

MINUTES
SENATE TRANSPORTATION COMMITTEE

- DATE:** Thursday, February 16, 2012
- 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 1:33 p.m. and asked the secretary to take a silent roll. With a quorum present, he explained that the agenda would be reordered and the Committee would begin by hearing S1312, followed by S1313 and S1310. With that, **Chairman Hammond** welcomed Suzanne Budge to the podium.
- S1312:** Ms. Budge said she was representing John Deere. She will do a quick overview and turn it over to her client, Beverly Heird. This bill puts into statute what the Idaho Transportation Department (ITD) already does; it adds clarifying language to the statute. John Deere is a multi-State company that finances equipment all over the country and they're looking for certainty in practice for ownership of equipment that they finance. The intent of S1312 is to clarify that equipment that is not required to be titled is, in fact, not titled. Their way of showing ownership is through the Universal Commercial Code (UCC) filing process. In order to do that, they are specifically exempting equipment in the Code by a specific process. If the equipment is not subject to federal safety requirements or if it meets federal safety requirements then it is not registered. If it is not registered, it is not titled. That specific exemption that already exists for farm tractors and other items in that section of the Code (29-426, section 2, Idaho Code) is being added. The language is for construction equipment, forestry equipment, and lawn and grounds equipment. She asked if Ms. Heird could testify. The Chairman invited her to the podium.
- Beverly Heird Florez introduced herself to the Committee. She is the Manager of Public Affairs for a division of John Deere. As a manufacturer of construction equipment and agricultural equipment, they are trying to have the same process as it relates to titling. As pointed out, construction equipment is not currently registered because it does not meet on-highway standards. Because it's not registered, it's better if it's not titled, but in the current statute it does not clearly exempt key equipment. Having to double check to make sure whether it is titled causes an additional step for their financing company. Also, it is unclear whether they need a title or if a UCC filing is sufficient. **Chairman Hammond** called for questions from the Committee.
- QUESTIONS:** **Vice Chairman Brackett** asked for specific examples that would fall under "other construction or forestry equipment." Ms. Heird Florez said examples would be a skidder that wouldn't be used on the highway or an excavator, a bulldozer, or a crawler.

Senator Keough stated that she may have a conflict of interest because she works for the forest products industry. **Senator Corder** indicated that he, too, may have a conflict of interest because he owns some of John Deere's "other" construction equipment. **Vice Chairman Brackett** indicated he may have a conflict of interest because he also owns some "other" construction equipment.

TESTIMONY:

Colby Cameron of Sullivan, Reberger and Eiguren said that their client, Caterpillar Corporation, supports this legislation, and that Caterpillar has the same problem that John Deere has with this issue. There were no questions for Mr. Cameron.

MOTION:

Senator Corder moved to send S1312 to the Senate floor with a do-pass recommendation. **Senator Bair** seconded the motion. The motion passed by a unanimous voice vote. The Chairman asked **Senator Corder** to carry the bill on the Senate floor.

S1313:

Chairman Hammond asked **Vice Chairman Brackett** to present S1313. Through the Idaho Hazardous Waste Act, the hazardous waste facilities charge a fee for every ton of waste. The Act sets a fee schedule and also provides that 5% of fees collected be remitted to the County where the facility is located for emergency response programs. Currently, that fee generates approximately \$2.4 million of which 95% goes to the State Treasurer. There is only one commercial hazardous waste facility in the State of Idaho and that is the U.S. Ecology facility located in Owyhee County. S1313 amends the Idaho Hazardous Waste Act to provide assistance to the County and State for maintenance, construction, and repair of the roads impacted by these trucks hauling waste from the rail facility down to the waste facility in Owyhee County. This legislation amends the Act to provide that 5% of the fees, phased in over three years, be remitted to the local highway district, in this case it's Elmore County. An additional 5% of the fees, phased in over three years, to be remitted to the State highway account for maintenance, construction, and repair of roads in connection with the rail facility in Elmore County. Simco Road is that road. It was paved in 2004 as part of an agreement between U.S. Ecology, J.R. Simplot Company, and the county highway district. Each company contributed approximately \$900,000 in the construction of the road. This has truly been a public/private partnership. Since that time, U.S. Ecology has contributed \$381,000 for maintenance and repair of Simco Road. Elmore County receives no direct benefit from the road, but because it is a County road, it has incurred expenses because it has maintenance responsibilities. The County has made a good-faith effort, but with limited resources it is not keeping up with maintenance and repairs. If Simco Road is going to remain viable, the County is going to need some help. If U.S. Ecology is going to remain competitive in the waste disposal industry, they need good infrastructure in Idaho. Simco Road has deteriorated and is in need of repair. He referred to photos provided in the Committee members' packets. If the repairs are not made, then the trucks may have to go through Mountain Home, which presents a safety issue. He finished his presentation by explaining the phasing in of fees in the fiscal note. The net reduction to the general fund is \$48,000 in Fiscal Year 2013, \$96,000 in Fiscal Year 2014, \$240,000 in Fiscal Year 2015 and each year thereafter. **Vice Chairman Brackett** requested that the remainder of his time be yielded to **Senator Corder** who was the chairman of the local highway district at the time of this agreement with Elmore County.

Senator Corder stated he was chairman when the agreement was struck and when the road was built. He agreed with the depiction of the problems with the roadway in the photos **Vice Chairman Brackett** had distributed to the Committee. He confirmed that the description of how this occurred was accurate. This was a gravel road and all the traffic was going to Mountain Home and then coming around a very circuitous route. This was an effort by U.S. Ecology. J.R. Simplot was involved because it saved them some money; a lot of their traffic was going down to their Grand View feedlot facility. At the time, the agreement was that it would become a highway district road and it would be the district's responsibility to maintain. Without the enactment of this bill, they will likely not have the funds to do that. A proposed toll road was rejected. They no longer have the funds to maintain the road and this bill is a good way to provide the needed maintenance.

TESTIMONY:

Vice Chairman Brackett yielded to Simon Bell, Vice President of Operations for U.S. Ecology. The company was founded in 1952, is headquartered in Boise, and they own and operate five hazardous and radioactive waste treatment and disposal facilities in Washington, Nevada, Idaho, Texas, and Quebec, Canada. They provide safe, secure and cost-effective hazardous and radioactive materials solutions to industry and government. They employed 375 people in North America of which 104 are in Idaho.

Senator Corder interrupted the presentation to mention that his daughter works for U.S. Ecology.

Mr. Bell continued that U.S. Ecology's largest facility was the treatment, storage, and disposal facility outside of Grand View, Idaho. From there they take their materials to their rail transfer facility located in Mayfield, Idaho, along Simco Road. Mr. Bell explained the fees are collected and 95% are paid to the general fund; Owyhee County gets the remaining 5%. The fees are used for emergency response projects like the County's 911 system, ambulance service and fire department equipment, training and equipping emergency response teams, and communication equipment and maintenance. He explained what the new distribution of fees would be under S1313. He stated that 85% of the material they receive gets transported at their rail facility by way of Simco Road. As a result of the 2004 paving project, use of the road has increased dramatically. Other users include new residents and businesses on Simco Road, employees of Mountain Home Air Force Base, residents of Grand View and Owyhee County, and recreational users of C.J. Strike Reservoir. In closing, the long-term success of U.S. Ecology is determined by access to the safe and efficient transportation route between their rail transfer facility and their treatment and disposal facility. S1313 provides a mechanism to help support critical road infrastructure allowing U.S. Ecology to maintain historic volumes and associated fees, waste volumes, and staffing levels. With that, Mr. Bell stood for questions.

QUESTIONS:

Senator Werk asked who has jurisdictional authority for the maintenance of this roadway. Mr. Bell said Simco Road is in Elmore County and is the responsibility of the local highway district. **Senator Werk** asked if they maintained the road. Mr. Bell responded that the local highway district does maintain the road.

Chairman Hammond suggested that most of **Senator Werk's** questions would be answered by **Vice Chairman Brackett** during his closing remarks.

Senator Bilyeu asked if their radio active waste was primarily medical materials and wondered if they were coming to Idaho from other parts of the country. Mr. Bell said that they receive exempt radiological materials. They are not authorized to receive licensed radioactive materials. This means that there are other materials that could include medical wastes; the Nuclear Regulatory Commission analyzes that waste, considers whether it is a potential safety concern, and they essentially determine whether they are going to regulate a facility. Because the levels are low enough the waste facility is not a long-term concern. They do take materials from all States; they're a national repository for hazardous waste and radio active waste. But radio active waste goes primarily to Richland, Washington, a licensed nuclear repository. **Senator Bilyeu** asked if the facility was over an aquifer. Mr. Bell said the facility is approximately 2,800 feet above the nearest aquifer, a hydrothermal aquifer; it's not potable water. They have perched, or discontinuous, water tables in and around the site, but they are not potable water. They have a network of fifty monitoring wells that track, detect, and verify that there are no impacts to that perched water table. **Senator Bilyeu** had an additional question. **Chairman Hammond** reminded the Senator that questions needed to be germane to the issue under consideration. **Senator Bilyeu** thanked the Chairman and asked Mr. Bell if a toll road was ever pursued. Mr. Bell said there was never a toll road put on this road; it was considered in a prior year. He did not recall how far the toll road idea got in the process, but it was determined it was not a feasible option.

Senator Bair asked if the money taken away from the general fund and ending up in the local highway district will be dedicated to the maintenance of Simco Road or will the funds be used in the course of their budgeted projects throughout their district. Mr. Bell said the bill has been written in such a manner that the funds must be spent on the corridor that goes from the rail transit facility to the hazardous waste repository. It must be used for construction and/or contractors or maintenance and repair activity. The short answer is, 'yes' the money has been limited to that corridor. **Senator Bair** asked if a study has been done to determine if eventually more funds than the cap at \$240,000 will be needed, or is the amount too much or too little. Mr. Bell said a study has not been conducted but he has been involved with the challenges they have with the road. It will still be challenging to maintain it. U.S. Ecology will continue to support the efforts of the highway districts responsible for the area. This bill goes a long way towards improving the maintenance activity, but there could still be a challenge in the future.

TESTIMONY:

Stuart Davis, representing the Idaho Association of Highway Districts, supports passage of S1313. It is truly a public/private partnership. There was no other testimony. **Chairman Hammond** invited the Vice Chairman back to the podium to present his closing remarks.

**CLOSING
REMARKS:**

Vice Chairman Brackett started by responding to **Senator Bair's** inquiry about the \$240,000. According to the bill, only half of that amount would go towards Simco Road, the other half would go towards the State highway system account. To respond to **Senator Werk's** questions, Simco Road flows into Highway 67 which intersects with Highway 78. Those are both part of the State highway system. There is a short segment in Owyhee County from Highway 78 down to the actual facility. If Simco Road is going to be maintained, the County is going to need some help. If U.S. Ecology is going to remain competitive in the waste disposal business, they need this infrastructure. In addition to the money that goes into the general fund, they have 104 employees in the State of Idaho. There is additional benefit with income tax and consumer spending. Idaho's economic development must first take care of existing companies. This bill does that. That concluded the Vice Chairman's remarks.

QUESTIONS: **Senator Werk** asked if this was the first attempt to direct funds from the general fund into a local highway district. **Vice Chairman Brackett** said he didn't know specific other instances but he thinks there may be. It's a case by case issue. **Senator Werk** said there is an implication that is not in the bill that the money dedicated to the maintenance account would be inadequate in the long run to provide the full maintenance requirements for the road. It was further implicated that U.S. Ecology would continue to invest in the maintenance in repairs and upgrades. He wanted to know if there was a signed, written agreement between the entities to that effect. **Vice Chairman Brackett** said he heard the same thing. The best indicator of the future is to look at the past, and U.S. Ecology has spent \$381,000 since 2004 on this road. That seems to be indicative of their intentions and good efforts to keep this road maintained. **Senator Werk** asked if the \$381,000 was U.S. Ecology's contribution or does it also include J.R. Simplot Co. **Vice Chairman Brackett** said that it was only U.S. Ecology's contribution since 2004. **Senator Werk** asked if there is an agreement between U.S. Ecology and J.R. Simplot Co. in terms of road maintenance. **Vice Chairman Brackett** said there was an original agreement in 2004 between U.S. Ecology and the local highway district that has been updated twice since then. There is no agreement with the State. The Vice Chairman asked if Mr. Bell would respond to this question. Mr. Bell said that as **Vice Chairman Brackett** has mentioned, U.S. Ecology signed an agreement in 2004. Each time they did additional maintenance, they signed additional agreements to allow for those additional repairs. There is no agreement in place with J.R. Simplot Co. There were no further questions.

MOTION: **Senator Bair** moved to send S1313 to the floor with a do-pass recommendation. **Senator Keough** seconded the motion. The Chairman called for discussion on the motion.

DISCUSSION: **Senator Werk** said that based on what he has heard, he has concerns. This is the first time they will be creating a particular funding stream for a particular stretch of road. He has a concern that there is nothing in the bill about the public/private partnership that we're expecting will continue. At this point, he sees a special deal put in a special instance. He is concerned with the lack of overall agreements in terms of future maintenance. He sees this as not being a complete proposal and cannot vote for the motion, but with more information he may change his mind and vote for it on the Senate floor.

VOTE ON MOTION: **Chairman Hammond** called for a vote on the motion. The motion passed by a voice vote with one dissenting vote from **Senator Werk**. **Vice Chairman Brackett** will carry the bill on the Senate floor.

S1310: **Chairman Hammond** thanked Heather Wheeler for her patience as the Committee had to rearrange the order of today's agenda. He asked her to come to the podium to present S1310.

Ms. Wheeler introduced herself as the Executive Director of the Community Transportation Association of Idaho (CTAI). She would make a brief statement about S1310 and then stand for questions. She said this bill merges the Public Transportation Advisory Council and the Interagency Working Group for Public Transportation into the Idaho Mobility Council. It will coordinate agency funding of all those agencies that receive support for their transportation efforts, and it will allow Idaho to make the best transportation decisions with limited funding. It will make the organization relevant in the context of risk in the transportation planning and coordination environment that's taking place today. There will be increased transparency and accountability by all agencies and stakeholders. It will also include additional entities that are independently impacted by

transportation services. The new group includes: Department of Environmental Quality, Department of Commerce, Division of Veterans Services, Association of Idaho Cities, Idaho Association of Counties, and others. Ms. Wheeler stood for questions.

QUESTIONS: **Chairman Hammond** asked if essentially there are two separate groups following similar missions that will be consolidated into one entity and all the missions will be taken care of jointly making it more purposeful. Ms. Wheeler agreed with the Chairman's summation.

TESTIMONY: Marilyn Sword, Executive Director of the Idaho Council on Developmental Disabilities, stated that her organization currently sits on the Interagency Working Group and they support this effort. All the stakeholders at the table will help to do a better job with public transportation. There were no questions for Ms. Sword.

MOTION: **Senator Keough** moved that S1310 be sent to the Senate floor with a do-pass recommendation. **Senator Werk** seconded the motion. With no further discussion, the motion passed by a unanimous voice vote. **Senator Keough** will carry the bill on the Senate floor.

MINUTES: **Senator Keough** moved that the minutes of the meeting of the Senate Transportation Committee held on Thursday, January 26 be approved. **Senator Winder** seconded the motion. With no discussion, the motion passed by a unanimous voice vote.

FAREWELL TO PAGE: **Chairman Hammond** asked the Committee's Page, **Ben DeMordaunt**, to take the podium so the Committee could thank and recognize his contribution to the Senate the first half of the session. Mr. DeMordaunt told the Committee he was a senior at Eagle High School and planned to attend Utah State University in Logan, Utah in the fall. He hopes to study economics. He was not sure where his life following college would lead, but was looking forward to the challenge ahead of him and to having some fun.

COMMENTS AND QUESTIONS: **Chairman Hammond** said he enjoyed having Mr. DeMordaunt in Committee this session.

Senator Werk asked him what the biggest difference was from the time he came to the Committee until this point of his departure. Mr. DeMordaunt said he thought there would be more division among the Senate members, especially on tough issues. He stated he was surprised how well everyone seemed to get along.

Senator Winder said he was proud of the work he had done; Mr. DeMordaunt was sponsored by **Senator Winder**. He thanked him for his help, and reminded the Committee that Mr. DeMordaunt's father serves in the House of Representatives. He wished him luck, but was not convinced that 'economics' and 'fun' go well together.

Chairman Hammond presented the Committee's parting gift and letters of recommendation. He hoped they would be a pleasant reminder of his experience in the Senate and in the Senate Transportation Committee.

WELCOME TO NEW COMMITTEE PAGE: **Chairman Hammond** welcomed **Ben Stringham**, a senior at Centennial High School, to the Committee as its Page during the second half of the session. Mr. Stringham indicated he was looking forward to the experience before him and the professional environment. He is anxious to learn more about State government.

ADJOURNMENT: With no further business before the Committee, **Chairman Hammond** adjourned the meeting at 2:30 p.m.

Senator Hammond
Chairman

Gaye Bennett
Secretary