

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on March 27, 1989,  
at 2:00 p.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer,  
Senator Boylan, Senator Noble, Senator Williams,  
Senator McLane, Senator Weeding, Senator Lynch

Members Excused: Senator Hager

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 736

Presentation and Opening Statement by Sponsor:

Representative Gould, House District 61, said HB 736, "I believe is a good little bill. I will only tell you a rather interesting story about how this bill happened, and I'll turn it over to the proponents. Last July I was at the Missoula Airport and I wound up having to wait about two hours for the airplane. I have known Jerry Woodahl for a long time, and I have never really thought about the automobile rental business. I thought it was all of these humongous companies in business. Jerry explained to me, it was just small Montana business people that are franchisees of the large corporations.....They have a very small number of cars during the off season, then for three or four months, they'll have a much larger number....I put this bill together....The House Committee did a tremendous amount of work on this bill. I think, right now, it's a very clean bill. It's a very good bill."

"The fiscal note, with the bill, certainly doesn't say much. I would say, with what we are doing, there would be a little bit of loss, in the first year, to the Highway Department."

"This is a bill where we will really be doing quite a lot for local governments. There is going to be a lot of these cars, that will be in one of these people's hands for six months, and will get very low mileage. They only can do the six month licensing once, then they will have to license it for one year. Counties will then get two and one half percent for a full year. I think this will make a great deal of difference, as far as the counties are concerned. I think it will make a larger number of vehicles available in Montana, which is important, as far as tourism is concerned."

List of Testifying Proponents and What Group They Represent:

Larry Akey - Montana Car Rental Association  
Richard Correll - National Car Rental Association  
Jerry Woodahl - Hertz - Missoula, Montana  
Marty Struznick - Hertz - Butte, Montana  
Dale Duff - Hertz - Whitefish, Montana  
Rob Doyle - Avis - Missoula, Montana  
Steve Costly - President, Montana Car Rental Association - Billings, Montana  
Chad Stoianoff - Montana Association of Counties  
Steve Turkiewicz - Montana Automobile Dealers Association - Helena, Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony: Larry Akey said, "The heart of HB 736 is Section 1, which basically allows for registration of rental cars, a fleet of twenty-five or more, for a temporary six month period. The car rental industry is a cyclical industry that gears up every year for the tourist season.....This bill simply allows for those vehicles, that are here on a temporary basis, to have a temporary registration."

"Section 2, of the bill, exempts rental vehicles, that are part of a fleet, from the standard registration that other passenger cars and light trucks are subject to. Sections 3 and 4 simply say, if you are here on a temporary registration, if you are here for only half a year, you ought to pay only half the tax. Either the new car tax, or car sales tax for new vehicles, or the two percent advalorem tax for used vehicles. This is a bill that I think is good for small business and tourism in the state. We would ask for a Do Concur recommendation from this committee."

Richard Correll said, "We are in support of this bill. National Car Rental, of Montana, is a Montana owned corporation. I represent some other people here in this room. I would briefly like to identify them: Jerry Woodahl of Missoula, with Hertz - Marty Struznick of Butte, with Hertz - Dale Duff with Hertz, in Whitehall - Rob Doyle with Avis, in Missoula - and Steve Costly, who is the President of our organization, from Billings."

"We are here in favor of the bill for basically two purposes. One, we believe there is a fairness part of this bill. Secondly, we think probably the bill will encourage revenue in Montana, rather than take it away."

"National Car Rental in Montana has approximately five hundred and fifty cars during the summer. During the off season, which is approximately eight months during the year, we have one hundred and sixty-five cars. During that time, we have to license the cars for the entire year. We feel this bill would create a more fair way of licensing a car force. We keep approximately thirty to thirty-five percent of our fleet year around. We think that by allowing us to have license plates for only six months, we would be able to increase our fleets, because of less cost. We would be able to have more rental cars here in Montana, so when people fly in,...they could be tourists, in Montana, creating revenue. We also know we have to get rid of the cars. Those cars become used cars, and then you will be able to license them for a full year."

Chad Stoianoff said, "We are a proponent to this bill, and very supportive of Mr. Gould. The House Taxation Committee worked very hard on it. We find one small glitch with this bill. On the back of the handout is Montana Code Annotated 61-3-537. It explains 'local option vehicle tax'. The present bill, before you, does not elude to the 'local option vehicle tax'. With a small amendment, described in the handout, this can be fixed. Presently, thirteen counties do exercise this 'local option vehicle tax'. What it does, is allow the county to put additional tax on the peoples' vehicle registration of 0.5 percent. We would like to make an amendment to make it consistent with the law. Make it 0.25 percent for each six month period." (See Exhibit #1)

Steve Turkiewicz stated, "For the sake of brevity, we would like to support this bill. We ask for your concurrence."

Questions From Committee Members: Senator Boylan asked, "Where are these cars licensed now?" Are they licensed in the state where it's cheapest, or do they figure it on the amount of use in Montana?" Representative Gould said, "I think almost all of the people license the cars at the point of origin."

Steve Costly answered, "The question you're asking is, where are these different vehicles licensed, and how is the apportionment taken care of? Our organization is a multi-state organization. We license in several different states. We also belong, and report to what they call the International Registration Plan, which the state of Montana is enrolled in. The International Registration Plan states a one vehicle, one plate concept. You can operate in all states. What we do, is report the percentage of revenue done in the state of Montana. We make sure we have that percentage of licenses in the state of Montana."

Senator Williams asked, "Were you aware of this amendment?"

Representative Gould said, "I'd heard about the question, but they've been a strong supporter of the bill. I'll refer the question to Larry Akey."

Larry Akey stated, "I discussed this with Mr. Morris, from the Association of Counties. The one half percent 'local option tax', if it is going to be levied by the counties, would apply its full amount regardless of whether the vehicle is registered under a temporary registration or not....Really the only place we are asking for relief, for the sake of fairness, is from the two percent advalorem, and the one and one half percent new car sales tax. I don't believe this bill needs to be amended. I think, if you amend it in the way that the Association of Counties is asking, it will give the car rental people a bigger break than what the bill currently contemplates."

Chairman Thayer asked, "There is one six month period that you have this option?"

Larry Akey replied, "That is correct. When a vehicle is first picked up as a part of a fleet, the car rental operator would have the option of designating that vehicle as part of his rental fleet. So long as he had

a fleet of twenty-five or more vehicles. He would be allowed to register those vehicles, that were part of a fleet, on a temporary basis. Look at Section 1, Sub 1, Sub. (2). If a vehicle is retained in the fleet outside of that initial six month period, it must be registered for a full twelve month period."

Chairman Thayer asked, "The six month situation is not going to cause any problems for the Motor Vehicles Division or the counties involved?"

Larry Akey replied, "We have met Mr. Robinson from the Department of Motor Vehicles. In fact, when we were in the House, Mr. Robinson was there to answer questions. I don't want to speak on behalf of the department, but it was Mr. Robinson's indication, to us, that the Department of Motor Vehicles supported this type of legislation. They believed it would encourage additional registrations in the state."

Chairman Thayer asked, "What determined that a fleet should be twenty-five or more?"

Larry Akey answered, "I think that was an arbitrary figure picked, based on what we felt we could reasonably ask the legislature to accept.....At twenty-five, I think you are addressing the concerns of those car rental agencies that deal primarily with the tourist trade. Not those that are more focused on servicing local residents who need rental vehicles for insurance purposes or whatever."

Chairman Thayer asked, "Is it your feeling, overall, that the revenue would be a break even, or a slight loss, or what?"

Representative Gould said, "I think you would be looking at a relatively small loss to the state, as far as the initial one and one half percent. I think that could be made up if you have more cars. With twenty cents for every gallon of gasoline burned, you would probably end up with more in the pocket. As far as the state is concerned, the revenue lost would be very minute in comparison to their budget. I think there will be a tremendous increase in county revenue. It will be a help to the total tourist industry."

Senator Noble asked, "Was there any opposition in the House?"

Representative Gould said, "The bill came out of committee unanimously, and got over ninety votes on third

reading. There was a gal who came in from the Highway Department and she testified there would be a little lost revenue, to the state, because of the six month thing. She didn't give any specific figures. That was the only opposition in the House Committee."

Closing by Sponsor: Representative Gould thanked the committee for a good hearing.

#### DISPOSITION OF HOUSE BILL 736

Discussion: Senator Williams asked if there was any discussion needed on the amendment presented earlier.

Chairman Thayer asked Mary McCue what she thought about the amendment. She commented that the letter (exhibit 1) indicated a loss of revenue, but Larry Akey had testified he did not feel that was the case.

Chairman Thayer asked Larry Akey if he had seen the letter? Mr. Akey said he had not seen it. He was given a copy to review. Mr. Akey explained, "This bill, as it currently exists, would allow, those counties who are imposing a 'local option sales tax' in addition to the two percent advalorem tax, to impose the full amount of that tax rather than one half the tax. This bill does not address things like a junk vehicle fee, or the license fee, or the weed control fee. It is our reading of the bill, those would be imposed in their full amount as well. This bill only addresses the new car sales tax, or the two percent advalorem tax for used vehicles."

Chairman Thayer stated, "We'll let the record show, that we debated the possibility of placing the amendment on, and our staff researcher agrees with Mr. Akey, that this would not appear to cut their revenue. They don't think the amendment is necessary."

The Question was called for.

Amendments and Votes: None

Recommendation and Vote: Senator Noble made a motion HB 736 BE CONCURRED IN. Senator Boylan seconded the motion. The motion Carried Unanimously. Senator Noble volunteered to carry the bill on the Senate floor.

## DISPOSITION OF HOUSE BILL 652

Discussion: Chairman Thayer asked Mary McCue to explain the circumstances involved. Mary McCue stated, "Apparently, my amendment #4, I put on there in error. You did not pass that amendment, to make this respective in affect only. I did not realize that until today. Then you moved to bring it back to committee?"

Chairman Thayer answered, "Yes." Mary McCue continued, "The language in #4 would have amended the applicability provision to take out the language on page 5. I thought you had approved that."

Chairman Thayer said, "I had thought the same thing, but we researched the records, and that amendment did not pass. As a matter of fact, I think it failed five to two. We then had the bill on the floor, on second reading, that had been incorrectly amended. Senator Noble brought it back to the committee, so we could fix it up."

Chairman Thayer explained, "We have to start all over again. The bill is back in committee to be acted upon again." The three amendments, which had previously carried, were reviewed.

Amendments and Votes: Senator Noble made a motion to amend page 5, and strike the language on lines 2 through 4, starting with the word 'if'. Senator McLane seconded the motion. The motion carried unanimously.

Discussion: Chairman Thayer said, "I would support the amendment. It came out in testimony that people who had entered into these agreements several years ago, did it on the provision that they weren't going to be required to pay any interest on escrow accounts. To go in and arbitrarily change that now, doesn't seem to be very fair."

Recommendation and Vote: Senator Noble made a motion HB 652 BE NOT CONCURRED IN AS AMENDED. Senator McLane seconded the motion.

Discussion: Senator Williams asked "Why?" Senator Noble said, "I didn't like the bill when we listened to it."

Remember the discussion we had about the interest rate, on page 3, on line 14?....That amount is not a good figure...Remember that fellow from Kalispell being in here? He showed us a two or three page section that showed the condition of the mortgage loans....He just picked them from all of the accounts. That showed about one third of the accounts had a negative balance, about one third of them had just a standing balance of hardly anything, and one third had up to the maximum of ten percent by law....This bill calls for, if it is over \$300, they have to pay interest on it. The only ones that would affect, is the ones with the higher house payments...The banks testified that it costs them more money to service the account than they get out of the interest, on the money they are using.....I just felt that we had one proponent, and about fifteen opponents. I just didn't like the sound of the bill."

Senator Williams asked, "Even as amended?" Senator Noble replied, "Even as amended."

Senator Noble stated, "The amendment stops it from being retroactive. In other words, it would start from today."

Senator Meyer asked, "With the amendment, does that mean any new accounts could be charged the interest rate, but anyone's existing now couldn't be charged that interest?"

Senator Williams said, "That is my understanding."

Senator McLane said, "I had one of those accounts, and I never had anything in it. It seemed like it would build up to \$300 or \$400, and the taxes would come along, and it was gone. If I were a bank, I wouldn't want to fool around with the thing. There isn't going to be enough interest paid to mess with. I just can't see the bill."

Chairman Thayer stated, "Senator Noble, you have a motion to BE NOT CONCUR IN AS AMENDED. As I view our action, the only amendment we have on the bill now, is amendment #4. I think when you bring it back into committee, you basically start over. I just want you to know those other three amendments were stripped."

Senator Noble withdrew his motion, so the amendments could be taken care of. Senator McLane withdrew his second.



Amendments and Votes: Senator Meyer moved to adopt amendments #1, #2, and #3. Senator Boylan seconded the motion. The motion carried Unanimously. Senator Meyer later moved to include the discretion for correction of amendment #2, by Mary McCue. Senator Boylan said he would include that provision in his second. The committee consented to the inclusions.

Discussion: Senator Meyer said, "The trigger is \$300 at the end of the year, and if you don't have \$300 then there would be no interest paid, correct?" Chip Erdman said, "That is not the way the bill is written now. The way the bill is written now, is that if the month end average, all year long, is \$300, then that is the trigger."

Chairman Thayer said, "I guess I thought Senator Hager's intention, when he made the motion, was to have one trigger that triggered it, and that was whether or not it had a \$300 balance at the end of the calendar year."

Senator Boylan asked Senator Van Valkenburg, "What do you think of this bill at the present time. I think he has an interest." Senator Van Valkenburg said, "I do, thank you.....I intend to offer an amendment to the bill, so that this \$300 a month thing wouldn't apply... It complicates the calculation of interest...I guess I would prefer in some ways, that you strip that from the bill, and we let it fly as it might or might not....I also would offer an amendment, if it comes out with it applying only to future escrow accounts, so that it applies to present escrow accounts too. That is what the purpose of the bill was when it was introduced. It has gotten so watered down, it is virtually nothing."

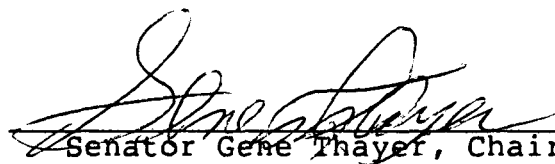
Mary McCue said, "You have voted on this amendment, and if this is stated incorrectly, because I misunderstood, I think I need some direction. I need to be able to change that one amendment if it is wrong."

Chairman Thayer said, "It would seem to me, we would need to clarify that amendment, and give Mary the discretion to fix that \$300 balance thing up, and bring it to the floor correctly, if this bill is going to pass out of here. Senator Hager is in taxation, right now, and she will have to meet with him. Is that agreeable with everybody?" The committee agreed with his suggestion.

Recommendation and Votes: Senator Williams moved HB 652 BE CONCURRED IN AS AMENDED. Senator Boylan seconded the motion. The motion carried, with five Senators voting in favor of the motion, and four Senators opposing the motion. Those opposing the motion were Senator McLane, Senator Noble, Senator Hager, and Senator Thayer.

ADJOURNMENT

Adjournment At: 2:59 p.m.

  
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Senator Gene Thayer, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 3/27/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER			✓
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN "J.D." LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

**SENATE STANDING COMMITTEE REPORT**

March 27, 1989

**MR. PRESIDENT:**

We, your committee on Business and Industry, having had under consideration HB 736 (third reading copy -- blue), respectfully report that HB 736 be concurred in.

Sponsor: Gould (Noble)

**BE CONCURRED IN**

Signed: 

Gene Thayer, Chairman

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S. 24  
a.  
scrhb736.327

SENATE STANDING COMMITTEE REPORT

March 27, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 652 (third reading copy -- blue), respectfully report that HB 652 be amended and as so amended be concurred in:

Sponsor: Brooke (Van Valkenburg)

1. Amend the Senate Committee on Business and Industry amendments to HB 652 (third reading copy -- blue) dated March 20, 1989, as follows:

Amendment No. 2

Strike: the insert in its entirety

Insert: ", if the yearend balance exceeds \$300"

AND AS AMENDED BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

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3/28/89  
S. 24  
S. 6.11

scrhb652.327

MONTANA  
ASSOCIATION OF  
COUNTIES

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3/27/89

BILL NO. HB 736

1802 11th Avenue  
Helena, Montana 59601  
(406) 442-5209

March 27, 1989

TO: Chairman Gene Thayer, Senate Business and Industry

FROM: Montana Association of Counties

RE: Amending HB 736

I write you concerning HB 736. The bill would exclude current local option vehicle tax applicability as stated in MCA 61-3-537. This code refers back to MCA 61-3-504 which HB 736, Section 3 amends.

Currently, as MCA 61-3-537 and 61-3-504 dictate, counties are allowed to impose this local option vehicle tax. MCA 61-3-537 states, "A county may impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to 0.5% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-404(2)." This code does not refer back to the amendment in section 3 of HB 736.

As the above 61-3-537 states, counties can presently tax up to 0.5%. Thus, because HB 736 breaks this tax period for rental fleets into two 6-month periods at 1% each, the bill should be amended to give counties the option to tax up to 0.25% each period. Therefore, subsection 3 of Section 3, should be amended after "...of (section 1) is 1% of the value determined under 61-3-503" to add, "or 1.25% if the local vehicle option tax is exercised."

In use in thirteen Montana counties, this bill would cut the revenue generated from this tax by 20%. Having spoken with the sponsor, Representative Gould, this is not his intent.

MACo

ex. #1 HB 736  
3/27/89

(4) The department shall adopt rules to implement the mail reregistration procedure.

History: En. Sec. 5, Ch. 614, L. 1981; amd. Sec. 1, Ch. 32, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 1, Ch. 420, L. 1987; amd. Sec. 33, Ch. 611, L. 1987.

#### Compiler's Comments

1987 Amendments: Chapter 420 in (1), near beginning after "The department shall", deleted "develop a procedure to"; substituted present language in (3) for "The procedure for mail reregistration must be in effect by January 1, 1982" (also deleted by Ch. 611); and in (4) substituted "shall" for "may".

Chapter 611 in (1), after "light vehicles", inserted "and other vehicles subject to tax under 61-3-504(2)"; and in (2), after "appropriate", inserted "tax and".

#### Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Duties of County Treasurer, 7-6-2111.

#### 61-3-536. Repealed. Sec. 38, Ch. 611, L. 1987.

History: En. Sec. 6, Ch. 614, L. 1981; amd. Sec. 2, Ch. 115, L. 1983; amd. Sec. 10, Ch. 708, L. 1983; amd. Sec. 3, Ch. 702, L. 1985; amd. Sec. 2, Ch. 1, Sp. L. 1985; amd. Sec. 7, Ch. 30, Sp. L. June 1986.

**61-3-537. (Temporary) Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to 0.5% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504(2).

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504(2) and is distributed in the same manner, based on the registration address of the owner of the motor vehicle.

(3) The governing body of a county may impose a local vehicle tax for a fiscal year by adopting a resolution before July 1 of the fiscal year, after conducting a public hearing on the proposed resolution. (*Terminates July 1, 1989—sec. 40, Ch. 611, L. 1987.*)

History: En. Sec. 36, Ch. 611, L. 1987.

61-3-538 through 61-3-540 reserved.

#### 61-3-541. Repealed. Sec. 38, Ch. 611, L. 1987.

History: En. Sec. 2, Ch. 516, L. 1985.

#### 61-3-542. Repealed. Sec. 38, Ch. 611, L. 1987.

History: En. Sec. 3, Ch. 516, L. 1985.

## Part 6

### Penalties — Enforcement

**61-3-601. Penalty for violations.** Except as otherwise provided, a violation of any of the provisions of this chapter is a misdemeanor and is punishable by a fine not exceeding \$25. Nothing contained herein prevents the prosecution of a person for an offense committed under any other law.

History: En. Sec. 2, Ch. 158, L. 1931; re-en. Sec. 1755.1, R.C.M. 1935; amd. Sec. 1, Ch. 122, L. 1961; amd. Sec. 2, Ch. 256, L. 1965; R.C.M. 1947, 53-102(part); amd. Sec. 42, Ch. 421, L. 1979.

