

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on March 5, 1997, at
8:00 a.m., in Room 415.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: Sen. Mike Sprague

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Renée Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 381, 2/19/97; HB 311,
2/19/97
Executive Action: HB 308, BCCAA; SB 336, DP;
SB 355, Tabled

HEARING ON HB 381

Sponsor: REP. CHASE HIBBARD, HD 54, HELENA

Proponents: James H. McLuskie, Elks Lodge Member, Billings
George Schaller, Elks Lodge Member, Red Lodge
Leonard Stetzner, Elks Lodge Member, Helena
Larry Sproles, Eagles Lodge Member, Great Falls
Gary O'Brian, Moose Lodge Member, Helena

Opponents: None

{Tape: 1; Side: 1; Approx. Time Count: 8:04; Comments: Opening HB
381.}

Opening Statement by Sponsor:

REP. CHASE HIBBARD, HD 54, HELENA, explains HB 381 is a bill to exempt benevolent nonprofit community service organizations which sell food and beverage from property taxation. This bill will apply to the Eagles, Moose, Elks, Knights of Columbus and Hybernians. These organizations are currently exempted from taxation if they do **NOT** sell food and beverage. This bill is necessary because these organizations are having increasing difficulty keeping their doors open. Their benevolent activities involve youth athletic programs; programs for the needy or disabled; patriotic programs; community service programs; drug awareness programs; and many others. The fiscal impact would reduce local government revenues as follows: \$30,731 for counties, \$68,696 for schools, and \$38,228 for cities/towns; totalling \$175,500. The House amended the bill with a technical amendment that allows 30 days after passage and approval for these organizations to apply for the exemption; applying the exemption to the next tax cycle.

{Tape: 1; Side: 1; Approx. Time Count: 8:08; Comments: Proponents HB 381.}

Proponents' Testimony:

Jim McLuskie, Past Exalted Ruler of the Billings Elk Lodge and present Secretary of the Lodge (BPOE), states that 45 of the 50 states have passed statutory exemption language dealing with Fraternal and Veteran Organizations. In requesting this exemption, he states that the quantity and quality of charitable work and time donated by the Elks and their ladies are many times more than the amount of taxes paid. **(EXHIBIT #1)**

George Schaller, President of Montana Elks Association, Red Lodge, Montana (BPOE), expounds on what the Elks do as a state association, however, the cost of operation and maintenance are increasing and the membership is decreasing forcing them to allocate more and more funds to operation, maintenance and taxes. The taxes paid can be better directed by the Lodges to directly assist the local communities and the state. He asks for support of SB 381 so the Elks will continue to exist and the state will benefit from their help for many more years.

Leonard Stetzner, Helena Elks Lodge (BPOE), states the Lodge is not in competition with other taverns and they have survived because the members have volunteered their work without compensation. The loss of the Lodge because of property taxes would not only be a loss of charitable activities, but also a loss of a fraternal organization that members greatly enjoy. **(EXHIBIT #2)**

Larry Sproles, Treasurer of Fraternal Order of Eagles, Great Falls (FOE), explains what they do to benefit their community.

They have five different buildings in Helena, Missoula, Lewistown, Havre, and Great Falls; all for the benefit of the elderly. The Great Falls order has supported and promoted the Bicycle Safety Program; donated over \$100,000 to the McLaughlin Research Center for research of Alzheimer's; donated \$1,000 to Head Start; \$1,000 for prevention of drug abuse; \$500 to the Library (large print for the elderly); \$5,000 for Special Olympics; \$5,000 for the Discovery House in Anaconda; \$18,000 for the Home on the Range for Girls in Glendive; assist the blind to be paired up with guide dogs; and, presently they are working on a goal of trying to raise \$20,000 for Camp Make a Dream. The Helena order has also provided the eggs for the Easter Egg Hunt on the capitol lawn for the past 65 years. In the last few years the Eagles have lost two buildings and are possibly losing four more buildings. He asked for support in passing SB 381 so they can continue their good work.

Gary O'Brian, State Chairman for Government Relations, Representing the Moose Association, Helena, asks for support on HB 381.

Opponents' Testimony: None

{Tape: 1; Side: 1; Approx. Time Count: 8:35; Comments: Questions HB 381.}

Questions From Committee Members and Responses:

SEN. BOB DEPRATU requests language clarification on Page 2, Lines 12 and 13; would this be a one time application? **REP. HIBBARD** explains since this was retroactive, it is only for the first year as they needed thirty days after passage and approval; thereafter there will be a date certain.

SEN. FRED VAN VALKENBURG questions the expanding acreage - from one acre to three acres. **REP. HIBBARD** states some lodges sit on property that shouldn't be exempted. But some lodges included enough property that one acre needed to be expanded. The three acres is inclusive without including unintended acreage such as golf courses.

SEN. VAN VALKENBURG also questions if there was any discrimination practiced on the basis of race, gender, religious affiliation or ethnicity in fraternal organizations. **REP. HIBBARD** advises he is not a member of a fraternal organization so he could not respond to that question. **Mr. McLuskie (BPOE)** stated there is no discrimination at all.

SEN. VAN VALKENBURG asks if there are any members from the Elks Lodge of Missoula. He stated the Elks Club in Missoula appears to be in competition with other taverns. **Mr. Schaller (BPOE)** explained they have a fraternal beverage license and they serve only members and guests who show their charter cards at the door.

CHAIRMAN DEVLIN asks if the licenses held by the Elks, Moose and others could be sold? **Mr. Schaller (BPOE)** answered that if the license was issued prior to 1949 they can be sold. **CHAIRMAN DEVLIN** further questions if they sold the license, could they then apply for another license as a fraternal organization and obtain it? **Mr. Schaller (BPOE)** replies "yes, and most cases this is done beforehand so there is no break in licensing."

SEN. DOROTHY ECK questions the technical note in the exemption application which said they should change the effective date, so it wouldn't conflict with the March 15 application. She inquired if the language "within 30 days of passage was necessary". **Mr. Randolph Wilke, Dept. of Revenue (DOR)**, answers that they have always been concerned with retroactive effective dates but in reality the deadline for applications of exemptions is March 1. This ends up being a pretty good resolution for 1997 in terms of getting applications.

SEN. ECK asks if the department's application always requests information about their charitable work and do they require this of other organizations and facilities that are applicants. **Mr. Wilke (DOR)** states they do have a standard application for everyone. **SEN. ECK** asks if they do it every year. **Mr. Wilke (DOR)** advises they do it one time to obtain an exemption, but if something comes to their attention that suggests they should do an inquiry, they'll request it again.

SEN. ECK inquires about Line 28, Page 1, regarding organizations operating since 1981. She asks if they would be eligible for this exemption? **REP. HIBBARD** states the 1981 is a qualification date for those who would qualify to receive the exemption. **SEN. ECK** asks if that would have some relationship with the liquor license which is probably of more concern. **REP. HIBBARD** answers that it has no relationship with the liquor license situation.

SEN. ECK asks what is going to happen to the organizations and the good work they do if they are not recruiting new members? **REP. HIBBARD** states very few people are joining these organizations and the average membership age gets older each and every year making it more difficult for them to stay in operation every year. He could not answer why younger people are not joining these organizations.

{Tape: 1; Side: 1; Approx. Time Count: 8:50; Comments: Turn Tape to Side B.}

CHAIRMAN DEVLIN affirms he has been to the Billings Lodge several times and they are quite active with dining, etc., and asks how their membership is running? **Mr. McLuskie (BPOE)** explains that they are working at it and that they are not getting young people. They are also losing membership like the other Elk organizations throughout the state. They've instituted programs for the younger generations so there are more family activities to try to interest that level of person.

{Tape: 1; Side: 2; Approx. Time Count: 8:54; Comments: Closing - HB 381.}

Closing by Sponsor:

REP. HIBBARD addresses that a number of veterans have inquired why they are not included in this bill. The answer was that they have their own statute in the law, 15-6-203, which addresses veterans. It was agreed that next session they would take a look at the present bill for veterans. He also concluded that by granting this exemption, he couldn't guarantee it would make the difference in keeping these doors open, however, it would help make a difference. It has become increasingly difficult for them to keep the doors open and clearly the issue is whether or not Montana will join 45 other states in granting the exemption and whether the \$937,000 per year that is plumbed back into these communities in good works is worth the \$175,000 a year tax exemption they are receiving.

CHAIRMAN DEVLIN closes the hearing on HB 381 and inquires who is carrying the bill in the Senate. REP. HIBBARD advises SEN. MIKE FOSTER is carrying the bill.

{Tape: 1; Side: 2; Approx. Time Count: 8:59; Comments: Opening HB 311.}

HEARING ON HB 311

Sponsor: REP. SCOTT ORR, HD 82, LIBBY

Proponents: Chris Bowers, Northern Energy Propane Company,
Bozeman
Bob Gilbert, Montana/Wyoming LP Gas Association

Opponents: None

Opening Statement by Sponsor:

REP. SCOTT ORR, HD 82, LIBBY, explains HB 311 places liquid petroleum gas (LPG) in the same class tax structure as we currently classify compressed natural gas (CNG). Currently, LPG is taxed through the gross weight of the vehicle and this bill is based on a per gallon price using BTU values. The fiscal note indicates the fees would be approximately \$45,000 a year less. In FY 98 it would be approximately \$22,000 less because the bill takes effect on January 1st so that first year they only get a half-year of collections. This is based on an estimated number of gallons that they will sell however, that's difficult to estimate. This will provide for the collection of tax on LPG at the retail level, therefore generating revenue from tourists, etc.

{Tape: 1; Side: 2; Approx. Time Count: 9:02; Comments: Proponents HB 311.}

Proponents' Testimony:

Chris Bowers, Northern Energy Propane (NEP), explains in 1996 there was a bill passed that taxed compressed natural gas (CNG) and the numbers for this bill came from the compressed natural gas bill. He states they feel the fiscal note is on the conservative side but they also feel revenue will be increased by out of state people. He points out that the state will benefit from this as currently they do all the processing for permits. If this bill is passed, then it's up to the propane dealers. He urges support of HB 311.

Bob Gilbert, Montana/Wyoming LP Gas Association, advises they rise in support for HB 311 and are willing to work with the committee on this bill.

Opponents' Testimony: None

{Tape: 1; Side: 2; Approx. Time Count: 9:07; Comments: Questions HB 311.}

Questions From Committee Members and Responses:

SEN. MIKE FOSTER asks that the testimony be repeated regarding 91,000 BTU's per gallon for LPG or propane, and for compressed natural gas (CNG), 132,000 BTU's per 120 cubic feet. He questioned further how the 120 cubic feet compares with a gallon? **Mr. Bowers (NEP)** answers that 120 cubic feet = 132,000 BTU's = 7 cents tax. A gallon of propane contains 91,547 BTU's (he previously rounded it to 91,000) or 74% of the 132,000 BTU's.

SEN. MACK COLE asks if they have any trends on sales of natural gas and liquid petroleum as far as what's happened in the past few years. **Mr. Bowers (NEP)** answers that the trend has been decreasing somewhat due to the complexity of new vehicles. Before computerization it was easy to convert and was relatively inexpensive but now it's extremely expensive to convert and training or finding a qualified person is difficult. **SEN. COLE** states then as far as revenues that they may go down in the future. **Mr. Bowers (NEP)** replies "that it is very possible". Agencies such as the Forest Service will start using this along with fleet operators, since the federal government has mandated government agencies utilize alternative fuel.

SEN. DEPRATU questions how a gallon of propane relates to a gallon of gasoline? **Mr. Bowers (NEP)** states on a standard vehicle they lose about 15% to 20% of their converted gasoline to propane because of the molecular structure of propane.

SEN. DEPRATU says his understanding is a vehicle that would get 20 mpg would get approximately 16 mpg on a gallon of propane. He asks if the tax paid on propane would be 5 cents for that gallon versus the tax that we pay on gasoline? **Mr. Bowers (NEP)** replies "yes".

SEN. ECK asks since there is a federal mandate to encourage government agencies to use it, would that be tax exempt in any way? **Mr. Bower (NEP)** replies "yes".

CHAIRMAN DEVLIN questions if a motor home comes in under this law and would that person be charged the tax that went into the propane bottle for burning his stove? **Mr. Bowers (NEP)** verifies this is for motor fuel tax only.

CHAIRMAN DEVLIN remarks if this does away with the permit, how does that work for someone who gets bulk propane delivered in the country and fills their vehicles from that tank? **Mr. Bowers (NEP)** explains currently there is no way to monitor that, however, you would need a special setup to fill your vehicle. He affirms if he knows you are filling your vehicle from that tank, he will be obligated to charge you the tax.

SEN. COLE asks what is the cost of the permit now? **Mr. Bower (NEP)** replies that it is now based on the gross vehicle weight. A standard 1/2 ton pickup is \$144 a year and the largest equitable permit is \$361 a year (that would be the size of their delivery vehicles).

{Tape: 1; Side: 2; Approx. Time Count: 9:17; Comments: Closing HB 311.}

Closing by Sponsor:

REP. ORR closes by stating he used propane in his vehicles for several years and it was difficult to obtain the permits because weigh stations would not tell you their hours. He summarizes on **SEN. FOSTER'S** question stating the problem with CNG and LPG is that they don't measure it on a per gallon basis so the only thing you can do is go to the BTU value and that's where the 5 and 7 cents come from. He addresses **SEN. DEPRATU'S** question of the gasoline and diesel comparison, stating both CNG and LPG are clean burning fuels. Plus, you have to go to quite an expense to convert your vehicle to CNG or LPG that you don't have to do if you're using gas or diesel. He adds as far as the farmers getting away with a bulk tank for their vehicles, he didn't think that would happen much. Again, if you have a tank at your house and you want to put it in your vehicle, you need a special pump hooked up to electricity and that's quite an expense. **REP. ORR** adds that the Transportation Association and the Department of Transportation were both supporting this bill and he understands **SEN. FOSTER** has agreed to carry the bill in the Senate.

{Tape: 1; Side: 2; Approx. Time Count: 9:22; Comments: Executive Action: HB 308, SB 336, SB 335.}

EXECUTIVE ACTION ON HB 308

CHAIRMAN DEVLIN announces a handout was given to committee members from **Mr. Gary Blewett** which responds to the questions the

committee had on how the federal government imposes federal taxes on cider (EXHIBIT #3).

Motion: SEN. DEPRATU MOVES THAT HB 308 BE CONCURRED IN.

Motion: SEN. ECK MOVES TO AMEND HB 308 BY INSERTING "HARD CIDER" RATHER THAN "CIDER" THROUGHOUT THE BILL.

Discussion: SEN. DEPRATU feels it's a term that has a traditional use to it and the public will understand.

Vote: THE MOTION TO AMEND HB 308 CARRIES 7-1 WITH SEN. BILL GLASER VOTING NO.

Discussion:

SEN. VAN VALKENBURG asks if it wouldn't be easier for everyone involved to round the percentages on page 4, where the distribution formula is based on percentages. Donnie Hoffman, Dept. of Revenue (DOR), states it makes sense to him also.

Motion: SEN. VAN VALKENBURG MOVES TO AMEND HB 308 TO READ ON PAGE 4, LINE 11, 60% TO THE STATE GENERAL FUND; LINE 13, 30% TO THE STATE SPECIAL REVENUE FUND; LINES 15 & 17, 5% EACH.

Motion: SEN. GLASER OFFERS A SUBSTITUTE MOTION TO CHANGE THE PERCENTAGES TO 59%, 31%, AND 5% EACH.

Discussion: SEN. GLASER states we are not just talking about hard cider but all wines. We might have complaints from the people that are being rounded down when they're almost one above like 30%. He suggests we say 59%, 31%, 5% and 5%. SEN. VAN VALKENBURG agrees.

Vote: THE SUBSTITUTE MOTION TO MODIFY AMENDMENT NO. 2 CARRIES UNANIMOUSLY.

Discussion: SEN. BARRY "SPOOK" STANG comments he wishes Gary Blewett was here to explain his handout addressing the following language: "Almost all cider products meet the federal definition of table wine; some so-called cider products (usually flavored beverages) meet the federal definition of beer." He questions which one meets the definition of, wine or beer? Mr. Hoffman (DOR) states he did not know the answer but he would ask Mr. Blewett and get back to the committee.

SEN. ECK opposes the bill. She states we need to look at a higher tax on all alcohol because that's more appropriate to what it costs our state.

Vote: THE MOTION THAT HB 308 BE CONCURRED IN AS AMENDED CARRIES WITH SEN. ECK VOTING NO.

EXECUTIVE ACTION ON SB 336Discussion:

SEN. GLASER asks what can be done under the title of this bill where it says "for an act extending the termination date". Jeff Martin, Legislative Services Division (LSD), comments that all this does is amend the 1995 session termination date and if we did anything else, it would require amending existing statute.

CHAIRMAN DEVLIN inquires if this sunsets again. Mr. Martin (LSD) advises it does sunset again in the year 2002.

Motion: SEN. VAN VALKENBURG MOVES THAT SB 336 DO PASS.

Discussion:

SEN. VAN VALKENBURG and SEN. DEPRATU comment SB 336 has been good for the state and also a better place to do business. Both senators are in favor of passing SB 336.

SEN. COLE requests clarification on the fiscal note. He asks if we didn't extend it would we receive the \$250,000? Mr. Martin (LSD) explains that because of the extension of credit, this is going to be the cost of the credit.

SEN. FOSTER comments it is his understanding this is for very expensive specialty equipment a cooperation or business is going to buy, one or two - a very small number. We should think about the amount of use of that machine.

CHAIRMAN DEVLIN voices a concern of someone getting a credit here in this state with the purchase of a machine, and then packing it off to another state where they wouldn't get a credit.

Mr. Martin (LSD) submitted the administration rules provided by the Department of Revenue (EXHIBIT #4), 42.15.508 CREDIT FOR INVESTMENTS IN DEPRECIABLE EQUIPMENT OR MACHINERY TO COLLECT, PROCESS OR MANUFACTURE A PRODUCT FROM RECLAIMED MATERIAL, OR PROCESS SOILS CONTAMINATED BY HAZARDOUS WASTES, and stated that it may answer CHAIRMAN DEVLIN's questions.


Vote: THE MOTION CARRIES UNANIMOUSLY.

EXECUTIVE ACTION ON SB 355

Motion/Vote: SEN. STANG MOVES TO TABLE SB 355. MOTION CARRIES UNANIMOUSLY.

ADJOURNMENT

Adjournment: 9:47 a.m.



SEN. GERRY DEVLIN, Chairman



RENEE PODELL, Secretary



Transcribed By: VALERIE PALMER

GD/RP/VP