

Senate BILL NO. 395

INTRODUCED BY

*M. H. L. U. M. Cole* *Swanson*

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE EQUALIZED TAX TREATMENT BETWEEN IN-STATE AND OUT-OF-STATE OWNERS OF RENTAL VEHICLES; IMPOSING A 6 PERCENT SURCHARGE ON RENTAL VEHICLES; PROVIDING THAT THE SURCHARGE IS A REIMBURSEMENT FOR TAXES AND FEES PAID ON RENTAL VEHICLES; PROVIDING THAT THE AMOUNT BY WHICH THE SURCHARGE EXCEEDS TAXES AND FEES PAID BE REMITTED TO THE DEPARTMENT OF TRANSPORTATION; PROVIDING FOR THE DISTRIBUTION OF THE EXCESS SURCHARGE; ESTABLISHING A MONTANA HERITAGE PRESERVATION AND DEVELOPMENT ACCOUNT FOR THE DEPOSIT OF A PORTION OF THE EXCESS SURCHARGE; REQUIRING THE PRESERVATION OF RECORDS RELATING TO THE SURCHARGE; AMENDING SECTION 61-3-728, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Definitions.** As used in [section 2], the following definitions apply:

- (1) "Department" means the department of transportation provided for in 2-15-2501.
- (2) "Rental vehicle" means a passenger vehicle that:
  - (a) is rented for a period of not more than 30 days;
  - (b) is rented without a driver;
  - (c) is designed to transport 15 or fewer passengers; and
  - (d) has a manufacturer's rated capacity of 1 ton or less.

**NEW SECTION. Section 2. Rental vehicle surcharge -- reimbursement.** (1) There is imposed a surcharge on a rental vehicle as defined in [section 1]. The surcharge is 6% on the rental base price, exclusive of gas and insurance, as stated in the rental contract. The surcharge must be stated in the rental contract and collected in accordance with the terms of the contract. The surcharge is a reimbursement for taxes and fees paid at the time of registration.

(2) (a) On or before February 15 of each year, the owner of the rental vehicles on which the surcharge was collected shall file a report with the department stating the:

- 1 (i) gross receipts, exclusive of gas and insurance, of the rental contracts;  
 2 (ii) total amount of vehicle taxes and fees paid the previous calendar year;  
 3 (iii) total amount of the surcharge collected in the previous calendar year; and  
 4 (iv) amount, if any, by which the surcharge exceeded the taxes and fees.
- 5 (b) The owner shall remit the excess surcharge with the annual report to the department. The  
 6 annual report must be on a form provided by the department. The department shall remit the excess  
 7 surcharge to the state treasurer for deposit as follows:
- 8 (i) 70% to the Montana heritage preservation and development account as provided in [section 4];  
 9 (ii) 20% to the state highway account of the state special revenue fund;  
 10 (iii) 7.5% to be distributed equally to the general fund of all counties;  
 11 (iv) 2.5% to the state general fund.
- 12 (3) The auditing requirements of 61-3-728 apply to this section.

13

14 **Section 3.** Section 61-3-728, MCA, is amended to read:

15 **"61-3-728. Preservation of proportional registration records and surcharge payment records. (1)**

16 An owner whose application for proportional registration has been accepted shall preserve the records on  
 17 which the application is based for a period of 4 years following the year or period upon which the  
 18 application is based. Upon request of the department, the owner shall make these records available to the  
 19 department for audit as to accuracy of the computations and payments or pay the reasonable costs of an  
 20 audit at the owner's home office by an appointed representative of the department.

21 (2) The owner of a rental vehicle on which the surcharge provided for in [section 2] was collected  
 22 shall preserve the records pertaining to the collection and payment of the surcharge for a period of 4 years  
 23 following the year or period upon which the surcharge is based. Upon request of the department, the owner  
 24 shall make these records available to the department for audit as to the accuracy of the computations and  
 25 the collections.

26 (3) The department may make arrangements with agencies of other jurisdictions administering  
 27 motor vehicle registration laws for joint audits of the owner."

28

29 **NEW SECTION. Section 4. Montana heritage preservation and development account.** (1) There  
 30 is established a Montana heritage preservation and development account in the state special revenue fund.

1           (2) Money deposited in the account from the surcharge as provided by [section 2(2)(b)(i)] must be  
2 used to service revenue bonds issued for:

3           (a) the purchase of properties in Virginia City and Nevada City; and

4           (b) restoration, maintenance, and operation of historic properties in Virginia City and Nevada City.

5  
6           NEW SECTION. Section 5. Codification instruction. (1) [Sections 1 and 2] are intended to be  
7 codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61, chapter 3, part 7,  
8 apply to [sections 1 and 2].

9           (2) [Section 4] is intended to be codified as an integral part of Title 22, chapter 3, part 1, and the  
10 provisions of Title 22, chapter 3, part 1, apply to [section 4].

11

12           NEW SECTION. Section 6. Effective date. [This act] is effective January 1, 1998.

13

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0395, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An Act relating to the equalized tax treatment between in-state and out-of-state owners of rental vehicles; imposing a 6 percent surcharge on rental vehicles; providing that the surcharge is a reimbursement for taxes and fees paid on rental vehicles; providing that the amount by which the surcharge exceeds taxes and fees paid be remitted to the department of transportation; providing for the distribution of the excess surcharge; establishing a Montana heritage preservation and development account for the deposit of a portion of the excess surcharge; requiring the preservation of records relating to the surcharge; and providing a delayed effective date.

ASSUMPTIONS:

1. Due to the effective date of January 1, 1998 and the first reporting and remitting date of February 15, 1999 no fiscal impact is anticipated in FY98.
2. Estimated tax collection for rental vehicles in CY98 is \$27,200,000.
3. 6% of \$27,200,000 is \$1,632,000.
4. Rental car companies will keep registration costs of \$1,053,500.
5. The excess surcharge to be remitted will be \$578,500 (\$1,632,000 - \$1,053,500).
6. \$578,500 will be distributed as shown in the revenue section below.
7. MDT will incur additional administrative costs and FTE to collect and remit the monies. Additional FTE are 0.25 FTE, Collections, Grade 9 (salaries plus benefits \$21,964 x 0.25 = \$5,491) and 1.0 FTE Auditor, Grade 13 (salaries plus benefits \$29,473)

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
FTE	0	1.25
Personal Services	\$0	\$34,964
Operating Expenses	0	6,500
Equipment	<u>0</u>	<u>5,000</u>
Total	\$0	\$46,464
Highway Special Revenue (02)	\$0	\$46,464

Revenues:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Mt. Heritage Pres. (02) 70%	\$0	\$404,950
Hwy Acct SSR (02) 20%	0	115,700
County Gen Fund 7.5%	0	43,387
State Gen Fund <u>2.5%</u>	<u>0</u>	<u>14,463</u>
Total 100%	\$0	\$578,500

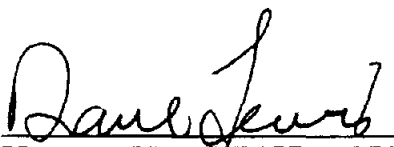
Net Impact:

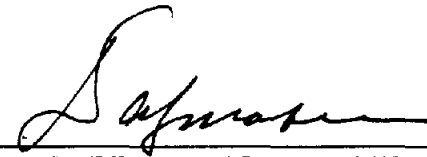
Increase to the Highway account of the State Special Revenue Fund of \$69,236 in FY99.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increase to County General Fund of \$43,387 in FY99.

(Dedication of Revenue - see page 2)

 3-19-97  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

 3/19/97  
 DALE MAHLUM, PRIMARY SPONSOR DATE

DEDICATION OF REVENUE:

a) Are there persons or entities that benefit from this dedicated revenue that do not pay?

**The individuals who do not rent cars and who visit Virginia City and Nevada City will benefit without paying.**

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

**This revenue will be appropriately accounted for in the State Special Revenue account.**

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended?

Yes  No **There is no current use of funds.**

d) Does the need for this state special revenue provision still exist?

Yes  No (Explain)

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

**No, the legislature will maintain the ability to scrutinize budgets and control expenditures.**

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need?

**Yes, if the legislature recognizes this as a need.**

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

**The revenue could be accounted for adequately in any fund, however the state special revenue fund would be the appropriate funding.**

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0395, as revised

DESCRIPTION OF PROPOSED LEGISLATION: An Act relating to the equalized tax treatment between in-state and out-of-state owners of rental vehicles; imposing a 6 percent surcharge on rental vehicles; providing that the surcharge is a reimbursement for taxes and fees paid on rental vehicles; providing that the amount by which the surcharge exceeds taxes and fees paid be remitted to the department of transportation; providing for the distribution of the excess surcharge; establishing a Montana heritage preservation and development account for the deposit of a portion of the excess surcharge; requiring the preservation of records relating to the surcharge; and providing a delayed effective date.

ASSUMPTIONS:

1. Due to the effective date of January 1, 1998 and the first reporting and remitting date of February 15, 1999 no fiscal impact is anticipated in FY98.
2. Estimated gross receipts for rental vehicles in CY98 is \$27,200,000.
3. 6% of \$27,200,000 is \$1,632,000.
4. Rental car companies will keep registration costs of \$942,690.
5. The excess surcharge to be remitted will be \$689,310 (\$1,632,000 - \$942,690).
6. \$689,310 will be distributed as shown in the revenue section below.
7. MDT will incur additional administrative costs and FTE to collect and remit the monies. Additional FTE are 0.25 FTE, Collections, Grade 9 (salaries plus benefits \$21,964 x 0.25 = \$5,491) and 1.0 FTE Auditor, Grade 13 (salaries plus benefits \$29,473).

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
FTE	0	1.25
Personal Services	\$0	\$34,964
Operating Expenses	0	6,500
Equipment	0	5,000
Total	\$0	\$46,464
Highway Special Revenue (02)	\$0	\$46,464

Revenues:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Mt. Heritage Pres. (02) 70%	\$0	\$482,517
Hwy Acct SSR (02) 20%	0	137,862
County Gen Fund 7.5%	0	51,698
State Gen Fund 2.5%	0	17,233
Total 100%	\$0	\$689,310


Net Impact:

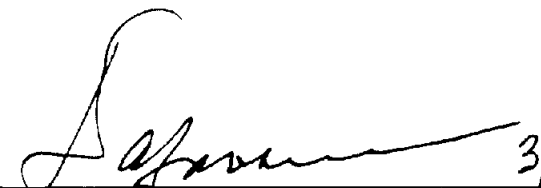
Increase to the Highway account of the State Special Revenue Fund of \$91,398 in FY99.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increase to County General Fund of \$51,698 in FY99.

(Dedication of Revenue - see page 2)

 3-20-97  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

 3/20/97  
 DALE MAHLUM, PRIMARY SPONSOR      DATE

Fiscal Note for SB0395, as revised

Rev. SB 395 #2

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay?

**The individuals who do not rent cars and who visit Virginia City and Nevada City will benefit without paying.**

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

**This revenue will be appropriately accounted for in the State Special Revenue account.**

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended?

Yes  No **There is no current use of funds.**

- d) Does the need for this state special revenue provision still exist?

Yes  No (Explain)

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

**No, the legislature will maintain the ability to scrutinize budgets and control expenditures.**

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need?

**Yes, if the legislature recognizes this as a need.**

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

**The revenue could be accounted for adequately in any fund, however the state special revenue fund would be the appropriate funding.**

## 1 SENATE BILL NO. 395

2 INTRODUCED BY MAHLUM, COLE, SWYSGOOD, TASH, STANG, BEAUDRY, DEVLIN, BECK, OHS,  
3 SWANSON, ECK  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE EQUALIZED TAX TREATMENT BETWEEN  
6 IN-STATE AND OUT-OF-STATE OWNERS OF RENTAL VEHICLES; IMPOSING A 6 PERCENT SURCHARGE  
7 ON RENTAL VEHICLES; PROVIDING THAT THE SURCHARGE BE REMITTED TO THE DEPARTMENT OF  
8 TRANSPORTATION; PROVIDING THAT THE SURCHARGE IS A REIMBURSEMENT FROM THE SURCHARGE  
9 COLLECTED FOR 75 PERCENT OF THE TAXES AND FEES PAID ON RENTAL VEHICLES; PROVIDING THAT  
10 THE AMOUNT BY WHICH THE SURCHARGE EXCEEDS TAXES AND FEES PAID BE REMITTED TO THE  
11 DEPARTMENT OF TRANSPORTATION; PROVIDING FOR THE DISTRIBUTION OF THE EXCESS  
12 SURCHARGE; ESTABLISHING A MONTANA HERITAGE PRESERVATION AND DEVELOPMENT ACCOUNT  
13 FOR THE DEPOSIT OF A PORTION OF THE EXCESS SURCHARGE; REQUIRING THE PRESERVATION OF  
14 RECORDS RELATING TO THE SURCHARGE; AMENDING SECTION 61-3-728, MCA; AND PROVIDING A  
15 DELAYED AN IMMEDIATE EFFECTIVE DATE."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
18

19 NEW SECTION. Section 1. Definitions. As used in [section 2], the following definitions apply:

20 (1) "Department" means the department of transportation provided for in 2-15-2501.

21 (2) "Rental vehicle" means a passenger vehicle that:

22 (a) is rented for a period of not more than 30 days;

23 (b) is rented without a driver;

24 (c) is designed to transport 15 or fewer passengers; ~~and~~

25 (d) has a manufacturer's rated capacity of 1 ton or less; AND

26 (E) IS NOT RENTED PURSUANT TO A CONTRACT OF INSURANCE.  
27

28 NEW SECTION. Section 2. Rental vehicle surcharge -- reimbursement -- COLLECTION AND  
29 REPORTING. (1) There is imposed a surcharge on a rental vehicle as defined in [section 1]. The surcharge  
30 is 6% on the rental base price, exclusive of gas and insurance, as stated in the rental contract. The sur-



1 charge must be stated in the rental contract and collected in accordance with the terms of the contract.  
 2 The surcharge is a reimbursement for 75% OF THE taxes and fees paid at the time of registration AS  
 3 PROVIDED IN [SECTION 4].

4 ~~(2) (a) On or before February 15 of each year, the owner of the rental vehicles on which the~~  
 5 ~~surcharge was collected shall file a report with the department stating the:~~

6 ~~(i) gross receipts, exclusive of gas and insurance, of the rental contracts;~~

7 ~~(ii) total amount of vehicle taxes and fees paid the previous calendar year;~~

8 ~~(iii) total amount of the surcharge collected in the previous calendar year; and~~

9 ~~(iv) amount, if any, by which the surcharge exceeded the taxes and fees.~~

10 ~~(b) The owner shall remit the excess surcharge with the annual report to the department. The~~  
 11 ~~annual report must be on a form provided by the department. The department shall remit the excess~~  
 12 ~~surcharge to the state treasurer for deposit as follows:~~

13 ~~(i) 70% to the Montana heritage preservation and development account as provided in [section 4];~~

14 ~~(ii) 20% to the state highway account of the state special revenue fund;~~

15 ~~(iii) 7.5% to be distributed equally to the general fund of all counties;~~

16 ~~(iv) 2.5% to the state general fund. THE OWNER OF THE RENTAL VEHICLES SHALL REPORT TO~~

17 THE DEPARTMENT, AT THE END OF EACH CALENDAR QUARTER, THE GROSS RECEIPTS, EXCLUSIVE

18 OF GAS AND INSURANCE, ACTUALLY COLLECTED DURING THAT QUARTER ATTRIBUTABLE TO THE

19 RENTAL CONTRACTS. THE REPORT MUST BE ON A FORM PROVIDED BY THE DEPARTMENT. THE

20 REPORT IS DUE ON OR BEFORE THE LAST DAY OF THE MONTH FOLLOWING THE END OF THE

21 CALENDAR QUARTER AND MUST BE ACCOMPANIED BY A PAYMENT IN AN AMOUNT EQUAL TO THE

22 SURCHARGE REQUIRED TO BE COLLECTED UNDER SUBSECTION (1).

23 (3) THE DEPARTMENT SHALL CREDIT THE SURCHARGE AND ANY INTEREST AND PENALTIES

24 TO A RENTAL VEHICLE SURCHARGE REIMBURSEMENT SUSPENSE ACCOUNT.

25 ~~(3)(4)~~ The auditing requirements of 61-3-728 apply to this section.

26

27 NEW SECTION. SECTION 3. RENTAL VEHICLE SURCHARGE -- FAILURE TO PAY OR FILE --

28 PENALTY -- REVIEW -- INTEREST. (1) AN OWNER OF RENTAL VEHICLES WHO FAILS TO FILE THE

29 REPORT AS REQUIRED BY [SECTION 2] MUST BE ASSESSED A PENALTY OF 10% OF THE SURCHARGE

30 THAT WAS NOT COLLECTED DURING THE CALENDAR QUARTER. UPON A SHOWING OF GOOD CAUSE,

1 THE DEPARTMENT MAY WAIVE THE PENALTY.

2 (2) AN OWNER OF RENTAL VEHICLES WHO FAILS TO MAKE PAYMENT OR FAILS TO REPORT  
 3 AND MAKE PAYMENT AS REQUIRED BY [SECTION 2] MUST BE ASSESSED A PENALTY OF 10% OF THE  
 4 AMOUNT THAT WAS NOT PAID. UPON A SHOWING OF GOOD CAUSE, THE DEPARTMENT MAY WAIVE  
 5 THE PENALTY.

6 (3) (A) IF AN OWNER OF RENTAL VEHICLES FAILS TO FILE THE REPORT REQUIRED BY [SECTION  
 7 2] OR IF THE DEPARTMENT DETERMINES THAT THE REPORT UNDERSTATES THE AMOUNT OF  
 8 SURCHARGE DUE, THE DEPARTMENT MAY DETERMINE THE AMOUNT OF THE SURCHARGE DUE AND  
 9 ASSESS THAT AMOUNT AGAINST THE OWNER.

10 (B) WHEN A DEFICIENCY IS DETERMINED AND THE SURCHARGE BECOMES FINAL, THE  
 11 DEPARTMENT SHALL MAIL A NOTICE AND DEMAND FOR PAYMENT TO THE OWNER. THE TAX IS DUE  
 12 AND PAYABLE AT THE EXPIRATION OF 10 DAYS AFTER THE NOTICE AND DEMAND WERE MAILED.  
 13 INTEREST ON ANY DEFICIENCY ASSESSMENT BEARS INTEREST UNTIL PAID, AT THE RATE OF 1% A  
 14 MONTH OR FRACTION OF A MONTH, COMPUTED FROM THE ORIGINAL DUE DATE OF THE RETURN.

15 (4) THE AMOUNT REQUIRED TO BE PAID UNDER [SECTION 2] ACCRUES INTEREST AT THE RATE  
 16 OF 1% A MONTH OR PART OF A MONTH FROM DELINQUENCY UNTIL PAID.

17

18 NEW SECTION. SECTION 4. RENTAL VEHICLE SURCHARGE -- REIMBURSEMENT --  
 19 DISTRIBUTION. (1) AN OWNER OF RENTAL VEHICLES IS ENTITLED TO A REIMBURSEMENT OF THE  
 20 RENTAL VEHICLE SURCHARGE PAID TO THE DEPARTMENT IN THE PREVIOUS CALENDAR YEAR UNDER  
 21 THE PROVISIONS OF [SECTION 2]. THE REIMBURSEMENT AMOUNT IS EQUAL TO 75% OF THE TAXES  
 22 AND FEES PAID IN THE PREVIOUS CALENDAR YEAR.

23 (2) (A) ON OR BEFORE FEBRUARY 15 OF EACH YEAR, THE OWNER OF THE RENTAL VEHICLES  
 24 ON WHICH THE SURCHARGE WAS COLLECTED SHALL FILE A REPORT WITH THE DEPARTMENT  
 25 STATING THE:

26 (I) GROSS RECEIPTS, EXCLUSIVE OF GAS AND INSURANCE, COLLECTED ON THE RENTAL  
 27 CONTRACTS;

28 (II) TOTAL AMOUNT OF VEHICLE TAXES AND FEES PAID THE PREVIOUS CALENDAR YEAR;

29 (III) TOTAL AMOUNT OF THE SURCHARGE COLLECTED IN THE PREVIOUS CALENDAR YEAR; AND

30 (IV) AMOUNT, IF ANY, BY WHICH THE SURCHARGE EXCEEDED 75% OF THE TAXES AND FEES.

1           (3) WITHIN 45 DAYS OF RECEIVING THE REPORT, THE DEPARTMENT SHALL REFUND FROM THE  
 2 RENTAL VEHICLE SURCHARGE SUSPENSE ACCOUNT TO THE OWNER OF RENTAL VEHICLES THE  
 3 AMOUNT OF THE SURCHARGE COLLECTED THAT DOES NOT EXCEED 75% OF THE TAXES AND FEES  
 4 PAID.

5           (4) WITHIN 30 DAYS OF MAKING REFUND TO RENTAL CAR OWNERS UNDER SUBSECTION (3),  
 6 THE DEPARTMENT SHALL REMIT THE AMOUNT REMAINING IN THE ACCOUNT FOR THE SURCHARGE  
 7 COLLECTED IN THE PREVIOUS YEAR TO THE STATE TREASURER FOR DEPOSIT AS FOLLOWS:

8           (A) 80% TO THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT ACCOUNT AS  
 9 PROVIDED IN [SECTION 6];

10           (B) 10% TO THE STATE HIGHWAY ACCOUNT OF THE STATE SPECIAL REVENUE FUND;

11           (C) 7.5% TO BE DISTRIBUTED EQUALLY TO THE GENERAL FUND OF ALL COUNTIES;

12           (D) 2.5% TO THE STATE GENERAL FUND.

13  
 14           **Section 5.** Section 61-3-728, MCA, is amended to read:

15           **"61-3-728. Preservation of proportional registration records and surcharge payment records. (1)**

16 An owner whose application for proportional registration has been accepted shall preserve the records on  
 17 which the application is based for a period of 4 years following the year or period upon which the  
 18 application is based. Upon request of the department, the owner shall make these records available to the  
 19 department for audit as to accuracy of the computations and payments or pay the reasonable costs of an  
 20 audit at the owner's home office by an appointed representative of the department.

21           (2) The owner of a rental vehicle VEHICLES on which the surcharge provided for in [section 2  
 22 SECTIONS 1 THROUGH 4] was collected shall preserve the records pertaining to the collection and payment  
 23 of the surcharge for a period of 4 years following the year or period upon which the surcharge is based.  
 24 Upon request of the department, the owner shall make these records available to the department for audit  
 25 as to the accuracy of the computations and the collections.

26           (3) The department may make arrangements with agencies of other jurisdictions administering  
 27 motor vehicle registration laws for joint audits of the owner."

28  
 29           **NEW SECTION. Section 6. Montana heritage preservation and development account. (1)** There  
 30 is established a Montana heritage preservation and development account in the state special revenue fund.

1 (2) Money deposited in the account from the surcharge as provided by [section ~~2(2)(b)(i)~~ 4(4)(A)]  
2 must be used to service revenue bonds issued for:

3 (a) the purchase of properties in Virginia City and Nevada City; ~~and~~

4 (b) restoration, maintenance, and operation of historic properties in Virginia City and Nevada City;

5 AND

6 (C) IF ADDITIONAL MONEY IS AVAILABLE, PURCHASING, RESTORING, AND MAINTAINING  
7 HISTORICALLY SIGNIFICANT PROPERTIES IN OR FROM MONTANA.

8

9 NEW SECTION. Section 7. Codification instruction. (1) [Sections 1 ~~and 2~~ THROUGH 4] are  
10 intended to be codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61,  
11 chapter 3, part 7, apply to [sections 1 ~~and 2~~ THROUGH 4].

12 (2) [Section 4 6] is intended to be codified as an integral part of Title 22, chapter 3, part 1, and  
13 the provisions of Title 22, chapter 3, part 1, apply to [section 4 6].

14

15 NEW SECTION. Section 8. Effective date. [This act] is effective ~~January 1, 1998~~ ON PASSAGE  
16 AND APPROVAL.

17

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0395, 2nd reading

DESCRIPTION OF PROPOSED LEGISLATION: An Act relating to the equalized tax treatment between in-state and out-of-state owners of rental vehicles; imposing a 6 percent surcharge on rental vehicles; providing that the surcharge is a reimbursement for taxes and fees paid on rental vehicles; providing that the amount by which the surcharge exceeds taxes and fees paid be remitted to the department of transportation; providing for the distribution of the excess surcharge; establishing a Montana heritage preservation and development account for the deposit of a portion of the excess surcharge; requiring the preservation of records relating to the surcharge; amending section 61-3-728, MCA and providing a delayed effective date.

ASSUMPTIONS:

1. Due to the effective date "on passage and approval" it was assumed for this fiscal note that the first quarterly reporting and remitting date would be September 30, 1997.
2. Estimated gross receipts for rental vehicles in FY98 and FY99 is \$25,000,000, exclusive of contract insurance rentals (\$27,200,000 - \$2,200,000).
3. 6% of \$25,000,000 is \$1,500,000.
4. Rental car companies will keep registration costs of \$707,250 (75% of \$943,000).
5. The excess surcharge to be remitted will be \$792,750 (\$1,500,000 - \$707,250).
6. \$792,750 will be distributed as shown in the revenue section below.
7. MDT will incur additional administrative costs and FTE to collect and remit the monies. Additional FTE are 1.0 FTE, Collections, Grade 9 (salaries plus benefits \$21,964) and 1.0 FTE Auditor, Grade 13 (salaries plus benefits \$29,473).

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
FTE	2.0	2.0
Personal Services	\$51,437	\$51,437
Operating Expenses	6,500	6,500
Equipment	<u>5,000</u>	<u>5,000</u>
Total	\$62,937	\$57,937
Highway Special Revenue	\$62,937	\$57,937

Revenues:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Mt. Heritage Preserv.    80%	\$634,200	\$634,200
Hwy Acct SSR            10%	79,275	79,275
County Gen Fund        7.5%	59,456	59,456
State Gen Fund <u>2.5%</u>	<u>19,819</u>	<u>19,819</u>
Total                    100%	\$792,750	\$792,750

Net Impact:

Increase to the Highway account of the SSR Fund of \$16,338 in FY98 and \$21,338 in FY99.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increase to County General Fund of \$59,456 in each FY98 and FY99.

(Dedication of Revenue - see page 2)

*Dave Lewis* 4-2-97  
 DAVE LEWIS, BUDGET DIRECTOR    DATE  
 Office of Budget and Program Planning

*Dale Mahlum* 4/2/97  
 DALE MAHLUM, PRIMARY SPONSOR    DATE

Fiscal Note for SB0395, 2nd reading

SB 395-#3

DEDICATION OF REVENUE:

a) Are there persons or entities that benefit from this dedicated revenue that do not pay?

**The individuals who do not rent cars and who visit Virginia City and Nevada City will benefit without paying.**

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

**This revenue will be appropriately accounted for in the State Special Revenue account.**

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended?

Yes  No **There is no current use of funds.**

d) Does the need for this state special revenue provision still exist?

Yes  No (Explain)

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

**No, the legislature will maintain the ability to scrutinize budgets and control expenditures.**

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need?

**Yes, if the legislature recognizes this as a need.**

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

**The revenue could be accounted for adequately in any fund, however the state special revenue fund would be the appropriate funding.**

## SENATE BILL NO. 395

INTRODUCED BY MAHLUM, COLE, SWYSGOOD, TASH, STANG, BEAUDRY, DEVLIN, BECK, OHS,  
SWANSON, ECK

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE EQUALIZED TAX TREATMENT BETWEEN  
IN-STATE AND OUT-OF-STATE OWNERS OF RENTAL VEHICLES; IMPOSING A 6 PERCENT SURCHARGE  
ON RENTAL VEHICLES; PROVIDING THAT THE SURCHARGE BE REMITTED TO THE DEPARTMENT OF  
TRANSPORTATION; PROVIDING THAT THE SURCHARGE IS A REIMBURSEMENT FROM THE SURCHARGE  
COLLECTED FOR 75 PERCENT OF THE TAXES AND FEES PAID IN MONTANA ON RENTAL VEHICLES;  
~~PROVIDING THAT THE AMOUNT BY WHICH THE SURCHARGE EXCEEDS TAXES AND FEES PAID BE~~  
~~REMITTED TO THE DEPARTMENT OF TRANSPORTATION;~~ PROVIDING FOR THE DISTRIBUTION OF THE  
EXCESS SURCHARGE; ESTABLISHING A MONTANA HERITAGE PRESERVATION AND DEVELOPMENT  
ACCOUNT FOR THE DEPOSIT OF A PORTION OF THE EXCESS SURCHARGE; REQUIRING THE  
PRESERVATION OF RECORDS RELATING TO THE SURCHARGE; AMENDING SECTION 61-3-728, MCA;  
AND PROVIDING ~~A DELAYED~~ AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [section 2], the following definitions apply:

(1) "Department" means the department of transportation provided for in 2-15-2501.

(2) "Rental vehicle" means a passenger vehicle that:

(a) is rented for a period of not more than 30 days;

(b) is rented without a driver;

(c) is designed to transport 15 or fewer passengers; ~~and~~

(d) has a manufacturer's rated capacity of 1 ton or less; AND

(E) IS NOT RENTED PURSUANT TO A CONTRACT OF INSURANCE.

NEW SECTION. Section 2. Rental vehicle surcharge -- reimbursement -- COLLECTION AND  
REPORTING. (1) There is imposed a surcharge on a rental vehicle as defined in [section 1]. The surcharge  
is 6% on the rental base price, exclusive of gas and insurance, as stated in the rental contract. The sur-

1 charge must be stated in the rental contract and collected in accordance with the terms of the contract.  
 2 The surcharge is a reimbursement for 75% OF THE taxes and fees paid IN MONTANA at the time of regis-  
 3 tration AS PROVIDED IN [SECTION 4].

4 ~~(2) (a) On or before February 15 of each year, the owner of the rental vehicles on which the~~  
 5 ~~surcharge was collected shall file a report with the department stating the:~~

6 ~~(i) gross receipts, exclusive of gas and insurance, of the rental contracts;~~

7 ~~(ii) total amount of vehicle taxes and fees paid the previous calendar year;~~

8 ~~(iii) total amount of the surcharge collected in the previous calendar year; and~~

9 ~~(iv) amount, if any, by which the surcharge exceeded the taxes and fees.~~

10 ~~(b) The owner shall remit the excess surcharge with the annual report to the department. The~~  
 11 ~~annual report must be on a form provided by the department. The department shall remit the excess~~  
 12 ~~surcharge to the state treasurer for deposit as follows:~~

13 ~~(i) 70% to the Montana heritage preservation and development account as provided in [section 4];~~

14 ~~(ii) 20% to the state highway account of the state special revenue fund;~~

15 ~~(iii) 7.5% to be distributed equally to the general fund of all counties;~~

16 ~~(iv) 2.5% to the state general fund. THE OWNER OF THE RENTAL VEHICLES SHALL REPORT TO~~

17 ~~THE DEPARTMENT, AT THE END OF EACH CALENDAR QUARTER, THE GROSS RECEIPTS, EXCLUSIVE~~

18 ~~OF GAS AND INSURANCE, ACTUALLY COLLECTED DURING THAT QUARTER ATTRIBUTABLE TO THE~~

19 ~~RENTAL CONTRACTS. THE REPORT MUST BE ON A FORM PROVIDED BY THE DEPARTMENT. THE~~

20 ~~REPORT IS DUE ON OR BEFORE THE LAST DAY OF THE MONTH FOLLOWING THE END OF THE~~

21 ~~CALENDAR QUARTER AND MUST BE ACCOMPANIED BY A PAYMENT IN AN AMOUNT EQUAL TO THE~~

22 ~~SURCHARGE REQUIRED TO BE COLLECTED UNDER SUBSECTION (1).~~

23 ~~(3) THE DEPARTMENT SHALL CREDIT THE SURCHARGE AND ANY INTEREST AND PENALTIES~~

24 ~~TO A RENTAL VEHICLE SURCHARGE REIMBURSEMENT SUSPENSE ACCOUNT.~~

25 ~~(3)(4) The auditing requirements of 61-3-728 apply to this section.~~

26

27 NEW SECTION. SECTION 3. RENTAL VEHICLE SURCHARGE -- FAILURE TO PAY OR FILE --

28 PENALTY -- REVIEW -- INTEREST. (1) AN OWNER OF RENTAL VEHICLES WHO FAILS TO FILE THE

29 REPORT AS REQUIRED BY [SECTION 2] MUST BE ASSESSED A PENALTY OF 10% OF THE SURCHARGE

30 THAT WAS NOT COLLECTED DURING THE CALENDAR QUARTER. UPON A SHOWING OF GOOD CAUSE,



1 THE DEPARTMENT MAY WAIVE THE PENALTY.

2 (2) AN OWNER OF RENTAL VEHICLES WHO FAILS TO MAKE PAYMENT OR FAILS TO REPORT  
 3 AND MAKE PAYMENT AS REQUIRED BY [SECTION 2] MUST BE ASSESSED A PENALTY OF 10% OF THE  
 4 AMOUNT THAT WAS NOT PAID. UPON A SHOWING OF GOOD CAUSE, THE DEPARTMENT MAY WAIVE  
 5 THE PENALTY.

6 (3) (A) IF AN OWNER OF RENTAL VEHICLES FAILS TO FILE THE REPORT REQUIRED BY [SECTION  
 7 2] OR IF THE DEPARTMENT DETERMINES THAT THE REPORT UNDERSTATES THE AMOUNT OF  
 8 SURCHARGE DUE, THE DEPARTMENT MAY DETERMINE THE AMOUNT OF THE SURCHARGE DUE AND  
 9 ASSESS THAT AMOUNT AGAINST THE OWNER.

10 (B) WHEN A DEFICIENCY IS DETERMINED AND THE SURCHARGE BECOMES FINAL, THE  
 11 DEPARTMENT SHALL MAIL A NOTICE AND DEMAND FOR PAYMENT TO THE OWNER. THE TAX IS DUE  
 12 AND PAYABLE AT THE EXPIRATION OF 10 DAYS AFTER THE NOTICE AND DEMAND WERE MAILED.  
 13 INTEREST ON ANY DEFICIENCY ASSESSMENT BEARS INTEREST UNTIL PAID, AT THE RATE OF 1% A  
 14 MONTH OR FRACTION OF A MONTH, COMPUTED FROM THE ORIGINAL DUE DATE OF THE RETURN.

15 (4) THE AMOUNT REQUIRED TO BE PAID UNDER [SECTION 2] ACCRUES INTEREST AT THE RATE  
 16 OF 1% A MONTH OR PART OF A MONTH FROM DELINQUENCY UNTIL PAID.

17  
 18 NEW SECTION. SECTION 4. RENTAL VEHICLE SURCHARGE -- REIMBURSEMENT --

19 DISTRIBUTION. (1) AN OWNER OF RENTAL VEHICLES IS ENTITLED TO A REIMBURSEMENT OF THE  
 20 RENTAL VEHICLE SURCHARGE PAID TO THE DEPARTMENT IN THE PREVIOUS CALENDAR YEAR UNDER  
 21 THE PROVISIONS OF [SECTION 2]. THE REIMBURSEMENT AMOUNT IS EQUAL TO 75% OF THE TAXES  
 22 AND FEES PAID IN MONTANA AT THE TIME OF REGISTRATION IN THE PREVIOUS CALENDAR YEAR.

23 (2) (A) ON OR BEFORE FEBRUARY 15 OF EACH YEAR, THE OWNER OF THE RENTAL VEHICLES  
 24 ON WHICH THE SURCHARGE WAS COLLECTED SHALL FILE A REPORT WITH THE DEPARTMENT  
 25 STATING THE:

26 (I) GROSS RECEIPTS, EXCLUSIVE OF GAS AND INSURANCE, COLLECTED ON THE RENTAL  
 27 CONTRACTS;

28 (II) TOTAL AMOUNT OF VEHICLE TAXES AND FEES PAID IN MONTANA AT THE TIME OF  
 29 REGISTRATION IN THE PREVIOUS CALENDAR YEAR;

30 (III) TOTAL AMOUNT OF THE SURCHARGE COLLECTED IN THE PREVIOUS CALENDAR YEAR; AND

1 (IV) AMOUNT, IF ANY, BY WHICH THE SURCHARGE EXCEEDED 75% OF THE TAXES AND FEES.

2 (3) WITHIN 45 DAYS OF RECEIVING THE REPORT, THE DEPARTMENT SHALL REFUND FROM THE  
 3 RENTAL VEHICLE SURCHARGE SUSPENSE ACCOUNT TO THE OWNER OF RENTAL VEHICLES THE  
 4 AMOUNT OF THE SURCHARGE COLLECTED THAT DOES NOT EXCEED 75% OF THE TAXES AND FEES  
 5 PAID.

6 (4) WITHIN 30 DAYS OF MAKING REFUND TO RENTAL CAR OWNERS UNDER SUBSECTION (3),  
 7 THE DEPARTMENT SHALL REMIT THE AMOUNT REMAINING IN THE ACCOUNT FOR THE SURCHARGE  
 8 COLLECTED IN THE PREVIOUS YEAR TO THE STATE TREASURER FOR DEPOSIT AS FOLLOWS:

9 (A) 80% TO THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT ACCOUNT AS  
 10 PROVIDED IN [SECTION 6];

11 (B) 10% TO THE STATE HIGHWAY ACCOUNT OF THE STATE SPECIAL REVENUE FUND;

12 (C) 7.5% TO BE DISTRIBUTED EQUALLY TO THE GENERAL FUND OF ALL COUNTIES;

13 (D) 2.5% TO THE STATE GENERAL FUND.

14

15 **Section 5.** Section 61-3-728, MCA, is amended to read:

16 **"61-3-728. Preservation of proportional registration records and surcharge payment records. (1)**

17 An owner whose application for proportional registration has been accepted shall preserve the records on  
 18 which the application is based for a period of 4 years following the year or period upon which the  
 19 application is based. Upon request of the department, the owner shall make these records available to the  
 20 department for audit as to accuracy of the computations and payments or pay the reasonable costs of an  
 21 audit at the owner's home office by an appointed representative of the department.

22 (2) The owner of a rental ~~vehicle~~ VEHICLES on which the surcharge provided for in [~~section 2~~  
 23 SECTIONS 1 THROUGH 4] was collected shall preserve the records pertaining to the collection and payment  
 24 of the surcharge for a period of 4 years following the year or period upon which the surcharge is based.  
 25 Upon request of the department, the owner shall make these records available to the department for audit  
 26 as to the accuracy of the computations and the collections.

27 (3) The department may make arrangements with agencies of other jurisdictions administering  
 28 motor vehicle registration laws for joint audits of the owner."

29

30 **NEW SECTION. Section 6. Montana heritage preservation and development account. (1) There**

1 is established a Montana heritage preservation and development account in the state special revenue fund.

2 (2) Money deposited in the account from the surcharge as provided by [section ~~2(2)(b)(i)~~ 4(4)(A)]

3 must be used to service revenue bonds issued for:

4 (a) the purchase of properties in Virginia City and Nevada City; ~~and~~

5 (b) restoration, maintenance, and operation of historic properties in Virginia City and Nevada City;

6 AND

7 (C) IF ADDITIONAL MONEY IS AVAILABLE, PURCHASING, RESTORING, AND MAINTAINING

8 HISTORICALLY SIGNIFICANT PROPERTIES IN OR FROM MONTANA.

9

10 NEW SECTION. Section 7. Codification instruction. (1) [Sections 1 ~~and 2~~ THROUGH 4] are

11 intended to be codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61,

12 chapter 3, part 7, apply to [sections 1 ~~and 2~~ THROUGH 4].

13 (2) [Section 4 6] is intended to be codified as an integral part of Title 22, chapter 3, part 1, and

14 the provisions of Title 22, chapter 3, part 1, apply to [section 4 6].

15

16 NEW SECTION. Section 8. Effective date. [This act] is effective ~~January 1, 1998~~ ON PASSAGE

17 AND APPROVAL JUNE 1, 1997.

18

-END-