



## New Members

### Central National Bank

4880 South Lewis, Ste. 101  
Tulsa, OK 74105  
Mr. John Duffy  
(918) 691-4209

### MINK Heavy Duty Sales

3913 NE Woodridge Drive  
Lees Summit, MO 64064  
Mr. Larry Vickers  
(816) 507-5070

*Welcome  
New Members!*

## Happy Thanksgiving!

The MoTA office will be closed on  
November 28 & 29 for the  
Thanksgiving Holiday.



## President's Message

*All this will not be finished in the first one hundred days. Nor will it be finished in the first one thousand days, nor in the life of this Administration, nor even perhaps in our lifetime on this planet. But let us begin.*

*In your hands, my fellow citizens, more than mine, will rest the final success or failure of our course. Since this country was founded, each generation of Americans has been summoned to give testimony to its national loyalty. The graves of young Americans who answered the call to service surround the globe.*

*Now the trumpet summons us again—not as a call to bear arms, though arms we need—not as a call to battle, though embattled we are—but a call to bear the burden of a long twilight struggle, year in and year out, “rejoicing in hope, patient in tribulation”—a struggle against the common enemies of man: tyranny, poverty, disease and war itself.*

*Can we forge against these enemies a grand and global alliance, North and South, East and West that can assure a more fruitful life for all mankind? Will you join in that historic effort?*

*In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger. I do not shrink from this responsibility—I welcome it. I do not believe that any of us would exchange places with any other people or any other generation. The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world.*

*And so, my fellow Americans: ask not what your country can do for you—ask what you can do for your country.*

*My fellow citizens of the world: ask not what America will do for you, but what together we can do for the freedom of man.*

*Finally, whether you are citizens of America or citizens of the world, ask of us here the same high standards of strength and sacrifice which we ask of you. With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own.*

**John F Kennedy (Inaugural Address, January 20, 1961)**

In honor of the 50<sup>th</sup> Anniversary of the Assassination of John F Kennedy, I thought it appropriate to reference one of his best-known speeches in this month's column. While nearly every American, and certainly all readers of this column, can recite the famous “ask not” quote in this speech, few Americans remember the speech in its entirety for its call to action for the American public.

While this reprint is by no means the entirety of the speech, it is interesting to note that you can watch the entire speech in less than 15 minutes. Reading it takes even less time. His words and meaning however are timeless, and still applicable in multiple contexts for the challenges we face today.

In the days and months to come, we as an industry will be asked to support one of those generational efforts—highway and infrastructure funding in Missouri. I understand the natural, human, conservative tendency to not want to pay more. But where would this industry, and indeed this country, be today if previous generations had been unwilling to make the investments necessary to provide the infrastructure we use today to provide our standard of living?

For years, Missourians have been discussing the issue of funding for infrastructure needs. As the result of many focus groups, legislative battles, citizen initiatives and debates, the effort before us is focused on an Initiative Petition to increase the state sales and use tax by 1 cent.

Collectively, we will have many different opinions, good and bad, about the effort that moves forward. As an Association, our membership has been steadfast in our support of the effort to find additional funding for highways and infrastructure needs in Missouri for many decades. We are in support of this latest effort that involves the sales tax.

There will be much more to say on this issue in the months to come. Expect to see this issue on the ballot next November 2014. In the meantime, please reread Kennedy's call to action above again in the context of our responsibility to improve our infrastructure in Missouri.

Have a Blessed and Safe Thanksgiving!

**Safety Vest: Standard Mesh – Reflective**

High-visibility vests help protect your workers from accidents and injuries.

- ✓ Lightweight polyester mesh
- ✓ 3-3/4" hook and loop front closure
- ✓ Available in orange and lime
- ✓ One size fits most
- ✓ Cotton vest trim for extra comfort
- ✓ Elastic sides for snug fit
- ✓ Use where visibility is important, but not mandated by ANSI standards
- ✓ 1" wide silver-beaded reflective stripes
  - Vertical over each shoulder



**Lime - Item #18623**  
**Orange - Item #5828**

**1-9 - \$6.25 each      25-99 - \$5.60 each**  
**10-24 - \$5.85 each      100+ - \$5.25 each**

**Project to Expand I-70 Truck Parking Awarded**

Citing safety and economic benefits, the Missouri Highways and Transportation Commission approved a project to expand the Interstate 70 truck parking facilities near Mineola.

Funding for the expansion comes mainly from a \$1 million federal grant to build additional truck parking on I-70. The additional parking is expected to help prevent crashes due to driver fatigue by making it easier for professional drivers to find a safe, quiet place to rest.

Currently, 29 striped spaces accommodate trucks off of the eastbound lanes of I-70 and 24 spaces westbound. When construction is complete by fall of 2014, an additional 40 spaces will be available to westbound drivers.

"Missouri is a favorite state of many professional drivers because they can find safe, convenient parking just off of the highway where they can rest," said Scott Marion, MoDOT motor carrier services director. "When drivers who elsewhere have to hunt for parking know they have a reliable place to stop, they can better predict the timing of their delivery. That makes freight delivery more efficient and results in savings for Missourians at the cash register."

Missouri more than doubled the number of truck parking spaces along its interstates in the past several years by converting shuttered weigh stations and rest areas. During the same time, the number of hours a commercial driver is legally allowed to operate fell, resulting in increased need for convenient truck parking.

The westbound truck parking area will close for up to 60 days during construction. The start date for the project will be determined next spring. ▲

**2013 MoTA  
Drivers of the Month**

*August* ..... **Thomas Miller**  
Prime, Inc.  
Springfield, MO

*September* ..... **Robert Miller**  
Transport Distribution Company  
Joplin, MO

*October* ..... **Steven Fields**  
YRC Freight  
Kansas City, MO

**2013 MoTA  
Maintenance Technicians of the Month**

*August* ..... **Larry Disser**  
Gahr Truck & Equipment  
St. James, MO

*September* ..... **Jordan Andrews**  
Joplin Freightliner Sales  
Joplin, MO

*October* ..... **Allen Dougless**  
Joplin Freightliner Sales  
Joplin, MO

*Congratulations to the Drivers of the Month and the Maintenance Technicians of the Month!*

**If you'd like to nominate one of your drivers or technicians, complete an application today and send it in.**

**Member Cancellations November 2013**

<b>Name of Company</b>	<b>Class</b>	<b>Dues</b>
AHM Financial Group LLC	Allied	\$350
The Boeing Company	Private	\$300
Cretcher Heartland LLC	Allied	\$300
Hoehn's D & K Trucking Inc	For Hire	\$300
Reload Express Inc	For Hire	\$385

**MISSOURI**Memo

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## FMCSA to Enforce MCS-150 Requirement

Motor carriers and other entities that are required to have a U.S. DOT number are also required to file a Form MCS-150 with the Federal Motor Carrier Safety Administration at least every two years to update their identifying, contact, and operational information. This has been the law for a long time, but FMCSA has never strictly enforced it. However, the agency now plans to do so, under a regulation that was part of its recently issued Unified Registration System rule. FMCSA has now indicated how they'll go about this enforcement. Starting next month, the agency will send a letter to carriers that are due to update their information in January 2014 reminding them to do so. In February, the FMCSA will check its system to see if those carriers complied. If a carrier did not, its DOT number will be deactivated on April 1. FMCSA will adhere to a similar schedule in each succeeding month for carriers whose two-year window expires in the months following January. Although information from the MCS-150s filed by carriers and other entities is critical for FMCSA's master database, the Motor Carrier Management Information System, MCMIS, much of the enforcement of the filing requirement has in effect been left up to the states that participate in the federal PRISM program. Under PRISM, a state participating in the program may not renew the International Registration Plan registration of a carrier unless it has updated its MCS-150 information within the preceding twelve months. And most states participate in PRISM. ▲

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## New CSA Public Display Now Available for Preview, Comments Requested

On Tues., Nov. 5, the Federal Motor Carrier Safety Administration (FMCSA) published a notice in the Federal Register - <http://www.trucking.org/Safety/CSA%20Public%20Display11052013.pdf> - requesting public comment on proposed changes to the public display of CSA Safety Measurement System (SMS) data. Users are now able to preview the proposed changes at <https://csa.fmcsa.dot.gov/SMSPreview/Home/Home.aspx>. The changes are intended to consolidate FMCSA safety information, provide access to more detailed information and monitoring tools and clarify SMS's role as an enforcement prioritization tool. Most prominently, the proposed SMS display removes percentile scores from the landing page and replaces it with a listing of all SMS BASICs and a conspicuous indication of which are in "Alert" status. Percentile scores are still available by "drilling down" into each BASIC. Other notable additions to the SMS preview website include: enforcement case histories, carrier registration information, safety ratings and licensing and insurance information. The preview website also contains expanded functionality including the ability to download the violation, inspection, measure and percentile score information of all motor carriers in a particular peer group. Motor carriers are asked to log in using their CSA portal credentials to review how their public SMS data will be presented to third parties. Other interested stakeholders can review fictitious data to get a sense of the proposed changes. Comments are due by January 6, 2014. The docket ID number is: FMCSA-2013-26543. ▲

## IRS Announces Procedural Changes

The federal Internal Revenue Service recently announced changes in two programs affecting certain business taxpayers. The first alters the process by which IRS issues and enforces what it calls "information document requests," or IDRs, on large businesses under audit. In the future, IRS examiners are to discuss the parameters of an IDR with the business being audited, and make sure that the request is appropriate and appropriately limited. However, if the business doesn't comply with the IDR timely, the new process also speeds up enforcement actions, and reduces the discretion auditors have in this respect. Some observers anticipate that the change may make IRS audits of large businesses even more contentious than they are now. For more, go to [www.irs.gov](http://www.irs.gov), and search for LB&I-04-1113-009. *LB&I Directive* issued November 4, 2013. The second change affects small businesses and the self-employed under audit. These taxpayers may now take advantage of a program that has previously been available to larger businesses that will enable them to employ alternative dispute resolution measures to settle issues within a couple of months, rather than litigating them over several years. Not all issues are eligible for such treatment, however. For more, go to the site shown above, and look under News & Events for the Fast Track Settlement Program. *IRS Information Release 2013-88*, issued November 6, 2013 ▲

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## Bipartisan Legislation Introduced to Stay Restart Rule

Recently, Congressmen Hanna (R-N.Y.), Rice (R-S.C.), and Michaud (D-Maine) introduced HR 3413, legislation that would stay the restart provisions of the new hours of service rule until the Government Accountability Office completes a full assessment of the data and rationale the agency used in issuing its rule. In introducing the bill, Congressman Hanna stated that, "It is wrongheaded for the federal government to impose an arbitrary and capricious regulation that impacts almost every sector of the American economy without first finishing a study on its effectiveness. Federal agencies should have an obligation to prove that new rules and regulations do not cause more harm than good — in terms of both safety and costs." ATA strongly supports the legislation and will be reaching out to ATA members for support in attracting additional cosponsors of the bill. For the ATA press release on the introduction of the legislation, go to <http://www.trucking.org/article.aspx?uid=2fab67ca-b99b-4bb8-abe0-e479abe0f76f>. ▲

## EPA Proposes Cuts to 2014 Federal RFS

The Obama administration has announced its intention to cut the 2014 federal Renewable Fuel Standard (RFS) production levels, a step welcomed by the oil and refining industries but strongly opposed by biofuel producers and the farm lobby. EPA proposed a 2014 target of 15.21 billion gallons of biofuels blended into motor fuels under the RFS. The 2007 Energy Independence and Security Act, which created the RFS, originally called for 18.15 billion gallons of renewable fuels next year. EPA is also proposing that at least 1.28 billion gallons of biodiesel be produced in 2014 — the same level that was required in 2013. Opponents of the RFS said they would continue to press Congress to repeal the law while leaders of biofuel groups said they would challenge EPA's proposal in court unless upward revisions are adopted when the levels are finalized next year. EPA will accept public comment on the proposed 2014 RFS biofuel limits following publication in the Federal Register. ▲





## FHWA Releases Draft Primary Freight Network Designation Proposal

The Federal Highway Administration recently released a draft proposal for designating the nation's Primary Freight Network (PFN), a 27,000-mile highway system that carries significant freight volumes. The PFN will become part of the National Freight Network (NFN), which includes the remainder of the Interstate System and rural highways critical to freight movement that are to be identified by each state. The agency was required to identify the PFN by MAP-21 highway bill. Comments on the proposal are due December 19, 2013. Among the issues FHWA is seeking input on is the methodology and data sources used to identify routes; whether specific routes should be added, deleted or modified; whether critical urban corridors should be included; and how the NFN fits into a larger multi-modal freight network, and how should that network be defined. One overarching challenge identified in the Notice is the lack of Congressional direction as to how the PFN is to be utilized, which FHWA said makes it difficult to fulfill its mandate. Another issue is that the limitation on the number of miles, combined with the criteria for designation in MAP-21, prevents FHWA from designating a seamless network. In order to close the network gaps, FHWA determined that the PFN would have to be 41,518 miles in length.

The Notice is at <http://www.gpo.gov/fdsys/pkg/FR-2013-11-19/html/2013-27520.htm>. The draft PFN, including state and national maps and a table showing the miles of PFN highways by state is at <http://ops.fhwa.dot.gov/freight/infrastructure/nfn/index.htm>. ▲



## ATRI Study Identifies Significant Impacts from New Hours-Of-Service Rules

Monday, Nov. 18, the American Transportation Research Institute released the findings of its latest analysis of the operational and economic impacts resulting from the new Hours-of-Service (HOS) rules, which went into effect July 1, 2013.

Among the operational and economic impacts identified by ATRI are:

- More than 80 percent of motor carriers surveyed have experienced a productivity loss since the new rules went into effect, with nearly half stating that they require more drivers to haul the same amount of freight.
- Among commercial drivers surveyed by ATRI, 82.5 percent indicated that the new HOS rules have had a negative impact on their quality of life, with more than 66 percent indicating increased levels of fatigue.
- Commercial drivers are forced to drive in more congested time periods, although the FMCSA Regulatory Impact Analysis did not address increased safety risks with truck traffic diversion to peak hour traffic.
- The majority of drivers (67%) report decreases in pay since the rules took effect.
- The impacts on driver wages for all over-the-road drivers total \$1.6 billion to \$3.9 billion in annualized loss.

ATRI's analysis is based on industry survey data of over 2,300 commercial drivers and 400 motor carriers as well as a detailed analysis of logbook data representing 40,000+ commercial drivers. A copy of this report is available at <http://atri-online.org/>. ▲

## IRP Adopts Full Reciprocity & Rental Amendments

Voting closed October 28, 2013, on this year's proposals to amend the International Registration Plan. A change to the Plan requires a three-quarters vote of the states and provinces, and when the ballots were counted, the Full Reciprocity Plan was adopted by a vote of 50 to 6, and an important change to leased truck registration was adopted by 44 to 13.

The FRP is the biggest change to come to the IRP since all the states were required to join the Plan under federal law some twenty years ago. When Full Reciprocity takes effect in 2015, it will mean

that every vehicle registered under the IRP will be *automatically* qualified every year for registration purposes to operate in all the 48 states, the District of Columbia, and the ten Canadian provinces. There will be no more trip permits for IRP vehicles, no estimated miles, and no fee for adding a new state in the middle of a year. The FRP will provide greater flexibility for thousands of trucking companies nationwide, especially smaller companies, and save both industry and government time and money now wasted on administrative hassle. The ballot on leased vehicles, effective in July 2016, means that truck lessors will be able to consolidate their fleets of leased vehicles instead of having dozens or even hundreds of IRP fleets tied to where their lessees are located.

A third IRP ballot, which would have allowed IRP members to permit their carriers to display electronic cab cards, was not adopted, but IRP, Inc., the Plan repository, has pledged to initiate formal planning for this eventuality. ▲

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## Bills Introduced to Allow Hair Testing for Driver Screening

Sen. Mark Pryor, D-Ark., and Rep. Rick Crawford, R-Ark., introduced federal legislation designed to enable trucking companies to more effectively prevent lifestyle drug users from gaining employment as commercial truck drivers.

Bills in the senate and house would require the Department of Health and Human Services to recognize hair testing as an optional method to comply with the Department of Transportation drug testing requirements for truck drivers. Under current federal regulations, only urinalysis is recognized by HHS for mandatory pre-employment drug and alcohol exams of truck driver applicants.

The Washington, D.C.-based Alliance for Driver Safety & Security, also known as The Trucking Alliance has pointed out that the number of truck driver applicants who pass a pre-employment urine test but fail a subsequent hair test is alarmingly high. As a result, many trucking companies have turned to hair testing, which is more expensive, but more effective in identifying drug users who apply for jobs as truck drivers.

Congress mandated the creation of a drug and alcohol clearinghouse last year and the Department of Transportation is expected to have the clearinghouse operational by next year. This database will identify

any person who has previously tested positive on a pre-employment drug exam required by the federal government before being employed as a truck driver. However, unless HHS recognizes hair testing as an approved methodology, no positive hair test results can be submitted to the national clearinghouse database.

This legislation would enable those drug test results to be reported to the clearinghouse. ▲

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## U.S. Income Tax a Century Old

*The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.* That's the full text of the Sixteenth Amendment to the U.S. Constitution, which allowed the establishment of a federal income tax in this country. The amendment was ratified in 1913, and the bill establishing the first such tax was signed into law by President Wilson on October 3 the same year. The top rate of the tax then was 6 percent on income over \$500,000. The report form (today's Form 1040) was three pages long, and the instructions for it fit on a single page. The entire federal tax code a century ago was 400 pages long. It's grown since, and has the tax rate – and the federal government. ▲

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## UCRA Board Holds Fees Constant

The board of directors of the Unified Carrier Registration Agreement met by conference call on October 31, 2013. At its meeting, the board voted to recommend to the U.S. Secretary of Transportation that the fees charged to motor carriers and other entities under the UCR program remain the same for 2015 as they have been since the fees were raised in 2010. The board's vote was 11 to 0, with the Federal Motor Carrier Administration abstaining. The states that participate in the UCR program are currently registering and collecting the 2014 fees from those that are subject to UCR. Enforcement of the 2014 fees will begin on or shortly after January 1 next year. ▲

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## ATA Meets With OMB on ELD Rule

ATA Policy staff met with White House Office of Management and Budget (OMB) officials on November 12 to convey ATA's perspectives on a host of issues that are likely in a draft Supplemental Notice of Proposed Rulemaking (SNPRM) on Electronic Logging Devices (ELDs) currently under final review at OMB. ATA pointed to the need to grandfather devices already in use, focus on electronic transfer of data to law enforcement (rather than mandating printed paper records), permit the use of real-time GPS tracking, ensure interoperability between systems, and provide vendors with the flexibility to develop new and better devices within the confines of the rule. FMCSA predicts the SNPRM will be published before the end of the calendar year. ▲

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## OSHA Proposes Rule on Injury & Illness Reporting

On Fri., Nov. 8, OSHA issued a lengthy, proposed rule entitled "Improve Tracking of Workplace Injuries and Illnesses" that will change injury and illness reporting by employers from paper means to an electronic method. OSHA also proposes to make this information available to the public, with a few limitations. According to the proposal, "establishments" required to keep injury and illness records that have 250+ employees (including full-time, part time, temporary, and seasonal) – would have to electronically file Forms 300 and 301 each quarter. Establishments with 20+ employees in

designated industries (trucking is a designated industry) – would have to electronically file Form 300A annually. Trucking companies with less than 20 employees are not subject to this rule. And, other establishments notified by OSHA that they must keep Forms 300, 300A and 301, will be required to file either annually, quarterly, or periodically, as determined by the agency. OSHA proposes to create a secure website, and each employer would be required to register, obtain a login and password, and use the site for the electronic filing. Information could be entered directly into the website or forwarded in electronic batch files. OSHA estimates that it will take approximately 10 minutes to enter a single incident into the web site. Comments on this proposal are due February 6, 2014. A copy of the Proposed Rule can be found at <http://www.trucking.org/article.aspx?uid=ea3672b2-6774-4ec2-ac15-56ab28efe021>. ▲

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## Potential Effect of Health-Care Law on I/Cs

The new federal Affordable Care Act requires "large employers" to provide "affordable minimum essential health care coverage" to their employees. A large employer is defined by the law as one with 50 or more full-time equivalent employees. Since there are significant monetary penalties if a large employer fails to provide the required health care, and because status as a large employer brings other duties and conditions with it under ACA, a business needs to be careful if its workforce falls close to the 50 FTE mark. The penalties are in abeyance until the 2015 calendar year, so there's some time to prepare. In particular, motor carriers that use independent contractor drivers may have problems under the Act. The Internal Revenue Service has for several years shown a renewed interest in reclassifying contractors as employees, using the federal common-law test for employee status. Although this test (sometimes called the 20-factor test) is not unfair in itself, it depends on the facts of each situation, as interpreted by IRS. For purposes of *federal employment taxes* in this regard, the trucking industry can rely on what's known as the Section 530 safe harbor. That provision in effect allows a trucking company to continue to treat its workers as contractors for tax purposes if their treatment in the past was consistent with independent-contractor status (provision of Forms 1099, etc.), and if the carrier had a reasonable basis for so treating them. *But Section 530 applies only to employment taxes; it does not prevent IRS from reclassifying workers as employees under the common-law test for purposes of ACA.* This is a tricky area; carriers with independent contractor workers whose numbers might render them large employers for health-care purposes should consult their tax advisors. ▲

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## Residue E-Manifest Delayed by Customs and Border Protection

On Friday, November 15, 2013, the U.S. Customs and Border Protection issued a notice postponing the implementation date for the cross-border residue pilot project. The residue pilot, which was published in the August 27 Federal Register, gave the trade community an implementation date of November 25, 2013, to begin using the Automated Commercial Environment truck e-manifest to report residue returning to the U.S. from Mexico and Canada. ATA, and the Residue Coalition, met with CBP in early November to discuss outstanding issues – such as the carrier becoming the Importer of record and cooperation of other government agencies with border requirements. CBP pledged to continue to work with the trade community to "get it right." Carriers transporting residue into the U.S. may continue using their current method until CBP re-sets the implementation date. ▲



## IFTA/IRP Audit Workshop Coming in February

The IFTA/IRP Audit Workshop, put on every year by the International Fuel Tax Agreement and the International Registration Plan, is scheduled next year for February 24-27, 2014, in Ft. Lauderdale, Florida. Committee meetings will follow the workshop on February 28, including the meeting of the IFTA Industry Advisory Committee. The workshop is always one of the best IRP and IFTA meetings of the year, in attendance, subject matter, and discussions. This year, the expected hot topics will be the continuing rewrite of IFTA's audit and record-keeping rules and the audit aspects of the Full Reciprocity Plan recently adopted by IRP. Most of the states and provinces will likely send representatives to this meeting; it's important to have a good industry attendance as well. For more information, or to register, go the IFTA website, [www.iftach.org](http://www.iftach.org). ▲

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## Two Errors in Third Quarter IFTA Rates

Every calendar quarter, IFTA, Inc., the repository of the International Fuel Tax Agreement, publishes a matrix of the rates of fuel tax applied by each IFTA member state and province to all the fuels it taxes. These rates are relied on by all the IFTA members in administering the taxes paid by their based carriers. For the third quarter of 2013, which began July 1, Georgia and Nebraska failed to update their tax rates timely, and the initial version of the IFTA matrix carried misinformation for those two states. In Georgia's case, the correct rates for the third quarter were lower than those posted, so carriers may have overpaid that state. In Nebraska's case, the correct rates for the third quarter were higher than what was originally posted. Nebraska has notified IFTA that it will bill carriers who have underpaid it. For details, see IFTA's home page at [www.iftach.org](http://www.iftach.org). ▲

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## States' Escheat Laws Ranked

The Council on State Taxation has issued a report assessing the abandoned property, or escheat, laws of the fifty states, according to their terms and the way in which they are administered. Escheat is the legal doctrine under which items of property, both tangibles and intangibles, that are held by entities other than their owners, revert to the government after a certain lapse of time if the owners do not claim them. Within that holding period, states generally require the holders of such property to report its existence to the state. There are typically steep penalties for failure to make such reports. Among several issues dealt with by COST's report, the most critical statutory provision is probably one that exempts from escheat property created by transactions between businesses (such as, for instance, an ordinary freight claim). Such a provision not only relieves many businesses of the need to worry about escheat laws, but could reduce state revenues from this quasi-tax to such an extent that a state stops concentrating on it. On the other hand, the most criticized administrative practice COST finds in this area is the use by states of third-party contingent-fee auditors, some of whom customarily solicit prospective state targets for compliance audits too. COST ranks three states, Delaware, Mississippi, and New York at D-, and two, Massachusetts and Virginia at A. For more on the study, see <http://www.cost.org/WorkArea/DownloadAsset.aspx?id=85349>. ▲

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## State Tax Climates Ranked

The Tax Foundation has issued its annual report on state business taxes, which ranks the fifty states on their tax systems. The report draws a good deal of criticism for its strong implication that all that matters to business in choosing locations is the local taxes, but the study is nonetheless revealing. The report finds that the best states to do business in are, as usual, those that don't impose a corporate or personal income tax: Wyoming is number 1 this year, followed by South Dakota, Nevada, Alaska, and Florida. New York is number 50, with New Jersey, California, Minnesota, and Rhode Island just above it. The Foundation characterizes these states as having "complex, non-neutral taxes with comparatively high rates." The study goes on to rank each state's position with respect to each of the major general business taxes: corporate and personal income tax, sales tax, unemployment tax, and property tax. Tax Foundation, *2014 State Business Tax Climate Index*, Wash., D.C., issued October 9, 2013, and available online at [www.taxfoundation.org](http://www.taxfoundation.org). ▲

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## CARB Announces Changes to Truck Engine Regulation

With a January 1, 2014 deadline looming, the California Air Resources Board (CARB) has issued new guidance that provides additional time for truck owners to come into compliance as well as expands some existing exemptions. Specifically, fleets signing purchase agreements or loans for newer replacement trucks (2007+) or diesel particulate filters (DPFs) by January 1, 2014 will be considered to be making "good faith efforts" and not subject to enforcement prior to July 1, 2014, provided these activities are reported to CARB. Owners with one to three trucks who operate primarily in California can also extend this compliance deadline by applying for grant funding for newer replacement trucks (2010+) by December 12, 2013 under the state's Proposition 1B Goods Movement Program. Truck owners will also be allowed to take advantage of anticipated regulatory changes that are not scheduled for formal approval until April 2014. These changes include allowing new registrations under the existing DPF phase-in option and delaying the installation of DPFs for vehicles which operate exclusively in areas of the state that meet federal ozone standards. Please refer to CARB's Regulatory Advisory for more information - <http://www.arb.ca.gov/msprog/mailouts/msc1328/msc1328.pdf>. ▲





## IL Court Holds Pass-Through Miles Apportionable

The Illinois Appellate Court, First District, has held that an interstate motor carrier had to include in the numerator of its Illinois income tax apportionment factor the miles the carrier traveled through Illinois in movements that neither began nor ended in the state, that is, its “pass-through miles.” The trial court had held that pass-through miles were excludable, as not “in this state.” The taxpayer argued that its pass-through miles were analogous to the fly-over miles of an airline, which had been held nontaxable in Illinois. The court, however, found the carrier’s miles to be more like the flow-through miles of a natural-gas pipeline. Those had been held to be taxable, since the gas had certainly been *in* Illinois while in transit through the state. All the more in the case of a motor carrier, added the court, since pass-through truck movements still required the presence in Illinois of the property and employees of the carrier. Likewise, it ruled, highway miles within Illinois’s borders were “in this state” and apportionable. It noted that to hold otherwise would be to render a part of the carrier’s income nontaxable in any state, which could not have been the legislature’s intent. The court also rejected the related argument that the plaintiff derived no income “in Illinois” from its pass-through miles. Finally, it observed that the recent amendment of the statute, specifically including pass-through miles, did not mean that the legislature had not intended to include such miles all along. *Witte Bros. Exchange, Inc. v. Dept. of Revenue*, docket no. 1-12-0850, decided September 30, 2013 ▲

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## IA Property Tax Credit Available

By 2013 legislation (SF 295) signed into law last spring, Iowa has established a business property tax credit, first available for 2013 assessments payable late next year and in 2015. Since the legislation sets aside only a certain amount to fund the credit in any given year, the amount of the credit depends not only on the value of the property for which the credit is claimed, but also on how many credits are applied for. The legislature estimated that the first year’s credits might be some \$520 each. Those wishing to apply in this first year must do so by January 15, 2014, through the office of the county or city assessor where their property is located. For more, see the information provided by the Iowa department of revenue, <http://www.iowa.gov/tax/locgov/BPTCInstructions.pdf>, or email the department at [propertytax@iowa.gov](mailto:propertytax@iowa.gov). ▲

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## NYS May Suspend DLs for Overdue Taxes

The New York State budget bill for the 2013-2014 fiscal year included a provision allowing the state’s tax and motor vehicle agencies to suspend a taxpayer’s driver’s license if he owes the state more than \$10,000. Commercial driver’s licenses are *not* included. This was announced in August (see: [http://www.tax.ny.gov/pdf/memos/income/m13\\_4i.pdf](http://www.tax.ny.gov/pdf/memos/income/m13_4i.pdf)), and the press reports that the state sent out some 16,000 notices to delinquent taxpayers last month, warning them of the state’s new powers of enforcement. No licenses have been suspended to date, however. We’ll keep an eye on this one; but it might just lead to more unlicensed drivers on the road. ▲

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## ATA Files Lawsuit Challenging New York Thruway Tolls

ATA filed a lawsuit challenging the tolling practices of the New York Thruway Authority, which every year diverts millions of dollars in toll payments to maintain, operate, and improve the tourism and recreational facilities of the state’s canal system. As the filing explains, by charging access fees to major arteries of interstate commerce and using the proceeds for unrelated purposes, the Thruway’s tolling practices amount to an unconstitutional burden on interstate commerce. The complaint also notes that local communities reap hundreds of millions in annual tourism dollars from the canals, while truckers and other motorists are forced to foot the bill for their upkeep. A copy of the complaint, which was filed in the U.S. District Court for the Southern District of New York, is available <http://www.trucking.org/ATA%20Docs/What%20We%20Do/Law%20and%20Litigation/ATA%20Thruway%20Complaint.pdf>. ▲

## VT Court Rules on Traffic Stop

The Vermont Supreme Court has thrown out a DUI conviction on the grounds that the arresting officer in the case had insufficient cause to stop the defendant. The officer’s only reason for stopping the defendant’s vehicle was that the front license plate was an inch or two out of horizontal and state law specified that a plate was to be “kept horizontal.” That the plate was at an angle the officer took to constitute a violation of a traffic law, and any violation is grounds to stop a vehicle. The DUI citation followed. The defendant argued that the officer had made an error of law, and the court agreed. The legislature’s evident intent in passing the language at issue was to ensure that a license plate remained easily legible, and although the court declined to impose a mathematical rule beyond which horizontality was violated, it ruled that an inch or two out of kilter wasn’t too much. *State v. Tuma*, docket no. 2012-365, decided August 9, 2013 ▲

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## West Coast Governors Sign Climate Action Plan

On Oct. 28, the Governors of California, Oregon and Washington and the Premier of British Columbia signed a regional agreement to strategically align policies to reduce greenhouse gases and promote clean energy. Among the actions called for in the non-binding Pacific Coast Action Plan on Climate and Energy, the participants agreed to: (a) account for the costs of carbon pollution in each jurisdiction; (b) harmonize 2050 targets for greenhouse gas reductions and develop mid-term targets needed to support long-term reduction goals; (c) adopt and maintain low-carbon fuel standards in each jurisdiction; and (d) support emerging markets and innovation for alternative fuels in commercial trucks, buses, rail, ports and marine transportation. ATA and other groups are currently petitioning the Ninth Circuit Court of Appeals to reverse the court’s decision which found California’s low-carbon fuel standard to be constitutional. ATA is also working to assess options for the second round of federal medium and heavy-duty fuel efficiency/greenhouse gas emission standards which are expected to be promulgated next year. ▲



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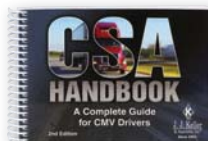
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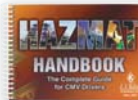
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