars; and, (2) determine what are the public transportation needs. He urged the members to look at the cost allocation study; the needs and the matrix options need to be regularly updated as other revenue sources become available. He praised the new director of ITD for implementing significant efficiency changes. Locals are increasing their efficiency by sharing equipment, gravel pits, and by agreements between cities, counties, and highway districts. There are also efficiencies between ITD and cities, counties, and highway districts. As policy makers, we can not ask Idaho citizens for more money for transportation until we can absolutely assure them we've done the best we can to become more efficient. We're at a point of pay-me-now or pay-me-later, and consensus of the Task Force is to not recommend a revenue increase this year, partially because of the increase in efficiencies, the GARVEE money, federal stimulus money, and a Department that is becoming more efficient.

#### **QUESTIONS:**

**Chairman Hammond** thanked the Lieutenant Governor and asked for questions. **Senator Bilyeu, Senator McGee, Senator Keough, Senator Winder,** and **Senator Corder** provided insight into the findings of the report, discussed the process, and asked clarifying points. With the help of Mollie McCarty of ITD, the Lieutenant Governor responded to questions regarding the use of the cost allocation study and the remaining training responsibility of the consultant, Batelle. The Lieutenant Governor was praised for his leadership of the Task Force and the resulting report and study. **Chairman Hammond** thanked the Lieutenant Governor.

**RS20107:** **Chairman Hammond** welcomed **Senator Goedde** to the Committee to present his legislation regarding naming a highway in Northern Idaho. Senator Goedde was approached by some veterans groups to name Highway 3 the "North Idaho Medal of Honor Highway." It is consistent with what has been done in other similar instances. There is no financial impact to the State of Idaho. ITD will determine where the signs will go, and there may be some veterans groups willing to put up the signs. Idaho has 39 recipients of the Congressional Medal of Honor, the highest honor awarded to our military. Three of those Medal of Honor recipients are alive in this State; we most recently lost the best known Idaho honoree, Vernon Baker of St. Maries. **Senator Goedde** stood for questions, hearing none, **Chairman Hammond** asked for a motion.

**MOTION:** **Senator Corder** moved to print RS20107. The motion was seconded by **Senator Bilyeu**. The motion passed by unanimous voice vote.

**MINUTES:** **Chairman Hammond** moved to the next item, approving the minutes of the January 13, 2011, Senate Transportation Committee meeting.

**MOTION:** **Vice Chairman Brackett** moved to accept the minutes of January 13. The motion was seconded by **Senator Keough**. The motion passed by unanimous voice vote.

**TOUR:** **Chairman Hammond** explained that the Committee has been extended an invitation to tour the distribution center for WINCO Stores which had been planned last year but the Committee was unable to get it on the schedule. **Senator McGee** encouraged the Committee to schedule this tour. No decision was reached.

**ADJOURN:** There being no further business before the Committee, **Chairman Hammond** adjourned the meeting at 2:37 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Thursday, January 27, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>RS19974</u></a>	Establishes statutory authority for the appropriation of State funds for operational and capital replacement costs in the Aeronautics air flight program.	Mr. John V. DeThomas, Idaho Transportation Department
<a href="#"><u>RS20160</u></a>	Authorizes the legislature to create an intermodal commerce authority in each city in addition to each county.	Mr. John Watts, Veritas Advisors, LLP
<a href="#"><u>RS20161</u></a>	Establishes that a licensed Idaho dealer may elect to store Department required documentation in an electronic format or at a secure off-site location.	Mr. Trent Wright, Idaho Automobile Dealers Association
<a href="#"><u>RS20166</u></a>	Creates a new class of license plates (Dealer Laden Plates) allowing licensed Idaho dealers to use inventoried vehicles for transporting current and future vehicles.	Mr. Trent Wright, Idaho Automobile Dealers Association

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, January 27, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** all present

**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.

**CONVENE:** **Chairman Hammond** called the meeting to order at 1:34 p.m. The secretary took a silent roll; all members were present. The Chairman proceeded with the business before the Committee and introduced Mr. John DeThomas of the Idaho Transportation Department.

**RS19974:** Mr. DeThomas thanked the Committee and proceeded to explain that the proposed legislation would establish the statutory authority to appropriate State funds to the Aeronautics Air Flight Program for operations and capital replacement. The Air Flight Program currently receives spending authority through the Idaho Transportation Department's annual legislative appropriations. This legislation clarifies this practice by authorizing it in statute. He went through the legislation section by section and explained the changes and additions. He ended by standing for questions and requesting that the legislation be printed.

**MOTION:** Hearing no questions, **Chairman Hammond** asked for a motion. **Senator McGee** moved to print RS19974. The motion was seconded by **Vice Chairman Brackett**. The motion passed by unanimous voice vote.

**RS20160:** **Chairman Hammond** welcomed John Watts of Veritas Advisors to the Committee. Mr Watts, representing WATCO Railroads, explained that this was amending a piece of legislation that was passed and authorized in 2004. That legislation created intermodal commerce authorities as remedies for districts like the Port of Lewiston; but instead of barges and trucks, its trains and trucks. The 2004 legislation allowed counties to create the authorities. New, viable opportunities have presented themselves to work with cities as well as counties. This amends the statute to expand the authority to cities in addition to counties. It doesn't take anything away from counties; it simply extends this opportunity to cities. In short, a county can create an intermodal commerce authority, or a city can create an intermodal commerce authority, or they could work together and create an intermodal commerce authority. It broadens the options and opportunities. Mr. Watts offered to stand for questions.

**QUESTIONS:** **Senator Werk** questioned if this legislation came out of cities looking into this possibility and would there be competition between cities and counties. Mr. Watts acknowledged opportunities for cities and cited the example of WATCO and their rails that run through many cities and governances. This provides an additional tool for governance for cities.

**MOTION:** No further questions. **Senator Keough** moved to print RS20160. The motion was seconded by **Senator Corder**. The motion passed by unanimous voice vote.

**RS20161:** **Chairman Hammond** welcomed Trent Wright of the Idaho Automobile Dealers Association to the podium. Both Trent Wright and **Senator McGee** were wished a happy birthday. This legislation deals with a dealership's principle place of business; the change would allow the records and physical books that are currently kept on-site at the dealership to be moved off-site, and that electronic records may be used as a substitute at the facility. This is proposed at the request of the Idaho Transportation Department (ITD); if ITD wanted to see the physical records, the dealership would have three-days to produce those physical records.

**QUESTIONS:** **Senator Werk** asked if this proposal had been run past ITD. Mr. Wright said the proposal had been written by ITD in conjunction with the Idaho Automobile Dealers Association. There is a Governor's appointed Advisory Board that makes recommendations, of which this was one offered to go forward.

**MOTION:** No further questions. **Senator Winder** moved to print RS20161. The motion was seconded by **Senator Bilyeu**. The motion passed by unanimous voice vote.

**RS20166:** Mr. Wright proceeded with the next RS. This legislation was also created in conjunction with ITD; and the changes were written and drafted by the Department, were presented to the Advisory Board, and the Association was asked to carry it. It would create a new license plate for dealers to use to transport laden trailers or vehicles to outside sales or other dealer trades at auctions. It will decrease some of the current problems State and county patrol officers have with dealers using regular dealer plates on all vehicles.

**QUESTIONS:** **Senator Werk** questioned the fiscal impact with more plates at lower rates being purchased. **Chairman Hammond** asked to defer that question to the hearing on the bill.

**MOTION:** No further questions. **Senator McGee** moved to print RS20166. The motion was seconded by **Senator Bilyeu**. The motion passed by unanimous voice vote.

**ADJOURN:** There being no further business before the Committee, the hearing was adjourned at 1:45 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary



AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, February 01, 2011

SUBJECT	DESCRIPTION	PRESENTER
<b>PRESENTATION</b>	An Update on the Public Transportation System in Idaho	Ms. Heather Wheeler, Executive Director, Community Transportation Association of Idaho (CTAI)
<b>MINUTES</b>	Approval of minutes of January 20, 2011 Joint Committee meeting.	

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

Gaye Bennett  
Room: WW33  
Phone: (208) 332-1332  
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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, February 01, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** all present

**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.

**CONVENE:** **Chairman Hammond** convened the meeting at 1:33 p.m. He introduced and welcomed Ashley Liggett who is serving as secretary for today's hearing; and Heather Wheeler, Executive Director of the Community Transportation Association of Idaho (CTAI), who will be presenting an update on the Public Transportation System in Idaho.

**PRESENTATION:** Ms. Wheeler thanked the Committee and began by introducing Kathleen Simco, Executive Director of Sage Community Resources and a member of the Public Transportation Advisory Committee representing District 3.

CTAI is a statewide transportation association; and Ms. Wheeler is also a member of the Interagency Working Group on Public Transportation (IWG). As indicated in the final report of the Governor's Task Force on Modernizing Transportation Funding, public transportation is one of the components that must be funded to keep the system open and operating.

Ms. Wheeler's presentation will be broken into four parts: (1) the structure currently in place to improve coordination of existing resources and services; (2) how Idaho's coordinated mobility system works; (3) the importance of local jurisdictions having the ability to implement additional projects and services to meet the mobility and public transportation needs of their communities; and (4) mobility successes, challenges, and resources.

**PART 1:** The vision for improving public transportation and mobility in Idaho is "I-way." It is a statewide network that connects people to a mix of transportation options that gives Idaho an economic and quality-of-life advantage. The I-way website is: [www.i-way.org](http://www.i-way.org).

**PART 2:** As a result of a coordination effort that began in 2008, changes in Idaho's mobility landscape are occurring around the State. There are 17 local mobility management networks that are identifying the unique transportation needs of communities, and developing strategies to meet those needs. Needs being addressed go beyond public transportation to include improving sidewalks, extending bike paths, and building transit centers. Strategies focus on improving the efficiencies in current systems and understanding future needs in order to develop a multi-modal system of connected travel in Idaho. The hallmark of I-way is collaboration and coordination; it is not intended to supplant, duplicate, or compete with any program. It facilitates coordination, awareness, and collaboration among those involved in improving mobility in rural Idaho.

**PART 3:**

At the grass-roots level, the emphasis within the local mobility management network is on open membership for any individual, agency, or institution that has an interest or responsibility for transportation or mobility within their community or the State. The District Coordination Council may include up to 20 individuals who work in a collaborative environment, assume a leadership role in their district related to mobility, coordination and planning, and are representatives from government agencies, nonprofit agencies, business entities, education agencies, and Idaho citizens.

The Public Transportation Advisory Council consists of six individuals appointed by the Idaho Transportation Board representing each of the six transportation districts. The Interagency Working Group on public transportation consists of 11 individuals appointed by the director of the following agencies identified in Idaho Code Section 40-514: Governor's Office, Commission on Aging, Head Start, Department of Health and Welfare, Division of Medicaid, Department of Education, Idaho Council on Developmental Disabilities, Division of Vocational Rehabilitation, Department of Labor Workforce Development Council, CTAI, and the Idaho Transportation Board.

**I-WAY  
NETWORK  
PROCESS:**

Local Mobility Management Networks (LMMN) identify and prioritize public transportation and mobility needs within their community and develop strategies to meet those needs. The results are compiled into a local mobility plan that is utilized when agencies request federal funds for projects and services. District Coordination Councils are responsible for ensuring coordination among local mobility plans, coordination within and between districts and neighboring States, and for evaluating and recommending local and district-wide projects for federal funding.

The Interagency Working Group (IWG) on public transportation identifies areas for agency coordination and develops strategies for eliminating procedural and regulatory barriers to coordination at the State level. The Public Transportation Advisory Council (PTAC) is responsible for advising the Idaho Transportation Department on issues and policies regarding public transportation in Idaho on behalf of stakeholders and consumers in their Districts. Both the IWG and the PTAC promote coordinated transportation systems and recommend program funding to the Idaho Transportation Board.

Every community has unique mobility needs and values, and the I-way network structure and process embraces that concept.

**VALUE OF  
I-WAY:**

The I-way structure and process embraces the uniqueness of Idaho's communities. It helps to: maintain the excellent quality of life in Idaho; allow the aging population (by 2015 there will be an estimated 261,000 individuals 65 and older) to live independently and in their own homes; maintain the rural culture and stimulate local economic growth; improve access to health care, work, school and other necessary activities; and, provide safe transportation options.

The I-way website will be an online resource for all public transportation and mobility options in Idaho including: a service provider database that is searchable using criteria such as zip codes and city or county names, with a link to provider sites; and links to Rideshare, School Pool, Safe Routes to School, 511, and other information to improve coordinated mobility around the State.

#### **PART 4:**

SUCSESSES: Statewide programs and coordination successes: (1) Ridership has increased 6% across the State; from the rural areas to the urban areas Idaho citizens are utilizing public transportation; (2) The network structure and process has been used to award Federal Transit Administration and Federal Stimulus grants; (3) Implementation of Idaho's Rideshare program allowing Idaho citizens and Idaho businesses to coordinate car and van-pool programs through this free online tool; (4) Implementation and completion of a statewide bus inventory and review that led to the development of an identification system for Idaho's bus stops; and (5) Implementation of the full-time CTAI District Mobility Managers who are committed to developing partnerships and coordinating improved service and connectivity.

Local partnerships and coordination successes: (1) Bannock Metropolitan Planning Organization and Pocatello Regional Transit partnered and transferred a van to expand rural services; (2) City of Dover created a coalition of communities to participate in a new bus system; (3) City of Ponderay put a Resort City Local Option Sales Tax on the November ballot to help fund public transportation and it passed by a 3 to 1 margin; (4) City of Moscow implemented Saturday service through a partnership with USDA; and (5) City of Salmon connected to the national intercity system as a result of a partnership with the State of Montana.

I-way successes: (1) Creation and launch of the I-way website; (2) Development of Idaho's 511 transit system; (3) Initial implementation of technology to allow for real-time updates to 511.

CHALLENGES: (1) A system change, especially one driven by local communities and end-users, requires a paradigm shift resulting in difficult implementation; (2) Formerly reliable federal earmark funding sources will be gone in upcoming years; and, (3) Some Idaho communities utilize a Resort City Local Option Sales Tax to operate public transportation systems, while others lack such a mechanism.

RESOURCES: As stated in the Task Force report, "Local jurisdictions should be allowed to increase public transportation revenue using the options outlined in the public transportation portion of the Revenue Options Matrix." Therefore, the implementation of the recommendations of the Public Transportation Subcommittee to help generate funding sources is encouraged.

#### **CONCLUSION:**

Ms. Wheeler ended her presentation with examples of real-life stories utilizing public transportation. She thanked the Committee and stood for questions. **Chairman Hammond** thanked Ms. Wheeler and stated it was heartening to know that mobility options were available for those who can't drive themselves in a rural State like Idaho. The Chairman asked for questions.

#### **QUESTIONS:**

**Senator Werk** asked about funding and how CTAI interacts with ITD's public transportation system. Ms. Wheeler said agencies and services funded with federal grants to ITD are part of the local mobility plan. A coordinated plan needs to exist for ITD to receive federal funds. Agencies apply directly to ITD and have an agreement with ITD to provide services. CTAI's role is to ensure a coordinated effort at the grass-roots level by helping communities and not duplicating services. Follow-up question about whether the communities that coordinate their efforts also coordinate grant applications. Ms. Wheeler indicated that the communities coordinate in exactly that way; she used Sandpoint and Ponderay as examples.

**Senator Bilyeu** wanted to know if residents of rural Idaho who have basic needs such as purchasing groceries would have to wade through the confusion of route systems information or if there were other options. Ms. Wheeler said that there are non-emergency medicaid transportation options that would not take individuals to buy groceries but would be available for medical appointments. Other options are para transit, there are identified routes, there is online Rideshare, and there are some volunteer driver programs in many areas throughout the State. There were no further questions; **Chairman Hammond** thanked Ms. Wheeler.

**MINUTES:**

**Senator Winder** moved that the minutes of the January 20, 2011 Committee meeting be approved. **Senator McGee** seconded the motion. The motion was approved by a unanimous voice vote.

**ADJOURNMENT:**

With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 1:59 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, February 08, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>S1050</u></a>	Legislation naming State Highway 3 as the North Idaho Medal of Honor Highway.	Senator Goedde
<a href="#"><u>RS20168C1</u></a>	Legislation that would require a child of 12 years of age or younger, who rides a bicycle on a public roadway, to wear a bicycle helmet.	Senator Bilyeu
<a href="#"><u>RS20216</u></a>	Legislation amending section 49-418, Idaho Code, to create a license plate available to veterans who served in the post 9/11 Afghanistan and Iraq conflicts, with part of the collected license plate fees going toward maintaining Idaho's Veterans Cemetery.	Senator Bilyeu
<a href="#"><u>S1060</u></a>	Legislation amending Title 70, Chapter 22, Idaho Code, authorizing the legislature to create an intermodal commerce authority in each city in addition to each county.	Senator McGee
<b>PRESENTATION:</b>	Annual Report of the Local Highway Technical Assistance Council to include an update of the status of the local stimulus projects (American Recovery and Reinvestment Act of 2009) and a presentation of efforts to address the efficiency of local highway jurisdictions.	Mr. Lance Holmstrom, Administrator, Local Highway Technical Assistance Council

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, February 08, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:33 p.m. and welcomed all guests and presenters.

**S1050:** **Chairman Hammond** welcomed **Senator Goedde** to the Committee to present S1050, a bill designating the North Idaho Medal of Honor highway. This legislation designates Highway 3 starting near Spalding going north and ending on Interstate 90 near St. Maries as the "Idaho Medal of Honor Highway." The State of Idaho has contributed 39 recipients of the Medal of Honor, the highest military honor awarded for bravery in the United States. Idaho currently has three living recipients. Most recently Idaho lost a recipient, Vernon Baker, who lived in St. Maries. This legislation offers no fiscal impact to the General Fund. The Idaho Transportation Department (ITD) will recommend areas for signs; it will be up to interested organizations or other entities to install name designation signs. The Senator stood for questions.

**QUESTIONS:** From a safety perspective, **Senator Werk** asked if ITD allows citizens to place signs on highways. **Senator Goedde** said that it is his understanding that ITD designates areas where signs could be placed that would be located in appropriately safe areas. There were no further questions.

**MOTION:** **Senator Keough** moved that S1050 be sent to the Senate floor with a do-pass recommendation. **Senator McGee** seconded the motion. No discussion. The motion passed by a unanimous voice vote. **Senator Goedde** will carry the bill on the Senate floor.

**RS20168C1:** **Senator Bilyeu** described this legislation as requiring children, 12 years old and younger, to wear a bicycle helmet while riding on Idaho roadways. A constituent presented the Senator with a badly damaged bicycle helmet. It was from his eight-year-old daughter who was riding her bicycle in the street when she was hit by an automobile. The helmet is what saved her life. The legislation amends the definition of bicycle and bicycle helmet. Section 2 is new and adds that "no child who is 12 years of age or younger shall operate or be a passenger on a bicycle on a roadway unless the child is wearing a bicycle helmet." There were no questions.

**MOTION:** **Senator Werk** moved that RS20168C1 be sent to print. **Senator Keough** seconded the motion. No discussion. The motion passed by a unanimous voice vote.

- RS20216:** **Senator Bilyeu** introduced this legislation as: Relating to creating license plates for Afghanistan and Iraq war veterans. The Senator received a request from a constituent living in Chubbuck whose husband is currently serving in Iraq. She thought veterans of the wars in Afghanistan and Iraq should have an option to purchase special license plates honoring service in these conflicts. The Senator agreed. There were no questions from the Committee.
- MOTION:** **Senator McGee** moved that RS20216 be sent to print. **Senator Keough** seconded the motion. No discussion. The motion passed by a voice vote with **Senator Corder** casting a dissenting vote.
- S1060:** **Senator McGee** said this legislation was dealing with intermodal commerce authority in cities and introduced Mr. John Watts of Veritas Advisors to present the bill. Mr. Watts represents Watco Companies; since 1993 they have transported commodities for Idaho businesses on their nine short-line railroads in our State. He directed Committee members to the material in their packets to get a sense of the company's footprint in Idaho. The intermodal commerce authority was first created in 2003 by the legislature for counties. There are two intermodal county authorities today, one in Cassia County and the other in Minidoka County. S1060 amends that statute to add cities. The rising costs of transporting freight has caused trucks and rails to be used more. This makes the coordination and consolidation of moving products from truck-to-train and train-to-truck easier. The western region, where Idaho is located, is in a very good position to be a center point for shipping in the Pacific Northwest. One-in-four industrial products will move by railcar and, at this time, there are a lot of empty warehouses near short-line railroad tracks. This is an opportunity to recapture those warehouses to create economic commerce centers. Intermodal commerce authority is currently only bestowed on counties; S1060 extends the authority to cities where transload facilities could be created. Cities are being included to have the opportunity to work with short-line railroads in their areas to see if there are opportunities that make sense to their communities. Authorities are created through an ordinance process. Page 6, line 17 clearly states an important component of this bill: No property tax will be used in this legislation or authority. Mr. Watts stood for questions.
- QUESTIONS:** **Senator Bair** questioned how many intermodal authorities have been created by counties in the State since the original statute was put into place in 2003 . Mr. Watts responds there are two: Cassia County and Minidoka County. The reason they were created with counties is because of the rural nature of many of Idaho's counties; the original intent was to work specifically and almost explicitly with the agriculture sector moving seed, fertilizer, crops, fresh pack, etc.; when dairies also came into play, it presented an opportunity for moving feed and other relevant commodities. We now find ourselves affecting cities that are growing and trying to create their own commerce. **Senator Bair** followed-up by wondering if we currently have cities desiring to begin projects or if we are anticipating future participation. Mr. Watts said that a lot hinges on the anticipation to extend to cities. There are two cities, and possibly a third, that have expressed interest: Meridian, Boise and Idaho Falls. They have tremendous rail frontage and warehouses within their city limits; there is opportunity to work within an existing industrial zone area. **Senator Bair's** final question was about older tracks that have not been used and require renovation. Mr. Watts agreed that part of the answer is renovation. Another part is that commerce contemplates more activity than simply renovating or updating tracks to make them newer or bigger or better. But also, if it makes sense and is possible to expand, they could use railways and assets of that facility and authority, with no taxes used to expand, to create trucking docks and grow



in industrial manufacturing commerce areas of our cities. There were no further questions of Mr. Watts, and no additional testimony on S1060.

**MOTION:** **Senator Winder** moved that S1060 be sent to the Senate floor with a do-pass recommendation. **Vice Chairman Brackett** seconded the motion. No discussion. The motion passed by a unanimous voice vote. **Senator McGee** agreed to carry the bill on the floor.

**PRESENTATION:** **Chairman Hammond** welcomed Lance Holmstrom, Administrator of the Local Highway Technical Assistance Council (LHTAC), to the Committee to present LHTAC's annual report; update the Committee on the status of the local stimulus projects funded through the federal American Recovery and Reinvestment Act of 2009; and present LHTAC's efforts to address the efficiency of local highway jurisdictions.

Mr. Holmstrom began by stating the purpose of today's presentation is threefold: (1) briefly cover the contents of the annual report; (2) provide a status report of the stimulus program; and (3) discuss the efficiency initiatives that promote local highway jurisdictions. He referred to information contained in the handouts and summarized the duties of the Council as outlined in the FY2010 Annual Report. LHTAC can be broken into ten areas of authority described on pages 4 through 7 of the annual report. LHTAC is involved in developing uniformed standards for public works construction; manuals described in the back of the annual report; administering a number of programs; and working with the Idaho Transportation Department (ITD). Mr. Holmstrom detailed Idaho's involvement in the American Reinvestment and Recovery Act (ARRA) of 2009, outlined in the annual report on page 11, and discussed in great detail in his slide presentation. There were no questions concerning the annual report.

Mr. Holmstrom proceeded with the slide presentation on ARRA's 28 Title 12 projects, and the 13 Governor's Discretionary and 33 Title 14 projects. All the Title 12 projects are complete; all the Title 14 funds have to be obligated by September 30, 2011. LHTAC expects to have all the funds obligated by that deadline. Given the current economic situation, there have been some savings from projects which has allowed other projects to be funded. To assure cost savings are accommodated, there are a couple of projects on standby; should funds become available, the projects will be ready to advertise and bid before the deadline date. The construction will be 100% completed by the deadline of December 31, 2011. Mr. Holmstrom stood for questions.

**QUESTIONS:** **Senator Werk** wondered if any of the Title 12 and/or Title 14 projects would have been completed without the availability of stimulus funds. Mr. Holmstrom answered possibly because many of these projects were maintenance projects, but without the funds most would not have been constructed or just a portion of them would have been constructed. **Senator Werk** followed up stating that as a result of stimulus funding, \$32 million worth of work was able to be done in Idaho. Mr. Holmstrom answered that in addition, 25 nonpermanent full-time positions were created.

**PRESENTATION  
(continued):**

The third topic addressed efficiencies of Local Highway Districts, a result of the Governor's Task Force. Local Highway Districts are accountable to their governing boards that are elected by local voters; their meetings and records are open to the public; budgets and financial statements are published; and there are annual audits and assurances that dedicated funds are assigned by where they originate and how they are expensed. LHTAC fulfilled all their commitments made to the Senate and House transportation committees last year. Most local highway districts are implementing best management practices that include pool purchasing, sharing resources, and employee training. In summary, 87% of local highway jurisdictions have completed a transportation plan. Funds for training is needed and being addressed; local option taxes would be helpful. Mr. Holmstrom stood for questions.

**QUESTIONS:**

**Chairman Hammn** asked that in terms of accountability, when can we anticipate receiving information on how the funds are being spent. Mr. Holmstrom stated that the information is currently being collected with only 25 jurisdictions that have not yet reported. The data is being analyzed and has been useful in determining needs for improvement.

**Senator Corder** asked about this year's budget process and the number of jurisdictions that have met their maximum levy cap at 54% from 36%. Mr. Holmstrom did not readily have the information but would provide the information to him. **Chairman Hammond** wanted clarification that the statistics quoted in the presentation were concerning highway districts and not cities. Mr. Holmstrom said it was a combination of all local highway district jurisdictions. **Senator Corder** made a statement that there was a significant increase and he wanted to know if that percentage could continue to expand. The Senator asked for clarification of a statement made by Mr. Holmstrom that all counties had participated in the survey but indicated there were 33. Mr. Holmstrom stated the 33 represents those counties having local highway jurisdiction over roads. The remainder don't have this jurisdiction and are split up into the highway districts. **Senator Corder** wanted to know the overall percentage of respondents to that survey. Mr. Holmstrom said that of the 196 districts, there was approximately 55% from cities; all 33 counties for 100%; and 46 of 64 highway districts or 75%; concluding that overall it was a very good response rate.

**Senator Winder** asked about the statements on the audit (pages 22 and 23 of the annual report) and to explain them. Mr. Holmstrom said the language used is typical of smaller agencies because of challenges of internal controls with smaller staffs. When LHTAC is at a point that specialized staff can be retained, then that language will become more sophisticated; and their auditor had actually praised their methods overall.

**Senator Bilyeu** wanted clarification on the number of local highway districts. Mr. Holmstrom broke the number down by type: 196 total that ranges from very small cities, like Atomic City with 7 people, to the large cities like Boise, Meridian, etc.; there are 64 highway districts that have commissioners and are established by Idaho Code; and finally there are the 33 counties that have local highway jurisdiction. **Senator Bilyeu** asked that of the 64 highway districts that have commissioners are the commissioners salaried and who sets those salaries. Mr. Holmstrom believes they are set by Idaho Code and there is an annual salary, but he was not aware of what that amount was. But most commissioners are paid very little. **Senator Bilyeu** asked Mr. Holmstrom to elaborate on comments made during his presentation about consolidation and the Pocatello area. Mr. Holmstrom said he referenced Pocatello by saying their finance director made a presentation at LHTAC's efficiency summit about the decline in revenues. **Senator Bilyeu** asked him to address the possibility of consolidation being a savings in dollars and property tax. Mr. Holmstrom said that there is criteria to evaluate whether consolidation is a viable option; he read through the criteria list. **Senator Corder**

offered a comment that there is a statute about commissioners' salary; it is set at a maximum of \$75, but there are a lot of highway districts that don't pay that much and set their own wage up to \$75.

**Vice Chairman Brackett** offered a follow-up on consolidation wondering if the Committee had the information referred to during the response. Mr. Holmstrom said it was available on their web site, but could provide a hard copy if helpful.

**Chairman Hammond** asked that Mr. Holmstrom provide the hard copy.

**Vice-Chairman Brackett** continued asking whether there were incentives for consolidation. Mr. Holmstrom was not aware of any incentives for consolidation. There were no further questions.

**ADJOURNED:** **Chairman Hammond** thanked all the presenters. With no further business before the Committee, he adjourned the meeting at 2:35 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

**AGENDA**  
**SENATE TRANSPORTATION COMMITTEE**  
**1:30 P.M.**  
**Room WW53**  
**Thursday, February 10, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>S1059</u></a>	Legislation to establish statutory authority for the appropriation of State funds for operational and capital replacement costs in the Aeronautics air flight program.	Mr. John V. DeThomas, Idaho Transportation Department
<a href="#"><u>S1061</u></a>	Establishes that a licensed Idaho auto dealer may elect to store Idaho Transportation Department required documentation in an electronic format or at a secure off-site location.	Mr. Trent Wright, Idaho Automobile Dealers Association
<a href="#"><u>S1062</u></a>	Legislation to create a new class of license plate (Dealer Laden Plates) allowing licensed Idaho auto dealers to use inventoried vehicles for transporting current and future vehicles.	Mr. Trent Wright, Idaho Automobile Dealers Association

**AGENDA AMENDED TO INCLUDE THE FOLLOWING:**

<a href="#"><u>RS20307</u></a>	Legislation to provide that the design-build method of construction may be employed by public officials in contracts for the construction, repair or improvement of highways.	Senator Chuck Winder
<a href="#"><u>RS20317</u></a>	Legislation amending Idaho Code to include any person sixteen years and younger must complete a State approved education course on boating safety before operating any water vessel	Senator John McGee
<a href="#"><u>RS20318</u></a>	Legislation amending Idaho Code regarding boating safety to include that personal flotation devices are readily available at all times, in good working condition, and available for each person on board.	Senator John McGee
<a href="#"><u>RS20320</u></a>	This statute deals with fenders or wheel covers (mud flaps) on motor vehicles to change enforcement of a violation from a primary action to a secondary action.	Senator Shawn Keough
<a href="#"><u>RS20322</u></a>	This legislation clarifies that the State and its political subdivisions may purchase items from the federal government schedules (GSA or MAS). This legislation rectifies a conflict between federal code and current Idaho code.	Mr. Stuart Davis, Idaho Association of Highway Districts

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond

Vice Chair Brackett

Sen Keough

Sen McGee

Sen Corder

Sen Winder

Sen Bair

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

Gaye Bennett

Room: WW33

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, February 10, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Hammond, Vice Chairman Brackett, Senators Keough, McGee, Corder, Bair, Werk, and Bilyeu

**ABSENT/ EXCUSED:** Senator Winder

**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.

**CONVENE:** **Chairman Hammond** convened the meeting at 1:30 p.m. He began by introducing a special guest, Dr. Cyndie Hammond, his wife. He then welcomed all guests and invited them to participate in the process and mentioned the sign-up sheet in the back of the room for those wishing to testify. He welcomed Mr. John V. DeThomas with the Idaho Transportation Department (ITD) and asked him to take the podium.

**S1059:** Mr. DeThomas is the Administrator of the Division of Aeronautics at ITD; he is petitioning in favor of S1059. Based on their audit, the Legislative Services Office asked that ITD clarify Idaho Code authority and funding for the State's airplanes. S1059 modifies several existing statutes and more clearly defines what has been the previous practice in accordance with long-term legislative appropriations. The legislation adds a phrase in Section 21-211, Idaho Code, that clarifies this appropriation for the State Aeronautics Fund and would add the same phrase to Section 40-707, Idaho Code, to clarify this appropriation from the State Highway Account. There are other language changes. Over the last ten years, at the request of ITD's Board, the legislature has appropriated the use of highway funds to provide Federal Aviation Administration (FAA) required major overhauls on the airplanes and provided aeronautics funds not otherwise constitutionally or legislatively appropriated to support the State's aircraft. ITD operates three older aircraft; the only aircraft owned by the State. They are primarily available for emergency response and other uses. The use fees do not always cover all the expenses. He thanked the Chair and stood for questions.

**QUESTIONS:** **Senator Keough** wanted clarification that even without this change the funds are appropriated each year through the appropriations process. Mr. DeThomas confirmed that she was correct. To a follow-up query about the findings of the auditors, Mr. DeThomas explained that the auditors did not see a specific authorization, but they didn't see anything that would disallow it.

**Chairman Hammond** wanted to know if there was a different funding source accessed when State aircraft was used for emergency services. Mr. DeThomas said no; the airplanes are available for any State purpose, but they are primarily for emergency use like needing to transport prisoners, emergency response teams, or highway patrol emergency responses. The two Cessnas are used for searching for downed aircraft. The flight cost is funded out of the budgets of the department using them. If those funds aren't enough to cover the cost, then there is a request for a special appropriation, which is usually planned ahead of time.

- MOTION:** With no further questions, the Chairman called for a motion. **Senator McGee** moved that S1059 be sent to the Senate floor with a do-pass recommendation. **Senator Bair** seconded the motion. The motion passed with a unanimous voice vote.
- S1061:** **Chairman Hammond** welcomed Trent Wright, Executive Vice President of the Idaho Automobile Dealers Association (IADA), to the Committee. He represents the franchise RV dealers and automobile dealers in the State of Idaho. He presented the next two bills on the agenda. S1061 deals with electronic records versus physical records held at the location of the dealership. This is a consumer protection piece of legislation that redefines the dealer's principle place of business to allow them to take their physical books and records, which in some cases are an extensive group of documents, and warehouse them in off-site, secure locations. Electronic documentation at the dealership satisfies the Idaho Transportation Department (ITD) requirements. If further investigation is needed by ITD, they may request the dealer produce the physical documents within a three-day period. The language in this legislation has been drafted in conjunction with ITD. Mr. Wright stood for questions.
- QUESTIONS:** **Senator Brackett** asked if there was any known opposition to this bill. Mr. Wright replied that he was not aware of any opposition.
- MOTION:** **Senator Brackett** moved that the Committee send S1061 to the Senate floor with a do-pass recommendation. **Senator Bilyeu** seconded the motion. No discussion. The motion carried with a unanimous voice vote.
- S1062:** This legislation deals with license plates, not specialty plates. Dealers have plates for the use of taking test drives and many other operations seen on the road. There is a set limit to how these dealer plates can be used. One of those limits is hauling vehicles, which is becoming a problem for the Idaho State Police (ISP) on freeways across the State. The Dealer Advisory Board at ITD and IADA have come up with a solution of creating a new class of plates for dealers to use called a "dealer laden plate." It would be assessed a registration/administration fee that would be tied to the operating fee of the Commercial Vehicles Code in Section 49-431, Idaho Code. The dealer laden plate would allow the dealer to use it and transfer it to any new or inventoried vehicle and would allow the dealer to attach a trailer to it and transport vehicles to-and-from off-site sales, dealer trades, exchanges, or auctions as they promote their business. This will allow many dealers to travel back-and-forth on our roads legitimately. There is an option currently available to dealers called a temporary permit (a 120 hour permit or good for 5 days), but it is not something that can be transferred from vehicle to vehicle and it has to be renewed every 5 days. The cost keeps many dealers from purchasing it. This legislation provides an alternative. To Mr. Wright's knowledge there is no opposition to this legislation, and it was written in collaboration with ITD. Mr. Wright stood for questions.
- QUESTIONS:** **Senator Corder** raised concerns with registering with the dealer and/or manufacturers. With no manufacturers in Idaho, the Senator inquired why manufacturers were included. Mr. Wright indicated that ITD thought including manufacturers was the best option to coordinate this effort. **Senator Corder** wondered whether Idaho manufacturers of horse trailers would be able to purchase a laden plate that is less expensive than registering a vehicle to deliver all their trailers around the State. Mr. Wright said you can't be a manufacturer and operate in the State of Idaho without a dealers license; that could mean anything from a General Motors group down to a horse trailer manufacturer. In addition, the weight limit of the combined gross vehicle weight of 26,000 pounds would preclude using the plate for those purposes. There were no further questions from the Committee.

- MOTION:** **Senator Keough** moved that S1062 be sent to the floor with a do-pass recommendation. **Senator McGee** seconded the motion. No discussion. Motion passed with a unanimous voice vote.
- Chairman Hammond** assigned **Senator Keough** to carry S1062 on the Senate floor; and **Senator Brackett** to carry S1061 on the Senate floor.
- Chairman Hammond** moved on to discussion of the RS's on the agenda. He explained that although some have signed up to testify on the RS's that only the presenter can testify on proposed legislation. This RS print hearing is the part of the process where the Committee decides if the legislation will become a bill and be issued a bill number. When the bill is returned to the Committee and a hearing is scheduled, then public testimony can be heard.
- Before moving on to the RS's, **Chairman Hammond** welcomed to the Committee General Darrell Manning, Chairman of the Idaho Transportation Board; and Trish Smythe, a good friend of the Chairman.
- RS20307:** The Chairman welcomed Jerry Deckard of CapitolWest Public Policy Group who presented this RS for **Senator Winder** who has been excused in order to speak to a school group. This legislation adds single-county-wide highway districts to the list of entities that have the opportunity to place bids for design-build construction. It would be another tool in the toolbox of a single-county-wide highway district as a method of bidding projects. It would likely rarely be used. As an example, in Ada County, the East Park Center Bridge would have been a project where this could have been implemented for the Ada County Highway District. Mr. Deckard stood for questions. There were no questions.
- MOTION:** **Senator Corder** moved that RS20307 be sent to print. **Senator McGee** seconded the motion. No discussion. The motion passed on a voice vote.
- RS20317:** **Senator McGee** indicated that it took a tragedy before the prevention issue addressed in this RS was brought before the legislature. The Chairman and **Senator McGee** met with the Catlin family regarding boating safety concepts and ideas that stems from a horrific accident in Valley County involving the Catlin family. The discussions revealed that boating safety legislation perhaps needed to be revisited. This and RS20318 are the results of those discussions.
- RS20317 establishes a new section of code requiring any person under 16 years of age who wants to operate a boat on Idaho waters would be required to take a safety course. Courses can be taken online through the Department of Parks and Recreation. The issue needs further discussion. **Senator McGee** stood for questions.
- QUESTIONS:** **Senator Corder** recalled legislation passed in 2008 dealing with under-16-year-olds operating ATVs on Forest Service highways without any training as long as they were accompanied by an adult. Senator Corder voted against that legislation and is trying to reconcile that legislation with the purpose of this legislation. **Senator McGee** responded that the ATV bill generated a great deal of discussion and there's a new version of that legislation being considered. Perhaps there is no great difference between driving an ATV and operating a boat, but in one case you're responsible for just yourself and with a boat there's likely an additional responsibility of passengers. There were no further questions.
- MOTION:** **Senator Bair** moved that RS20317 be sent to print. **Senator Bilyeu** seconded the motion. No discussion. The motion passed by voice vote with **Senator Corder** casting a descending vote.



- RS20318:** **Senator McGee** introduced John and Janelle Catlin. This RS deals with life jackets, or personal flotation devices, located in a boat. Currently, if you operate a boat in Idaho you must have the requisite number of life jackets in the boat matching the number of passengers. These devices can be stowed anywhere on the vessel. This legislation would add a phrase to current law that the flotation devices would be "readily accessible." This is important in cases of emergency; and deserves discussion among legislators. **Senator McGee** stood for questions. There were no questions.
- MOTION:** **Senator Bilyeu** moved that RS20318 be sent to print. **Senator Corder** seconded the motion. No discussion. The motion passed by a unanimous voice vote.
- RS20320:** **Senator Keough** said that this legislation deals with fender or covers on motor vehicle wheels. This legislation is the result of a family member who bought a pickup without mud-flaps and was pulled over for not having mud-flaps but was cited for something else, a seat belt violation. Others have contacted the Senator over the last two years with similar challenges to this statute where they were stopped for mud-flaps and consequently cited or questioned for other matters. This legislation focuses on cars and pickup trucks; and safety issues on larger rigs and trucks were acknowledged by the Senator. Two points: (1) not having mud-flaps on a car, SUV, or pickup should not be a primary reason for law enforcement to pull over a driver; (2) law enforcement officers have disclosed to the Senator that this statute is used to pull people over and look for other violations. This legislation proposes that not having mud-flaps becomes a secondary offense, with the fine dropping from \$62 to \$10. **Senator Keough** is preparing statistics on citations issued to new and used cars and pickup trucks. There were no questions.
- MOTION:** **Senator Corder** moved that RS20320 be sent to print. **Senator McGee** seconded the motion. No discussion. The motion passed by a unanimous voice vote.
- RS20322:** Mr. Stuart Davis of the Idaho Association of Highway Districts said that this legislation clarifies what was done in 2005 in the bidding statutes in Idaho when a major overhaul was done on all public bidding. Mr. Davis quoted from the statute the purpose of which was to allow the State and all its political subdivisions to purchase goods and services off the Government Services Administration (GSA) schedules. At GSA, procurement specialists go to various vendors and get a responsible bid on items. Those bids are placed on the schedule and allows anyone in the system to purchase listed items at the listed prices. The GSA schedules are not considered competitively bid according to Idaho law; they are considered competitively bid at the federal level. This legislation allows the State and all its political subdivisions to purchase items off of the GSA and the Master Services Agreement (MSA) schedules. Mr. Davis is not aware of any opposition. There were no questions.
- MOTION:** **Senator Keough** moved that RS20322 be sent to print. **Senator Werk** seconded the motion. No discussion. The motion passed by a unanimous voice vote.
- ADJOURNMENT:** With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 1:35 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, February 15, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>H45</u></a>	Legislation to provide for an Idaho Aviation license plate.	Senator Chuck Winder
<a href="#"><u>S1001</u></a>	Legislation to require unlicensed riders of ATVs, UTVs, Speciality Off-Highway Vehicles and Motorbikes who use national forest roads to complete a State approved safety course.	Mr. Tom Crimmins, Idaho Recreation Council
<a href="#"><u>S1073</u></a>	Legislation to provide for a veterans license plate for those who have served in the Afghanistan and Iraq conflicts.	Senator Diane Bilyeu
<a href="#"><u>S1072</u></a>	Legislation requiring children 12 years of age and younger to wear a bicycle helmet when bicycling on public roadways.	Senator Diane Bilyeu
<b>Minutes</b>	Approval of Minutes of the January 25, 2011 Committee meeting.	

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, February 15, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/  
EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:35 p.m. The Chairman welcomed all in attendance and offered a general reminder of the purpose of Committee hearings; to wit, to review and screen legislation to determine if it should move on to the full Senate.

**H45:** **Senator Winder** said while this legislation is a license plate bill, it's different. Idaho has a unique system of backcountry airfields, recognized nationally and internationally. They provide for recreational use, fire suppression, and emergency evacuation; the problem is the maintenance of these facilities. The Idaho Aviation Foundation thought a license plate would be a way to help maintain and pay for the maintenance of these airstrips, which is where the funds raised would go. There is no fiscal impact to the State. **Senator Winder** stood for questions. There were no questions and no further testimony.

**MOTION:** **Senator Winder** moved that H45 be sent to the Senate floor with a do-pass recommendation. **Senator Bilyeu** seconded the motion. **Senator Werk** agrees that airstrips should be maintained, but he will not be supporting license plate bills. He pointed out a lawsuit in New Jersey that could affect other States. The motion passed on a voice vote. **Senator Corder** and **Senator Werk** cast dissenting votes. **Senator Winder** will carry the bill on the Senate floor.

**S1073:** Given the full agenda and the desire of many to testify on certain bills, **Chairman Hammond** rearranged the agenda in order to hear S1073 next. **Senator Bilyeu** said this is a license plate bill that would add a military license plate honoring those serving in the Afghanistan and Iraq conflicts. This is a small way of honoring those members of the military. This bill came to be because of a constituent, Brandie Jacobus of Chubbuck, whose husband is serving in Iraq right now. She felt that the men and women serving in these conflicts should be recognized. **Senator Bilyeu** stood for questions. There were no questions for the Senator.

**TESTIMONY:** Brandie Jacobus thanked the Committee for this opportunity to testify. She spoke to the issue of this being important to veterans; and shared her family's difficulties with her husband serving in Iraq. Mrs. Jacobus stood for questions. There were no questions.

Brigadier General Alan Gayhart, Assistant Adjutant General of the Idaho Army National Guard and previous Commander of the 116 Brigade Combat Team in Iraq, began by introducing the other members of the military accompanying him. The General supports this legislation that honors the great Idahoans who serve in the longest war in our nation's history. It is also one of the most challenging times in our nation's history. The General stood for questions; there were none. **Chairman Hammond** thanked the General and all the men and women serving our nation.

**MOTION:**

**Senator Bilyeu** moved that S1073 be sent to the Senate floor with a do-pass recommendation. **Senator McGee** seconded the motion. **Senator Corder** commented that he recognized that this was different in that a conflict is being added to an existing license plate. He went on to say that those serving should always be honored, and something should not have to be added in order to do so. He appreciates the sacrifice that wives and mothers and fathers and families have made, but we don't have a plate for them. He appreciates their sacrifice every bit as much. He honors all those people, but to make one more plate simply to call out something we should be honoring every single day should not have to be done. We should be honoring veterans and police officers and firemen simply because they are serving us every day, not because we have a license plate for them. **Senator Winder** commented that he doesn't have a veterans plate on his vehicle anymore because he has a Senate plate; but when he did, he received messages and notes that people would leave thanking him for his service. Sometimes they were negative, but most of the times they were positive. He also thanked **Senator Corder** who is a very distinguished veteran of Viet Nam. **Senator Winder** respects him and his integrity in this debate. There was no further discussion. The motion passed on a voice vote. **Senator Corder** and **Senator Werk** cast dissenting votes. **Senator Bilyeu** will carry the bill on the Senate floor.

**S1001:**

**Chairman Hammond** informed the Committee that while this bill is being heard today to accommodate the schedules of people wanting to testify. We will continue the hearing at a future Committee meeting. The Chairman welcomed Mr. Tom Glass of the Idaho Recreation Council to present the bill. Mr. Glass thanked **Senator McGee** for his help in sponsoring this bill. The bill addresses two issues associated with off-highway vehicle (OHV) use in Idaho. He referred to S1098, a bill adopted by the legislature in 2009. It allowed unlicensed youth OHV rider to use any road on federal or State land, where the road is not part of the State highway system, when supervised by a licensed adult operator. This was done to facilitate families riding together when they're in the woods.

After the bill passed, there were several groups and individuals that had problems with the language. One of provisions questioned was the definition of the word "supervised." This bill clarifies the definition to indicate that the supervising adult must be in a position to provide close support, assistance, or directions to an unlicensed operator. It specifies distance if the supervising adult is not on an OHV.

The second issue is the training requirements for the unlicensed operator. The State decided years ago that it was important to train youngsters who wanted to participate in an activity where an accident could have catastrophic outcomes. A mandatory hunter education requirement was adopted. Hunting accidents have been reduced as a result, and hunting is safer. In Idaho there are people being seriously injured and killed using ATVs and motorcycles; and statistics show that about one-third of them are under 16 years of age. He pointed out that if the hunter-safety model were applied here, statistics would improve. He understands that imposed mandates on citizens is not favored by the legislature. This is why the requirement of safety training has been limited to only those unlicensed youths who ride or may ride as part of a family group on Forest Service roads. He noted that currently Idaho has a mandatory helmet requirement for motorcycle and ATV riders under 18 years of age.

This bill focuses on Forest Service roads because of the agency's concern for safety problems caused by the change in Idaho law that currently allows supervised unlicensed riders on their roads. For years people rode on Forest Service roads illegally. However, now that the change is in State statute, the Forest Service has the responsibility to recognize its existence in their planning efforts. The Missoula and the Ogden regions of the Forest Service agreed that a training requirement would help reduce their concern. The analysis process will continue but the argument for more road closures would weaken; more could be retained for public access. This bill requires the unlicensed operator carry proof of training, which was patterned after existing law governing proof of insurance for automobile drivers. This will reduce the OHV issues that they have. He asked for Committee support of the bill and that it be forwarded to the floor with a do-pass recommendation. Mr. Glass stood for questions.

#### **QUESTIONS:**

**Senator Winder** wondered why the age of 16 was chosen. Mr. Glass said that if they qualify for an Idaho drivers license they are legal riders. **Senator Winder** was thinking of the hunter's safety age at 12 years of age and wondered why it wasn't changed. Mr. Glass had no information to offer.

**Senator McGee** offered background as to why this issue is before the legislature. There have been some negotiating with the Forest Service to draft language that will allow continued use of ATVs on Forest Service land in the State of Idaho.

**Senator Bair** has been involved as well. This bill is the compilation of that effort. It's meant to send signals to the Forest Service and Mr. Brunelle that the State of Idaho is serious about trying to find a path forward on this issue. The negotiations with the Forest Service included user groups and key legislators in an attempt to solve the problem.

**Senator Corder** wondered how riders would know they're on a National Forest Service road or a county or State road. Mr. Glass said there were maps available and they're working with the Forest Service and BLM (Bureau of Land Management) to get current and updated maps in all the popular riding areas. Those in organized clubs have a good general knowledge of public land and private land. **Senator Corder** wanted to know about an unlicensed adult or someone who forfeited their license. Mr. Glass was unable to answer that question as it did not come up in the debate.

**Vice Chairman Brackett** asked about the Statement of Purpose that identifies national forest roads but in the bill it refers to public lands. Is the intent to include all public lands including BLM? Mr. Glass didn't know if BLM had been involved in the negotiations. **Vice Chairman Brackett** wondered if he was aware that in the bill it says that federal lands will include BLM lands. Mr. Glass knew it said federal and State lands. **Vice Chairman Brackett** commented that we'll have to go with what's in the legislation.

**Senator Werk** commented that in looking at the legislation, page 2, line 41, it states national forest roads. There were no further questions for Mr. Glass. **Chairman Hammond** thanked him for filling in at the last moment.

**TESTIMONY:**

Mr. David Claiborne, a representative of the Idaho State ATV Association, testified. The Association represents 25 local riding clubs throughout the State with about 2,500 members that includes all OHV operators in the State of Idaho. The Association supports the bill, but there are concerns that need to be addressed. One specific concern is with respect to the State approved course; it should be clarified that the safety course be approved by the Idaho Department of Parks and Recreation. The Association thinks that a parent should have an option to provide the education, which is similar to the hunter's safety course. The age-based restrictions is another concern. The bill doesn't address this issue at all and it is their understanding that the operators needs to be able to reach all the controls of the machine – breaks, accelerator, ignition. There is no enforcement mechanism with respect to consequences; the Association thinks it should be a general misdemeanor to the supervising adult. Finally, if they're in the process of training, an unlicensed youth operator should be allowed to ride on a Forest Service road. Mr. Claiborne stood for questions. There were no questions for Mr. Claiborne.

Mr. Russ Hendricks representing the members of the Idaho Farm Bureau Federation testified. Under most circumstances, the Farm Bureau agrees with the Idaho Recreation Council, but this is one time that they have a difference of opinion. Farm Bureau members oppose S1001. They feel this is really a solution looking for a problem. The State law change a few years back clarified that riders could ride on federal lands, State lands, other roads that were open to use at that time, as they have always been able to do. It did not open up any additional roads or change who could ride on roads. The Farm Bureau doesn't see that there has been any change in use which is backed up by the Forest Service. Their study on what occurred with the changes in the law didn't find any additional accidents or mixed-use crashes. An article in the local paper stated that the real problem is with the youth who are unsupervised. This bill specifically addresses Forest Service lands, but the next may be BLM lands, and then State lands, and then private lands. They're concerned that personal responsibility needs to take hold and parents need to make sure that their children have the training and supervision that they need. The Farm Bureau is all for safety and believes safety courses and training is good, but at the same time they do not accept a mandate forcing everyone to abide. He requested that the bill be held in Committee. Mr. Hendricks stood for questions.

**QUESTIONS:**

**Senator Corder** asked what the Farm Bureau's position was on the bills voted on in 2008 and 2009. Mr. Hendricks said they supported those bills. **Senator Corder** asked if he saw this as a conflict with that position. Mr. Hendricks doesn't see a conflict, the previous bills clarified the current practice. In current law, if they are underage, they need to be supervised; the unsupervised are causing the problems and should be cited. **Senator Corder** remembers the Forest Service testified against the passage of those previous bills. The State created a mess, but this may not be the correct fix. There were no further questions for Mr. Hendricks.

**TESTIMONY:**

Mr. Andy Brunelle who works for the U.S. Forest Service in Boise testified on behalf of the national forests in the State of Idaho. The Forest Service and the State of Idaho share a mutual responsibility and work together in providing opportunities for people to drive off-road vehicles in a safe environment. State traffic laws apply on national Forest Service roads. State governments have taken the lead in establishing registration, safety, and licensing requirements for motor vehicles and their operators. The U.S. Department of Agriculture and the U.S. Forest Service believes that a separate registration or licensing process for operators would be confusing, inefficient, and intrusive. The passage of S1098 in 2009 removed the requirements for a drivers license for the underaged to operate a highway vehicle on national Forest Service roads. Questions were raised about safety for the OHV operator and the driver of other vehicles on the roads. That bill also left in place a requirement for a drivers license to drive an OHV on a county or local highway district road. Some of these roads are actually located in national forests and are seamlessly connected to national Forest Service roads; and he proceeded to give examples. There are licensing requirements in some places and no requirement on Forest Service roads. They've worked with the Idaho Recreation Coalition on legislation to help address the safety issue. It better defines required supervision for underage drivers, and sets forth a training requirement for the younger age. He commended the Idaho Department of Parks and Recreation for stepping up their OHV travel training program, where they did some outreach to people who operate OHVs in the State and encouraged them to voluntarily get their children into vehicle training programs. He explained the process last year that involved the Governor; the results were held for this 2011 legislative session.

The Forest Service finished a travel plan for the State of Idaho two years ago, but then the State law was changed which created an uncertainty for the Forest Service. With directions from higher office, they looked at public safety and the mix of vehicles using the same roads. In North Idaho that changes slightly, and in other parts of the State they wanted to restrict roads to highway vehicles only; he used the example from Highway 75 to Red Fish Lake – two lanes, paved, high speed, high volume of traffic. The Forest Service is undertaking to look at some of those roads. S1001 would go a long ways towards helping this clear the list of roads that may need renovation in the future – removing brush, placing information signs, and other actions.

There are 7,000 miles of roads opened to regular vehicles; within that there is a subset of about 800 miles of Forest Service roads that are 2-lane and paved. The youth training will help insure that younger drivers receive experience in dealing with motorized trails intersections meeting a Forest Service road, or side-roads that meet a major Forest Service road. He cited an example of a terrible mixed-use crash last year. Their concern with public safety is largely addressed in this legislation that they've worked on with the Idaho Recreation Coalition. Recreational use of off-road vehicles is a popular and growing activity on Forest Service roads. Training for youth was a compromise and is similar to what the Forest Service has put in place in Utah and Montana. Mr. Brunelle stood for questions.

**QUESTIONS:**

**Senator Corder** questioned Mr. Brunelle's emphasis on "largely" gives you what you want; is this all that the Forest Service needs? Mr. Brunelle says it addresses the safety issues on a set of roads they've been looking at with substantial off-road use and where they can place signage. There are some roads that they may have to address in the future where there could be a conflict between motor vehicles and families and children using them. **Senator Corder** specifically asked about Boise County where there are a lot of 2-lane gravel roads; he understands a number of them have been listed as roads of concern and the County Commissioners have received strong hints from the Forest Service that if there was some legislative action taken, some of those roads would be taken off the list of roads of concern. Mr. Brunelle said that is correct and cited an example of concern with dirt bike riders in Boise County. **Senator Corder** wanted to know if Mr. Brunelle had an opportunity to evaluate any amendments that Mr. Claiborne mentioned. Mr. Brunelle said the one amendment to make it clear that the Idaho Parks and Recreation Department would be the entity to provide the State approved training program would be important to be included. There were no further questions for Mr. Brunelle. Testimony was concluded.

**MOTION:**

**Senator McGee** moved that S1001 be held in Committee subject to the call of the Chairman. **Senator Bair** seconded the motion. **Senator McGee** continued that there is a problem and legislators need to examine other legislation trying to address this problem and determine a path forward. The Forest Service is threatening to close down the use of Forest Service land to Idahoans who want to ride ATVs. If we do not come up with a path forward, Idahoans could be locked-out of recreating on Forest Service land with ATVs. **Senator Corder** doesn't mind holding the bill as long as other pieces of legislation are being considered. Boise County needs to have something passed this year. If there is no legislation, then he would move to send S1001 to the Senate amending order. **Chairman Hammond** assured **Senator Corder** that a meeting has been set for all the main principles to this issue to sort out other legislation so that the issue can move forward. With no further discussion, the Chairman called for a voice vote. The motion passed with a unanimous voice vote.

**S1072:**

**Senator Bilyeu** presented the bicycle helmet bill requiring any child 12 years old or younger riding a bicycle on a roadway must wear a helmet. First part of the bill adds the definition of a bicycle helmet. Section two is the new section of the bill includes not only bicycle riders but also those being pulled by a bicycle. The fine is a civil penalty to the parent or guardian who fails to meet their responsibility; they shall be fined \$25 for the first offense; and \$50 for each subsequent offense. The Senator has received many favorable e-mails especially from physicians; and one negative e-mail from an individual. The Senator stood for questions.

**QUESTIONS:**

**Senator Bair** spoke about personal experience growing up on a farm and wanted to know if this legislation would be required on remote farm roads. **Senator Bilyeu** said that it probably would.

**Senator Werk** asked about the civil penalty portion of the bill that dedicates half of all the penalties collected to the local jurisdiction and wanted to know if that was standard or if it was different than where funds would usually go; he wanted to know why it was specifically mentioned. **Senator Bilyeu** said she understood that it was a standard way to distribute the funds, and that it had been discussed.

**Senator Winder** asked about page 1, line 12 and whether the definition of bicycle included tricycles. **Senator Bilyeu** said if they were actually riding on a roadway, then yes it would.



**TESTIMONY:** Mr. Chris Estes discussed the experience his daughter, Dorothy, had when she was hit by a car while riding her bicycle to school. It was an accident but when the front bumper of the car hit her, she was thrown onto the hood of the car; her head hit the windshield and broke the glass. If she had not been wearing her helmet, her injuries would have been much worse. Her helmet cost \$20. The teen driver who hit her did not have to suffer the trauma of possibly killing a young girl. The Estes family has become interested in safety issues; Idaho is one of eleven States that do not have child helmet laws. It is the parents duty to ensure their child's safety; he sees this issue as being similar to the seat belt law. Mr. Estes stood for questions.

**QUESTIONS:** **Senator Werk** stated that the cost of helmets are even less than the cost quoted. Mr. Estes corroborated the Senator's statement.

**Senator Bilyeu** pointed out that the pictures included in the record were from Dori's accident; and [www.prohelmet.org](http://www.prohelmet.org) provides helmets for those that cannot afford them.

**Chairman Hammond** asked if Dori would like to testify. **Senator Bilyeu** asked Dori if she was scared when she was hit by the car. Dori said that she was scared and that it hurt. There were no further questions.

**TESTIMONY:** Dr. Stacia Munn is a family physician in Boise, a mother of two, works at the Family Medical Residency of Idaho, and is a faculty member. She supports the bill. The leading cause of traumatic brain injury for ages one to 24 in the United States is unintentional injury. And one of the common causes of brain injury are secondary to bicycle accidents or trauma. This would have a lot of community impact. Many of these victims happen to be medicaid patients; and people who suffer from these conditions need more resources. She strongly supports the passage of this bill and quoted statistics on the impact these laws have had in States that have enacted them. Dr. Munn stood for questions. There were no questions for Dr. Munn.

Lyn Darrington stated, in the interest of time, that her client supports the bill.

**QUESTIONS:** **Senator Corder** asked where the 50% of the fees that will go into the State general fund will specifically go. **Senator Bilyeu** didn't have a specific area where the funds would go.

**Vice Chairman Brackett** asked **Senator Bilyeu** what "convincing evidence" as stated on the last page of the bill would suffice the requirement with law enforcement. **Senator Bilyeu** said a sales slip indicating a helmet had been purchased. **Vice Chairman Brackett** understood but thought that from an enforcement perspective there was a big loophole. **Senator Bilyeu** agreed that it was loose, but the bill is important from an educational perspective. She understood the issues of concern, but feels the legislation is important.

**MOTION:** **Senator Werk** asked that given the current time constraint that the hearing be extended to another time; he moved that it be held to another time. **Senator Bilyeu** seconded the motion to hold S1072 subject to the call of the Chair. The motion passed with a unanimous voice vote.

**MINUTES:** **Vice Chairman Brackett** moved that the minutes of the January 25, 2011 Committee meeting be approved. **Senator Bilyeu** seconded the motion. No discussion. The motion passed with a unanimous voice vote.

**ADJOURNMENT:** With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 3:01 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Thursday, February 17, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>S1072</u></a> (continuation of hearing)	Legislation requiring children 12 years of age and younger to wear a bicycle helmet when bicycling on public roadways.	Senator Diane Bilyeu
<a href="#"><u>H17</u></a>	Legislation to comply with Federal Motor Carrier Safety Administration regulation that establishes new requirements for drivers subject to Commercial Drivers Licenses (CDL) and medical certificate requirements.	Mr. Ed Pemble, Idaho Transportation Department
<a href="#"><u>S1094</u></a>	Legislation clarifies that political subdivisions may purchase items from the federal government schedules (GSA or MAS).	Mr. Stuart Davis, Idaho Association of Highway Districts
<a href="#"><u>S1093</u></a>	Legislation dealing with fenders or wheel covers (mud flaps) on motor vehicles to change enforcement of a violation from a primary action to a secondary action.	Senator Shawn Keough

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, February 17, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:36 p.m. A silent roll was taken. The Chairman introduced the Committee's Page for the second half of the session, Miss Heather Sweet of Nampa, Idaho.

**S1072** The Chairman said the first order of business was to take up S1072; the hearing on this bill was completed at the February 15, 2011 meeting of the Committee. The Chairman asked the Committee for a motion on S1072.

**ORIGINAL MOTION:** **Senator Bilyeu**, the sponsor of the bill, reminded the Committee that there were several recommendations made to make the bill stronger. **Senator Werk** made a motion to send S1072 to the 14th Order of business. **Senator Bilyeu** seconded the motion. The Chairman asked for discussion on the motion.

**SUBSTITUTE MOTION:** **Senator McGee** said this Committee is often faced with decisions on safety issues. The challenge is to find the line between too much government intervention and meeting the safety needs of Idahoans. The Senator doesn't presume to know where that line is, but he thinks this bill goes a little too far. **Senator McGee** proposed a substitute motion that S1072 be held in Committee subject to the call of the Chair. **Senator Bair** seconded the motion. The Chairman asked for discussion on this substitute motion.

**Senator Werk** wanted to discuss both motions. There is always a lot of discussion surrounding personal responsibility legislation. One of the Senator's tenets is that an individual's responsibility ends when you reach into the taxpayers' pocket in order to cover costs of whatever the individual's actions might be. Traumatic brain injuries cost a lot of money and people's insurance doesn't seem to cover all of those costs, especially when they become disabled for life. They end up on Medicaid and basically reaching into the taxpayers' pocket. He understands the difficulty of enforcing a law like this; sometimes they're not about enforcement, they're about informing the public about desires and priorities of the State. The Senator believes that children SHOULD be in the position of wearing safety gear on their heads to protect themselves; and their parents should be in a position to require their children to do so. The Senator understands the difficult policy implications, but he believes the original motion would be the best. There was no further discussion.

The Chairman called for a vote on the substitute motion; if it passes the original motion will have failed. The substitute motion passed by a voice vote with two dissenting votes cast. S1072 will be held in Committee.

**H17:**

The Chairman welcomed Mr. Ed Premble, Drivers Services Manager at the Idaho Transportation Department (ITD). Mr. Premble introduced Mr. John Barsness, ITD's Commercial Driver's License (CDL) Specialist, who also holds a CDL and a medical card, which is what this legislation is about. Mr. Premble also introduced Lieutenant Jim Eavenson of the Idaho State Police's (ISP) Commercial Vehicle Safety Section (CVS); he will talk about the safety issues related to this bill.

Mr. Premble began stating that H17 implements Federal Motor Carrier Safety Administration (FMCSA) requirements for CDL drivers and for States. The federal deadline for States to implement this requirement is January 30, 2012; this is the last legislative session before that deadline date. It is the last opportunity to establish the legal foundation for what the federal government wants the States to do. ITD requested an extension, but the request was denied. Currently the Department of Motor Vehicles (DMV) does not track the driver's CDL medical card. If H17 passes, drivers who currently need the medical card will continue to go through the same process to get a card. All CDL drivers will declare one of four driving categories that they expect to operate in. Those categories are: non-excepted interstate, excepted interstate, non-excepted intrastate, and excepted intrastate. These terms are all defined in H17. For those drivers declaring either of the "non-excepted" categories, they will need to present a card. Key information will be entered off the card including expiration date and the card will be scanned. DMV will track card requirements and the expiration date. If the driver allows his card to expire, the driver will be notified by ITD and a downgrade action will be initiated. The term "downgrade" is also defined in H17. If this bill is enacted, the DMV will notify drivers of the new requirements and provide various methods to comply. The fiscal impact is considerable but will be recovered by an improvement grant that ITD has already received. Postage expense is not provided for in the grant; those costs are estimated to be \$39,000 in the first year, and \$15,000 each year after that. There is a greater financial impact for NOT implementing the legislation. After one full federal fiscal year of noncompliance, Idaho would lose \$750,000 per month, or \$9 million per year, beginning October 1, 2013. After one year at that level, it would be \$1.5 million per month, or \$18 million per year that would be lost from highway funding. Other grants would be affected. Mr. Premble stood for questions.

**QUESTIONS:**

**Senator Corder** asked when the CDL drivers are notified that they need to certify to ITD; how will the certification take place; what is required of the drivers? Mr. Premble said the letter will explain that each driver has to declare one of those four driving categories. They'll need to bring in their current CDL medical card if they are in a "non-except" category. They will have to have their cards scanned which will be included in the instructions. There will be web tools as well. **Senator Corder** asked about renewals and whether ITD expected physicians to send in the certification. Mr. Premble said it is the driver's responsibility. FMCSA has reviewed H17; this is the legal foundation. In the future, FMCSA is going to propose legislation that will require the medical examiner to enter the medical card information into the FMCSA provided system that does not exist yet. **Senator Corder** asked for information about the downgrades. All the cards will be scanned into a database that will generate a report to ITD that says there are some people whose certification is expired; ITD will send notices of downgrade to the drivers or to their employers? Mr. Premble said the notice will be sent to the drivers; employment records are not kept. **Senator Corder** asked if ITD knew the address of each of these drivers who spend most of their days in their trucks. Mr. Premble said the address ITD has on file is both the physical address and their mailing address. **Senator Corder** asked what the contingencies are if that address changes, which happens often with truck drivers. Mr. Premble said the requirement to notify ITD on any address change is already in Idaho statute;

that has to be done within 30 days of the move to the new address. If the driver does not follow the statute, they will not get the notifications they need. ITD can stress that a current address must be on file at all times. **Senator Corder** asked what is required at port of entries when a truck comes through; will the databases be synchronized so the information is available? Mr. Premble said that while this legislation provides the legal foundation to enact the federal requirements, the implementation won't be 100% complete until ITD has the full integration between the information on the driver's record and the national system. This will be ITD's greatest challenge. At first, a check will need to be done on a separate database. When it is fully integrated, it will come back automatically with all the CDL medical card information.

**Senator Bair** asked about the type of medical information needed, as he is concerned about confidential information becoming public. Mr. Premble said the information is not detailed; it does not contain any actual medical details. It includes the name and signature of the medical examiner and his telephone number, the date of the exam, their medical specialty and license number, and the driver's name, license number, State, and signature. On the top of the card there are six categories: wearing corrective lenses, hearing aid, a waiver, driving within an exempt intracity zone, skills performance evaluation certificate, or qualified by operation code. The information is very general. **Senator Bair** asked if in the process of downgrading if the examiner finds a health issue, wouldn't that information need to be passed along? Mr. Premble said the downgrade action is not actually going to be completed or initiated by the medical examiner; ITD will take the downgrade action if the driver allows his medical card to expire.

**Senator Werk** read the line 6 on page 13, subsection 4. That line does not provide for the time-frame for the notification letter. It appears that your intent is within 10 days, but you have forever to mail the notification; and they have 60 days to change their overall status. Mr. Premble explained how ITD plans on notifying the driver. There were no further questions for Mr. Premble

**TESTIMONY:**

Lieutenant Jim Eavenson of ISP testified; ISP supports H17. Lt. Eavenson was here to discuss some of the safety concerns. The FMCSA's goal, and ISP's goal, is to reduce crashes; technological changes to vehicles have made them safer. The focus is shifting to driver aspects, which is why drivers are being asked to certify that they have had a valid medical certification which helps driver safety and public safety. The lieutenant cited various examples of why this is important. Currently ISP inspects commercial vehicles and their drivers; when they're required to have a medical card, they look at that as well. Unfortunately, ISP only looks at a small percentage. This will give another opportunity to look at those cards more regularly; it's another check-and-balance to show that they do have a medical card and it is current and valid. Lieutenant Eavenson stood for questions.

**QUESTIONS:**

**Senator Corder** asked if a driver is put out-of-service, if he has an invalid card, would he be immediately downgraded? Lt. Eavenson responded that currently the driver is NOT out-of-service if he doesn't have the card with him, or has an expired card with him. Page 13, section 4 says their drivers license status shall be downgraded to "not certified." This is not an out-of-service condition. This is a new term that hasn't been entered into the out-of-service criteria yet. **Senator Corder** asked if the federal government will make that determination of whether that becomes an out-of-service criteria. Lt. Eavenson said that the federal government, historically, has not wanted a CDL to be considered disqualified for nonmoving violations; they only care about moving violations that could disqualify them. **Senator Corder** commented that Idaho doesn't get to choose what is on the out-of-service list. That directive comes to us; they don't even ask us. Lt. Eavenson said that ISP does have input on the criteria; we send representatives from the State who participate in the decision-making process at

the safety alliance meetings; we have full representation. There were no other questions for Lt. Eavenson.

**TESTIMONY:** Mr. John Barsness of ITD's CDL program said he didn't have any new information but was at the Committee in support of Mr. Premble. He offered to stand for any questions that could help clarify the issues. There were no questions for Mr. Barsness.

**CLOSING REMARKS:** Testimony concluded and there was no further discussion from the Committee. **Chairman Hammond** asked Mr. Premble if he had any closing comments. Mr. Premble offered to respond to a question from Senator Corder about having a CDL card revoked. He referred the Committee to page 5; there is a change in section 49-301, Idaho Code, by adding section "E" under 6, lines 48 and 49, and page 6, lines 1 through 8. It makes a 49-0301 violation a ticketable offense if a person is performing a type of driving that requires a medical card but doesn't have it on-file with ITD. There is not a disqualification for this, but it would be a ticketable offense in Mr. Premble's opinion. With that, testimony was concluded.

**MOTION:** **Senator Corder** moved that H17 be sent to the Senate floor with a do-pass recommendation. **Senator Bilyeu** seconded the motion. The Chairman asked for further discussion on the motion. The motion passed by a unanimous voice vote. **Chairman Hammond** will carry the bill on the Senate floor.

**S1094:** Mr. Stuart Davis of the Idaho Association of Highway Districts presented S1094 to the Committee. It is a housekeeping bill dealing with the exclusions of the bidding section. In 2005, the cities, counties, school districts, and State got together and rewrote the bidding laws. There is a section specifically placed in the law for the federal government, because the intent was that the General Services Administration (GSA) schedule and the Multiple Awards Schedule (MAS) be exempt from these provisions. But the first part of the law (line 11) says that goods or services have to be "competitively bid." The problem is that the federal government doesn't competitively bid anything under \$25,000 in the goods and services categories because they have the GSA and MAS schedules. You can buy anything off of these schedules. The federal statute says that these are considered competitively bid. But they are not competitively bid according to this Idaho statute. Mr. Davis is asking the Committee to carry forward the intention of the act of 2005 and allow the State and all political subdivisions to purchase off the GSA or MAS schedules. Mr. Davis stood for questions. There were no questions for Mr. Davis.

**MOTION:** **Senator Keough** moved that S1094 be sent to the Senate floor with a do-pass recommendation. **Senator Corder** seconded the motion. There was no discussion on the motion. The motion passed by a unanimous voice vote. **Senator Corder** will carry the bill on the Senate floor.

**S1093:** **Senator Keough** presented S1093 to the Committee. The Senator referred the Committee to a possible amendment to this bill that is included in their packets. The Senator asked that if the Committee votes this bill to the Senate floor, it be sent to the amending order for consideration of this amendment. It exempts vehicles that are required to go through ports of entry – tractor trailers, semi-trucks, etc.

The reason for bringing this piece of legislation stems from correspondence the Senator has received over the past couple of years from constituents with regards to law enforcement pulling over vehicles for a violation of the statute for lacking a mud-flap. Using it as an opportunity to either cite for other offenses or to do searches with or without probable cause. The Senator directed the Committee to a photograph of a pickup truck they have in their packet. It represents your basic rural Idaho pickup truck. It was bought used and it did not have mud-flaps on it, although the photo shows one currently on the truck. The Senator recognizes that there are safety concerns, especially for the bigger rigs. The concern is that this section of law is being used inappropriately. It's a \$62 fine; it seems that for cars and pickups the safety issues aren't quite as broad and that it should be a lesser degree of enforcement and a lesser fine. This legislation would make not having the mud-flap and fender requirement on cars and pickups a secondary action. The Senator pointed out a copy of a letter from a Sandpoint attorney in their folder that outlines his concerns. The Senator has a request in for more statistics about the number of times people are pulled-over and cited for this. The citations in Bonner County number over 100, but those are for the mud-flap incidents only when a citation is given. It does not account for whether or not the driver was pulled-over for a lack of mud-flaps and cited for something else. **Senator Keough** stood for questions.

**QUESTIONS:**

**Senator Werk** wondered if there is a truck that remains wholly in the State, does it go through ports of entry, or if they don't (intrastate) would they be required to have mud-flaps according to this? **Senator Keough** said that her understanding of the law, whether it's interstate or intrastate, you have to stop at the port of entry – it's a weight issue; 5 axles and 26,000 pounds. There were no further questions for **Senator Keough**.

**TESTIFY:**

Lieutenant Eavenson of ISP testified in opposition to this bill because of public safety concern that ISP sees almost everyday out on the roadway. This bill would make it a secondary infraction which means they would not be able to stop a violator causing a safety hazard on the roadway. It appears this also applies to commercial vehicles; it also applies to modified vehicles. He referred to the photographs he provided for the Committee's packets. These demonstrate vehicles causing a hazard to other vehicles. The other photo on the handout deals with non-truck/trailer, noncommercial, and a modified vehicle. The tire is a popular tire; this photo addresses mud-flaps and fenders and the tires extend beyond the fender, picking up stones and debris which throws it forward. This is a hazard to motorcyclists, bicyclists, or pedestrians; or kids on horseback riding next to the road. These are legitimate safety issues; and there are monetary issues to motorists in terms of damage to their vehicles, or medical emergency issues. There is no federal rule addressing mud-flaps or fenders; they leave that to the States. Lt. Eavenson stood for questions.

**QUESTIONS:**

**Senator Corder** commented that the issue **Senator Keough** raises is a very real issue; perhaps some are interpreting Idaho law up North in a way that the lieutenant and his colleagues aren't addressing down here. Does this regularly happen? Lt. Eavenson answered by stating he has a vehicle almost identical to the pickup in the Senator's photograph; it doesn't have mud-flaps. The lieutenant said that looking at the Code, it doesn't seem proper to stop this vehicle and cite them for mud-flaps. **Senator Corder** asked how can this issue be reconciled with what's occurring and your understanding of the law. Lt. Eavenson said he doesn't know all the details of this incident, but he believes it is a training issue. There were no other questions for the lieutenant.



- TESTIMONY:** Ms. Lyn Darrington of Gallatin Public Policy Group testified on behalf of her client, State Farm Insurance; they oppose this legislation. There are two primary reasons they oppose this legislation: safety issues, and this bill, if it passes, will interfere with insurance review and information. By eliminating the moving violation status, this would eliminate the ability for an insurer to rate or underwrite using this information. Ms. Darrington stood for questions. There were no questions.
- CLOSING REMARKS:** **Senator Keough** thanked the Committee for consideration and the Senator appreciates the comments and concerns of the lieutenant. Some law enforcement readily admit that this statute is an excuse to stop a motorist. The photograph is indicative of what the problems are. Maybe this bill isn't it, but there has to be a balance found. The Senator welcomes suggestions the Committee might have to accomplish this balance.
- MOTION:** **Senator Corder** believes there are some more conversations that need to occur; maybe there are legislative fixes. **Senator Corder** moved to send S1093 to the 14th Order for possible amending. **Vice Chairman Brackett** seconded the motion. The Chairman asked if there was any discussion on the motion.
- Senator Werk** said that this is not the statutory change needed; this is a training and enforcement issue. There are amendments that could be done, but the problem resides with any particular police force in particular areas, in terms of training associated with this. The Senator found the letter from the attorney offensive; that police do things for nefarious purposes. There was no further discussion.
- The Chairman called for a vote. The motion passed by a voice vote; **Senator Werk** cast a dissenting vote. The bill will be carried by **Senator Keough**.
- RECOGNITION:** **Chairman Hammond** thanked Senate Page Sara Jane Stowell of Hagerman for her superb service to the Senate and to the Committee. She will be attending The College of Idaho in Caldwell in the fall. The Chairman presented her with gifts from the Committee. She was recognized by the Committee with a round of applause.
- ADJOURNMENT:** With no further business before the Committee, **Chairman Hammand** adjourned the meeting at 2:40 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, March 01, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>S1001</u></a> <b>(continuation of hearing)</b>	Legislation to require unlicensed riders of ATVs, UTVs, Speciality Off-Highway Vehicles, and Motorbikes, who use national forest roads, complete a State approved safety course.	Ms. Sandra Mitchell, Executive Director, Idaho Recreation Council
<a href="#"><u>S1088</u></a>	Legislation allowing an insurer, when a vehicle has been determined to be a total loss, to take possession of the vehicle by paying the towing and storage costs and moving the vehicle to a facility of the insurer's choice pending resolution of the claim.	Mr. Paul Jackson, Government Affairs Representative, Farmers Insurance
<a href="#"><u>S1089</u></a>	Legislation that provides insurance carriers a process to dispose of salvage vehicles when the title has been lost in the mail, mislent by the lien holder, or is otherwise unavailable and the loss has already been paid for by the insurance carrier.	Mr. Paul Jackson, Government Affairs Representative, Farmers Insurance
<b>Minutes</b>	Approval of Senate Transportation Committee meeting minutes of January 27, 2011 and February 1, 2011	

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, March 01, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:32 p.m. and welcomed guests. He introduced Garrett Nancolas, Mayor of Caldwell, Idaho. Mayor Nancolas introduced the Youth Advisory Council from the Caldwell High Schools. **Senator McGee** thanked the students from the Youth Advisory Council and the Mayor for attending the meeting and noted that the students on the Council would be future leaders in Canyon County and the State of Idaho.

**S1001:** **Senator Hammond** stated the Committee would begin with the continuation of the hearing for S1001 to allow testimony to be heard.

Relating to all-terrain vehicles, the purpose of this act is to amend Section 49-302, Idaho Code to require unlicensed riders of ATVs, UTVs, Specialty Off-Highway Vehicles and Motorbikes who choose to use national forest roads, complete a state approved safety course. To provide for certificates showing proof of completion. To define the term "supervised" to more clearly identify what constitutes an acceptable level of supervision.

**TESTIMONY:** Russ Hendricks, Idaho Farm Bureau (IFB), spoke in opposition to S1001. He stated that this bill is not the proper way to deal with U.S. Forest Service roads being closed to ATVs and UTVs. If an off-road rider does not use common sense when operating a vehicle, this bill will not help.

**QUESTIONS:** **Senator Corder** asked what other options IFB recommends to keep Forest Service roads open. Mr. Hendricks answered their preference would be to encourage all riders to take safety training and stay involved with Forest Service road management. **Senator Corder** asked if Mr. Hendricks is content with this bill. Mr. Hendricks replied current language requires supervision but the Forest Service does not feel the supervised riders are the issue, it is those who are unsupervised that cause a problem.

**Senator McGee** asked if Mr. Hendricks and the IFB supported this legislation previously. Mr. Hendricks responded no, they supported a previous bill that stated unlicensed riders under 16 could ride on public land roads if supervised. **Senator McGee** noted the Forest Service is concerned that if legislation such as S1001 does not pass, they may have to keep Idahoans off Forest Service land and asked what the IFB would like to see happen in order to avoid that situation. Mr. Hendricks answered IFB does not see that this legislation would make any difference. **Senator Bilyeu** asked if the Forest Service is more concerned about crashes or the care of the land. Mr. Hendricks replied that the Forest Service has expressed concern about crashes and safety, but he cannot respond for the Forest Service.

**Senator Corder** stated that he thought previous existing practice was that all roads were closed and, if the county or another agency wanted to open them, they had to be posted as open. Legislation was then passed that reversed this and made all roads open unless the county or another agency closed them. Mr. Hendricks noted that was right on county and state roads but did not affect federal roads. **Senator Corder** stated that by state law, the legislature said Forest Service roads could be driven on. Mr. Hendricks replied the legislature did not tell the Forest Service how to use roads.

**TESTIMONY:** Sandra Mitchell, Idaho Recreation Council, spoke in support of S1001. She stated this legislation does two things. It requires any person under 16 operating a UTV or ATV on Forest Service roads to complete a state approved safety program and it requires them to be supervised by an adult while riding. This bill will reduce issues and concerns for the Forest Service and protect access to Forest Service roads.

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

**QUESTIONS:** **Senator Bair** asked if Ms. Mitchell had a copy of the agreement the Idaho Recreation Council had with the Forest Service. Ms. Mitchell responded no, it was not a written agreement. **Senator Bair** asked what assurance. Ms. Mitchell has that the Forest Service will not go ahead and close roads if this bill passes. Ms. Mitchell answered that she has worked with the Forest Service and has confidence that they will abide by the intention of this bill.

**TESTIMONY:** Mr. Andy Brunelle, the United States Forest Service, stated Governor Otter had asked the Forest Service for more time with which the state could address issues regarding the Forest Service during the 2011 legislative session. The Forest Service has gone ahead and highlighted and listed the roads that hold concerns for safety and asked for public comment.

**Senator Keough** asked if passing this legislation will guarantee the roads cannot be closed. Mr. Brunellereplied that it will not guarantee that there will not be additional restrictions. **Senator Corder** asked if Mr. Brunelle has seen proposed amendments to this bill and if they make any difference. Mr. Brunelle responded that some are good ideas but could be addressed through state agencies. **Senator Corder** asked if nothing could be done to address the list of roads and possible closures. Mr. Brunelle replied that is correct.

**MOTION:** **Senator Bair** moved to hold **S1001** in Committee. The motion failed for lack of a second.

**MOTION:** **Senator McGee** moved, seconded by **Senator Werk**, to send S1001 to the floor with a do-pass recommendation. The Chairman asked if there was discussion on the motion.

**Senator McGee** stated that he does not like being forced into a decision, but the ATV and UTV users, the Forest Service, and many Legislators agree that this is a possible solution to allow Idahoans to continue to use ATVs and UTVs on Forest Service Roads. S1001 is not perfect, but ATV and UTV users need to be able to use Forest Service roads. **Senator Winder** noted that he feels frustrated as well. He stated the federal government should be justifying to Idaho why they have to close roads. **Senator Bair** stated that he loves ATVs and uses them frequently, but this bill will not make a difference as to Forest Service roads being closed. **Senator Corder** stated that he feels the Forest Service has been genuine and that he will be supporting this legislation.

The motion passed by a voice vote with **Senator Bair** casting a dissenting vote. **Senator McGee** will carry S1001 on the Senate floor.

#### **S1088**

Relating to towing and storage of motor vehicles, Mr. Paul Jackson, Government Affairs Representative, Farmers Insurance, stated this legislation will simplify and speed up the claims process for customers and insurance carriers by allowing an insurer, when the vehicle has been determined to be a total loss, to take possession of the vehicle by paying the towing and storage costs and move it to a facility of the insurer's choice pending resolution of the claim. Personal property of the vehicle owner is protected and the holding facility releasing the vehicle is held harmless for complying with this subsection. Mr. Jackson supplied the Committee with a proposed amendment for S1088 and requested the Committee send S1088 to the 14th Order for amendment.

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

#### **TESTIMONY:**

Mark Binder, National Salvage Desk, Farmers Insurance, spoke in support of S1088. He stated the insurance industry can improve the claims process. This bill will speed up the process.

#### **QUESTIONS:**

**Senator Werk** asked if the intent of this bill is to be able to take totaled vehicles to one place and minimize cost. Mr. Binder answered yes, they want to move vehicles to a centralized facility to minimize cost and speed up the claims process. **Senator Werk** noted that he is troubled by the fact that this is done before a settlement is reached. The vehicle could be moved to a location inconvenient to the owner and there would be no obligation to return the vehicle to the owner. Mr. Binder stated the Department of Insurance (IDOI) regulates the industry and all companies would answer to IDOI. The owner wanting return of a totalled vehicle is a rare situation but the company is required to make the customer whole.

**Senator Corder** asked after a vehicle is taken, a settlement is reached, and the owner wants the car returned, will the insurance company pay the towing fee to return the car to its owner. Mr. Binder responded that he cannot speak for all companies, but Farmers Insurance does. **Chairman Hammond** asked if the sooner a vehicle is taken to an insurance company's salvage yard the more salvageable it is. Mr. Binder replied that is correct.

#### **TESTIMONY:**

Ms. Sarah Bigger, towing industry, spoke in opposition to S1088. She stated the towing industry is in opposition to this legislation. If the towing company is going to take responsibility of the vehicle and its contents, it should be through the owner.

#### **QUESTIONS:**

**Chairman Hammond** asked if Ms. Biggers represented a towing company or association. She answered that she represented the entire towing industry.

**TESTIMONY:**

Mr. T.J. Biggers, Crossroads Towing, spoke in opposition to S1088. He stated that any effort from insurance agencies to expedite taking vehicles from the towing yard to their own yards will cause the towing yards to lose money. The towing industry is struggling in the current economy.

**Senator Corder** asked if Crossroads Towing and other similar towing yards picked up a vehicle and charged a rental fee for the days the vehicle stayed on-sight and if those fees would be reduced should this legislation pass. Mr. Biggers answered yes.

Mr. Randy Colson, Idaho Towing and Recovering Professionals Association, spoke in opposition to S1088. He stated this bill could remove the vehicle owner's rights and injure towing companies. This legislation will allow insurance companies to move vehicles from towing yards without the owner's consent.

Ms. Lyn Darrington, representing State Farm Insurance Company, spoke in support of S1088. She stated that she supports this bill with the amendments.

Mr. Woody Richards, representing Allstate Insurance, American Insurance, and Farm Bureau Insurance, spoke in support of S1088. He stated that if this bill passes the vehicle owner will still retain ownership of the vehicle. Insurance companies will not be able to sell the vehicle because they will not have ownership until after a settlement is reached and decided upon.

**QUESTIONS:**

**Senator Corder** asked if the owner retains title, does that also mean the owner will know where the vehicle is located and where it has been moved. Mr. Richards answered that the insurance companies are regulated by IDOI which prohibits them from not telling the vehicle owner and not returning the vehicle if that is the owner's wish. **Senator Corder** asked who is held accountable for the vehicle and its contents when the insurance company moves it. Mr. Richards replied that there is always a possibility that something was misplaced or lost at the scene of the accident so there is no sure way of accounting for every situation. **Senator Werk** noted that the vehicle could be moved somewhere far away and asked what assurance the vehicle owner would have that the insurance company would do the right thing. Mr. Richards responded that he does not know how companies will assure vehicle owners.

**Chairman Hammond** asked Mr. Binder to return to the stand. Mr. Binder stated most insurance companies have a system that can calculate if a vehicle will be a total loss based on the damage described by the owner before an inspection is done. Vehicle owners will know where their vehicles are located.

**Senator Winder** asked what happens when the owner is not capable of calling the insurance company after an accident occurs. Mr. Binder answered the vehicle would have to be inspected by a representative from the insurance company.

**TESTIMONY:**

**Senator John Goedde** spoke in support of S1088. He stated this is an economic issue between the towing and insurance companies.

**MOTION:**

**Senator Keough** moved, seconded by **Senator McGee**, to send S1088 to the 14th Order for amendment. **Senator Werk** stated that he has reservations about this legislation but will support the motion. The motion passed by a voice vote. **Senator Goedde** will carry S1088 on the Senate floor.

**S1089**

Relating to vehicle titles, Mr. Paul Jackson stated this proposal will provide insurance carriers a process to dispose of salvage vehicles when the title has been lost in the mail, mis-sent by the lien holder or is otherwise unavailable and the loss has already been paid for by the insurance carrier. Mr. Jackson provided the Committee with a proposed amendment for S1089 and requested the Committee send S1089 to the 14th Order for amendment.

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

**TESTIMONY:**

Mr. Binder spoke in support of S1089. He stated this will allow the insurance company to sell a vehicle after the claim has been made and the claim holders settled.

**Senator Werk** noted the language in the bill requires verbal or written acceptance from the owner of the vehicle and asked how the source of verbal acceptance could be verified. Mr. Binder answered that companies are required to verify the owner of a vehicle before a settlement is reached.

**MOTION:**

**Senator McGee** moved, seconded by **Senator Bilyeu**, to send **1089** to the 14th Order for amendment. The motion passed by a unanimous voice vote. **Senator Goedde** will carry S1089 on the Senate floor.

**MINUTES:**

**Senator Bair** moved, seconded by **Senator McGee**, to approve the minutes of the January 27, 2011 and February 1, 2011 Committee meetings. The motion passed by a unanimous voice vote.

**ADJOURNMENT:**

There being no further business to come before the Committee, **Chairman Hammond** adjourned the meeting at 2:55 p.m.

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Senator Hammond

Chairman

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Gaye Bennett, Secretary  
*(with the assistance of Alyssa  
Horton, Pool Secretary)*

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Thursday, March 03, 2011

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment</b>	Nomination to a new term on the Aeronautics Advisory Board commencing January 31, 2011 and expiring January 31, 2016.	Mr. Daniel Scott of McCall, Idaho
<a href="#"><u>H147</u></a>	Legislation relating to the rules of the road by providing an exception to application of specified law for owners or operators of a ditch, canal, conduit or drain while engaged in work within a right-of-way for a ditch, canal, conduit or drain.	Mr. Norman Semanko, Idaho Water Users Association

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

Gaye Bennett  
Room: WW33  
Phone: (208) 332-1332  
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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, March 03, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:35 p.m. The first issue was the nomination of Mr. Daniel Scott of McCall, Idaho, to the Aeronautics Advisory Board. The Chairman welcomed General Darrell Manning, Chairman of the Idaho Transportation Board, to the Committee to introduce Mr. Scott.

**GUBERNATORIAL APPOINTMENT:** General Manning explained that Mr. Scott has been a very valuable member of the Aeronautics Advisory Board over the past five years. Mr. Scott has an extensive public service background that began years ago when he served as a Page in the Idaho Legislature. He is currently the General Manager of Shore Lodge, a luxury hotel in McCall; and President of McCall Aviation a multimillion dollar charter and aviation service company with facilities in McCall, Salmon, Boise, and Stanley, which gives Mr. Scott great experience in the aviation industry. McCall Aviation are specialists in backcountry flying. Mr. Scott has over 25 years of experience as a licensed pilot; has an airline transit pilot rating; is internationally trained; and has over 3,000 flight hours. He concluded by expressing his pleasure to nominate Mr. Scott's reappointment to the Idaho Aeronautics Advisory Board.

**Chairman Hammond** thanked General Manning for the introduction and welcomed Mr. Scott to the Committee. Mr. Scott began by stating that he was born and raised in Idaho. He has been back in Idaho for about ten years, and currently lives in McCall. He came back to get involved in the aviation industry. Prior to returning, he had a career in supply chain logistics management with different companies in the United States and internationally. He just completed his first term on the Aeronautics Advisory Board. He believes he brings a good perspective from a business standpoint and from a commercial aviation standpoint. He sits on the steering committee of the Idaho Airstrip Network that works with the Forest Service, Fish and Game, and other organizations to address backcountry airstrip issues in Idaho. He also sits on the advisory committee of the City of McCall airstrip working on local aviation issues. Mr. Scott stood for questions.

**QUESTIONS:**

**Chairman Hammond** asked Mr. Scott to share, from his experience on the Board, the kind of issues the Aeronautics Advisory Board addresses. Mr. Scott said one of the key issues is the Idaho Airport Aid Program, the grant program. A familiar issue of importance and concern for airport improvement programs is that of federal funding. Federal funds represent 95% of project funding with 5% funding coming from State and local involvement. The State generally provides half of that, or 2.5%, for local airports. An important action the Board performs is reviewing projects at different airports across the State, and decides which projects to support with those State funds. Other programs sponsored by the State is search-and-rescue and training pilots and flight instructors throughout the State.

**Senator Bilyeu** and **Senator Winder** queried Mr. Scott about the facilities at Shore Lodge. There were no further questions.

**ACTION:**

**Chairman Hammond** thanked Mr. Scott and expressed appreciation for his appearing before the Committee. The appointment will be held in Committee to be taken up at the next scheduled Committee meeting.

**H147:**

Mr. Norm Semanko, Executive Director of the Idaho Waters Users Association, represents irrigation districts and canal systems in smaller water districts in the State. These provide water primarily for irrigation but increasingly for other uses such as subdivisions, parks, school yards, etc. The Water Users have a very active legislative committee that meets annually to discuss pressing issues; one of those issues is addressed in H147.

The bill exempts canal maintenance activities from highway regulations; and clarifies that the work performed on a ditch or canal, conduit or drain is within the right-of-way of the irrigation conveyance and is exempt from the application of Title 49, Chapter 6, Idaho Code, or the so-called Rules-of-the-Road.

This is an unusual issue because irrigation rights-of-ways are not highways nor roadways, but some parts of Title 49, Chapter 6 are worded loosely enough that some city authorities have a difficult time understanding which statutes should apply. As an example, irrigation canals have to be maintained (i.e., spraying for weeds, replacing culverts, floods, etc.) and irrigation trucks have to drive along that right-of-way, right next to the canal to get the work done that needs to be done. This is the way it has always worked. Overtime however, the land owner that used to be a farmer has now become a developer, and they want to put homes and shopping centers on their land.

The Water Users have struggled over the years on how to deal with them wanting to put things alongside the canal. The law says that if the landowner proposes something that would materially interfere with the use of the Water User, then they cannot do it. If they're going to do something that is consistent with their ownership of the underlying land and won't materially interfere with the Water Users' ability to continually access the ditch, then it can be allowed.

Over the years there has been issues of access where compromises could be reached. Now it's become more maximized, with the increased return on the land and development; they want to take advantage of the water, so they have houses backing up very close to the canal with features like pathways, walkways, and sidewalks right along the canal right-of-way. The Water Users decided they would learn to work with the development and have agreed that those type of features could be there as long as they don't interfere with their access to work on them. An example of a problem is that one of the Water Users' workers was working on a flooding situation in Garden City and had to park on a sidewalk. He completed caring for the flooding, returned to his truck, and discovered he had a ticket for parking on the sidewalk.

This has nothing to do with highways or the Rules-of-the-Road. The Water Users are asking for a clarification in 49-601, Idaho Code, to make clear that, just like motor vehicles and equipment that are engaged in work upon a highway, when their people are working pursuant to their right-of-way with a ditch, canal, conduit or drain, doing the work they need to do, that the highway rules do not apply. The rules do apply when the vehicle is travelling to or from that work. Mr. Semanko stood for questions.

**QUESTIONS:**

**Chairman Hammond** wanted to know if all their ditches were actually rights-of-ways as opposed to easements. Mr. Semanko said that Idaho Code states that every ditch and every canal has an easement or right-of-way and speaks in terms of both. And both are referred to throughout the statutes.

**Senator Werk** wanted to know if there is an actual roadway built in the right-of-way, how would this bill address that situation. Mr. Semanko said that in most instances Water Users will have exclusive easements that are not occupied by highways, so engaged in work in the right-of-way is covered; when travelling to and from the work is also covered. The Senator wanted to know if there was conflict with law enforcement. Mr. Semanko referred to statutes like 42-102, Idaho Code, where the activities of the work is clearly defined. **Senator Werk** agreed, but if there is a road in a subdivision that is located in a right-of-way then someone could claim they're performing work when actually violating the Rules-of-the-Road. Mr. Semanko didn't believe that scenario would happen in Idaho with the irrigation districts because the statute language is clear.

**Senator Corder** asked for more clarity when Mr. Semanko used the word "pursuant"; when people are working within the right-of-way they might actually be able to park equipment on the highway; would that qualify as "pursuant". Mr. Semanko said it was not a usual effect pattern and they are not looking for permission to perform work in areas that see regular traffic; but within their right-of-way, they need to be able to access the canal to do the work that needs to be done. It needs to be done in a safe way, in a non-negligent way, and they can't expect to be ticketed for being in their right-of-way. And the court recognizes that they have a right to be out there under Idaho Code, 42-102. They can't do things to cause problems, but they have to be able to access the ditch along the right-of-way that they have a legal right to be on. The word "pursuant" is a limiting term indicating they cannot be out there for anything other than why they need to be there. The Senator understood and appreciated what they are trying to do. There were no further questions for Mr. Semanko.

**TESTIMONY:**

Mr. Benjamin Kelly represents the Food Producers of Idaho who support H147; it is important to their irrigation operations in Idaho. There were no questions for Mr. Kelly.

**MOTION:** **Senator McGee** moved that H147 be sent to the Senate floor with a do-pass recommendation. **Senator Bair** seconded the motion. There was no discussion. The motion carried by a unanimous voice vote. **Senator Bair** agreed to carry H147 on the Senate floor.

**ADJOURNMENT:** With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 2:05 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AMENDED AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, March 08, 2011

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Vote</b>	Nomination of <b>Mr. Daniel Scott</b> of McCall, Idaho, to a second term on the Aeronautics Advisory Board commencing January 31, 2011 and expiring January 31, 2016.	
	<b>AGENDA AMENDED FOR CORRECT BILL NUMBER</b>	
<a href="#"><u>H160</u></a>	Legislation amending driver's licensing law to provide that a physician who in good faith files a report on a driver's competency will have no professional disciplinary procedure, no monetary liability, and no cause of action arise against that physician.	Ms. Molly Steckel, Idaho Medical Association

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

Gaye Bennett  
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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, March 08, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:33 p.m.; a silent roll was taken. There are two items on the agenda with the first being the nomination of Daniel Scott to the Aeronautics Advisory Board. The Chairman asked for a motion to move the nomination forward to the Senate floor for confirmation.

**MOTION:** **Senator Winder** moved that the appointment of Daniel Scott be sent to the Senate floor with a recommendation to approve his confirmation. **Senator Werk** seconded the motion. There were no questions on the motion. The motion passed by a unanimous voice vote. **Senator Winder** agreed to carry the appointment on the Senate floor.

**H160:** **Chairman Hammond** welcomed Molly Steckel who is representing the Idaho Medical Association. This bill is identical to last year's S1397 that passed the Senate but did not get to the House in time for a hearing. H160 has passed the House. There is a process in place at the Idaho Transportation Department (ITD) for physicians who believe a patient is impaired in some way and should not be driving; they can make a recommendation that driving privileges should be suspended. H160 does not change that process; this bill says that if a physician decides a report is necessary, the physician must let the patient know a report will be made; the physician must give a copy of the report to the patient; and as long as the report is made in good faith, there is no liability to the physician for his recommendation.

As background, this involves elderly drivers, people with the beginning of Alzheimer's Disease and other types of dementia, and also people with other medical conditions that cause them not to have absolute control of their glucose levels, people who have epilepsy or other seizure disorders, people who have had head injuries in accidents, etc. Physicians have already been granted the ability to make those determinations. This is not something they like to do, and not something they take lightly, but if they feel the public safety is threatened, they will take that action. In addition, many times families struggle with issues of revoking driving privileges and turn to their physicians for help. Some AARP concerns with the first draft of this legislation were addressed; there was no opposition on the House side. Ms. Steckel stood for questions.

**QUESTIONS:**

**Senator McGee** raised a concern that affects his family; his brother is diabetic. Hypothetically, if his brother had an insulin reaction, could his physician decide to write a letter to ITD to withdraw his driving privilege? Ms. Steckel answered that it could happen but, generally speaking, the Senator's brother may have a relationship with his physician; his physician may understand his level of compliance and how often this reaction happens. One of the reasons this is not a mandatory reporting is that physicians need the flexibility to evaluate each patient. **Senator McGee** thought the AARP was opposed to this legislation and wanted to know if that had been addressed. Ms. Steckel indicated that it was addressed and referred the Committee to page 2, line 12 and 14 which were added to help protect patients. Plus ITD has a process where patients can dispute the recommendations.

**Senator Corder** supports the idea, but the language seems to make it more awkward because now the physician "may" submit a report but "before" they do, they have to notify the patient and family, then submit the report and provide a copy. His concern is how would the physician ever prove that he had taken the step to notify the patient before he submitted his report. Running through the scenarios, the Senator suggested it could be trouble in the making. Ms. Steckel answered that the process they're envisioning is that a patient is in the physician's office, the doctor expresses a firm belief that he has concerns with driving (with most physicians there would be a note in the patient's chart), and he advises the patient not to drive. Once it is written up, a copy would go to the patient so he could see exactly what was submitted to ITD. The patient would then get a letter back from ITD saying their privileges have been suspended and they're advised in that letter that there is a process where they can dispute the recommendation. **Senator Corder** suggested that the notes would be subject to confidentiality and wanted to know what the appeal process would be. Ms. Steckel said that generally, for these types of conditions, the patient has a family member accompanying the patient, and signed releases for a physician to contact a relative are in place. A physician is bound by all HIPAA guidelines. As for the appeal process, once they receive the ITD notice, a hearing officer is assigned, they have 20 days to appeal, they have a hearing where they can ask for additional medical examinations, and a variety of different things like a driving test or a written test; or they can ask for a second opinion.

**Senator Bilyeu** asked how the bill from last year differs from H160. Ms. Steckel referred to page 2, line 14 regarding the physician providing a copy of the report to the patient or member of their family; that is the only change, and that was added at the request of **Chairman Smith** in the House. Other than that, it is identical to last year's bill. **Senator Bilyeu** followed-up with the process as she understood it: The patient goes to the physician, there's a written report, ITD suspends the license, and ITD sends a notification letter to the patient. Ms. Steckel confirmed that was the process.

**Senator Bair** wanted to know who actually determined incompetency and revokes the drivers license. Ms. Steckel referred the Senator to page 1, line 12 in existing language; on line 27 it states that it is based upon recommendation of a person's physician. It is already in Idaho Code. There is a medical unit set up to review these submissions; the hearing officers are usually attorneys who seek advice from physicians when needed. **Senator Bair** referred to line 10 that says, any physician that has "reason to believe" a patient is incompetent. The Senator pointed out that those words are very broad and perhaps it should be changed to "determine" when a patient is incompetent. Ms. Steckel said that would imply there is a concrete way to make that determination like a checklist. But it really depends on the situation, and the scope of options or circumstances is broad.

**Senator Werk** offered a comment that medicine is an art, which is why they refer to it as "practice." There is usually a court proceeding in conjunction with determining incompetence. The important part of this bill is the issuance of a report to the family. Revoking driving privileges is difficult to deal with and there is comfort knowing that physicians will be spending time working with families. Because of the time involved, physicians will not be using this privilege lightly or on a regular basis.

**Senator Bilyeu** wanted to know how much of a problem do physicians have now with this issue. Ms. Steckel referred to testimony given in the House Committee of a physician who said he spent ten years in litigation and review boards from a disgruntled patient. It was a very difficult situation that makes physicians fear these issues; they feel they need protection.

**Senator Corder** asked how many appeals had been filed over the last ten years. Ms. Steckel didn't know the exact number but at least a couple had no merit found. Even when there is no merit found, the patient is still allowed to go to court which takes many hours away from the physician's practice. **Senator Corder** indicated that this bill doesn't appear to change that problem. Ms. Steckel understands, but page 2, line 17 states a physician must submit a report in "good faith" which allows that a plaintive would have to show that there is a lack of "good faith." This gives a basis and direction on the standard. **Senator Corder** asked Ms. Steckel to follow-up on that to which Ms. Steckel agreed. There were no further questions.

**Chairman Hammond** requested that ITD provide a report on how often they suspend licenses based on a physician's recommendation. (Molly McCarty of ITD provided that information to all Committee members.)

**MOTION:** **Senator McGee** moved that H160 be sent to the Senate floor with a do-pass recommendation. **Senator Werk** seconded the motion. There was no discussion on the motion. The motion passed by a unanimous voice vote. **Senator McGee** agreed to carry the bill on the Senate floor.

**ADJOURNED:** With no further business before the Committee, **Chairman Hammoned** adjourned the meeting at 1:57 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary



AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, March 15, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>H145</u></a>	Legislation relating to recreational activities by amending definitions for all-terrain vehicles (ATVs) and utility-type vehicles (UTVs).	Ms. McKinsey Miller, Gallatin Public Affairs Group
<a href="#"><u>RS20567</u></a>	Legislation to amend statutes pertaining to the issuance of specialty license plates and to ensure greater accountability for funds collected through this program.	Senator Hammond
<b>MINUTES</b>	Approval of Senate Transportation Committee minutes for:	
	Tuesday, February 8, 2011	Senator Bair and Senator Werk
	Thursday, February 10, 2011	Senator Keough and Senator Corder

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, March 15, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Hammond, Vice Chairman Brackett, Senators Keough, McGee, Corder, Bair, Werk, and Bilyeu

**ABSENT/ EXCUSED:** Senator Winder

**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 Hammond** called the meeting to order at 1:33 p.m. The first business before the Committee was H145. Chairman Hammond welcomed Mckinsey Miller of the Gallatin Public Affairs Group to the Committee.

**H145:** Ms. Miller said she was representing Polaris Industries. H145 amends the definitions of ATVs and UTVs in recreational activity Title 67, Idaho Code, and also deletes duplicative definitions in Title 49. This legislation will limit the need to make changes in the future. These changes were discussed with the Idaho Transportation Department (ITD), the Idaho Department of Parks and Recreation (P&R), the Idaho Department of Fish & Game (F&G), and the U.S. Forest Service (USFS). To her knowledge, there is no opposition to H145.

In the first two pages of the bill, the duplicate definitions in Title 49 are eliminated. On page 3, the first substantive change is made to Title 67, section 1, in the definition of an ATV (all-terrain vehicle) and the elimination of the reference to load limit. There are products being sold in Idaho that already exceed that 900 pound weight limit. As the industry develops electric batteries, build quieter vehicles, and make them more environmentally friendly, they could potentially become heavier. Rather than coming back to change the weight limit each year, this legislation eliminates it. The machines won't get much bigger. They continue to have handle bars and the same length wheel base, etc.

Page 4, section 14 contains the second change: The definition of a UTV (utility type vehicle). Over the past four years, the Recreational Off-Highway Vehicle Association industry members have worked with the U.S. Consumer Protection Agency in defining some new products coming into the market; particularly in defining a recreational off-highway vehicle, or an ROV. That term is added to Idaho Code to mean the same as a UTV. ROV is becoming the defining term. This insures that ROV products do not exceed the current weight and size standard of what is presently defined as a traditional UTV in Idaho. Without this definition, user access and safety on the trail is threatened. Ms. Miller stood for questions.

**QUESTIONS:**

**Senator Werk** asked Ms. Miller to explain why this bill was introduced. Ms. Miller said that it was to help their client, who is outside of Idaho, know the section of Idaho Code they operate under and what trails they're allowed to access. The other part is user safety, the manufacturers want to make sure they're protecting their users by insuring these vehicles won't be confined in a way that would not allow a small vehicle like a small jeep or mini-Cooper to fit into the definition of a side-by-side, which could become dangerous if a UTV encountered it on a trail. This also protects access to those trails designed for UTVs. The third reason is product adaptability, making sure that as these products change, they fit into Idaho Code.

**Senator Werk** was concerned that we're adopting the de facto definition for an ROV for consistency and wondered if other definitions were consistent. Ms. Miller said that Oregon and Wyoming are considering this issue; in Utah and North Dakota there are only two classes of vehicles; in Montana, Colorado, Washington, and South Dakota there is one class. Across the country, eleven states have adopted the term ROV; a universal definition is coming.

**Senator Werk** asked about section 3 where weight limitations are struck and wanted to know how this would affect minors operating vehicles exceeding 900 pounds. Ms. Miller said their client supports enhancing user safety. Eliminating the weight definition doesn't mean the vehicle will get that much bigger because the structural limitations remain the same. ATVs are defined as a vehicle that you can straddle with attached handle bars and a 50 to 61 inch wheel base. Those dimensions are not going to change. It can be made out of a heavier material or use a heavier battery. The consumer has some responsibility to purchase the right sized ATV for the rider. **Senator Werk** asked for guidance from the Committee about ATVs and what type of limitations are there on minors. The Senator is concerned about the weight issue within the confines of the wheel base, and how much heavier they may get. **Chairman Hammond** requested that Amy Smith of ITD respond to that question. Ms. Smith answered by citing S1001 which addresses the underage operation of ATVs; that legislation has no size limitation or requirement. The only requirement is that they have to be supervised by a licensed adult. **Senator Werk** summarized that when an ATV is redefined to have no weight limit, that any small child or child that a parent wants to place on an ATV will be able to operate the equipment. Ms. Smith agreed.

**Senator Bair** offered help with answering the question. The language stricken on page 3 is supplanted with a reference in the next section on page 4, subsection 17 starting on line 35. It states: 74 inches and 2,000 pounds; it doesn't appear to be changing the weight on these vehicles, it just struck one piece of language and placed it in a different section. Ms. Miller indicated that it does seem confusing. In Title 49, definitions are removed that also exist in Title 67. In Title 67, section 1, Idaho Code, under definitions of ATVs, reference to weight is being eliminated. UTVs in section 17 remain the same.

**Senator Corder** stated that the manufacturers provide their own limitations of who rides their vehicles, which was one of the objections to S1001. Ms. Miller commented that there are ATVs that are sized for children in the 200 to 300 pound range.

**Senator McGee** asked Ms. Smith to recall their discussions in previous years about definitions over ATVs and wanted assurance that ITD supports these changes. Ms. Smith said there was a discussion, and because the other criteria remains, ITD is fine with these changes.

- MOTION:** **Senator McGee** moved that H145 be sent to the Senate floor with a do-pass recommendation. **Senator Bair** seconded the motion. **Senator Werk** raised a concern about delving into the issue of ATVs; but he supports the motion. The motion passed with a unanimous voice vote. **Senator Bair** will carry the bill on the Senate floor.
- RS20567:** **Chairman Hammond** turned the gavel over to **Vice Chairman Brackett** in order to present his RS.
- Chairman Hammond** stated that the intent of this hearing was to send this RS to the Judiciary and Rules Committee for printing. The legislation will significantly reduce the number and proliferation of specialty license plates. If this legislation is successful, any future specialty license plates would have to support a general government good. As an example, the veterans plates would support the Veterans Administration; or the wildlife plates support the Idaho Department of Fish and Game. But the plates whose proceeds go to private clubs and charities would no longer be eligible for a special plate. The Senator believes this will provide great accountability for the funds that are raised; it will limit the number of plates which will diminish the amount of accounting that ITD does; and Idaho State government will get out of the business of raising money for private causes. **Chairman Hammond** stood for questions.
- QUESTIONS:** **Senator McGee** reminded the Committee that the Senate passed similar legislation in the past; he is supportive of the concept. He wanted to know if all license plates, including collegiate plates, would be grand-fathered in under this legislation. **Chairman Hammond** said the Senator was correct, and current plates would not be affected.
- Senator Bilyeu** wanted to know if the Chairman had visited with ITD about retaining county designators on specialty plates. **Chairman Hammond** said he had not. **Senator Bilyeu** asked for clarification. **Chairman Hammond** said he did not discuss that issue and it is not addressed in this legislation.
- Senator McGee** responded to **Senator Bilyeu** that there was no room on specialty plates to include that information.
- Senator Werk** wanted to clarify that in subsection 6 on page 4 that only State agencies or foundations may apply; what range of entities would be included. **Chairman Hammond** gave an example of the Wildlife Foundation that collects funds that are dispersed according to the Idaho Department of Fish and Game's priorities. **Senator Werk** asked if the Barley Commission would fall under the definition, or the Potato Commission. **Chairman Hammond** said that would be a determination of ITD, but if they were to give the funds to the Department of Agriculture for general government purposes, they should be eligible.
- Senator Corder** wanted to know the difference between a "State" agency and a "public" agency, and what is the process to apply. **Chairman Hammond** said that the intent of "State" or "public" agency is that it would allow a plate supporting the interests of a city or county. The process would be the same that is currently in place.
- REQUEST:** **Senator Werk** asked for unanimous consent that RS20567 be sent to the Judiciary and Rules Committee for a print hearing. **Vice Chairman Brackett** asked the Committee if there was any opposition to the request. There was no opposition; the unanimous request was granted.

**MINUTES:**       **Vice Chairman Brackett** turned the meeting back to **Chairman Hammond**. **Senator Bair** moved that the Committee approve the minutes of the February 8, 2011 Committee meeting. **Senator Werk** seconded the motion. No discussion on the motion. The motion passed with a unanimous voice vote.

**Senator Keough** moved that the Committee approve the corrected minutes of the February 10, 2011 Committee hearing. **Senator Corder** seconded the motion. No discussion on the motion. The motion passed with a unanimous voice vote.

**CONVENED:**       With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 2:03 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, March 22, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#"><u>H228</u></a>	Legislation broadening the exemption to farm tractors and implements incidentally operating on highways to allow them to be highway operated to travel to or return from a place of maintenance or repair, or a place of buying or selling. The bill revises Idaho Code provisions relating to exceptions for size of vehicles and loads; and it makes a technical correction.	Representative Gayle Batt
<a href="#"><u>S1179</u></a>	Legislation to amend Idaho Code pertaining to the issuance of specialty license plates, and to ensure greater accountability for funds collected through this program.	Senator Jim Hammond

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, March 22, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Vice Chairman Brackett, Senators Keough, McGee, Corder, Winder, Bair, Werk, and Bilyeu

**ABSENT/ EXCUSED:** Chairman Hammond

**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:** **Vice Chairman Brackett** called the meeting to order at 1:36 p.m. **Chairman Hammond** was excused from this hearing for a family emergency. The Vice Chairman indicated we have two bills before the Committee today. The first is H228 that **Representative Batt** was going to present, but the House is currently in session. **Vice Chairman Brackett** will present the bill in her absence. While he is presenting H228, the gavel will be turned over to **acting-Chairmn Keough** to become acting-Chairman. **Senator Keough** thanked the Vice Chairman and asked him to present H228.

**H228:** **Vice Chairman Brackett** began his presentation by stating that H228 is a simple bill that extends the exemption for moving farm equipment. Currently, farmers can move equipment from one field to another, or one farm to another because they have a highway exemption to transport implements of husbandry for agricultural operations. This bill extends that exemption so that farmers can also transport their equipment for repair and maintenance to and from a dealer or repair shop, or when they purchase equipment to travel from the dealer back to their farm during daylight hours. Vice Chairman stood for questions.

**QUESTIONS:** **Senator Corder** asked why we're doing this; what has happened? Farm equipment is already exempt. **Vice Chairman Brackett** said what motivated the bill coming forward is that a farmer was moving a piece of equipment to the dealer and, if not cited, was at least quizzed because it was apparent that he was not going from field to field. The current law is narrow and this just broadens it. **Senator Corder** asked for a more comprehensive answer. Mr. Reymundo Rodriguez, Commercial Vehicle Services Manager at the Idaho Transportation Department (ITD), said he had a meeting with **Representative Batt** on this issue. She talked about it being very limited currently. There are incidences when they have to go to a dealership or repair shop and under the current law they would have to attain an over-legal permit. Sometimes this happens after hours or on the weekends and so she wanted to know if ITD would mind if they were allowed to go from the field to a repair shop and vice versa, or to a place where you go purchase or sell this equipment. This bill says that a farmer or their designated representative can go to these locations without the purchase of a permit. **Senator Corder** asked about the part where they're required to have an over-legal permit in order to transport; secondly, how many are being cited for being over-wide and using equipment going down the freeway. The law says 9 feet, but we're not citing them for that. Mr. Rodriguez replied that Idaho Code 49-1010 states limitations; it

talks about limitations on a vehicles' length (line 13). It goes on that limitations should not apply to a farm implement for operation on the highway from one field to another. Mr. Rodriguez did not have citation counts available for implements of husbandry; the law applies to farmers and their designated representatives so dealerships would still have to obtain an over-legal permit to deliver their product. With the permit comes proper safety requirements. **Senator Corder** wanted to know what is meant by "incidentally," as a farm implement is not normally going down a road "incidentally." The Senator is struggling to see the benefit, but he does see the inequity.

**Senator Werk** said that this bill seems to be trying to get around the need for an oversized permit; he wanted to know the process for getting the permit and how much does the permit cost. **Vice Chairman Brackett** said the bill doesn't change Section D on incidental transportation. This bill only addresses a very narrow use of going from farm to farm to enabling them, or their designated agent, to go to the repair shop. Mr. Rodriguez said over-legal permits range in cost depending on the width of the vehicle. The prices range from \$33 to \$53 for the implements of husbandry that are wider than "normal." **Senator Werk** asked how long it would take to get a permit for movement like this. Mr. Rodriguez said it depends. If it's under 16 feet wide, the office can provide a permit within five to ten minutes. If it exceeds certain dimensions, the district office needs to be contacted. That could take from 30 minutes up to two hours. **Senator Werk** wanted to understand the kinds of equipment this bill would address in order to better understand the nature of the impact when travelling on highways – how fast can they go, how wide are they, etc. **Vice Chairman Brackett** said the implements of husbandry are very broad – ground working equipment, disks, harvesting equipment, combines – a wide range.

**Senator Corder** asked Mr. Rodriguez if a farmer takes a piece of equipment that would fit under this definition and puts it on a trailer, is he still exempt? Mr. Rodriguez responded that yes, he would be exempt. **Senator Corder** asked if a commercial hauler took that same piece of equipment and placed it on a trailer and hauled it down the very same road, would that person be exempt? Mr. Rodriguez responded that no, that person would not be exempt. **Senator Corder** observed that THAT was the issue

**Senator Bilyeu** asked if this bill is the result of one incident that happened. **Vice Chairman Brackett** responded that this is a common occurrence and has broad application throughout the State.

#### TESTIMONY:

Ms. Diane Anderson, representing the Citizen Advocacy Group (CAG), commented that there are a lot of farmers and those engaged in agriculture who don't have huge vehicles, but from her discussion with ITD, they are still exempt if they were travelling for agricultural purposes. She was told they could travel within 150 miles of their farm. She asked if this exemption would apply for only oversized vehicles? The exemption should apply to everyone and not just special people. There were no questions for Ms. Anderson.

Mr. Dar Olberding, representing the Idaho Grain Producers Association (IGPA), said that they did not realize that this wording was not already in the law. It is a common practice. He cited personal examples of this practice. IGPA looked at the bill and thought it was a good idea for this exemption to be in the law. IGPA supports the bill. There were no questions for Mr. Olberding.

**Vice Chairman Brackett** concluded his remarks restating that this is a very narrow, common sense bill. It just expands the use of being able to move equipment, and broadens the statute to expand the exemption. The Vice Chairman asked for the Committee's support.



**ORIGINAL  
MOTION:**

**Acting-Chairman Keough** asked the Committee for a motion.

**Senator Werk** stated that because of the nature of the testimony, he feels the bill's sponsor should be present to provide the full picture. It makes making a decision about the bill more difficult.

**Senator Corder** said it is not hard for him to make a decision. He spends a lot of time defending agriculture. Right to farm laws are about to change; records kept from public disclosure are about to change; and the Senator has spent a lot of time making roads safer for everyone. This bill flies in the face of that. All of this can be done; there is no list of citations produced. There is no list of egregious behavior on the part of law enforcement or fining people because they were over-wide. He personally spent 35 years farming and never received a single citation. Agriculture does this all the time and it's simply not fair that the same piece of equipment is exempt if one person pulls it and not exempt if another person pulls it. An annual permit is \$56, so if you know your going to be doing this, you get the annual permit. He believes this bill is an overreach. **Senator Corder** would not be opposed to holding H228 in Committee. **Senator Werk** seconded the motion. **Acting-Chairman Keough** asked if there was discussion on the motion.

**SUBSTITUTE  
MOTION:**

**Senator Winder** said he was opposed to holding the bill. One of the things great about Idaho is its agricultural community; he gives weight when the Chairman of the Senate Agriculture Committee makes comments like he's made here. But he thinks if we can solve some problems for people, agriculture has been one of the strongest parts of our economy, and if this helps them run their business better, then they should be given the chance. He will oppose holding it in Committee.

**Senator McGee** stated the facts as he understood them: Currently agriculture is able to go from field to field, but they can't put their implements of husbandry on the roads if they're travelling to get them repaired. If he understands the facts correctly, this bill will change that by letting them legally go and do an activity as was described. The Senator always appreciates **Senator Corder's** comments on these issues given his background, but this seems like a logical change to make. With that, **Senator McGee** made a substitute motion to send H228 to the Senate floor with a do-pass recommendation. **Senator Winder** seconded the substitute motion. The acting-Chairman asked if there was discussion on the substitute motion.

**Senator Bair** stepped into the Committee hearing. **Acting-Chairman Keough**, **Senator Corder**, **Vice Chairman Brackett**, and **Senator McGee** offered background and perspective on the discussion and motions that had occurred before his arrival.

The acting-Chair called for a voice vote on the substitute motion. The motion passed by a voice vote. **Senator Corder** cast a dissenting vote. With that, **acting-Chairman Keough** returned the gavel to **Vice Chairman Brackett**.

**S1179:**

**Vice Chairman Brackett** announced we would next consider S1179. Given **Chairman Hammond's** absence, **Senator Corder** presented the bill. He began by listing the specialty plates that were discontinued in 2009, including the Boy Scouts and the Motorcycle Safety program; 2010 included Historic Lewiston and the School Transportation Safety program; 2011 includes Basque Heritage and the Technology and Science program, both are scheduled to be discontinued in July. In 2012, some specialty license plates in jeopardy of being discontinued are Breast Cancer Awareness, Elks Rehab Hospital, the National Rifle Association, and the Corvette program. The focus of S1179 is located on page 4; section 2 is amended and section 3 is added. Basically, the bill says that on and after January 1, 2012, the only new specialty plates that can be applied for are those

that represent State or public agencies or foundations. This will narrow the field significantly. New section 3 has to do with the pre-qualification process, or what ITD will use to determine whether someone meets these requirements and helps them make that decision. There are some reporting requirements as well. This solves a number of problems. This would only apply to new plates and would not be retroactive. This is a little more serious about the issue than legislation seen in the past. **Senator Corder** stood for questions and said that Amy Smith, ITD's Vehicle Services Manager, would also be available to answer questions.

**QUESTIONS:**

**Senator Bilyeu** asked if the institutions of higher education would be included or would it preclude an institution like the College of Western Idaho from getting a specialty plate. **Senator Corder** said it would qualify under a public agency. Ms. Smith said that the plates that are already out there would remain available unless they cannot meet the volume of plates for sales. With higher education, as long as it's a public institution they would still qualify under the collegiate plate program.

**Senator Winder** asked about page 4, line 14 through 17 where it talks about foundations supporting the interest of State or local government. The Senator asked for an example of what that type of foundation might be; like the Wildlife Foundation? **Senator Corder** deferred to Ms. Smith. She said that "foundations" are exactly what you suggested. The Wildlife plates go back into supporting wildlife funds that are actually governed by Idaho Code. **Senator Winder** asked for other examples, but Ms. Smith had none. **Senator Winder** asked about page 4, line 43 where it says "any agency." Would that be only a State agency? **Senator Corder** said that line 14 answers that question. It only states "public agencies," which is fairly broad. Ms. Smith referred them to page 4, line 32 through 36 where it talks about an agency being a State government, a department, institutions, boards or commissions, or public agency, or any political subdivisions thereof or foundations that support the interests of State or local government created under the laws of Idaho. When the word "agency" is used, it encompasses all of those.

Ms. Smith stated that **Senator Corder** mentioned the specialty plates that were being discontinued; this bill would narrow the number down a bit. Those that are not best-sellers eventually will be weeded out. That would not change under this bill, they would still have to meet the criteria of 1,000 plate sales.

**Senator McGee** asked Ms. Smith if existing plate programs that qualify and continue to meet the criteria will be grand-fathered under this law. Ms. Smith said that he was correct and that this will only be for new programs. There were no further questions for **Senator Corder** or Ms. Smith.

**TESTIMONY:**

**Vice Chairman Brackett** asked if anyone in the audience wished to testify. Ms. Diane Anders said this enables only government agencies to have specialty plates. A citizen's foundation that doesn't currently have a plate would be prevented from applying for one. It is the Citizen's Advocates viewpoint that citizens should not have fewer rights than government. These groups should not be prohibited to have a specialty plate by this law. Her people are concerned about Constitutional adherence. Many people believe that under the U.S. Constitution, they have the right to travel without a permit of any kind. For law enforcement purposes, if they had an exempt plate and were exercising their Constitutional right to travel, that would prevent law enforcement from depriving anyone of that right. That provision would be prohibited by this. She believes that it shouldn't just be limited to government foundations or agencies that can have a specialty plate. There were no questions for Ms. Anders.

**QUESTIONS:**

**Senator Winder** wanted to ask a question of Ms. Smith. The contemplation of saying to an agency that they can get a special plate. How does that affect Fish and Game or State Police; are their plates not considered special plates? What type of an agency would pay the fee to have a specialty plate? Ms. Smith said there are currently several specialty plates now that actually go to public agencies – Department of Agriculture has an agricultural plate, the Famous Potato plate goes to the Idaho Potato Commission, the firefighter plate goes to the Idaho Fire Chiefs Association. There are only a few that actually don't go to a government agency – the Corvette club, the Breast Cancer Awareness plate, the Elks Rehab plate. These go to private foundations that we, as the government, have no control over how the funds are used. The big issue is that the Legislature is approving fees to be paid to private clubs and foundations by its taxpayers and whether or not the Legislature should be doing that. Whereas in this case, it's going to a government agency; it's actually going to support government. **Senator Winder** asked if Fish and Game plates, State Police plates, are considered specialty plates, or are those plates assigned to departments and they're exempt from this law? Ms. Smith said those are specifically exempt plates that ITD does not charge for other than a one-time fee – for the Sheriff's Department, City Police, Irrigation Districts, School Districts. They have nothing to do with the specialty plates. **Senator Winder** stated that under this legislation that would not change; is that correct? Ms. Smith said that it was correct. There were no further questions.

**ORIGINAL MOTION:**

The Vice Chairman asked for a motion. **Senator McGee** asked to make a motion and then comment on it; he moved to hold S1179 in Committee. **Senator Winder** seconded the motion in order to hear the Senator's comment. **Senator McGee** supports the idea of more restrictions on the specialty plate program. Soon there will be plates before the Committee representing areas where the government should not be involved. The Committee and the Senate passed his bill two years ago that put more restrictions on this program, but it was held up in the House. The Senator believes it was a much more practical approach to the situation. S1179 takes it a step too far. There are groups and organizations that are using these plates successfully. While he supports the idea of putting more sideboards on the specialty plate program, this bill takes it too far by just allowing government agencies to have these types of plates. That is why he made the motion to hold the bill.

**Senator Bilyeu** said it says public agency OR foundations; she thinks it does leave it open to State or local government. **Senator Corder** said it does leave it open to allow those others, and he believes it is still very broad. **Senator McGee** agreed that it does say that on page 4, line 14, but only those foundations that are supporting State or local government. If it's a foundation that supports Special Olympics or some other private entity that some may think is a valuable organization, this language would no longer allow for those types of organizations. That's an important distinction.

**SUBSTITUTE MOTION:**

Precisely because of what **Senator McGee** just said, **Senator Werk** offered a substitute motion and moved that S1179 be sent to the floor with a do-pass recommendation. **Senator Keough** seconded the substitute motion. **Senator Werk** said that the real point from his perspective is picking and choosing the winners and losers out there of who gets to get a plate and how that money is used by those organizations, many times out of our control and in ways that maybe we agree with and maybe we don't. Narrowing down how specialty license plates are approved and where that money goes and for what purposes is extremely valuable. There are lawsuits against States associated with plates, and they are numerous. There are all sorts of things that States are trying to do with plates to benefit groups that many of us would not agree with. Providing this kind of

sideboard will keep us out of that arena and make our lives a little simpler. The Senator thinks it's a great idea to try and do this.

**Senator Bilyeu** asked if her Afghanistan/Iran veterans plate would qualify? The proceeds go to the Veteran's Cemetery which is a State program. **Senator Corder** believes that potentially it could, so any entity without a foundation could potentially qualify. There was no further discussion.

**Vice Chaiman Brackett** called for a voice vote on the substitute motion to send S1179 to the Senate floor with a do-pass recommendation. The motion passed by a voice vote with one dissenting vote. **Chairman Hammond** will carry the bill on the Senate floor.

**ADJOURNMENT:** With no further business before the Committee, **Vice Chairman Brackett** adjourned the meeting at 2:25 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AMENDED AGENDA  
SENATE TRANSPORTATION COMMITTEE  
1:00 P.M.  
Room WW53  
Thursday, March 24, 2011

SUBJECT	DESCRIPTION	PRESENTER
<b><u>NOTE:</u></b> <b>AGENDA AMENDED TO ACCOMMODATE A NEW START TIME OF 1:00 P.M.</b>		
<a href="#"><u>H193aa</u></a>	Legislation amending Section 49-1004, Idaho Code, to provide that in certain actions or proceedings, the court shall require a security of a 5% bond, or an amount equal to and not less than 5%, of the appraised value of products being transported on State highways in the State of Idaho. And to provide that in certain final judgments or final decisions, the court shall determine an amount of moneys to be awarded.	Representative R. J. Harwood
<b>MINUTES</b>	Approval of the March 3, 2011 Committee minutes.	Senator Winder and Senator Bilyeu

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, March 24, 2011

**TIME:** 1:00 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:07 p.m.; the secretary took a silent roll. The Chairman welcomed all in attendance. The first order of business is to hear H193aa; **Representative Harwood** is here to present the bill.

**H193aa:** **Representative Harwood** thanked the Committee; he referred to the packet of information he provided for the Committee including a letter from the Attorney General. He apologized for any information that was incorrect that he had previous delivered.

This bill has to do with a lawsuit brought up earlier this year. The suit is against the Idaho Transportation Department (ITD) regarding a special permit on Highway 12. The suit held up the load movement for almost 4 months; the final ruling was in favor of allowing the load to proceed. The cost to taxpayers and the industry was significant. The Representative drafted this bill after the timber bill that was done 20 years ago which states that if you're filing a law suit against the Idaho Department of Lands for timber sales, you have to put up a 10% bond. If you lose the suit, you lose that bond. That put an end to frivolous law suits in the timber industry.

On page 4 of the Attorney General's opinion it talks about the similarity with the security already set forth; there is also a precedence for hazardous waste. It's not unconstitutional to need a bond; see part 2 of the opinion, it says it clarifies the law to help pay industry when they've been harmed.

Anyone can sue ITD, but it's not the general public, it's usually an environmental group which is what took place in this case. On the last page of the bill, the money put up for bond will be set aside, rule 65(c). If they lose the suit, the bond goes into the transportation account. A judge has the opportunity to make restitution to the industry that has been harmed by the suit (line 49).

The Representative has been asked why there is an emergency clause on the end. He believes there are more lawsuits coming; he wanted it to automatically become law once it's signed. He heard through the media that another lawsuit is going to be filed. Mr. Alan Frew of ITD and Chairman Darrel Manning of the ITD Board are here to help answer any questions. With that the Representative stood for questions.

**QUESTIONS:**

**Senator Werk** wanted to clarify the emergency clause in the bill. The lawsuit that was filed was a federal lawsuit. Are you implying that the provisions of this bill would apply to the filing of a federal lawsuit? **Representative Harwood** said that the Senator was correct that it was a federal lawsuit filed against the Forest Service. The Representative is saying he placed the emergency clause in case lawsuits come to the State. **Senator Werk** commented that the Representative's presentation was peppered with the word "frivolous." While "frivolous" is in the eyes of the beholder, if a judge considers a lawsuit "frivolous" he will simply dismiss it. It is not the Senator's understanding that the mega-loads case was considered to be "frivolous." Was there a "frivolous" lawsuit filed in the mega-loads case?

**Representative Harwood** stated that he hadn't heard any differently, he just used the term because that's how he feels. The first one filed was done by Judge John Bradbury. The Supreme Court came back later and indicated the Judge was out of line and they gave it a hearing. Sometimes it's easy to find judges that will rule the way you want them to rule; and sometimes that happens. The word "frivolous" was the Representative's word. **Senator Werk** asked if the Representative believes that someone wanting to file a lawsuit in the State of Idaho could go "judge shopping." Have you heard of anyone going "judge shopping" in Idaho? **Representative Harwood** said he wouldn't put it in that term, but it is his opinion that there are judges who have personal opinions that override the right thing to do.

**Senator McGee** asked if ITD supports H193aa. **Representative Harwood** thinks they are neutral, but suggested they answer that question.

**Senator Keough** asked the Representative to give her a range of costs that would be involved in getting a bond. **Representative Harwood** responded that it would depend on the insured value of the load – depending on what is being hauled. As an example, when an excavator is being hauled you have to have liability up to \$750,000.

**Senator Corder** questioned the Representative's statement that if you haul an excavator you need \$750,000 in liability. **Representative Harwood** responded that it was what he was told. **Senator Corder** said that he hauls them all the time and the Representative's statement isn't quite correct. The Senator said he was trying to understand the process: an applicant applies for a permit, ITD grants the permit, the applicant then begins the process of moving down the road to get to that point where the permit is required. At some point, a third party enters the arena and asks ITD to reevaluate that permit, then a hearing is held; the hearing's ruling is that permit is okay. The party that's bringing the complaint says that's not good enough; they go to district court and they file an action. Who are they filing the action against? **Representative Harwood** said it would be the party that filed to stop the load moving forward. **Senator Corder** restated his question. The party in this case is the party that owns the land or they're concerned about moving the equipment – party #1. They initiated ALL the actions; but they don't get the right decision out of ITD. Party #1 now moves to district court; who are they asking for an injunction against? **Representative Harwood** answered the party that brought the lawsuit to begin with; he deferred to Mr. Alan Frew, ITD's Motor Vehicles Administrator for further clarification. Mr. Frew responded that it gets fairly technical, but to answer **Senator Corder's** question the defendant, in this case would be ITD.

**Senator Corder** continued with Mr. Frew. The Senator restated that the plaintiff is the one who had the concern and now is in the court; and the defendant is ITD. Another party has been brought into this business that is not a party to any action; is that correct? Mr. Frew responded that sometimes there are third parties. In this case, the third party would be the shipper or transporter. The cost would be the lost opportunity costs, rental of the ground, the cost of not moving; if there were an injunction against ITD that said they could not issue a permit even if they already had, that stops the movement. During that period of stopping while it's going through the courts; there would be standby costs; the carrier would have the transporter and pilot cars on standby waiting for this thing to move. If it's not allowed to move, then they stand down and maybe will get another load, or maybe not. Mr. Frew believes that this bill is trying to address those costs. One other point of clarification, the \$750,000 liability is the minimum required by the Federal Motor Carriers Safety Administration (FMCSA) regulations; that comes into play if they're transporting interstate. **Senator Corder** said that \$750,000 is the Department of Transportation's (DOT) standard for the minimum amount of liability; it's not tied to the equipment, it's not cargo insurance. To follow-up on this other issue, why would the plaintiff name the business and open themselves up to liability in the event that this plaintiff loses. Mr. Frew said this would be entirely done on a case by case basis. What happened last time is that it wasn't a permit concern when Judge Bradbury issued a restraining order. He corrected himself and said ITD should issue a permit because he couldn't issue a restraining order against something that doesn't currently exist. ITD issued the permit, the judge issued a restraining order, and there was a hearing on the case. **Senator Corder** wanted to know how is there a cause of action against the business. The Senator stated that a third party business doesn't get tied to any action that's happened so far in the case we have, or a potential case that is trying to be addressed in this bill. How does that business become a party to the action?

**Chairman Hammond** offered to rephrase the question for clarity. The amount of the bond that is required is based upon the value of the shipment; **Chairman Hammond** suggested that **Senator Corder** wants to know what is the nexus between the value that is placed on the shipment and the carrier who is not a party to this court case. He asked **Senator Corder** if that was the information he was trying to get from Mr. Frew? **Senator Corder** replied that it is not exactly what he is seeking, but it is an additional point. He is concerned about the legal nexus. The plaintiff either had to name the business in the complaint to make him a party to the action, or all the action is against ITD. There are trucks sitting idle, but there are only two parties involved: (1) the plaintiff, and (2) ITD (the defendant). How do you get a codefendant in this; and if there is a codefendant, what is the State's liability? Who does the business go after if they've been brought into this as a codefendant?

Mr. Frew said the bond pays attorney costs if the plaintiff does not prevail; any remaining funds go to ITD. Later in the bill, on line 47, it helps hold ITD harmless in defending the department's actions. That part doesn't have anything to do with the transporter. It tells the court what amount of the bond should be collected. **Senator Corder** asked about line 48 where it talks about party of parties. It is not referring to a third party, it is ITD, the defendant. Mr. Frew said that later on in the bill it does talk about damages to the business, that a judge can award damages, if any, that can go back to the business. In the Conoco-Phillips case there was going to be substantial damages. **Senator Corder** agrees but doesn't see that it's clear in this legislation. **Representative Harwood** offered that the nexus is the permit, because it has to be issued before the lawsuit can be heard. The permit was issued to Conoco-Phillips and it's their property even if the lawsuit is against ITD.



**Senator Winder** asked about page 4, subsection 60. What happens if a business makes a claim and the transporter makes a claim on the bond, who has the first right to that money? What if there isn't enough money? **Representative Harwood** said the money is placed at ITD; the claim would move forward to the courts. There were no further questions of **Representative Harwood**

**RECOGNITION:** **Senator Werk** introduced students from Borah High School government classes visiting the Capitol today. They just came from a House hearing. **Chairman Hammond** welcomed the students to the Committee.

**TESTIMONY:** Ms. Barbara Jordan represents the Idaho Trial Lawyers Association (ITLA) and was testifying against H193aa in its current form. In theory, ITLA doesn't disagree with this bill, but it is confusing to the Association in trying to understand it. They understand what **Representative Harwood** is intending in this bill, which is to put a barrier for people filing suits against ITD for the permits that they issue. It is well known that this is a heinous action case that just happened; but one incident shouldn't bring new legislation. That was a confusing case for all parties. Given that we've gone through that case and the process, there is a greater understanding of how it is all supposed to work. ITLA recommends holding the bill to work on a better solution; if it cannot be held, ITLA would help with amendments. She referred the Committee to the information she had included in their packets; there are some suggested amendments. She went through the changes they offered in the House and the suggestions for this bill if it goes to the Senate's 14th Order. Following her explanation, she stood for questions.

**QUESTIONS:** **Senator Werk**, in summary, said that this bill sets an arrow and then shoots it and misses the mark. The ITLA would prefer to see it be held and worked out in the interim. If that does not happen, ITLA wants to give the judge latitude to decide whether the bond would be needed and how the money would be distributed. Ms. Jordan said his summary was correct and the bill needed significant work.

**Senator Winder** asked if it wasn't unusual for a judge to issue an injunction before there's actual cause? Ms. Jordan responded said that it depends on the circumstances.

**TESTIMONY:** Ms. Hanna Brass, ACLU's Policy Director, offered general comments and concerns ACLU has with H193aa. Ms. Brass stood for questions.

**QUESTIONS:** **Senator Winder** asked if the ACLU's issues deal with access to the courts. ITD issues 60,000+ permits per year; how could they have that many hearings in a year? Ms. Brass said she was not suggesting public hearings, but if the legislation doesn't include them, there would be no access to the courts.

**Senator Corder** asked if the ACLU is not in opposition to the bond, you just want the court to determine the amount. Ms. Brass agreed that the judge should have the discretion. **Senator Corder** suggested that there is a tendency to pick and choose what Attorney General opinions to agree with. Ms. Brass hasn't seen this opinion so could not comment.

**Senator Winder** suggested that if we only needed Attorney General opinions, we wouldn't need courts.

- TESTIMONY:** Chairman Darrell Manning, ITD Transportation Board Chair, said that in the 37 years he's been associated with ITD, this is the first time they've ever had a legal challenge. He doesn't know of anyone not opposed to frivolous lawsuits, but as has been said, it's in the eye of the beholder. The Board has not seen the bill and ITD doesn't take a stand but provides information as to the impact proposed legislation will have on ITD. He understands the importance of what they're trying to do. Public input is important to ITD and the way they conduct business. ITD issues over 66,000 permits each year. Moving goods and people is very important to ITD and to the State's economy. His hope is that whatever the decision of this Committee is, it will not make it more difficult to issue permits. Chairman Manning stood for questions.
- QUESTIONS:** **Senator Werk** asked about the value of the loads in the case this past summer. Chairman Manning said he didn't know the exact value but it was in the millions of dollars; it had to go offshore because of our inability to manufacture certain steels and irons. There were no more questions for Chairman Manning.
- CONCLUSIONS:** **Representative Harwood** offered closing remarks and additional information and clarified answers to questions previously asked. He ended by asking the Committee to send the bill to the floor without changing it.
- ORIGINAL MOTION:** **Senator McGee** supports what **Representative Harwood** is trying to do and there should be a bond posting in these situations. But since the testimony given shows that the language is confusing at best and the bill needs an amendment to improve it; he would be willing to work on it. **Senator McGee** moved that the Committee send H193aa to the 14th Order for possible amendment. **Senator Keough** seconded the motion. The Chairman asked for discussion.
- SUBSTITUTE MOTION:** **Senator Werk** said that for the same reasons **Senator McGee** talked about, he thinks the confusion is difficult and believes the bill would be difficult to change at this late date; it is not salvageable. **Senator Werk** offered a substitute motion to hold H193aa in Committee. **Senator Corder** seconded the motion. The Chairman asked for discussion.
- Senator Corder** thought an amendment might work but there are a number of issues that need to be worked out – there is a confusion of efforts. The Senator agrees with the concept and people should be held accountable if they're going to bring these issues.
- The Chairman called for a voice vote on the substitute motion; he declared the substitute motion failed. There was a call for a roll call vote. The roll was called; the vote was 6 nays and 3 ayes. The substitute motion failed.
- The Chairman called for a voice vote on the original motion. The original motion passed by a voice vote; **Senator Bilyeu**, **Senator Corder**, and **Senator Werk** cast dissenting votes.
- MINUTES:** **Senator Winder** made a motion to approve the minutes of the March 3, 2011 Committee meeting. **Senator Bilyeu** seconded the motion. The motion passed by a unanimous voice vote.
- ADJOURNMENT:** With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 2:07 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, March 29, 2011

**TIME:** 1:00 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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.

**CONVENE:** **Chairman Hammond** called the meeting to order at 1:00 p.m. A silent roll was taken. The Chairman asked Mr. Jerry Deckard of CapitolWest Public Policy Group to present H232.

**H232:** Mr. Deckard said he was before this Committee on behalf of the Idaho Association of Highway Districts and Mr. Stuart Davis, who was not available to testify. This bill does two things: (1) There is an ambiguity in the law; look on page 1, line 17 this bill lumps highway and public right-of-way together. And, (2) public right-of-way has been stricken from the first paragraph and left "open highway" so that any impediment to the "open highway" would be immediately removed. So there is no question about public right-of-way, paragraphs 2, 3, and 4 deal with how impediments in the right-of-way might be dealt with so that the immediate impediment to travel on the highway is removed. Mr. Deckard stood for questions.

**QUESTIONS:** **Chairman Hammond** asked what brought this bill forward. Mr. Deckard said that as subdivisions develop, many times you have adjacent subdivisions where a road will dead-end. Then the next developer gets his subdivision roadways completed; as this continues, there might be a berm impeding the continuous flow of the roadway from one subdivision to the next, which causes problems. He cited an example of a young girl who swallowed a dime; the fire department was called and they came in through the other subdivision. It should have been a two minute trip. They came up against the berm and couldn't get through and had to make the trip around the subdivision; seven minutes later they were at the residence. The little girl is okay, but it was unnecessary. It is one of the reasons this bill needs to get passed so that all those impediments can be removed where those streets and highways come together.

**Senator Werk** said that when you remove the statement of public right-of-way in line 17 that somehow "public right-of-way" is encumbered in subsection 2, 3, 4 below. If you remove "public right-of-way" out of this section of Code, it simply goes away and then all of this simply concerns highways. Your presentation said it dealt with right-of-way. Mr. Deckard said that paragraph 1 deals with immediate removal of an impediment on the highway or right-of-way as it was originally written. This just says that if it's an impediment to the open highway, then the impediment is to be removed immediately. In subsection 2, it says that people owning an encroachment within the right-of-way are given proper notice to remove the encroachment. **Senator Werk** said he assumes that it clarifies the nature of the open highway and the immediate removal, and then everything else stays the same. Mr. Deckard said that the Senator was correct.

**Senator Corder** asked if this prohibits it to apply to all highway districts and not just ACHD (Ada County Highway District). Mr. Deckard said this applies to all highway districts and street agencies. There were no further questions for Mr. Deckard, who asked the Committee to send it to the floor with a do-pass recommendation.

**MOTION:**

**Senator Corder** moved to send H232 to the Senate floor with a do-pass recommendation. **Senator Werk** seconded the motion. There was no discussion on the motion. The motion passed by a unanimous voice vote. **Chairman Hammond** will carry the bill on the Senate floor.

**PRESENTATION:**

**Chairman Hammond** welcomed Mr. Rakesh Mohan, the Director of the Office of Performance Evaluations, to present the follow-up report on the Idaho Transportation Department (ITD) Performance Audit. Before Mr. Mohan began, Chairman Hammond welcomed General Darrell Manning, Chairman of the ITD Board, and Mr. Brian Ness, Director of ITD.

Mr. Mohan thanked the Committee and introduced Mr. Jim Brock of Avant Infrastructure Management Consulting and Mr. Bob Thomas of Robert C. Thomas and Associates; consultants hired to prepare this follow-up review. And Mr. Lance McCleve of the Office of Performance Evaluations who also worked on this project. Mr. Mohan commented that Chairman Manning, Director Ness, and the ITD management team were all wonderful to work with. They were very helpful and cooperative in giving them all the information that they needed. He also thanked **Chairman Hammond** and House **Chairman Smith**, as well as former-Chairman **Senator McGee** and House former-Chairwoman **Representative Wood**, for their input and help in putting this together. He also thanked **Senator Keough** and **Representative Killen**. They spoke with all these people for two reasons: They had a good overall understanding of these complicated issues; and they were also involved with the Governor's Task Force.

Mr. Brock made the presentation of the follow-up report of the performance audit they had performed in 2008 and presented in 2009. The purpose of the follow-up report was to assess the implementation of the recommendations that were made. Identify any factors that may of enhanced or hindered those recommendations. And to determine any impact, if any, for recommendations that have been completed. Looking back to the performance audit, the funding was insufficient at the time to maintain the State highways, a comprehensive statewide strategy was missing – particularly with respect to capital improvements and operations, the programs were generally reactive and were more of a worst-course – spending money on the worst needs rather than being able to have a strategic maintenance and operation plan to preserve the infrastructure. From a technical standpoint, particularly engineering districts in the field, the turnover of engineers was high, and the department had generally a recruitment deficiency in turnover and retention policies. They found the department lacked the necessary systems and

tools to provide decision-makers with information to run a cost-effective program. They were able to identify that there was an absence of a policy guide for local roads as part of the overall highway system.

Since the presentation of that audit, a number of items have occurred. An Executive Order was issued by the Governor to develop a strategic action plan. The purpose of the Executive Order was to have ITD execute the recommendations from the audit. It included an accountability report with performance measures. Another purpose was to link the strategic plan with the statewide transportation improvement plan and other existing corridor plans. And, implementation of key technology and information systems that were lacking. The Governor's Task Force on Modernizing Transportation Funding in Idaho was created. The follow-up does not address that because the task force took place only last year. There was also a leadership change which presents a challenge.

The results show 44 detailed recommendations and their status. Some high level items will be presented today. ITD has responded positively and aggressively and there has been a high degree of effort that has transpired with respect to those recommendations. Only 3 or so of the 44 have not been acted upon. Most are completed and a number are in process and on-schedule; none have been ignored. ITD is positioning itself to make the most cost effective decisions with whatever funding is available.

**Senator McGee** commented that it is important to recognize what was just said and the difference and change that has taken place. The fact that they rarely see this is impressive. It points to the leadership of General Manning and to Director Ness as well. We have seen dramatic changes at ITD and it needs to be recognized.

The follow-up review covered six categories: Strategy and Performance Management; Preservation, Maintenance, and Asset Management; Data and Information Management; Organization and Human Resources, Project, Contractor, and Consultant Management; and Financial Planning and Budgeting. The report and Mr. Brock's PowerPoint presentation are part of the permanent record of the Senate Transportation Committee. In conclusion, there are several new recommendations because of the uncertainty of the funding for local roads and the work done last year with regard to the task force. They're recommending that oversight of the funding for local roads be pursued; the department finalize their strategic plan; the separate planning processes and documents together with the strategic plan take place; and because of funding overall is not keeping pace with the needs, ITD needs to seek alternative funding sources for preservation and maintenance. At the end of the presentation, Mr. Brock stood for questions.

#### **QUESTIONS:**

**Chairman Hammond** said it was very heartening to have Mr. Brock come back for this follow-up report and hear so much good news. We salute and congratulate Chairman Manning and Director Ness for all their efforts to bring the department so far forward. The Chairman asked the Committee if they had questions.

**Senator Corder** asked when they do these follow-ups are you just verifying what progress has been made or do you spend much time validating the original question? Mr. Brock replied that the original performance audit took six to eight months; this follow-up took six weeks. They do review the previous audit first; they did some preliminary investigation before they began the review, and they also developed a series of questions. There were certain areas of priorities that they wanted to pursue. They endeavor not to take anyone's word; they strive for evidence. He gave examples. **Senator Corder** said his concern is that over time the relevance of the original question may have changed. Given two years have past, maybe that question is no longer relevant. Mr. Brock responded by saying that in his experience in both the public sector and the private sector,

typically change takes time. Many of the questions were relevant because they were elementary to being able to move forward in an effective and efficient way. There were no systems; you need to have systems, and that can take years. The organizational changes with respect to districts vs. central offices is a challenge to maintain a balance. Aggregation of the information was also important. They went through all the recommendations, in detail, and determined they were very relevant still. The surprise was that in a short period of time, two years, the amount of change in acquiring systems and implementing them, training, and moving them forward on multiple levels was surprising. **Senator Corder** asked for clarification with regard to the first new recommendation to pursue oversight of local roads. Mr. Brock said that in the previous performance audit issues weren't pursued in detail because the department had priority challenges; that position remains the same. During the Governor's Task Force last summer there were some efforts made for developing some reporting criteria that were to be implemented. They're comfortable that the criteria has been identified, but that's at the back end; they felt that from a systems standpoint, looking at the entire State, having the information available to decision makers up front is important to determine if the money is being efficiently spent. There was some partial effort but to pursue it would be beneficial statewide because there is some uncertainty there. **Senator Corder** said he can appreciate not pursuing a new era of collaboration with local authorities, but since ITD really can't dictate how those authorities spend their money, pursuing an oversight of how they get funded seems not as relative as a coordinated activity. Mr. Brock said they felt that was unaddressed from the last time but there is information that needs to be obtained; to leave it out would be remiss.

**Senator Bilyeu** asked if they realigned the department between the central office and the districts; was that one of the recommendations, and if so was that to save money or to better manage the transportation system. Mr. Brock responded "yes" to all of the Senator's inquiry. There were no further questions for Mr. Brock.

**CONCLUSION:** Mr. Mohan wanted to make a brief comment in response to Senator Corder's questions. There are times when questions are no longer relevant and if there aren't any recommendations relevant to a question, then we state they're not relevant. This was an issue brought up during the interview process. Some things have to be done at the policy level. Mr. Mohan again thanked the Committee. **Chairman Hammond** asked if Chairman Manning or Director Ness wanted to comment. They did not have anything to add.

**MINUTES:** **Senator Keough** moved that the minutes of the March 8, 2011 Committee meeting be approved. **Senator McGee** seconded the motion. No discussion. The motion passed by a unanimous voice vote.

**RECOGNITION:** **Chairman Hammond** thanked the Transportation Committee's Senate Page, Miss Heather Sweet of Nampa, for her service to the Committee. The Chairman presented her with gifts from the Committee. The Committee acknowledged her hard work and contribution with a round of applause.

**ADJOURNMENT:** With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 1:52 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

FINAL AMENDED AGENDA  
SENATE TRANSPORTATION COMMITTEE  
1:00 P.M.  
Room WW53  
Thursday, March 31, 2011

SUBJECT	DESCRIPTION	PRESENTER
<b>NOTE: Agenda Amended to Hear H91aa,aa.</b> <u>Final amended agenda reflects hearing time change to 1:00 p.m. and the addition of approval of minutes.</u>		
<a href="#"><u>H91aa,aa</u></a>	Legislation amending section 49-613, Idaho Code, to provide a statewide policy to prohibit the operation of vehicles on public highways unless the vehicle's load is secured or any required covering is securely fastened. It provides an exemption for forestry and agriculture products.	Mr. Chuc Coulter, Government Relations Officer, Idaho Coalition for Motorcycle Safety
<b>MINUTES</b>	Approval of minutes for the March 15, 2011 Committee meeting.	Senator Brackett and Senator Bair

**NEXT COMMITTEE MEETING SCHEDULED AT  
THE CALL OF THE CHAIR**

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

Gaye Bennett  
Room: WW33  
Phone: (208) 332-1332  
email: [gbennett@senate.idaho.gov](mailto:gbennett@senate.idaho.gov)

MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, March 31, 2011

**TIME:** 1:00 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:02 p.m. A silent roll was taken. The Chairman asked Mr. Chuc Coulter, Government Relations Officer for the Idaho Coalition for Motorcycle Safety, to present H91 as amended, as amended.

**H91aa,aa:** Mr. Coulter said that H91 was brought to this Committee by the efforts of the Idaho Coalition for Motorcycle Safety. He referenced the Start Rider Training program and that the Coalition is very much concerned with motorcycle safety. H91 is really about safer roads and personal responsibility on how our roads are being used. The intent is to address some of the issues that could make travelling on our highways safer. It is important to motorcyclists because hitting debris on the highway may be an inconvenience to a 4-wheel vehicle, but when you hit it with a 2-wheel vehicle you can lose your balance which can result in serious injuries. They are concerned about debris, but enforcement has been an issue; there is a representative from the Idaho State Police (ISP) who can address those issues. When looking at the old statute, they found there was not much room for any enforcement; you had to wait until the debris was on the highway before anything could be done.

While doing the work-up on this bill, they did a survey of surrounding States. One thing they found was that in the State of Idaho, 24 counties and 20 cities have ordinances that are similar to what H91 does. Others said they were adopting State law, but there wasn't much to adopt. He cited a Boise ordinance that requires a covered load when entering the landfill at Seaman's Gulch or they'll be ticketed by law enforcement. This ordinance was a result of the neighborhood having to deal with the debris that would fall off the loads heading to the landfill. If there is a concern with compliance there needs to be a statewide policy rather than ordinances from jurisdiction to jurisdiction.

The canal companies are specifically listed in this bill because some of them (like irrigation districts) are already covered by State law. This puts them on an equal footing with irrigation districts. Agricultural and forest products are exempt. Even with the amendments in the House, a secured load is still required. If you don't have a secured load, officers can stop you and ask you to secure the load or they'll write a citation. He ended by asking the Committee to send this bill to the Senate floor with a do-pass recommendation. Mr. Coulter stood for questions.



**QUESTIONS:**

**Senator Keough** stated she has a conflict-of-interest with this legislation. The Senator asked about the Statement of Purpose and the exemption for forestry and agricultural products. The engrossed copy does not have a forestry exemption; does this mean that logging and forest products are not exempt? Does it require a tarp be pulled over logs to help bark and the occasional rock that gets stuck in the bark from falling off the load? Does this bill require a load of logs to be covered in some fashion? Mr. Coulter replied that it would not. A covered load is required for loose materials being carried. Subsection 6 talks about a covered load; subsection 4 talks about secured loads on public highways to prevent the load from becoming loose, detached, or hazardous to other users of the highways. **Senator Keough** said the log loads are required by law to have safety wrappers around them so the logs are secure, but occasionally the bark is not secure and it will come off, depending on the time of year. She is concerned that this new language presents a challenge to those who haul logs.

**Senator Corder** commented on that issue. The Statement of Purpose was written in the House and came from legislation last year; they thought they could wordsmith this better than it had been before. He suggested that the ISP representative could address how they would deal with this. The Chairman said that the ISP representative was scheduled to testify.

**Senator Werk** wanted to know if sanctions, if this law is violated, is located somewhere else in the Idaho Code. The Chairman suggested that might be a question for ISP. Mr. Coulter responded by saying that Title 49, section 236 deals with penalties not otherwise prescribed and includes misdemeanors, penalties, infractions. Subsection 2 deals with infractions which would cover this citation. There were no further questions for Mr. Coulter.

**TESTIMONY:**

Lieutenant Jim Eavenson of the Commercial Vehicle Safety Unit of the Idaho State Police (ISP) conveyed ISP's support for this bill. They support it for public safety reasons and for the resulting monetary issues of our citizens. ISP responds to many complaints about items that have fallen off vehicles out on the interstate and along highways – ladders, chains, furniture, appliances, etc. He cited a personal experience with a barbecue lid that came off in front of a car that caused a crash. It is a concern and it is a safety hazard. In addition to that, there is a monetary issue when items have broken headlights and windshields, or caused damage to other vehicles. This is a monetary issue the public has to deal with; they go through insurance companies, but they may have to take time off work to deal with these problems.

Under the current statute, we don't have a lot that prevent these problems. Currently the code says it can't fall off, can't be deposited, it can't be thrown. He cited an example of someone travelling with open containers of diesel and gasoline on the highway. It spilled through an intersection causing traffic to skid and spin out of control. This person could only be cited under the Code for littering. The judge dismissed the ticket because that Code did not apply because of the way it is specifically worded. It talks about cans, glass, wire and other substances. The Judge said the Legislature needed to fix this, which is a reason ISP supports this bill. The Lieutenant stood for questions.

**QUESTIONS:**

**Senator Keough** asked how ISP would look at a load of logs that had bark coming off of it. Lieutenant Eavenson said that ISP recognizes that the logging industry has specific load securement rules under IDAPA (Idaho Administrative Procedures Act) that tell loggers how they have to secure their loads. ISP would look at it along the lines of how they look at gravel – if gravel is inside a container where it's supposed to be and not falling off, that's one thing; but if there is gravel that has fallen on the outside of the container because of the way it was loaded on the truck, that needs to be swept off before it travels. This same logic can apply to loggers. If there is loose hanging bark (something that is clearly obvious that could fall off and cause a hazardous situation), it is something the driver should address and deal with before travelling. If it's just bark on the logs, in general that shouldn't be an issue. **Senator Keough** shared that IDAPA rules do require that logs be secured with three wrappers on five areas of a load of logs, and the driver removes anything that looks like it is hanging. However, during certain seasons, like when the sap is running, the bark can become loose despite these precautions.

**Senator Bair** asked about the definition where it says that no "vehicle" shall be operated. What is the definition of a "vehicle" in this case? Does it include both a tractor AND a trailer, or the pickup AND the trailer? Lieutenant Eavenson said there is a definition in the section 49-100 series of Idaho Code that defines what a vehicle is. A vehicle would include the tow-unit, or car, or a trailer as well. There was a previous question regarding the fine. This is a nonmoving infraction. There are no points against the drivers license, no jail time, and a fixed fee which is currently \$68. There were no further questions of Lieutenant Eavenson.

**GUESTS:**

**Chairman Hammond** welcomed **Senator Davis** who accompanied a group of Scouts into the Committee. The Chairman welcomed the guests and described the bill that was being heard before the Committee.

**TESTIMONY:**

Mr. Lane Triplett who is the Chairman of the Idaho Coalition for Motorcycle Safety testified. Mr. Triplett wanted to address budget savings with this bill. He spoke with District 3 of ITD about the cost. The piece they shared with him was that about \$150,000 was spent per year in cleanup on the section of freeway from Broadway Avenue to Meridian and the I-84 Connector. They estimated that \$75,000 of that was a result of unsecured loads, extra work they had to do. The point is that if you take just this one small section and multiply that by the other five highway districts, the remainder of District 3, and the county highway districts, we're looking at a sizeable sum of money every year that can be saved in cleanup costs that could be better put to use in road repair and maintenance. From a financial standpoint, this bill makes a lot of sense. He asked for support for the bill. There were no questions for Mr. Triplett.

**COMMENTS:**

**Senator McGee** had a comment for Mr. Coulter. The Legislature has seen a lot of these bills over the years. It's impressive that there is no one present to testify against the bill. Senator Keough raises some excellent concerns. Perhaps Mr. Coulter has struck the right cord in talking about covered loads. He offered his congratulations.

**Senator Corder** stated this bill is four years in the making and it's simple, but there has always been a lot of opposition. He is pleased that a solution has been achieved. He complimented the Coalition because they took it on and they followed through with it. No exemptions is what they wanted, but these were steps forward. There is no illusion that no rocks or gravel will hit the road, but law enforcement will have more tools to deal with it. At least with this bill, law enforcement will be able to stop people BEFORE things hit the ground.

**MOTION:** **Senator Corder** moved that the Committee move H91aa,aa to the Senate floor with a do-pass recommendation. **Senator Werk** seconded the motion. There was no discussion. The motion passed by a voice vote; **Senator Keough** cast a dissenting vote. The bill will be carried on the Senate floor by **Senator Corder**.

**MINUTES:** **Vice Chairman Brackett** moved that the minutes of the March 15, 2011 Committee hearing be approved. **Senator Bair** seconded the motion. There was no discussion on the motion. The motion passed by a unanimous voice vote.

**ADJOURNMENT:** With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 1:37 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

AMENDED AGENDA  
**SENATE TRANSPORTATION COMMITTEE**  
1:30 P.M.  
Room WW53  
Tuesday, April 05, 2011

SUBJECT	DESCRIPTION	PRESENTER
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**NOTE: Agenda Amended to Change Meeting  
Time to 1:30 p.m.**

**H326**

Legislation amending the current emissions testing law, Section 39-116B Idaho Code, to fix the problem with car registrations.

Senator McGee,  
Co-Sponsor (Senator  
Lodge, Co-Sponsor)

**MINUTES**

Procedure for approving remaining Committee minutes.

**Future Committee meetings scheduled at the  
call of the Chair.**

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Hammond  
Vice Chair Brackett  
Sen Keough  
Sen McGee  
Sen Corder  
Sen Winder  
Sen Bair  
Sen Werk  
Sen Bilyeu

COMMITTEE SECRETARY

Gaye Bennett  
Room: WW33  
Phone: (208) 332-1332  
email: gbennett@senate.idaho.gov

MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Tuesday, April 05, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** (all present)

**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 Hammond** called the meeting to order at 1:32 p.m. The Chairman announced that this was the last meeting of the Senate Transportation Committee for this session of the Legislature. The Chairman asked **Senator McGee** to present H326 to the Committee.

**H326:** **Senator McGee** began by stating that this was an easy bill to understand, and that the Idaho Transportation Department (ITD) and the Idaho Department of Environmental Quality (DEQ) were both present to help answer any questions Committee members may have. This bill amends Idaho Code 39-116B by removing the requirement to pay for a new registration fee once compliance with the emissions testing program is shown, which follows the revocation of a vehicle registration. The change will apply to all inspection and maintenance programs in the State. Currently Ada and Canyon counties are required to have these programs.

Both DEQ and ITD have been in discussion on this legislation and both are supportive of the change. They do not anticipate that it will have a negative impact on the effectiveness of the programs. Motorists will still risk losing the registration for a vehicle that has not complied with the inspection and maintenance programs. ITD and DEQ feel that the risk of losing one's registration remains the primary incentive to comply with the programs.

The process is as follows: Prior to a vehicle's registration being revoked by ITD, the owner is mailed three notices (two notices in the Ada County program). Vehicle owners are given approximately 120 days (100 days in the Ada County program) to comply with the inspection and maintenance programs. Both programs experience complaints from owners saying they did not receive testing notifications. Most issues with revocations occur because the motorist has not updated their address with ITD as required by law. Since June 1, 2010, Canyon County has revoked 7,675 vehicle registrations and Ada County has revoked 6,152. ITD revokes noncompliant vehicles on a monthly basis. Canyon County started their program on June 1, 2010; Ada County's programs began in 1984. This bill would no longer allow a double fee punishment if your vehicle registration is revoked. The Senator stood for questions.

**QUESTIONS:**

**Senator Werk** wanted to make sure he understands the bill. He reiterated the process as he heard **Senator McGee** list them. He then provided a timeline of how long an owner would have before the license would be revoked and concluded it could be as long as five months. **Senator McGee** said he didn't believe that was correct and asked Mr. Mark Bauer, DEQ's Air Quality Administrator, for clarification. Mr. Bauer responded that from the day you get your first notice you have 120 days; you get three notices within that 120 day period.

**Senator Werk** continued that at a certain point, if the owner has not complied with the notices, the vehicle registration is revoked. If an owner wants to get back into compliance they would get their emissions testing complete and provide some kind of notification to DMV that the testing had occurred, and then their vehicle would become reregistered. Simply, the revoked registration would become reregistered in the system. **Senator McGee** responded that the Senator was correct.

**Senator Werk** asked the Chairman if he could direct his next question to Mr. Alan Frew, ITD's Motor Vehicle Administrator. The Senator is trying to understand the nature of the process that occurs once the license has been revoked, and whether or not there are costs associated with that revocation and then reissuing the registration. Would ITD have to bear the burden of those costs? Mr. Frew said that ITD has an agreement with DEQ that all their costs are reimbursed by DEQ. **Senator Werk** asked if the agreement between ITD and DEQ is specific to this legislation. Mr. Frew responded that there is a provision in the bill that says that all the costs associated with the program will be reimbursed by DEQ. **Senator Werk's** next question was for Mr. Bauer. The Senator asked if this bill would add to DEQ's costs. Mr. Bauer said that it does not incur any appreciable costs. DEQ reimburses to ITD all costs, which are low because the system is automated. When a vehicle fails the test and gets their license revoked and then they pass the test, getting the revocation done is literally a computer click, very minimal. The costs incurred by this bill are very low.

**Senator Winder** asked Mr. Bauer about compliance and wanted to know how many vehicles that are tested do not comply with the emissions test. The Senator believes it is a small number meaning the impact on the revocation and registration processes are low. Mr. Bauer said they test about 44,000 cars in Canyon County and there are about 7,600 revocations and about 1,700 failures.

**Senator Corder** wanted to understand the double fee part. The first fee is paying the initial registration fee; the second fee that is "without charge" is the second registration fee, or is there another fee that is a reinstatement charge that would not be equivalent of a full registration fee. **Senator McGee** responded that it is a reregistration fee; it is not a penalty. Mr. Bauer said that when the registration is revoked currently, you go back in and pass the test you now have to pay to get your car reregistered; you pay that registration again. **Senator Corder** asked if there were conditions where registration can be revoked and the fee is refunded to the vehicle owner. Mr. Frew answered that under the provisions of this bill, they would get their money back. **Senator Corder** said it appeared that if their registration is revoked they get their money back, and when they reregister, they pay that again. So there is still no double fee. Mr. Frew said they would pay their original registration fee, there would be a revocation, they go back in and pay for that reinstatement of registration and DEQ found they had met the testing standards, then ITD would refund that money. **Senator Corder** said there is no double fee, there is one fee, and if you pay it twice you're going to get one of them back. Mr. Frew said that was his understanding.

**Senator McGee** suggested that the discussion is making the legislation more complicated than it is.

**Senator Bilyeu** asked why this legislation was coming before the legislature so late in the session. **Senator McGee** was not aware why it was started so late on the House side, but it is a good piece of legislation.

**Senator Winder** speculated that the bill deals with people being late, so this legislation is late. There were no further questions

**MOTION:**

**Senator Winder** indicated he would like the issue of the refund changed. He relayed a personal experience. Mr. Bauer said this bill will change the process so that when the revocation is reinstated, the owner does not have to pay the second time. **Senator Winder** said, given that explanation, he proposed a motion to move H326 to the Senator floor with a do-pass recommendation. **Senator McGee** seconded the motion. The Chairman asked for discussion on the motion.

**Senator Werk** said the only thing that gives him pause is the actions of certain local elected officials suggesting that owners not comply. **Senator Corder** said he will not oppose the bill but he doesn't know that it's needed because he suspects a number of those revoked licenses are unidentifiable. If they're not getting their notice, they're not getting their warning, so they're not going to get their refund check either. He hopes that refunds will not be issued to all revocations.

Seeing no further discussion, **Chairman Hammond** called for a voice vote. The motion passed by a unanimous voice vote. **Senator McGee** will carry the bill on the Senate floor.

**PROCEDURE:**

**Chairman Hammond** said that if the minutes of Transportation Committee meetings are not completed in time to be buck-slipped this week, they will be e-mailed to Committee members for approval. There was no discussion on this proposed procedure.

**SINE DIE  
ADJOURNMENT:**

With no further business before the Committee, **Chairman Hammond** adjourned the final meeting of the Senate Transportation Committee for this session of the Legislature at 1:55 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary