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DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

EXHIBIT NO. 2

DATE: 2/14/19 Admitted in Montana & Washington*

BILL NO. SB 228

February 14, 2019

Senate Bill 228 - History, Function & Benefits

I represent Deer Creek Corporate Services, Inc., a Helena-based registered agent company (www.mtvehicles.com; known online as "LLCTLC"). The Montana Dept. of Justice Motor Vehicle Title & Registration Bureau, for many years allowed Montana counties to register vehicles jointly owned by a Montana resident and a non-resident. However, in 2008 the TRB took the new position that all interstate joint ownership vehicle titles are prohibited. (albeit, grandfathering the old titles). As the new policy filtered down to the counties, it began to negatively impact a significant Montana business segment, and to reduce potential revenue to the State.

After persuasion failed to restore TRB's old policy, Deer Creek filed suit. But the district court accepted DOJ's arguments. So, now, we are asking the 2019 legislature to restore the *status quo ante* by enacting Senate Bill 228, which makes a 1-sentence, *revenue generating*, change to the Montana motor vehicle code.

SB 228 is calculated to deal with situations such as the following:

Example #1- A wife resides in Bainville, MT where she teaches school. Her husband resides in Williston, ND where he works as an oil rigger. They both want to be listed on the title of their new car, which they wish to register in Montana (but can't under current law).

Example #2- A teenager's parents loan her money to buy a car in Illinois, which they jointly register as co-owners while she repays them. The teen moves to Montana to take a permanent job with the Forest Service. Montana law requires her to register the car in Montana within 60 days, but TRB will not allow her parents to remain on the title.

Example #3- Joe, a Colorado resident, owns several vehicles on which he has outstanding loans secured by title liens. For estate planning and tax purposes, Joe employs Deer Creek to form a Montana LLC for him and transfer his vehicle titles to it. However, as a condition of substituting Montana liens for his Colorado liens, his lender demands the Montana titles be issued in dual ownership to both the LLC and to Joe. TRB rejects Joe's application because he is a nonresident.

Benefits of Senate Bill 228

1. **It solves problems for ordinary Montanans.** Examples #1 & #2 illustrate scenarios which probably arise almost routinely. Under current TRB legal interpretations all dual state owner registration is prohibited.

TRB says they have no evidence these scenarios ever occur. But, Deer Creek believes that is likely because the problem *only* presents itself to county treasurers. The DOJ's "Title Manual" instructs treasurers to issue titles *only* to Montana "residents." (p.53, ¶A, 2018 ed.). So, most treasurers probably turn away any non-resident applicants, and the Helena TRB never hears about it.

We also suspect that some treasurers fill out the MV1 title application using the Montana residence address, jointly, for *both* the resident *and* the non-resident applicants (since the MV1 form provides only one space for an address). In short, TRB's current practice likely causes some applicants and treasurers to falsify their MV1 information, and, again, the DOJ has no notice of it. Bottom line, neither DOJ or anyone else appears to have numerical evidence of what's now happening in Examples #1 & #2.

Such situations certainly arise, albeit in unknown numbers, and the current DOJ interpretation provides no solution for it. But, SB 228 would eliminate the problem.

2. **SB 228 will provide significant revenue to the State.** Since DOJ has no count of the numbers of title applicants typified by Examples #1 & #2, we cannot speculate how much new revenue this change would provide from *individual* title applicants.

However, Deer Creek's business model (typified by Example #3) provides hard numbers about *LLC title applicants*, which can reasonably be extrapolated statewide. In 2017, alone, Deer Creek's customers paid \$560,000 in fees to Montana for new vehicle registrations, and \$428,950 for renewals, totaling \$988,950. It also paid \$140,000 to the Montana Secretary of State for LLC registrations. (Coincidentally, Deer Creek employs 8 people, paying \$475,000 in wages, plus benefits, into the Montana economy).

Deer Creek estimates this SB 228 would increase business volume by at least 15%, producing an additional \$148,345 in registration fees to the State, plus \$21,000 in new LLC fees to the Secretary of State. But, Deer Creek is just *one* of at least seven Montana companies using this business model (having about 25% market share). So the *real* net impact of SB 228 is likely four times greater, netting the State *additional* fees of \$683,700 or more.

3. **SB 228 would eliminate current constitutional problems.** In Examples #1 & #2, above, either the resident vehicle driver violates Montana law by failing to register the vehicle in Montana, **OR**, the title applicants fraudulently misrepresent the co-owner as being a Montana resident, **OR**, the non-resident forfeits his legal rights in the vehicle when it is registered in Montana.

This presents constitutional due-process problems. See, e.g., *Hughes v. Hughes*, ¶¶35-38, 305 P.3d 772, 777 (Mont., 2013) (property partition has due process limits), *Wood v. Anderson*, ¶17, 399 P.3d 304, 310 (Mont., 2017). Our proposed legislation would remove the potential of future constitutional challenges. By allowing joint resident/non-resident vehicle titling, the problem will be eliminated.

4. **SB 228 resolves TRB's legal inconsistency.** Although the Justice Department maintains that *no* joint vehicle registration by residents with nonresidents is lawful, it nevertheless "grandfathers" previously-issued dual titles from the past. This inconsistency sets up a legal train-wreck waiting to happen. If those titles are not legal, they are void. SB 228 will resolve the problem once and for all.

With that summary, I will conclude. I hope you agree that SB 228 has many upsides, fiscal and otherwise for Montana, and few down sides. Thank you for your attention. We are happy to discuss this in greater depth as the opportunity arises.

Very truly yours,

A handwritten signature in black ink, appearing to read "Roy H. Andes".

Roy H. Andes

Attorney for Deer Creek Corporate Services, Inc.

SB228 Revenue: lost and potential

Increased revenue from dual title allowance calculated based on a 10% net increase each year using a base figure of \$683,700. This number is calculated using overall vehicle registration income from Deer Creek Corporate Services, Inc in 2018 and assuming that Deer Creek has about 25% of the market share.

Lost Revenue:

2019 = \$683,700

2018 = \$615,330

2017 = \$553,797

2016 = \$498,417

2015 = \$448,575

2014 = \$403,718

2013 = \$363,346

2012 = \$327,011

2011 = \$294,310

2010 = \$264,879

Total lost revenue = \$4,453,083

Potential Revenue:

Revenue from dual title allowance based on a 15% increase per year.

2019 = \$683,700

2020 = \$786,255

2021 = \$904,193

2022 = \$1,039,822

2023 = \$1,195,795

2024 = \$1,375,164

2025 = \$1,581,439

2026 = \$1,818,655

2027 = \$2,091,453

2028 = 2,405,172

Total potential revenue over a 10 year period: \$13,881.652