

MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, March 08, 2012

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

**PLACE:** Room WW53

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

**ABSENT/ EXCUSED:** Senator Keough

**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 1:35 p.m. and asked the secretary to take a silent roll. The Chairman called on **Senator Winder** to present his bill.

**H511AA:** **Senator Winder** said this bill deals with guyed or meteorological towers, which test things such as wind velocities, possible alternative energy locations, and other related uses. This legislation is an effort to improve air safety on towers not regulated by the Federal Aviation Administration (FAA), which regulates towers 200 feet and above. Towers such as these operate across the State, and this bill would make it safer for Med-Evac, crop dusters, Idaho military, aerial fire fighters, search and rescue, predator control, survey aircraft and a variety of other aircraft.

**QUESTIONS:** **Senator Corder** asked how many accidents have occurred in Idaho. **Senator Winder** indicated later testimony would be able to specifically address that question.

**Senator Werk** asked about the amendment, which exempts power poles owned and operated by electrical suppliers to support telecommunications equipment, and if there are already safety requirements associated with those structures. **Senator Winder** indicated that was the case.

**TESTIMONY:** George Parker, Idaho Agriculture Aviation Association, related a story about a tower being moved without notification which almost caused a crash that could have been fatal. He referenced approximately 400 towers of this type that have been erected in the State of Idaho, only about 10% being appropriately marked by the owner or user. Mr. Parker stated the FAA's rule has overlooked legitimate air space uses below 200 feet and noted there are 16 different uses for air space in the State. He indicated there are four documented deaths, none in Idaho, due to these towers, and supports the legislation to improve safety.

**QUESTIONS:** **Senator Bair** asked Mr. Parker to share information he provided in an earlier conversation regarding costs of lighting for these towers. Mr. Parker stated that he had done research to keep this change and new lighting cost effective. He indicated he had found a solar powered light, lasting five years, that could operate in cloudy conditions for up to seven days for a lower cost than a typical light under FAA rules.

**Vice Chairman Brackett** asked about the discrepancy between line 17 indicating "shall be lighted, marked, or painted, or otherwise constructed to be visible" and line 23 indicating towers "shall have flashing lights." Mr. Parker indicated they shall have the light, and stated the goal was to focus on guyed structures, not other types of towers. Mr. Parker indicated it seemed to be contradictory language.

**TESTIMONY:** Byron Schmidt, Chief of Air Space Management, Mountain Home Air Force Base, indicated this issue has not been appropriately dealt with in federal regulations, and States are just beginning to address the problem. Mr. Schmidt explained some of the federal rules for air space, and the gap that exists for the low level altitudes, where there are currently no obstacle protections. He stated the Idaho State Legislature is the only entity with authority to deal with the issue without federal changes. Mr. Schmidt indicated this was a lifesaving measure, and a reasonable response and urged the support of the Committee.

**QUESTIONS:** **Senator Corder** asked about the FAA process, and what kind of incident was required to write new rules. Mr. Schmitt stated it was impossible to determine, and the National Transportation Safety Board (NTSB) had already made recommendations to the FAA that action needed to be taken, but the FAA has left it voluntary.

**TESTIMONY:** Brian Fox, State National Guard Aviation Safety Officer, stated the number of hours the National Guard are flying at night, which makes these towers impossible to see. Mr. Fox showed a video of a night flight, in which a tower could only be seen at approximately 300 feet away, which would be even worse in low visibility conditions. The cost of lighting this tower would be low compared to the cost of loss of aircraft and crew in an accident.

**QUESTIONS:** **Senator Rice** asked to clarify that not just the tower, but also the guide-wires that aren't visible and could take down an aircraft. Mr. Fox indicated that was the case, and explained how the guide-wires could take a plane down.

**TESTIMONY:** Bill Miller, Volunteer with the Idaho Aviation Association, offered his background as a pilot, flying reconnaissance missions, search and rescue and other aviation missions. Mr. Miller indicated pilots may not always be looking straight ahead, particularly on search and rescue missions and other aerial jobs. He stated these towers must have a minimum visibility for safety, to protect aviators, passengers and people on the ground, and urged passage.

Jim Raney, Chief Pilot, Idaho Helicopters, stated he responds to remote accidents day and night. When responding to fires, the smoke in the air makes these towers that much more difficult to see. He urged passage of the bill.

Keith Raley, Chief of Aviation Safety, Department of the Interior, explained the requirements for low level flying and what pilots do to map these low level hazards, but lack of notification requirements and tower movement make this more difficult. In addition, the FAA is not taking on the management of this issue.

Skip Smyser, on behalf of AT&T, spoke in support of the amendment, and indicated there should be letters of support from cellular carriers operating in the state. He indicated the sponsors had stated the intent was not to regulate carriers under this legislation, and the amendment made that specific, and he urged support of the amendment.

**QUESTIONS:** **Senator Corder** asked if any AT&T towers would fit these descriptions that were not marked. Mr. Smyser stated that there were guyed towers, and that in speaking to pilots, the cellular industry are the leaders in ensuring towers are marked appropriately.

**TESTIMONY:** **Roy Eiguren**, on behalf of Verizon Communications, indicated support of the amendment.

**CLOSING REMARKS:** **Senator Winder**, referencing **Vice Chairman Brackett's** previous question, indicated the structure of line 16 applied to the specific section that did not reference the lighting requirement. **Senator Winder** then related a story of a former Idaho Congressman who was killed when his plane hit a guyed tower, and stated the legislation would not eliminate all accidents, but would help.

**QUESTIONS:** **Senator Corder** asked about the number of towers in the State. **Senator Winder** indicated there are approximately 400 already in existence, and approximately that many more planned in the next four-to-five years. **Senator Corder** continued to ask who owns the land on which they are placed. **Senator Winder** indicated some would be private, but vast majority, including the one referenced in the video, were on public lands. **Senator Corder** asked if there was a registry or way to determine where they all are. **Senator Winder** deferred to Mr. Parker, who indicated the citing is proprietary, and there is no list. He also indicated they would use connections in the industry to start working on communications with companies to determine where they are located. **Senator Winder** also deferred to Mr. Schmidt, who stated the need for notification when erecting a tower was one of the issues that brought about this legislation. The proprietary nature was secretive in regard to mining for wind locations. Mr. Schmidt suggested that under requirements for lighting and marking they use the FAA methodology for determining where they are located, which has a notice for proposed structural operation. This would make information available to the Division of Aeronautics to be given to pilots without getting into proprietary issues. It would not cost anything and would allow the State to enforce this act.

**Chairman Hammond** indicated that issue might be able to be resolved during the Division of Aeronautics' rulemaking process. **Senator Winder** indicated the Division would have to clarify that ability.

**Senator Corder** said that this legislation did not address the ability to enforce, provided no penalties, and gave no one the ability to promulgate rules. He stated he was in support of the concept, but that there was a piece missing from the legislation. **Senator Winder** indicated the effort was to start the process, and that teeth could be added.

**Senator Rice** asked if page two, lines 12-13 would make this a misdemeanor and whether counties would be made aware. **Senator Winder** stated that was his understanding.

**Senator Winder** stated that an additional amendment was suggested, dealing with exclusion of telecommunication towers, of which the House sponsor was aware. The Senator recommended the Committee send the bill to the 14th order for amendment.

**MOTION:** **Senator Winder** moved to send H511aa to the 14th order for possible amendment. The motion was seconded by **Senator Bilyeu**. With no further discussion, the motion carried by a unanimous voice vote. **Senator Winder** will carry the bill on the Senate floor.

**PRESENTATION:** Roy Eiguren, on behalf of Amalgamated Sugar Company and U.S. Ecology Corporation, introduced people who would be presenting from those companies. Mr. Eiguren discussed the history of the efficiency of the 129K pound trucks on Idaho highways, and indicated the long history of testing these heavier trucks on highways since the 1990's. Mr. Eiguren discussed the pilot projects that have taken place and indicated the need to advise the committees of the progress and discussion on how to move forward.

Bryan Whipple, Marketing Services Director of Amalgamated Sugar, presented data slides and referenced a display in front of the Capitol. He also introduced colleagues present at the hearing and available to answer questions. His testimony is part of the permanent record of this hearing.

Marie McMonigle, District Manager, U.S. Ecology, stated they support the use of heavier weight trucks. She discussed the reduction of truck mileage because of road paving and using heavier weight trucks through the pilot project. Ms. McMonigle indicated they have been able to reduce the number of trucks and amount of time on the road, improved and maintained safety for the general public and contractors, and produced economic benefits for the community. **Senator Corder** proudly welcomed his daughter, Ms. McMonigle, to the Committee.

**QUESTIONS:**

**Senator Werk** asked if the road she referenced, Simco Road, was one that allowed the heavy trucks. Ms. McMonigle indicated it was.

**Chairman Hammond** asked about the ratio of axles to weight, and the greater stopping power. Ms. McMonigle deferred to Chuck Overman who indicated there was less weight per tire on the heavy weight vehicles. **Chairman Hammond** asked if that meant there was more friction on the road per pound for stopping power than under the old axle systems. Mr. Overman indicated that was the case.

**Senator Werk** asked if the added axles meant there were more brakes on the vehicle. Mr. Overman indicated that was the case. **Senator Werk** asked if brake specifications were heartier than in lighter trucks. Mr. Overman said they had the same specifications.

Jerry Whitehead, Chairman of the Idaho Transportation Board, stated his support of the heavier trucks, and spoke to the fact that Canada was already using these trucks. Chairman Whitehead referenced **Senator Werk's** question about brakes, and indicated the same requirements were on the trucks.

**Senator Bair** asked about the extra weight on bridges. Mr. Whitehead indicated the weight being spread out over many axles had less of an impact than the weight in the shorter trucks. Greg Laragan, Highway Operations Engineer at the Idaho Transportation Department, indicated that long span bridges were a concern, if an entire load were between spans. Mr. Laragan stated they were monitoring them, and that inspections had not shown damage as a result. Analysis indicates that potentiality more cracking could occur, but has not yet been observed.

**Senator Bilyeu** asked if the extra weight and axles showed additional damage to the roads. Chairman Whitehead indicated no additional damage was found. Mr. Laragan stated they had been monitoring road degradation. The report will be out next year, but they had not seen attributable pavement damage.

**Senator Werk** asked if conclusions were not drawn because roads were not closed off and there were no isolated instances to deal with. Mr. Laragan stated the significant hindrance is the small percentage of total volume of heavy trucks traveling on highways. He indicated separating out the damage caused by the heavy trucks versus smaller trucks was not possible.

**Chairman Hammond** asked if the analysis was possible through comparison with roads on which heavy trucks are not allowed. Mr. Laragan indicated this becomes very complicated.

**Senator Werk** stated that baseline data for roads of similar condition and similar construction was making it more complicated.

**Chairman Hammond** stated that as a better system for managing the data on road degradation is developed, those answers may become available.

**CLOSING  
REMARKS:**

Mr. Eiguren stated the project was open and transparent. The pilot project was meant to collect ten years of data. A final report will be coming to the Legislature next year. A leadership decision was made when the pilot project was launched to keep the heavy trucks to certain highways, and those choices can be revisited next year. Mr. Eiguren indicated the freeway system in Southern Idaho is also being pushed in Congress by Idaho's delegation.

**QUESTIONS:**

**Senator Werk** asked if safety of the 129K pound trucks was being directly tracked for accident rates and the nature of incidents. Mr. Eiguren stated that information was being tracked and would be included in the report.

**ADJOURNMENT:**

**Chairman Hammond** thanked Mr. Eiguren and all the presenters for the update. With no other business before the Committee, the Chairman adjourned the meeting at 2:55 p.m.

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Senator Hammond  
Chairman

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Gaye Bennett  
Secretary

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Erin Bennett  
Transcriber