

**MINUTES OF THE  
TRANSPORTATION INTERIM COMMITTEE**

Wednesday, November 20, 2002 – 9:00 a.m. – Room 405 State Capitol

**Members Present:**

Sen. David H. Steele, Senate Chair  
Rep. Joseph G. Murray, House Chair  
Sen. Dan R. Eastman  
Sen. Karen Hale  
Sen. Peter C. Knudson  
Sen. Ed Mayne  
Sen. Carlene M. Walker  
Rep. Gerry A. Adair  
Rep. Don E. Bush  
Rep. Stephen D. Clark  
Rep. Marda Dillree  
Rep. Neil A. Hansen

Rep. David L. Hogue  
Rep. Kory M. Holdaway  
Rep. Brad King  
Rep. Karen W. Morgan  
Rep. Max W. Young

**Staff Present:**

Mr. Benjamin N. Christensen, Research Analyst  
Ms. M. Gay Taylor, General Counsel  
Ms. Shannon Halverson, Committee Staff  
Ms. Wendy Bangerter, Legislative Secretary

**Note:** A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary, Wendy Bangerter, at 538-1032.

**1. Committee Business**

Chair Murray called the meeting to order at 9:10 a.m.

**MOTION:** Rep. Hansen moved to approve the minutes of the October 23, 2002 meeting. The motion passed unanimously with Sen. Eastman, Sen. Knudson, Sen. Mayne, Rep. Bush, Rep. Clark, Rep. Dillree, and Rep. Morgan absent for the vote.

**2. Performance Audit of Collection of Transportation Related Revenue**

Mr. Paul A. Hicken, joined by John Schaff and Wayne Welch, Office of the Legislative Auditor General, distributed and reviewed "A Performance Audit of Collecting Transportation-related Revenue." Mr. Hicken explained that during the Fifth Special Session of the Utah Legislature in 2002, the Legislature cut \$5 million from the Division of Motor Vehicle's FY 2003 budget. Cutbacks were restored for 2003, but left the Tax Commission with a shortfall for 2004 and beyond for operations and revenue collections for the Transportation Fund and other revenue accounts. He noted the two objectives of the audit, which were to review and validate the collection cost of taxes and fees deposited in the Transportation Fund and examine options for recovering the collection costs. He stated that the majority of the costs came from the Motor Vehicle Division, but several other divisions were directly involved and contributed to the costs. He stated it was difficult to separate fee collection costs because they are bundled together, and the Motor Vehicle Division collects revenue for other accounts besides transportation. He stated that they also provide services to many agencies, to which it is difficult to attach a value. He reviewed three options for cost recovery. He stated that they recommend the Legislature consider the options available to restore the shortfall to the State Tax Commission.

Ms. Linda Hull, UDOT (Utah Department of Transportation), expressed support for sharing the cost of collecting revenues. She expressed concern that the first objective of the audit, to validate the costs, was not as thoroughly investigated as it should be. She stated that if the Legislature chooses to further consider recovering cost from the Transportation Fund, the fair share of the cost of collecting funds should be fully examined. She also stated that if the Legislature chooses to select one of the available options as discussed by Mr. Hicken, UDOT is opposed to the second option, which would take more funds out of the Transportation Fund without any restoration of the funds.

Mr. David Spatafore, Utah League of Cities and Towns, stated that the League is not opposed to paying their fair share of collection costs, but would feel better if they knew what the actual costs of collections were. He noted that a large portion of the collection costs deal with registration fees, which only 60 percent of those fees go into the Transportation Fund, with the other 40 percent going to the Centennial Highway Fund. He recommended restoring any funds lost to transportation for collection costs.

**MOTION:** Rep. Bush moved to recommend the audit committee prioritize additional auditing of collection costs of transportation-related revenue to gather more detailed information regarding the actual collection costs. That would allow the Legislature to make the necessary policy choices on the cost allocation. The motion passed unanimously with Sen. Mayne, Rep. Clark, Rep. King, and Rep. Morgan absent for the vote.

**MOTION:** Sen. Steele moved to send a letter to the Executive Appropriations Committee reminding them to address the Tax Commission's \$4 million shortfall in the next fiscal year. The motion passed with Rep. Young voting in opposition and Sen. Mayne, Rep. Clark, Rep. King, and Rep. Morgan absent for the vote.

### **3. Annual State Highway System Changes**

Ms. Linda Hull, Utah Department of Transportation, distributed and reviewed a map indicating the location of Bear Hollow Drive and referred to "Master State Highways Amendments" previously distributed to the Committee. She explained that during the Olympics, UDOT accepted the responsibility of maintaining and improving Bear Hollow Drive on a temporary basis, with the intent of later transferring jurisdiction of it and the Sports Park Road to the county system. She stated that on October 1, 2002, Summit County took jurisdiction of these roads. She requested that the Legislature approve the draft legislation to remove Bear Hollow Drive and Sports Park Road from the State highway system.

**MOTION:** Rep. Bush moved to approve "Master State Highways Amendments." The motion passed unanimously with Sen. Mayne and Rep. Morgan absent for the vote.

### **4. Clean Special Fuel Tax Certificate Amendments**

Mr. Ben Christensen explained the draft legislation, "Clean Special Fuel Tax Certificate Amendments," previously distributed to the Committee. He distributed two handouts titled, "Alternative Fuel Vehicle Incentives in Utah" and "Clean Special Fuel Tax Certificate Fee." He said the bill is the result of a

working group assigned by the Committee and would require that the owner of a vehicle powered by clean special fuel purchase an annual clean special fuel tax certificate before registering their vehicle. He reviewed the handouts, which contained information on the historical clean special fuel certificate fee structure compared to fuel tax rates and what the certificate fee would be if it had originally been linked to the fuel tax rate. The last chart provided alternative fee structures. He stated that the current fee is \$82, which includes a temporary \$35 surcharge and that if the fee were originally linked to the fuel tax rate, the fee would now be \$126. He also stated that the average fuel tax paid by all registered vehicles is \$162.

Ms. Beverly Miller, Director of the Salt Lake Clean Cities program, explained that their program encourages the use of clean and alternative fuels in Utah. They initiated a movement toward higher compliance of purchasing the certificate. She stated that the certificate represents one of the key incentives for their program. She stated her confidence that the majority of businesses are purchasing certificates, but that they would like to inform and capture the small fleets and individuals who have not been participating to a large degree. They encourage a uniform system combined with public education. She expressed concern about the discussion of changing the cost of the certificate. She stated that the tax formula is now built into the law so that when fuel taxes increase, so does the cost of the certificate.

Mr. Jack Elizondo, Questar Gas, emphasized that Clean Cities is trying to identify vehicles and the type of fuel being burned. He noted that many vehicles are dual fuel and pay the full 24.5 cents at the pump when they use conventional gasoline. He also noted that businesses are promoting economic development by purchasing clean fuel vehicles.

Ms. Lisa Yoder, Utah Energy Office managing the Utah Clean Fuels grant and loan program, stated that the Tax Commission representatives serving on the subcommittee that discussed this issue, both agreed that the most appropriate means to collect the certificate was through the Motor Vehicle Division at the time of registration. She noted that the Motor Vehicle Division also has the ability to provide more accurate data regarding the types of fuels being used and emissions. She feels the solution is simple and low cost, and she indicated support for making registration available only if the owner has purchased a clean special fuel certificate as provided in the draft legislation.

Mr. Tom Clark, Mountain States LP Gas Company stated he does propane conversions for ATV's. He reviewed the rising cost of conversions and stated that a raise in the cost of the clean special fuel certificate would result in the owner paying more than their fair share.

Ms. Robin Erickson, Newspaper Agency, stated they run many alternative fuel vehicles and find it very difficult to obtain the certificates. She stated that raising the cost of the permit could cause them to discontinue running alternative fuels. She expressed their desire to take the lead in the community because they believe in having cleaner air. She also noted that they help by reselling the vehicles into the community when they are finished with them.

Sen. Steele reminded the Committee that the bill, as drafted, does not increase the rates. The bill provides that certificate purchase is a prerequisite to vehicle registration and serves as a reminder to the consumer.

**MOTION:** Rep. Adair moved to recommend draft legislation, Clean Special Fuel Tax Certificate Amendments. The motion passed unanimously with Sen. Eastman, Sen. Knudson, Rep. Dillree, and Rep. King absent for the vote.

## **5. Vehicle Impound Fee for Driving Under the Influence Cases**

Ms. Shannon Halverson reminded the Committee that they had asked for draft legislation to refund the \$200 impound fee to nonguilty parties. She stated the main concern with the draft legislation previously considered by the Committee was the lost revenues to the Department of Public Safety because of refunds. She referred to and reviewed the previously distributed draft bill and the proposed amendments. She also presented draft legislation, "Criminal Fines for DUI Offenders," as requested by the Committee, which increases criminal fines for DUI offenders by \$200 and then allocates the increase to cover the vehicle impound fee refunds.

Mr. Paul Boyden, State Association of Prosecutors, noted that the draft legislation, "Criminal Fines for DUI Offenders," could create a serious problem because there is not a clear distinction, for prosecution purposes, between first and second DUI offenses. It also creates a different distribution of the fine money. He stated that the courts will not begin pleading and proving between first and second offenders just to make sure the fine money is allocated as directed by the legislation when the current practice is working. He spoke in favor of any of the other amendment options.

**MOTION:** Sen. Walker moved to recommend draft legislation Vehicle Impound Fee for Driving Under the Influence Cases, as well as Vehicle Impound Fee for Driving Under the Influence Cases amendment option 4 as follows:

1. Page 1, Line 8: After line 8 insert **"This act increases the administrative impound fee to \$230 and increases current distributions to the Motor Vehicle Division, the Department of Public Safety, and the General Fund proportionately."**
2. Page 3, Line 70: Bracket "\$200" and insert "\$230"
3. Page 3, Line 73: Bracket "Twenty-five dollars" and insert "\$29"
4. Page 3, Line 75: Bracket "\$84" and insert "\$97"

The motion passed unanimously with Rep. Dillree and Rep. King absent for the vote.

Rep. Hogue distributed and explained amendment "Vehicle Impound Fee for Driving Under the Influence Cases" option 6, which is designed to protect the rental agencies, giving them the opportunity to recover their expenditure.

Mr. Mike Taylor, Car Rental Association, spoke in favor of the amendment.

Committee members spoke against Amendment 6, noting that the fee can be recovered through business contracts with the renters.

**Motion:** Rep. Hogue moved to adopt Amendment option six, with changes to read as follows:

1. Page 1, Line 7: After **“person’s driver license”** delete **“or”** and insert **“,”**
2. Page 1, Line 8: After **“stolen”** insert **"or that the vehicle was rented at the time of impoundment"**
3. Page 3, Line 86: After **“Division;”** delete **“or”**
4. Page 3, Line 88: After **“impoundment”** insert **“; or (iii) the registered owner is required to collect the motor vehicle rental tax in Section 59-12-1201 and: the impounded motor vehicle was under a short-term lease or rental agreement at the time of impoundment.”**

The motion failed with Sen. Hale, Sen. Mayne, Sen. Walker, Rep. Adair, Rep. Bush, and Rep. Clark voting in opposition.

## **6. Other Legislation**

### **"Transportation Corridor Preservation" (Representative Marda Dillree)**

Rep. Hogue explained the amendment to "Transportation Corridor Preservation Amendments" previously distributed to the Committee. He noted that this bill has already been recommended by the Committee, but that this is a minor clarifying amendment to which Rep. Dillree and UDOT have agreed.

**MOTION:** Rep. Hogue moved to approve the amendment to "Transportation Corridor Preservation Amendments" as follows and to recommend the bill as amended.

1. Page 2, line 32: After **"offer"** insert **"made to the department"** and after **"refusal"** insert **"being given to the original grantor or the grantor’s heirs"**
2. Page 4, line 94: After **"offer"** insert **"made to the state or one of its subdivisions"** and after **"refusal"** insert **"being given to the original grantor or the grantor’s heirs"**

The motion passed unanimously with Rep. Morgan absent for the vote.

### **"Automobile Homicide Amendments"**

Sen. Walker, joined by Paul Boyden, explained draft legislation, "Automobile Homicide Amendments," previously distributed to the Committee. Mr. Boyden explained the bill creates an automobile homicide offense if the operator has any measurable amount of controlled substance present in their system. This legislation also provides an affirmative defense if the controlled substance was involuntarily ingested or was being taken pursuant to a prescription. Mr. Boyden emphasized that there is no mercy for a DUI conviction when a death occurs and the driver is negligent when under the influence of a drug that was obtained illegally.

**MOTION:** Rep. Holdaway moved to recommend "Automobile Homicide Amendments" as a committee bill. The motion passed unanimously with Sen. Knudson, Rep. Dillree, and Rep. King absent for the vote.

**"Honorary Consulate Special Group License Plates" (Representative David L. Hogue)**

Rep. Hogue explained that this proposed legislation would add special group license plates for honorary consulates to the list of special group license plates, which the Committee discussed at the last meeting. He said the intent is to run this bill after the "Special Group License Plates Revisions" bill is passed, which the Committee recommended at the October interim meeting.

Mr. Brent Haymond, representing Iceland as Honorary Consulate, asked questions regarding when the bill would be considered during the legislative session.

**MOTION:** Sen. Walker moved to approve "Honorary Consulate Special Group License Plates" with a favorable recommendation. The motion passed unanimously with Sen. Eastman, Sen. Knudson, Rep. Dillree, and Rep. King absent for the vote.

## **7. Driver Education**

Mr. Christensen referred to "Driver Education in Public Schools—Goals and Options" previously distributed to the Committee and reviewed the three alternative goals. He explained that the elimination of driver education from schools is being discussed to see if the financial burden can be reduced because there are limited funds in public education and transportation, as well as in the General Fund. The goal is to find a way to reduce the financial burden without compromising public safety.

Sen. Walker introduced proposed legislation, "Drivers Education Courses." She explained that this legislation would require school districts to fund driver education solely through the Automobile Driver Education Tax Account and student fees and to establish fees that are reasonably associated with the costs of the programs. She stated the purpose of this bill is to provide more options and to make the program as cost effective as possible, but not use academic dollars. She stated that vehicles and insurance are costly, but that teachers she had spoken to were in favor of keeping driver education in the schools. Fee waiver reimbursement was also discussed.

Mr. Perry Madsen, Utah Driver Traffic Safety Education Association; Mr. Wayne McQuivey, Salt Lake City School District; Mr. Glen Taylor, Traffic Safety, State Office of Education; and Mr. Steve Cramblitt, Granite School District, spoke in favor of the legislation, saying it was a good compromise and a way to keep driver education in the schools. Mr. McQuivey expressed concern that a fee raise will cause an increase in fee waivers. He also stated that the public school course is longer than a private course, offering a longer time to teach student drivers.

Mr. Verl Shell, A-1 Commercial Driving School, noted that the debate was not about whether public schools or private driving schools give better instruction.

**8. Other Items / Adjourn**

**MOTION:** Rep. Hogue moved to adjourn the meeting. The motion passed unanimously with Sen. Eastman, Sen. Knudson, Rep. Dillree, and Rep. King absent for the vote.

Chair Murray adjourned the meeting at 12:04 p.m.