

## **MINUTES**

### **MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN DEVLIN**, on March 25, 1997, at 8:02 a.m., in Room 413.

#### **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:** None

**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: SB 396  
Executive Action: SB 393 (DPAA)  
SB 395 (Discussion only)

#### **HEARING ON SB 396**

*{Tape: 1; Side: A; Approx. Time Count: .4; Comments: None.}*

**Sponsor:** SEN. MIKE FOSTER, SD 20, TOWNSEND

**Proponents:**

Perry Cole, Montana Power Company  
Dave Fisher, Public Service Commission  
Mick Robinson, Governor's Office  
Bob Nelson, Montana Consumer Council  
John Allen, Energy West  
Jim Ahrens, Montana Hospital Association  
Greg Groepper, Energy Share of Montana  
Jim Paladichuk, Montana/Dakota Utilities

**Opponents:**           None

**Opening Statement by Sponsor:**

**SEN. MIKE FOSTER, SD 20, TOWNSEND**

**EXHIBITS 1 & 2**

**SEN. FOSTER:** SB 396 is a natural gas restructuring and customer choice act. The purpose of this bill is to allow natural gas companies open access and to provide customer choice to all customers over a five-year transition period. The bill allows the use of transition bond financing and grants specific authority to the Public Service Commission to approve costs that result from restructuring. The bill also addresses standards of conduct to prevent anti-competitive or abusive practices. Transition costs will be reduced, resulting in lower overall rates. The bill will facilitate a settlement agreement between Montana Power Company and Montana Consumer Counseling. **SEN.**

**FOSTER** notes on page 4, line 19 of the bill, the percentage 0.20 needs to be changed to 0.42%. There will be an amendment forthcoming to address that change. Explanation of AMENDMENTS 39601.ate (Exhibit 1): Amendments 1 and 2 are technical; amendment 3 clarifies that natural gas suppliers are licensed by the Commission; amendments 4 and 5 are technical; amendment 6 clarifies the term transmission facilities; amendment 7 is technical; amendment 8 clarifies that natural gas utilities must have Commission approval to finance fixed transition costs using transition bonds; amendment 9 addresses functional separation, code of conduct, emergency services and customer protection.

**Proponents' Testimony:**

**Perry Cole, Montana Power Company**

**EXHIBITS 3 & 4**

Mr. Cole indicates the natural gas industry will continue to restructure to the residential customer level. This bill clarifies Commission authority regarding transition costs and allows for protection of smaller customers. It also allows consumers to benefit from transition bond financing and to have access to market priced natural gas. Montana Power supports this legislation.

**Dave Fisher, Public Service Commission**

**EXHIBIT 5**

Mr. Fisher indicates the Commission supports this bill with the understanding that a number of amendments have been introduced. The Commission would prefer restructuring be made mandatory for all Montana natural gas utilities by a date certain and suggests July 1, 2000. (See proposed amendment - Exhibit 5).

**Mick Robinson, Governor's Office**

The Governor's Office believes the amendments are critical to this bill. The bill offers a mechanism connected with the settlement agreement and adds customer protection which is important.

**Bob Nelson, Montana Consumer Council**

Mr. Nelson says the Council is in unanimous agreement regarding

continued restructuring and customer choice. The Council supports this legislation.

**John Allen, Energy West**

**EXHIBIT 6**

Mr. Allen offers an additional amendment (Exhibit 6), as proposed by the Great Falls Gas Company.

**Jim Ahrens, Montana Hospital Association**

Mr. Ahrens is generally in support of the concept. In Eastern Montana the gas purchasing system saves hospitals about 50% of what Montana Power charges; it's a good system. They are concerned about the transition costs raising prices.

**Greg Groepper, Energy Share of Montana**

Mr. Groepper testifies in support of the weatherization and low income bills sections of the bill with **SEN. FOSTER'S** amendment.

**Jim Paladichuk, Montana/Dakota Utilities**

Montana/Dakota Utilities supports **SEN. FOSTER'S** amendment but opposes the Public Service Commission amendment.

**Opponents' Testimony:**      **None**

**Questions From Committee Members and Responses:**

**SEN. MACK COLE** requests clarification regarding the transition costs. **Mr. Perry Cole** responds they are production costs for a system as well as regulatory assets.

**SEN. BARRY STANG** inquires if Energy West would still be a proponent of the bill if their amendment doesn't pass. **Mr. Allen** says yes, they would still support the bill.

**SEN. WILLIAM GLASER** inquires regarding the .2% established in the bill vs the .42% referenced in **SEN. FOSTER'S** opening statement and the fiscal note. **Mr. Cole** says .42% is the current figure.

**SEN. GLASER** asks who is responsible for the bonds in the bonding program. **Mr. Cole** indicates the bonds are secured on the Montana Power Company balance sheet. The bonds are non-recourse to the State of Montana; there is no obligation or credit impact on the State of Montana. The bonds are secured by the revenue to be collected. The Securities and Exchange Commission regulates how the accounting is done.

**SEN. MIKE SPRAGUE** inquires regarding the difference between the years 2000 and 2002 relative to time certain. **Mr. Fisher** would like to see the choice given to the customers as soon as possible. **SEN. SPRAGUE** asks **SEN. FOSTER** if he would agree with changing to the year 2000. **SEN. FOSTER** indicates the question is whether the bill will be mandatory or voluntary. He would prefer to have it be voluntary, review in two years and make it mandatory if necessary.

**SEN. DOROTHY ECK** asks how much are we looking at for this transition bond and when would it be paid off. **Mr. Cole** responds that will be determined by the Public Service Commission. The current life of regulatory assets is about 19 years. The average life of the bonds might be about ten years.

**CHAIRMAN GERRY DEVLIN** inquires if **Mr. Allen** has had a chance to review the other amendments offered this morning. **Mr. Allen** says "very briefly." Energy West will support **SEN. FOSTER'S** amendments. They have not had time to review the others enough to take a position on them.

**SEN. FRED VAN VALKENBURG** asks what's different about the natural gas bill from the electric utility bill - why is the Montana Consumer Council testifying on this one and didn't on that one. **Mr. Nelson** indicates we are quite a ways down the road on restructuring the gas industry and have been involved in that process.

**SEN. VAN VALKENBURG** queries **SEN. FOSTER** regarding amendment #9 - functional separation - does that have any property tax consequences. **SEN. FOSTER** responds there can be property tax ramification for all we do; this bill doesn't address those issues. **SEN. VAN VALKENBURG** comments it's much less likely assets would not be centrally assessed. **SEN. FOSTER** says he might be correct, but that the question should be addressed to **Mr. Cole**. **SEN. FOSTER** notes the fiscal note doesn't indicate a tax effect, but that's not to say that there wouldn't be one. **SEN. VAN VALKENBURG** inquires regarding this issue of **Mr. Cole**. **Mr. Cole** explains the functional separation requirement is related to keeping an open access system fair. Regarding the tax consequences, he agrees with **SEN. FOSTER**; there is a possibility of a property tax consequence.

**SEN. VAN VALKENBURG** inquires of **Mr. Robinson** regarding the tax consequences. **Mr. Robinson** states it would depend on the organizational structure. The functional separation of the activities will not directly impact the property taxation. Production and gathering are separated from transmission and distribution - the majority of the property value is connected with transmission and distribution; those will continue to be centrally assessed as they cross county lines.

**SEN. VAN VALKENBURG** requests **Mr. Cole** break down the separation in Montana Power Company. **Mr. Cole** indicates \$200 million is transmission and distribution out of approximately \$250 million. Of the \$60 million in gas production, \$20 million resides in Canada, \$40 million resides in Montana.

**SEN. VAN VALKENBURG** queries **SEN. FOSTER** if he would object to an amendment to the bill requesting the Revenue Oversight Committee look at the tax consequences of this between now and the next Session. **SEN. FOSTER** has no objection to such an amendment.

Closing by Sponsor:

**SEN. FOSTER** expresses appreciation to those who testified in support of the bill. He indicates the Committee will deal with the amendments in Executive Session. He is pleased with the bill and recognizes the efforts of those who worked on this legislation to give consumers a choice. He urges passage of the bill.

EXECUTIVE ACTION ON SB 393

Note: **SEN. DOROTHY ECK** is excused.

*{Tape: 1; Side: B; Approx. Time Count: 9.1; Comments: None.}*

**MOTION:** **SEN. MACK COLE** MOVED AMENDMENTS 39301.ajm **EXHIBIT 7**

EXPLANATION OF AMENDMENTS 39301.ajm

**SEN. MACK COLE** explains this amendment gives an extra boost to those counties that have lost population during one of the last five years.

**EXHIBIT 8**

**Jeff Martin** points out the change in population would be over a five year period, referencing Exhibit 8.

**DISCUSSION:**

**SEN. MIKE SPRAGUE** believes the amendment will hurt the bill overall because it's vague. **SEN. COLE** remarks it ties back into the rest of the bill.

**CHAIRMAN GERRY DEVLIN** asks for clarification on the correlation between the population growth and the credit. **SEN. COLE** explains that those counties that have lost population are those that are hurting the most as far as bringing jobs in. This promotes economic growth in those counties.

**SEN. WILLIAM GLASER** asks if this boost is on top of the other two boosts. **SEN. COLE** says it would be instead of \$550 which they would get now, they would get \$650, the same as if somebody brings in a computer-type business.

**Jeff Martin** explains there are three mutually exclusive credits contained in this bill.

**SEN. BOB DEPRATU** inquires if only one of the credits would apply. **Mr. Martin** agrees.

**VOTE:** **MOTION TO ADOPT AMENDMENTS 39301.ajm FAILS 3-5** with **SEN. COLE**, **SEN. DEPRATU** and **SEN. VAN VALKENBURG** voting yes and **SEN. ECK** not voting.

**CHAIRMAN GERRY DEVLIN** requests clarification on page 2, line 20 regarding \$23,000 gross.

**MOTION:** SEN. BARRY STANG MOVED THE LANGUAGE BE "MONTANA GROSS" INCOME ON PAGE 2, LINE 20.

Jeff Martin asks Jeff Miller, Department of Revenue if wages and salary could be used instead of "gross." Mr. Miller indicates "Montana gross" income would be appropriate.

**VOTE:** MOTION TO CHANGE THE LANGUAGE TO MONTANA GROSS INCOME CARRIED UNANIMOUSLY.

SEN. FRED VAN VALKENBURG inquires if there is a way to recover the credit if jobs don't stay in place for at least 3 years. Mr. Miller states yes. He points out that the way this bill is written, if a person qualifies for the credit in the year the job is created and they are not able to use the full amount of credit in that year, they can carry forward the unused portion as long as that job stays on the roster.

**MOTION:** SEN. VAN VALKENBURG MOVED A CONCEPTUAL AMENDMENT PROVIDING FOR RECAPTURE OF 50% OF THE CREDIT IF THE JOB DOESN'T LAST FOR AT LEAST 3 YEARS.

SEN. BOB DEPRATU resists the motion, stating it's hard to guarantee a business will stay in business for three years; this would not encourage people to invest in a business.

SEN. MIKE SPRAGUE comments the amendment spoils the good faith effort of the bill.

SEN. VAN VALKENBURG disagrees.

SEN. BARRY STANG supports the amendment stating three years is reasonable.

SEN. BOB DEPRATU points out we need to look at the cash flow aspect.

SEN. VAN VALKENBURG notes businesses would only lose 50% of the credit.

**VOTE:** MOTION TO ADOPT THE CONCEPTUAL AMENDMENT FAILS 2-6 with SEN. STANG and SEN. VAN VALKENBURG voting yes.

**MOTION:** SEN. WILLIAM GLASER MOVED TO DELETE PAGE 2, LINES 1 AND 2 IN ITS ENTIRETY.

DISCUSSION:

SEN. BARRY STANG: This is just throwing good money away.

SEN. WILLIAM GLASER: There is nothing fair about this system; you end up subsidizing new competitors at the expense of people who have been in business for a long time.

**SEN. MACK COLE:** The sponsor has no objection to deleting lines 1 and 2.

**Jeff Martin:** The amendment would extend to page 3, lines 6 & 7.

**AMENDED MOTION:** **SEN. GLASER MOVED TO AMEND THE AMENDMENT TO INCLUDE PAGE 3, LINES 6 & 7.**

**SEN. MIKE SPRAGUE:** The sponsor indicated to him that industry was not included because it was too broad and sweeping in terms of getting the bill passed, and he didn't feel it was necessarily a bill that affected them. This was a targeted incentive relative to computer businesses and other similar types of businesses.

**CHAIRMAN GERRY DEVLIN:** Are jobs considered new jobs if a mining company lays off personnel and then rehires? Would they qualify, or would it have to be a different company?

**Mr. Miller:** Yes, they would qualify with this amendment.

**SEN. MACK COLE:** Would this pertain to companies other than mining?

**Mr. Miller:** Yes.

**SEN. MIKE FOSTER:** Yes, that's the whole point. He supports **SEN. GLASER'S** amendment.

**SEN. WILLIAM GLASER:** This helps Montana.

Note: **SEN. DOROTHY ECK** returned to the Committee.

**VOTE:** **MOTION TO DELETE PAGE 2, LINES 1 & 2 AND INCLUDING PAGE 3, LINES 6 AND 7 CARRIED 6-2 with SEN. STANG and SEN. VAN VALKENBURG voting no and SEN. ECK passing.**

**MOTION/VOTE:** **SEN. BOB DEPRATU MOVED SB 393 DO PASS AS AMENDED. MOTION CARRIED 8-1 with SEN. VAN VALKENBURG voting no.**

**DISCUSSION OF SB 395**

*{Tape: 2; Side: A; Approx. Time Count: 5.1; Comments: None.}*

**SEN. BOB DEPRATU:** He indicates he has a conflict of interest but can provide factual information. He would be voting for the bill.

**Jeff Martin** explains he's continuing to work on amendments relative to collection and reporting. There will be a bonding condition and a penalty for underpayment. The Department will be directed to put this money into a suspense account so it can be refunded.

**SEN. BOB DEPRATU:** Would **SEN. STANG** object if it went to a quarterly collection basis. **Jeff Martin** responds the amendments will set the collection up on a quarterly basis. **SEN. STANG** says he has no objection.

**Jeff Martin:** **SEN. COLE** has given him some proposed amendments.

**SEN. FRED VAN VALKENBURG:** Indicates there is a proposed amendment from State Farm Insurance.

**CHAIRMAN GERRY DEVLIN:** We will wait for **Jeff Martin** to formulate the various amendments.

GENERAL COMMITTEE BUSINESS

*{Tape: 2; Side: A; Approx. Time Count: 14.0; Comments: None.}*

**Jeff Miller** will provide the Committee with information relative the tax collection tools. He will work with **SEN. DEPRATU** and **SEN. GLASER** to develop language to accomplish what the Department sees as necessary.

Discussion of other bills yet to be considered.

**SEN. MIGNON WATERMAN** has given **Jeff Martin** some additional amendments to SB 354 (the "Cabaret" bill). These reflect agreements between the tax association and the bill. The sponsor has also decided which of the segregated amendments she wants the Committee to consider.

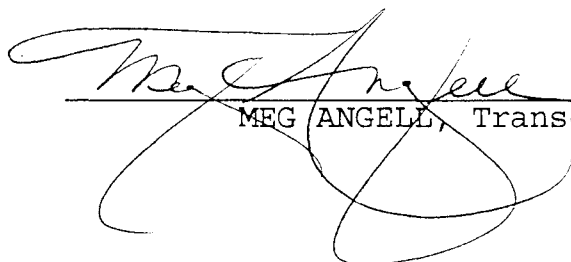


ADJOURNMENT

Adjournment: 10:01 a.m.

  
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SEN. GERRY DEVLIN, Chairman

  
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RENEE PODELL, Secretary

  
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MEG ANGELL, Transcriber

GD/ma