RE: SB1106- TO PROVIDE THAT PLANS AND ORDINANCES SHALL NOT APPLY TO STATE AND LOCAL TRANSPORTATION SYSTEMS AND ESSENTIAL FACILITIES

Dear Chairman Rice:

On behalf of the Idaho Chapter of the American Planning Association (APA Idaho), I am writing to register my organization’s recommendation for tabling of Senate Bill 1106. This bill relates to the exemption of local highway districts from Idaho’s Local Land Use Planning Act.

Our organization represents more than 250 local planning officials, private-sector planners, and planning commission members statewide. We are the technicians, professionals, policy and decision makers who represent the public interest in carrying out the authorities vested with local governments under Idaho’s Local Land Use Planning Act, Title 67, Chapter 65 of the Idaho Statutes.

APA Idaho is extremely surprised by this proposal and feels that unintended consequences of this bill are widespread, drastic and very concerning. Transportation and land use planning are inseparable, as one is necessary for the other.

The purpose of Idaho’s Local Land Use Planning Act (67-6502) include items like:
- To ensure that adequate public facilities and services are provided to the people at reasonable cost. (b)
- To ensure that the economy of the state and localities is protected. (c)
- To avoid undue concentration of population and overcrowding of land. (g)
- To ensure that the development on land is commensurate with the physical characteristics of the land. (h)

We ask how these items can be accomplished without consideration of local transportation networks?

Further, local communities (counties and cities) are required to adopt comprehensive plans. Idaho State Code 67-6508 requires that Comprehensive Plans include a section that addresses transportation. It states:
(i) Transportation — An analysis, prepared in coordination with the local jurisdiction(s) having authority over the public highways and streets, showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof.
This component may also make recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, future corridors, viaducts and grade separations. The component may also include port, harbor and other related transportation facilities.

We ask how these items can be accomplished without consideration of local transportation networks?

Idaho State Code 40-1415, which outlines the responsibilities of Highway Districts when they are created, states- “The highway district shall be responsible for planning and location of rights-of-way. In planning for and determining location of rights-of-way, the highway district shall submit to the appropriate planning agency the proposed location of the rights-of-way. In locating rights-of-way the highway district shall take into consideration the comprehensive general plan of the appropriate county or city planning agency. In planning for the location of rights-of-way, the highway district shall comply with all appropriate provisions of chapter 65, title 67, Idaho Code.”

We ask how this can be accomplished when local highway districts are exempted from the provisions of chapter 65, title 67, Idaho Code?

One of the main tenets of the Local Land Use Planning act is public participation. Public hearing, public notices, and neighbor notifications are all requirements found in chapter 65, title 67, Idaho Code. It is essential to include the public in the decision-making process for transportation networks and transportation essential facilities, the same as it is for land use decisions.

We ask how will this be accomplished when local highway districts are exempted from the provisions of chapter 65, title 67, Idaho Code?

There are a multitude of other issues that this proposed bill would create. Some of these issues include:

- How can local communities ensure transportation systems and “essential facilities” (as determined by the highway district), meet floodplain regulations and not jeopardize the eligibility of the community in the National Flood Hazard Insurance Program. This would restrict the eligibility of the community to apply for FEMA disaster funds and property owners to obtain flood insurance.
- Will this give highway districts the ability to approve private uses in their right-of-ways, without approval from the local communities?

We would like to make it clear that we understand the need for the current provision that allows the exception for “transportation systems of statewide importance”. It would be ineffective, inefficient and potentially damaging to regional economies for a town to hinder the development of highways statewide. The current provisions do require - “The Idaho transportation board shall consult with the local agencies affected specifically on-site plans and design of transportation systems within local jurisdictions.” However, the proposed bill would not require local highway districts to consult with local jurisdictions. Instead, it allows the “governing board of the applicable local highway jurisdiction” to make the determination that the local jurisdiction’s, and citizen’s ordinances, plans, vision and policies do not apply to them. This is a dangerous and concerning proposal.
We truly appreciate your service to the citizens of this great state. We would greatly appreciate consideration of our informed opinion on matters related to land use, transportation, housing and community development in Idaho. Again, we would support additional dialog and further understanding of the impacts of revising Section 67-6528 as proposed.

Please feel free to contact me at your earliest convenience should you have questions or require additional information.

Sincerely,

Jason Boal- AICP, CFM
APA Idaho Legislative Committee, Chair

Cc:
Honorable Senator Scott Grow
Honorable Senator Regina Bayer
Honorable Senator Todd Lakey
Honorable Senator Mark Nye
Honorable Senator Ali Rabe
Honorable Senator Doug Ricks

Honorable Senator Mary Souza
Honorable Senator Steve Vick
APA Idaho Executive Board
Association of Idaho Cities
Idaho Association of Counties