

**MINUTES**

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

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on March 26, 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  
Meg Angell, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 397  
Executive Action: SB 396; SB 354

**HEARING ON SB 397**

**Sponsor:** SEN. LORENTS GROSFIELD, SD 13, BIG TIMBER

**Proponents:**

Jim Richard - Stillwater Mining Company  
Aldan Myhre - Hard Rock Mining Company  
Harold Blattie - Montana Association of Hard Rock Counties

**Opponents:** None

**Informational:** None

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Count: .6; Comments: None.}

SEN. LORENTS GROSFIELD, SD 13, BIG TIMBER indicates this is a complicated bill regarding school funding and its relationship to the Hard Rock Mining Impact Act. This bill impacts the guaranteed tax base portion of school funding. Taxes are pre-paid by the mining industry and reimbursed later.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Count: 4.1; Comments: Summary Follows.}

Jim Richard, Stillwater Mining Company

EXHIBITS 1 & 2

Mr. Richard indicates his organization prepares impact plans. Costs rise more quickly than revenues within growing communities. Mining companies are required to pay the difference between costs and revenues; they get tax credits later. Mr. Richard provides an overview of school funding referencing Base Budget, Direct State Aid, Guaranteed Tax Base and District Taxes. He says the point of the bill is to allow:

- 1) School districts to use anticipated enrollment increase figures;
- 2) Mining companies to have a tax shelter to enable recovery of pre-paid taxes.

Aldan Myhre, Montana Association of Hard Rock Mining Counties offers that associations's support of the bill.

Harold Blattie, Montana Association of Hard Rock Mining Counties

EXHIBIT 3

Mr. Blattie offered amendments to the bill (see Exhibit 3 for his complete testimony.)

Opponents' Testimony:      None

{Tape: 1; Side: A; Approx. Time Count: 19.6; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Count: 19.8; Comments: None.}

SEN. MIKE FOSTER asks SEN. GROSFIELD if the impact will be proportionate throughout the affected areas. SEN. GROSFIELD explains there is not a single formula; the impact plan varies from one area to another based on projected population increases.

SEN. WILLIAM GLASER queries SEN. GROSFIELD if the other end of the vein is the same mine. SEN. GROSFIELD responds Stillwater

Mines are mining on the Absarokee side and are starting up on the Big Timber side - same vein. **SEN. GLASER** then asks if it was the mining people or the school officials who brought **SEN. GROSFIELD** the bill. **SEN. GROSFIELD** says the interest came from the mining people. **REP. GLASER** is astonished to see no proponents from the schools and wonders where they are. **SEN. GROSFIELD** says there is a representative from OPI present and refers to the fiscal note which shows a relatively small impact. **SEN. GLASER** continues, asking if more school districts will be impacted as the mine is developed. **SEN. GROSFIELD** agrees; projections of impact are being considered for the areas which would be involved. **SEN. GLASER** finishes by commenting that he believes the potential for impact seems to lie in areas which are now getting substantial guaranteed tax bases. Clarification on this issue is provided by **Madalyn Quinlan, OPI**, who states both systems seek to stabilize mill levies. A big influx of population necessitates assistance to school funding beyond what the guaranteed tax base can handle.

**SEN. DOROTHY ECK** inquires of **Carol Ferguson, Hard Rock Mining Impact Board** how the impact costs are determined. **Ms. Ferguson** reports all local government entities negotiate together to determine impact and costs. Tax pre-payments are one of the ways the funds are provided. She continues, there are two plans for the Stillwater Mine: the existing plan and one for the other end of the vein. **SEN. ECK** then asks if the taxable value is increased once a mine is established in an area. **Ms. Ferguson** says that is true. She says the bill provides a temporary way to ensure tax crediting until the revenues catch up with the costs. **SEN. ECK** comments it seems we are relying on State Equalization Funds. **Ms. Ferguson** responds the bill is not intended to offset state obligations. **SEN. ECK** then asks if large operations which are pending (such as those in both Lewis and Clark and Powell counties) are into the impact planning process. **Ms. Ferguson** states they are beginning the process.

**SEN. MIKE FOSTER** directs several questions to **Ms. Quinlan**: 1) Does OPI think it's okay to use these funds; 2) What is the "trigger" that allows a school district to benefit; 3) What happens when a mine closes down. **Ms. Quinlan** responds OPI is not here as a proponent or an opponent of the bill provided it's not inconsistent with other similar bills. The "trigger" is a 6% student increase. She says the school district guaranteed tax base will increase to compensate for benefits, should the mine close down.

**SEN. BARRY STANG** asks **Ms. Quinlan** regarding the impact on school districts that might have a huge increase and might readjust their taxable ratio. **Ms. Quinlan** responds the guaranteed tax base is the prevailing factor.

**SEN. WILLIAM GLASER** queries **SEN. GROSFIELD** referencing amendment #1, if the amendment applies to both places the word "tax" appears on that line. **SEN. GROSFIELD** is not sure, but believes it does not apply to both.

*{Tape: 1; Side: B; Approx. Time Count: 0; Comments: Taped turned, 8:48 a.m..}*

**SEN. DOROTHY ECK** requests more information about what happens when a mine closes. **Ms. Ferguson** responds the Legislature addressed the costs through Metal Mines License Tax revenue with a portion going to counties and another portion going to school districts. **SEN. ECK** requested more information for the Committee. **Ms. Ferguson** will provide the information (see Exhibit 11, which was provided to the secretary at the end of the meeting.)

**Closing by Sponsor:**

*{Tape: 1; Side: B; Approx. Time Count: 3.9; Comments: None.}*

**SEN. GROSFIELD:** This bill addresses assistance to school districts which are experiencing growth due to development of mining in their areas. The bill also assists the Hard Rock Mining Industry in recovering pre-paid monies. He states that without the bill the process is contrary to the spirit of the Hard Rock Mining Impact Act.

**Committee Business:** **CHAIRMAN GERRY DEVLIN** indicates there will be no Executive Action on House Bills until after the Easter break.

**CHAIRMAN DEVLIN** inquires as to the Committee's interest in pursuing SB 395 - he does not wish to ask Legislative Services Division staff to spend time preparing amendments if the Committee has already decided to table the bill. Discussion follows with these comments being offered:

**SEN. MIKE SPRAGUE:** This bill is worth keeping alive as a solution if other funding sources don't happen, such as HB 5 as a funding mechanism.

**SEN. BOB DEPRATU:** In spite of a conflict of interest, this could be a good bill.

**SEN. MACK COLE:** Agrees the bill should be considered.

**SEN. DOROTHY ECK:** This is a good bill in light of historic preservation and the Towe Collection, to name a few.

**CHAIRMAN DEVLIN:** This is not a "pennies from heaven" deal. There are trade-offs.

**SEN. FRED VAN VALKENBURG, SEN. GLASER AND SEN. STANG** agree the bill should be considered.

**CHAIRMAN DEVLIN** requests all proposed amendments be turned in to Jeff Martin so the Committee can consider the bill either tomorrow or the next day.

Further, the Committee began to take up SB 354 for Executive Action but postponed doing so until the proper set of amendments could be distributed. During the pause, the Committee considered SB 396 as follows:

**EXECUTIVE ACTION: SB 396**

*{Tape: 1; Side: B; Approx. Time Count: 20.5; Comments: None.}*

**MOTION: SEN. MIKE FOSTER MOVED SB 396 DO PASS.**

**MOTION: SEN. FOSTER MOVED AMENDMENTS 39601.ate.**

**EXHIBIT 4**

**EXPLANATION OF AMENDMENTS: SEN. FOSTER**

The amendments reflect more settlements that have been realized between Consumer Council and Montana Power Company. The Public Service Commission is allowed some oversight protecting consumers from anti-competitive and abuse practices. There is important language for consumers throughout this set of amendments.

**VOTE: MOTION CARRIED 8-0 with SEN. ECK not voting.**

**MOTION: SEN. FOSTER MOVED AMENDMENT 39602.ate.**

**EXHIBIT 5**

**EXPLANATION OF AMENDMENT: SEN. FOSTER**

Technical amendment, page 4, line 19 changing the percent from 0.20% to .042% relative to low income weatherization and energy assistance.

**VOTE: MOTION CARRIED UNANIMOUSLY.**

**MOTION: SEN. VAN VALKENBURG MOVED AMENDMENTS 39605.ate.**

**EXHIBIT 6**

**EXPLANATION OF AMENDMENT: SEN. VAN VALKENBURG**

Amendment puts in a section calling for a tax revenue analysis by the Revenue Oversight Committee in a report to the next Legislature.

**VOTE: MOTION CARRIED UNANIMOUSLY.**

**MOTION: SEN. VAN VALKENBURG MOVED AMENDMENTS 39604.ate**

**EXHIBIT 7**

**EXPLANATION OF AMENDMENT: SEN. VAN VALKENBURG**

Amendment requires each natural gas utility to offer choice of supplier to its customers by July 1, 2000, or to file a plan with the Public Service Commission to provide that choice.

**DISCUSSION: SEN. FOSTER** opposes the amendments; would like to see how a voluntary approach works in the interim. **SEN. GLASER**

comments regarding the stand of the Montana Dakota Utilities (MDU). **CHAIRMAN DEVLIN** questions the language "prior to July 1, 2000." **SEN. FOSTER** responds by indicating the language is in current statute.

**VOTE: MOTION FAILED 3-6 with SEN. ECK, SEN. STANG and SEN. VAN VALKENBURG voting yes.**

BRIEF DISCUSSION OF AMENDMENTS PROPOSED BY THE GREAT FALLS GAS COMPANY (no motion, no action).

**MOTION/VOTE: SEN. FOSTER MOVED SB 396 AS AMENDED. MOTION CARRIED 8-1 with SEN. STANG voting no.**

*{Tape: 1; Side: B; Approx. Time Count: 34.5; Comments: None.}*

#### EXECUTIVE ACTION ON SB 354

*{Tape: 1; Side: B; Approx. Time Count: 35.0; Comments: This bill is referred to as the "Cabaret Bill." Executive Action on this bill continued on Tape 2, Sides A and B.}*

AMENDMENTS 35410.ajm

EXHIBIT 8

EXPLANATION OF AMENDMENTS AND RESPONSES TO QUESTIONS REGARDING AMENDMENTS: Jeff Martin, Legislative Services Division.

*{Tape: 1; Side: B; Approx. Time Count: 38.5; Comments: None.}*

**SEN. WILLIAM GLASER** asks Jeff Martin if both **SEN. MIGNON WATERMAN** (Bill Sponsor) and **Mr. Mark Staples** (representing Tavern Owners) have seen and approved these amendments. **Mr. Martin** responds they have.

The new set of amendments reflects agreement on some of the previously segregated amendments which are now incorporated into this set of amendments.

CONTINUING EXPLANATION OF AMENDMENTS AND RESPONSES TO QUESTIONS: Jeff Martin, Legislative Services Division.

*{Tape: 2; Side A; Approx. Time Count: 0; Comments: Tape 2 inserted at 9:30 a.m.}*

The amendments set forth the qualifications for an applicant; separate for individual applicant or a corporate applicant. There is also a prohibition for a restaurant licensed for sale of beer and wine or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location. There is a requirement for the Department of Justice to make an investigation of an applicant. The allocation of beer and wine licenses are based on the quota system. Provide for a lottery on the initial issuance of licenses and if there is an

increase in the population in the quota area or the non-renewal of a restaurant beer and wine license or the last revocation of the license by the Department. An applicant who applies for the lottery system would have to have been in the restaurant business and meet the qualifications of a restaurant - has to have an evening dinner menu and that at least 75% of receipts have to be from the sale of food. Revise application fee based on stated seating capacity of the restaurant. Section 3 prohibits restaurants from serving beer or wine between 11:00 p.m. and 11:00 a.m. Limits the number of licenses which can be issued for gambling. Allows a restaurant to provide catering services. Effective date is October 1, 1997 except for the section that deals with application for a liquor license that allows gambling which is effective upon passage and approval.

**MOTION/VOTE:** REP. BARRY STANG MOVED THE AMENDMENTS WITH NEW SECTION 5 OF THE AMENDMENTS BEING SEGREGATED. MOTION TO SEGREGATE SECTION 5 FAILED 3-6 with CHAIRMAN DEVLIN, SEN. STANG and SEN. VAN VALKENBURG voting yes.

*{Tape: 2; Side: A; Approx. Time Count: 43.7; Comments: None.}*

**VOTE:** MOTION TO ADOPT AMENDMENTS IN THEIR ENTIRETY CARRIED 7-1 with SEN. STANG voting no and SEN. SPRAGUE not voting.

**MOTION:** SEN. STANG MOVED A CONCEPTUAL AMENDMENT WHICH WOULD PLACE A 2 YEAR SUNSET ON THE NEW QUOTA SYSTEM IN THIS BILL AS IT RELATES TO NEW BEER AND WINE LICENSES.

DISCUSSION OF PROPOSED CONCEPTUAL AMENDMENT. The following comments were made:

**SEN. DOROTHY ECK:** Would like Department of Revenue oversight to see what happens to the value of licenses.

**SEN. MIKE FOSTER:** Agrees with SEN. ECK.

**SEN. MIKE SPRAGUE:** Believes the Committee still has the responsibility to "do no harm"

**VOTE:** MOTION FAILED 2-7 with CHAIRMAN DEVLIN and SEN. STANG voting yes.

**MOTION:** SEN. ECK MOVED SEGREGATED AMENDMENT 35403.ajm

EXHIBIT 9

EXPLANATION OF AMENDMENT 35403.ajm: Jeff Martin  
The amendment would increase the number of beer and wine licenses under this act to 100%. Each year the amount would be increased by 10%.

**VOTE:** MOTION FAILED 2-7 with SEN. ECK and SEN. STANG voting yes.

**MOTION:** SEN. FRED VAN VALKENBURG MOVED SEGREGATED AMENDMENT  
35408.ajm

EXHIBIT 10

**EXPLANATION OF AMENDMENT:** SEN. VAN VALKENBURG

Provides that 80% of the money generated from these licenses would be set aside in an account available for the 1999 Legislature to access for the purposes of mitigating the effects of a possible phasing out of the quota system and/or reduction of the number of licenses already in existence wherein gambling is authorized.

**COMMITTEE COMMENTS:**

**CHAIRMAN DEVLIN:** Would like to see local government benefit.

**SEN. WILLIAM GLASER:** Opposes amendment; should be put into HB 2.

**SEN. BARRY STANG:** Supports the motion.

**SEN. MIKE FOSTER:** Asks how much money would be generated. **SEN. VAN VALKENBURG** responds there would be approximately 140 potential new licenses under the new quota system which would generate approximately \$700,000.

**VOTE:** MOTION FAILED 3-6 with SEN ECK, SEN STANG and SEN. VAN VALKENBURG voting yes.

**MOTION:** SEN. FOSTER MOVED THE BILL AS AMENDED.

**SEN. ECK** suggests a study resolution be put in place for oversight of the effects of this bill.

**FURTHER DISCUSSION OF THE BILL AND AMENDMENTS:**  
**COMMENTS:**

**SEN. STANG:** Will vote no on motion. Not in best interest of the people he represents.

**SEN. GLASER:** This legislation turns the world upside down for a lot of people. In two years we can look and see how to fine tune it; this is as good as it gets for now.

**SEN. VAN VALKENBURG:** Believes people have six months to apply for the licenses. **Mr. Martin** indicates that is not true; the limitation for application is upon passage and approval.

**SEN. MIGNON WATERMAN:** The effective dates are put in at the request of the industry.

**Mr. Staples:** Industry has no problem with new quota licenses that are available qualifying for gambling as well.

**SEN. SPRAGUE:** Commends the efforts of those who worked from both sides to put this bill together.



VOTE: MOTION CARRIED 8-1 with SEN. STANG voting no.

EXHIBITS 11 & 12

Exhibits 11 (Hard Rock Mining Impact Statutes) and 12 (Amendments 039610.ate) were provided to the Secretary.

ADJOURNMENT

Adjournment: 11:00 a.m.

  
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SEN. GERRY DEVLIN, Chairman

  
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MEG ANGELL, Secretary

GD/MA

Minutes taped on Sony BM 89-T.