



Revenue and Transportation Interim Committee

61st Montana Legislature

SENATE MEMBERS

KIM GILLAN--Chair
RON ERICKSON
JEFF ESSMANN
CHRISTINE KAUFMANN
JIM PETERSON
BRUCE TUTVEDT

HOUSE MEMBERS

ROY HOLLANDSWORTH--Vice Chair
DICK BARRETT
CYDNIE (CARLIE) BOLAND
BRIAN HOVEN
MIKE JOPEK
BILL NOONEY

COMMITTEE STAFF

JEFF MARTIN, Research Analyst
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

MINUTES

September 18, 2009

Room 137, Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

SEN. KIM GILLAN, Chair
REP. ROY HOLLANDSWORTH, Vice Chair

SEN. RON ERICKSON
SEN. JEFF ESSMANN
SEN. CHRISTINE KAUFMANN
SEN. JIM PETERSON
SEN. BRUCE TUTVEDT

REP. DICK BARRETT
REP. CYDNIE (CARLIE) BOLAND
REP. BRIAN HOVEN
REP. MIKE JOPEK

COMMITTEE MEMBERS EXCUSED

REP. BILL NOONEY

STAFF PRESENT

JEFF MARTIN, Research Analyst
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, Attachment 1

COMMITTEE ACTION

- Approved the revised HB 658 Study Plan on property tax assistance.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Gillan called the meeting to order at 8:00 a.m. The committee secretary took roll visually. Rep. Nooney was excused.

AGENDA

MONTANA DEPARTMENT OF TRANSPORTATION REPORTS - Jim Lynch, Director

Update of the Project to Transport Oil Sands Development Equipment

00:02:12 Mr. Lynch gave an update on the proposed project to transport oil sands development equipment through Montana to Alberta. A map was distributed (**Exhibit 7**) that showed the route through Montana to Canada. Mr. Lynch also discussed the 32J Permit, insurance requirements (**Exhibit 8**), and an Environmental Checklist which transporters of houses and large loads have to fill out (**Exhibit 9**). Mr. Lynch also talked about the proposed traffic control on a two lane roadway (**Exhibit 10**). He distributed and discussed the Guide to the Montana Environmental Policy Act (**Exhibit 11**).

Questions

0:17:05 Sen. Gillan asked if "delaying traffic" means stopping traffic or slowing traffic below the posted speed limit. Mr. Lynch said that the rule says that you cannot delay traffic for longer than 10 minutes. The Department of Transportation would consider it a delay if a move holds up traffic at 15 miles an hour on a 55 mile an hour roadway for an extended period of time.

00:20:46 Sen. Peterson asked Mr. Lynch to explain a 32J permit. Mr. Lynch said that transporters have to notify the Department the dimensions of the load, the corridor used, the weight, and the axle spacings.

Sen. Peterson asked if MDT issues temporary permits or does it issue permits after it receives all the information. Mr. Lynch said that MDT does not issue

temporary permits while waiting for final details.

- 00:26:13 Rep. Barrett asked about the number of pullouts on the Lolo to Sweet Grass route and if there would be a need to construct more.
- 00:28:46 Sen. Kaufmann asked why Montana isn't moving ahead with the project as Idaho is. Mr. Lynch said that he doesn't know whether Idaho has issued permits, but Montana law must be complied with before a permit can be issued.
- 00:30:46 Sen. Tutvedt asked about the role of the Transportation Commission.
- 00:39:17 Rep. Hoven asked whether an environmental impact statement was necessary when moving utility lines.
- 00:42:03 Rep. Boland asked if there is any direct impact on road surfaces from a heavy load during the winter as opposed to the summer. Mr. Lynch said that there is less impact when the ground is frozen.

Public Comment

- 00:43:45 **Steve Arveschoug, Executive Director, Big Sky Economic Development Authority, Billings**, discussed the potential that Berry Y&V has for economic opportunity for Montana related to oil sand development in Canada.

Federal Stimulus Spending on Transportation Projects in Montana

- 00:50:46 Mr. Lynch gave an overview on the American Recovery & Reinvestment Act (ARRA). Mr. Lynch discussed: project delivery status, recovery impact on highway performance, and transit. Mr. Lynch also gave an update on reauthorization of the SAFETEA-LU program (**Exhibit 12**).

Questions

- 00:57:08 Sen. Peterson said that if it took four months to get \$15 million out of the \$211 million, how long will it take to get more money. Mr. Lynch described the procedure of bidding and awarding contracts.
- 01:01:33 Sen. Kaufmann said that there are 69 projects that have been approved. There are an additional 61 that were advertised. Is that the same group? Mr. Lynch said that out of the 69 projects that are approved to receive ARRA funding, 61 have been put out for bid. Out of the 61 that have been advertised, they have awarded

two contractors for 56 projects.

01:02:31 Sen. Gillan wanted to know when it is considered an expenditure. Mr. Lynch said that expended means a contractor has submitted a payment and the state has cut a check.

01:05:15 Sen. Essmann said that he has heard that the amount of work that the Department is farming out to private employers has fallen off. He wanted to know if the Department could use the private sector in order to get the money out faster. Mr. Lynch said that the projects have already been engineered. In order to meet the timeframe of the Recovery Act, the Department had to deliver 50% of the program by the end of June in order to continue receiving future funding.

Sen. Essmann wanted to know the status of the eight remaining projects.

Sen. Erickson requested that a presentation regarding Amtrak be put on the agenda for the next meeting.

01:39:31 Sen. Tutvedt wanted information on the state fuel tax. Mr. Lynch distributed and discussed the Fuel Tax Revenue Comparison (**Exhibit 13**).

01:41:35 Sen. Tutvedt commented on the confidentiality issue in Senate Bill 349 that was vetoed by the Governor. He said that the Department indicated that it would do an administrative fix on the confidentiality of the bidding documents. He wanted to know the status and if there was something that the Department can send to contractors. Mr. Lynch said that the Department has been working to address the concerns of the construction industry as well as to protect the state Freedom of Information Act.

Sen. Tutvedt requested that Mr. Lynch present an update on that issue at the next meeting.

Public Comment

None.

- Break -

SJR 37 STUDY OF STATE INCOME TAX FILING BY MARRIED TAXPAYERS

02:05:28 **Jeff Martin, Research Analyst**, presented a background report on Montana

individual income taxes **(Exhibit 14)**.

02:20:26 **George Olsen, Montana Society of CPAs**, described different scenarios of tax return preparation for married taxpayers. He distributed and discussed a document comparing citizens married filing separately and married filing jointly **(Exhibit 15)**.

Department of Revenue's Analysis of Revising Tax Rates for Married Filing Jointly

02:36:12 **Larry Finch, Department of Revenue**, presented a paper prepared by Dan Dodds on Married Taxpayers Filing Status **(Exhibit 16)**.

Public Comment

03:35:29 **George Olsen, Montana Society of CPAs**, said that he is interested in finding out whether the percentage of people that file jointly prepare their own returns or use a tax preparer.

- Lunch Break -

RECODIFICATION OF INDIVIDUAL INCOME TAX LAWS UNDER HOUSE BILL No. 24 - Lee Heiman, Staff Attorney, LSD

03:55:52 Mr. Heiman gave a presentation on the recodification of individual income tax laws.

PAST LEGISLATIVE PROPOSALS TO TIE INCOME TAX LIABILITY TO FEDERAL TAX LIABILITY - Lee Heiman, Staff Attorney, LSD

04:13:12 Mr. Heiman discussed legislative proposals that would have tied income tax liability to federal tax liability **(Exhibit 17)**.

ADMINISTRATIVE RULE REVIEW - Lee Heiman, Staff attorney, LSD

04:22:43 Mr. Heiman discussed Administrative Rule Review **(Exhibit 18)**.

Public Comment

None.

REVISED OUTLINE OF THE HB 658 STUDY PLAN - Jeff Martin, Staff Researcher, LSD

04:31:44 Mr. Martin discussed the revised outline of study activities **(Exhibit 19)** for

HB658.

Discussion

04:39:59 Sen. Gillan said that item 3(b)(8) of the outline says administration through state or property tax system. She said it should be administration through state income or state property.

Sen. Tutvedt said that the Senate Tax Committee was working through those issues and trying to develop fair assistance programs to every taxpayer. When they got to the income side, the participation rates according to fiscal notes grew exponentially.

Mr. Martin said that the revised study plan will include the language based on the conversation from yesterday's meeting and new language discussed today.

Motion

04:45:14 Sen. Peterson **moved** to adopt the work plan to include the amendments and language as discussed. The motion passed unanimously.

- Break -

911 FEES ON PREPAID WIRELESS SERVICES - Becky Berger, 911 Program Manager, Department of Administration

05:02:11 Ms. Berger discussed Montana's deployment of 911, and the 911 fees for prepaid wireless services. She said that prepaid wireless is wireless telecommunication services that allows the caller to dial 911 to access the 911 system.

Questions

05:09:01 Sen. Peterson asked if any of the work deals with Interoperability Montana. Ms. Berger said that Interoperability Montana is a radio project and part of the Public Safety Services Bureau.

Sen. Peterson asked if there are any efficiencies of the two efforts collaborating when the systems come together. Ms. Berger said that when a call comes into the center as a 911 call, the call taker pushes the call out via those

interoperability radio systems that are being deployed.

NEGOTIATED RULEMAKING PROCESS FOR FEES FOR WIRELESS SERVICES - Dan Bucks, Director, Department of Revenue

05:11:57 Mr. Bucks gave a synopsis of the issues on the negotiated rulemaking of the 911 fees. The 911 fee is a tax paid by the provider, not by the purchaser. Some of the sellers of the prepaid sector would prefer that the tax be collected from the consumer at the point of sale. The Department has no authority to require retailers to collect a sales tax on the 911 fees. Mr. Bucks talked about the 9-member committee that voted in favor of the provider payment versus the sales tax approach.

Public Comment

None.

DEPARTMENT OF REVENUE REPORTS - Dan Bucks, Director, Department of Revenue

05:20:33 Mr. Bucks gave an update on the property reappraisal process. He discussed the Department's completion of the certification of values and the mailing of the assessment notices. He said that the Department is now in the 30-day period where taxpayers can request informal reviews.

Questions

05:34:28 Sen. Peterson asked if someone on the agricultural side gets their 2009 assessment notice and finds areas that might be misclassified, can property owners go to the local Department of Revenue office to make sure that those lands are properly classified? Mr. Bucks said that the 30-day period would be the time for the person to come in and request a review.

Sen. Peterson asked Mr. Bucks to elaborate on the location of the comparable data regarding non-agricultural land, where that data is available, and can they also go to the local office and ask for an informal review. Mr. Bucks said that they should contact their local office. He has clarified affirmatively for the staff as to how the comparable sales information should be provided.

05:48:35 Sen. Erickson asked if other states are able to deal with comparable sales data more straightforward than Montana does. Mr. Bucks said that Montana is one a small number of states that keeps this information confidential.

05:50:58 Rep. Boland wanted clarification about the extended property tax assistance found on the Department's website. Her question is about the 40,000 property owners that qualify for the tax assistance. It states on the website that only potentially eligible residential property owners identified by the Department of Revenue are eligible to apply for benefits under this program. If someone thinks they might be eligible, can they go in and apply for assistance? Mr. Bucks said that that needs to be corrected online but those taxpayers should go into the local offices and inquire.

DEPARTMENT OF REVENUE UPDATES - Dan Bucks, Director, Department of Revenue

05:53:36 Mr. Bucks presented an update on Department of Revenue activities (**Exhibit 20**).

06:06:17 Sen. Essmann distributed a printout on a parcel in the City of Billings (**Exhibit 21**) showing property level income data. Sen. Essmann explained the problem of the printout. The expense column is rounded to even numbers. The taxpayer can't calculate the percentage that is in that expense percentage column because it has been incorrectly displayed by the ORION system due to the fact that it is rounded. He was told by the Department staff that if one or two decimals were displayed, it would speed that process up. Sen. Essmann requested that Mr. Bucks change the calculation of those numbers for taxpayers' informal review. Mr. Bucks said that he will look into that.

Sen. Essmann has concerns about the internal validation of the valuation processes. Mr. Bucks said that the particular valuation models are the same models that have been used historically for commercial property and DOR has not made any significant changes in its modeling methods. He said that there hasn't been any questions about the modeling methods for commercial property but that doesn't mean that they can't be improved in some manner.

06:19:58 Sen. Tutvedt asked if lots and vacant lots were included in residential. Mr. Bucks said that it includes only properties with residential improvements on it. It does not include bare land.

06:23:06 Sen. Gillan said that because there are people who are listening to this, will the information that Mr. Bucks has provided be posted on the Department's website? Mr. Bucks said that according to Mr. Peura, the data is already there in the form of reports to the committee.

06:27:44 Rep. Hoven said that since we have undermitigated by 20% to 25%, does this mean that commercial property owners will see their taxes go up by 20% to 25%? Mr. Bucks said that at this particular point in time there may be a larger percentage of commercial property where there are tax increases as opposed to decreases. The point of mitigation wasn't set at the median value of the increases where you have half on each side. That needs to be looked at. You will see more data in December after the informal review process.

DISCUSSION ON OUTLIER GROUPS - Dan Bucks, Director, Department of Revenue

06:43:10 Mr. Bucks discussed the document "Summary Statistics by Outlier Groups" (**Exhibit 22**) and said that it is not a labeled Department of Revenue document. He said that that is an initial response to an inquiry that Sen. Tutvedt sent last week.

Questions

06:57:19 Rep. Jopek said that Mr. Bucks mentioned on the EPTAP that there would be a large percentage of those Montana-owned or occupied outlier people who might be receiving a mailing. Has that mailing gone out? Mr. Bucks said that that mailing is scheduled to go out on October 1 and is about 40,000.

06:58:00 Rep. Barrett asked a followup question regarding eligibility for EPTAP on those Montana-owned or occupied outlier people. If the median changes \$247, would that mean that half of those people had less than \$247 and therefore would not be eligible. Mr. Bucks said that that is the annual increase, the threshold is a 6-year increase of \$250.

Public Comment

None.

PRESENTATION ON ORION DATA ACCESS TO LOCAL GOVERNMENTS - Alan Peura, Deputy Director, Department of Revenue

07:05:28 Mr. Peura said that DOR has created an ORION data portal that will be pushed out to local governments so that when taxpayers walk into their offices, they will have access to the property record cards within the database system. Mr. Peura gave a demonstration of that data portal.

Questions

07:08:05 Rep. Boland asked if anyone can access the database. Mr. Peura said that that

was intended to be local governments because of the way that it is formatted, that follows the property tax card that they are use to.

NEW VERSION OF THE OUTLIER SUMMARY

07:09:55 Mr. Bucks distributed a new version of the Outlier Summary to replace the summary that he had distributed previously. Mr. Bucks said that the ORION portal works effectively with local governments. Montana is one of two states where the state sets the tax base.

OTHER DEPARTMENT OF REVENUE REPORTS (Exhibit 20)

Local Government Advisory Working Group - Tab 3 of Report

07:11:27 Mr. Bucks gave an overview of the working group on local government issues.

Taxpayer Service Activities - Tab 4 of Report

07:12:21 Mr. Bucks discussed taxpayer services that the Department provides: the Department call center and the Post Audit Survey that the Department conducted.

Questions

07:24:12 Sen. Kaufmann asked about the 700 people who were selected to participate in the survey. Mr. Bucks said that everybody who has a regular audit conducted gets this survey.

SJR 16 STUDY OF UNINSURED AND UNDERINSURED MOTORISTS

07:28:03 Mr. Martin discussed Montana's motor vehicle liability insurance laws (**Exhibit 23**) and similar laws in surrounding states.

SB508 - ONLINE MOTOR VEHICLE INSURANCE LIABILITY INSURANCE VERIFICATION SYSTEM - Brenda Nordlund, Motor Vehicle Division, Department of Justice

07:36:44 Ms. Nordlund discussed the document, SB 508 - Online Motor Vehicle Insurance Liability Insurance Verification System (**Exhibit 24**).

Questions

07:44:57 Sen. Tutvedt said that MERLIN is causing some consternation. If MERLIN isn't fixed by July 1, is there anything that this committee can do to help you get past that? Ms. Nordlund said that the date that she has to have this implemented is July 1, 2011.

Sen. Tutvedt asked if reissuing car license plates could be set back and not allowed to come online the first of the year. Ms. Nordlund said that current law says that they would do a reissue on January 1, which is the rolling reissuing.

Sen. Tutvedt asked if that will be set back or can that done by mail in order to not overload the treasurers. Ms. Nordlund said that there is a mechanism in SB 508 that would allow for the automated mailing of a plate renewal or a new plate replacement.

07:49:02 Rep. Jopek asked Ms. Nordlund to explain seasonal cars. Ms. Nordlund said that a seasonal car's renewal cycle comes up while they are out of season for purposes of insurance coverage. They will have to work out in business rules to understand why they should be registered even though they don't show insurance at that point in time. This is a circumstance that occurs with some regularity in Montana. Having your vehicle insured is not an issue if it is parked in the garage and it never moves.

Public Comment

07:51:16 **Rhonda Wiggers, Montana Association of Counties**, said that the Association supports SB 508 and will do their part to ensure that Montana motorists are driving insured. She said that the Association is asking for a couple of things: that implementation of the insurance provisions be delayed until all of the bumps are gone in MERLIN and a request that it be rolled out on a county by county basis. In the case of the rolling reissues, they can focus the first 20% on counties that are not struggling with MERLIN.

Ms. Nordlund said that she would be glad to readdress the rolling reissue at the December meeting.

OTHER BUSINESS

08:02:29 Mr. Martin distributed a handout from Barb Smith, Fiscal Analyst, LFD, regarding federal agency expenditures of stimulus money (**Exhibit 25**).

ADJOURNMENT

08:04:11 With no further business to discuss, Sen. Gillan adjourned the meeting at 4:05 p.m.

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