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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

December 3 and 4, 2009 Meetings

December 3, 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. CARLIE BOLAND
REP. BRIAN HOVEN
REP. MIKE JOPEK
REP. BILL NOONEY

STAFF PRESENT

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

Visitors List and Agenda

Visitors' list, Attachment #1
Agenda, Attachment #2

COMMITTEE ACTION

- The written minutes of the September 17 and 18, 2009, meetings were approved.

--PART 1--

CALL TO ORDER AND ROLL CALL

00:00:02 Sen. Gillan called the meeting to order at 8:02 a.m. The committee secretary called roll. All committee members were present.

AGENDA

PANEL PRESENTATION: SJR 16 STUDY OF UNINSURED AND UNDERINSURED MOTORIST

Mari Kindberg, Rates Bureau Chief, Montana Insurance Commissioner
Patrick Butler, National Organization for Women (via telephone)
Jacqueline Lenmark, American Insurance Association

00:11:04 **Mari Kindberg** gave a presentation on uninsured motorists for the SJR 16 Study (**Exhibit 1**).

00:37:15 **Patrick Butler** gave a presentation on auto insurance trends across states (**Exhibit 2**) and discussed affordable auto insurance, the effect of credit-score rating, and why higher rates for low credit-score drivers can't be regulated away. Mr. Butler discussed various sections in his booklet "Why the standard automobile insurance market breaks down in low income zip codes" (**Exhibit 3**).

01:12:14 **Jacqueline Lenmark** gave a presentation on uninsured motorists. She discussed several topics, including no-fault insurance, ideas to lower insurance costs; and areas that have increased the costs of insurance.

01:50:06 Ms. Lenmark discussed a variety of alternatives, including: move slowly in changing the insurance system; no fault insurance; a platform for the web-

based insurance verification system that could provide the legislature with data on the number of uninsured motorists and what factors might be involved in the failure to have insurance; and discussions with stakeholders on the positives and the negatives in these alternatives.

Questions and Discussion

- 01:54:16 Rep. Jopek asked about providing proof of financial responsibility. Ms. Lenmark said that it is possible to post a letter of credit, a performance bond, a fidelity bond, or other forms of security that demonstrates financial ability to cover an injury of a certain dollar amount.
- 01:58:01 Sen. Essmann asked if the insurance industry sees a correlation between the percentage of uninsured because of unemployment or poverty and has the industry examined whether this lack of correlation is due to differences in enforcement policies between Montana and its neighboring states. Ms. Kindberg said that that is not something that the Insurance Commissioner has looked at.
- 02:02:06 Sen. Essmann asked Ms. Lenmark if the insurance industry has done any studies to differentiate whether there's a higher percentage of uninsured and underinsured in rural areas versus the urban areas of the state? Ms. Lenmark said that she is not aware of any studies in that area, but she will check and see and bring those to the committee if there are.
- 02:05:18 Sen. Kaufmann asked if there was a way to decriminalize not having insurance for people below a certain poverty level and would the insurance industry support that? Ms. Lenmark said the industry would support the decriminalization of that population.
- 02:09:40 Rep. Hoven said that one of Ms. Kindberg's charts shows a direct correlation between the percent of uninsured and the cost of insurance with Montana at the top and the neighboring states of Idaho, Wyoming, South and North Dakota at the bottom. He asked why the neighboring states' premiums are so much lower than Montana's. Ms. Kindberg said

that she does not have answers to why Montana is higher than its surrounding states. She talked about the need for a more in-depth analysis of why Montana's costs are higher, why medical costs are higher that drives the costs of premiums and claims, accident frequency, the severity of accidents, and collision repair costs.

02:15:37 Rep. Barrett asked Mr. Butler to explain the pay by the mile system. Mr. Butler said that under the pay per mile system, drivers would pay only by the use. People would be able to keep all of their cars insured whether they were used a lot or a little.

02:21:53 Sen. Gillan asked if other states have a hybrid system that provides a different rate based on number of miles driven. Mr. Butler discussed the mileage block system used in California. People pay according to how much they estimate they are going to drive.

02:29:19 Rep. Hollandsworth asked Ms. Lenmark if the insurance industry has thought about including a letter of disclosure with the policy related to the effect of stacking on premiums. Ms. Lenmark said that the industry has tried to make the policy clear about stacking.

02:32:22 Sen. Gillan asked Ms. Kindberg how an insurance carrier determines the premium amount? Ms. Kindberg said that each carrier comes up with its rating plan based on its data and analyses.

Sen. Gillan asked if weighting factors are delineated when rate structures are submitted. Ms. Kindberg said that the insurance company submits a complete rating manual. That rating manual is reviewed and becomes public record.

Public Comment

02:42:38 **Bruce Spencer, Property Casualty Insurance Association**, said that PCI, as a matter of principle, opposes placing limits on mandatory insurance. He submitted a letter (**Exhibit 4**) to the committee stating that.

02:45:45 **Joe Schmidt, Montana citizen**, presented testimony by phone. He said that Ms. Kindberg's presentation shows that the state has a very complicated mess of confusing ratings that the insurance industry uses. Mr. Schmidt submitted a variety of materials (**Exhibit 5**) and a document on remedies (**Exhibit 6**).

Break

03:11:34 Lee Heiman, Staff Attorney, introduced Jaret Cole as the new attorney on staff with expertise in taxation.

SJR 37 STUDY ON STATE INCOME TAX FILING BY MARRIED TAXPAYERS - Joe Shevlin and George Olsen, Montana Society of CPAs

03:13:02 Mr. Martin said there are two memos from the Department of Revenue in response to questions from the committee at the September meeting. The first one deals with the percent of income tax returns done by paid preparers and the other deals with taxpayers who appear to have paid more income tax by filing separate returns. These memos will not be discussed at this meeting.

03:13:56 **George Olsen, Montana Society of CPAs**, discussed the advantages and disadvantages to married filing jointly. He said that the Legislature has passed legislation to eliminate some of the difference between federal and Montana reporting so the advantages to "married filing jointly" are minimized in the reporting of capital gains and passive losses. He said that the Society of CPAs believe felt that the Montana tax return is too complicated and would benefit from simplification.

03:20:11 **Joe Shevlin, Montana Society of CPAs**, said that requiring taxpayers to file jointly is a major change to tax law in Montana. The concern is that there needs to be some sort of simplification of our tax law.

Questions

03:39:18 Rep. Hoven asked Mr. Olson what he meant by "losers". Mr. Olson said that a loser in a required married filing jointly situation would be a couple that has significant pension income or social security benefits. There are some potential losers in the area of itemized deductions and limitations on total itemized deductions. For example, applying the percentage limitation to a higher adjusted gross income for medical expenses may reduce the deductible amount. Mr. Olson said that the Montana Society of CPAs looked at trying to sunset some of the credits that hadn't been used or had been used only minimally for a number of years, and the reaction from their membership was that if there was one loser on sunsetting a credit, that was too many.

Public Comment

None.

03:46:21 Sen. Gillan recessed the meeting at 11:50 a.m. to allow committee members to attend the Montana Taxpayers Association's meeting.

--PART 2--

00:00:01 Sen. Gillan reconvened the meeting at 3:19 p.m.

00:00:56 Mr. Martin distributed information on insurance from Ms. Lenmark.

HB 658 STUDY - OVERVIEW OF PROPERTY TAX CIRCUIT

BREAKERS - Jeff Martin

00:02:03 Mr. Martin discussed Property Tax Circuit Breakers (**Exhibit 7**) and said that he would be referring to the property tax assistance matrix prepared by the Montana Department of Revenue (**Exhibit 8**) along with his presentation.

Questions

00:23:23 Sen. Essmann asked about the funding of circuit breakers. Mr. Martin said that some circuit breakers are locally funded through the property tax system and some are funded by the state under a tax credit system.

Discussion

00:50:08 Sen. Erickson said that he would be concerned about making circuit breakers revenue neutral because the elderly householders would receive less benefit than they do now.

00:55:00 Rep. Barrett said the committee needs to be aware of notch effects in the existing programs.

Public Comment

None.

ADMINISTRATIVE RULE REVIEW - Lee Heiman, Legal Staff

01:29:55 Mr. Heiman gave a report on Administrative Rule Review (**Exhibit 9**) and distributed copies of the MCA section on how reappraisal values are phased in and the rules on agricultural land per the request of Sen. Peterson.

Questions

01:33:06 Sen. Essmann said that we had a bill that dealt with publicly traded partnerships. Will these rules on pass-through entities affect that? Mr. Heiman said that these rules do not, but the publicly traded partnerships provision is in one of the other rules.

01:43:01 Sen. Essmann asked about changing the date of the report on exempt business equipment from 2010 to 2011. Does that mean we are skipping a report? Mr. Heiman said that there is a non-annual report that is done every five years and once it is done you don't have to report it again.

Public Comment

01:58:18 **Mona Jamison, OnStar**, said that OnStar was not a part of the negotiated rulemaking on the 9-1-1 fee and the method of collection. She said OnStar supports the services and has been paying the fees since 2002. OnStar has been collecting the fee at the point of sale, but the way the rule is proposed, that will not be allowed. She asked that the Department of Revenue seriously consider these comments and make adjustments in their notice of adoption.

02:03:03 **Alan Peura, Deputy Director of DOR**, said that specific to Ms. Jamison's comments, he will ask the Department's Hearing Examiner to listen to today's tape and pass along the comments and make sure that they are duly noted in their records.

ADOPTION OF THE SEPTEMBER 17 AND 18, 2009 MEETING MINUTES

02:04:23 The written minutes from the September 17, 2009, and September 18, 2009, meetings were unanimously approved by the committee.

RECESS

02:07:37 Sen. Gillan recessed the meeting at 5:26 p.m.

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