

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 17, 1983

The thirty-third meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman on February 17, 1983 at 10:30 a.m. in Room 331 of the State Capitol Building, Helena, Montana.

ROLL CALL: All members were present but Senator Stimatz.

The meeting was called to order to hear S.B.426, S.B.438, S.B.372, S.B.341, S.B.405 and S.B457.

CONSIDERATION OF SENATE BILL 426:

"AN ACT TO REQUIRE STATE AND LOCAL GOVERNMENT AGENCIES TO COMPLY WITH CONDITIONS AND LIMITATIONS CONTAINED IN APPROPRIATION BILLS; AND PROVIDING AN EFFECTIVE DATE."

This bill is introduced by State Administration Committee and Senator Story as a committee bill. This bill was drafted by Senator Turnage and was on behalf of the fiscal analysts office.

JUDY RIPPINGALE, Legislative Fiscal Analyst, presented the bill to the committee and said this was presented to try to put some limitations on what could be spent in the appropriations bill because there wasn't adequate money for all the expenditures or the money was to be spent for a certain type of expenditure. They lost on the district court, they were in conflict with another statute of law allowed a broader interpretation of how to spend the money and the attorney general said with the appropriations bill laws and the conditions attached to the money brought on the concern that led to the drafting of this bill.

PROPONENTS: None

OPPONENTS:

MONA JAMISON, legal council for the governor's office presented testimony as opposed to this bill. EXHIBIT 1.

DAVE LEWIS, representing the governor's office also expressed opposition to this bill.

QUESTIONS OF THE COMMITTEE:

SENATOR STORY asked if it was their intention to amend other statutes.

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MS. RIPPINGALE said when this was drafted they had the attorney general opinion with them and it is her understanding that if you accept the bill you also take the conditions that goes with it.

SENATOR TOWE stated that this was an important bill. He asked if it is a good idea for the bill to be completely contradictory to statutes.

SENATOR MARBUT questioned line 21, page 1 and then suggested skipping to line 1 of page 2. This was confusing to him he said.

SENATOR STORY stated that they would put this off until tomorrow.

CONSIDERATION OF SENATE BILL 438:

"AN ACT TO PLACE CERTAIN RESTRICTIONS ON PARTICIPATION IN POLITICAL ACTIVITIES BY PUBLIC OFFICERS OR EMPLOYEES; AMENDING SECTIONS..."

DAVE COGLEY, staff attorney introduced the bill and explained it to the committee by walking them through the bill. He presented the new section.

SENATOR STORY asked if there were any proponents or opponents and suggested that they take this up tomorrow also.

CONSIDERATION OF SENATE JOINT RESOLUTION 21:

"A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING MONTANA'S STATEHOOD CENTENNIAL IN 1989; URGING THE GOVERNOR TO BEGIN PLANNING AND COORDINATION; AND REQUESTING THE GOVERNOR TO MAKE RECOMMENDATIONS TO THE 49th LEGISLATURE ON THE ADMINISTRATION OF CENTENNIAL ACTIVITIES."

SENATOR BERG introduced this bill by saying that it is a bill at absolutely no cost and stated that there are several other states as well as in the Canadian providences that are celebrating these holidays.

PROPONENTS: None

OPPONENTS: None

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CONSIDERATION OF SENATE BILL 372:

"AN ACT TO PROVIDE FOR CAMPAIGN EXPENDITURE LIMITS AND TO PROVIDE FOR THE AVAILABILITY OF PUBLIC FINANCING TO STATE, JUDICIAL, AND LEGISLATIVE CANDIDATES WHO ARE SUBJECT TO CAMPAIGN EXPENDITURE LIMITATIONS; TO PROVIDE A PENALTY FOR VIOLATING A CAMPAIGN FINANCE AGREEMENT; AMENDING SECTION..."

SENATOR DOROTHY ECK, Senate District 39, Bozeman, Montana, introduced S.B.372 and said that this bill provides campaign spending limitations for all the state elective offices. She stated that there has been demonstrated in the last few years a need for this. The legislators and some people are feeling uncomfortable about the large amount of money that goes in some races. Many would like to see spending limitation without public funding. The courts have ruled spending limitations must be voluntary, but they have upheld limitations where they are tied to public financing.

SENATOR ECK submitted amendments, EXHIBIT 2, and also presented a chart of what the effect of this bill would be, EXHIBIT 3.

PROPONENTS:

DON JUDGE testified as a proponent and presented written testimony. EXHIBIT 4.

JOE LAMSON, executive secretary of the Montana Democratic Party, said they have come up with some solutions especially in the legislative areas. These limitations on the legislative levels are high but they did that because one of the pitfalls that can be gotten into is setting those levels too low so the challengers do not have an opportunity to get into the system. He stated that they also support Senator Eck's amendment.

JOHN HEFFERNAN, representing Common Cause said that he would like to call to the committee's attention a recent poll taken by the University of Montana that shows 88% of the population of Montana favors spending limits. In 1982 there were three races between house and senate that candidates spent a combined total of over \$20,000, that is not an encouraging figure to come up against. The limits proposed in 1982 would affect three house and three senate candidates.

JOY BRUCK, League of Women Voters in Montana submitted written testimony, EXHIBIT 5.

There were no other proponents.

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OPPONENTS:

JANELLE FALLON, Helena Chamber of Commerce stated one of their concerns with this bill is the check-off and add-on procedure and it looks like the amendments would make it a check-off. She said that people are voting with their check books. She said that under the current system of going out and raising money yourself is kind of a self selecting process. If you can't raise any money perhaps you will have a difficult time getting elected. She stated that Montana has a contribution limit that are among the most restrictive in the nation. She stated, in reference to the huge amount that was spent, if anyone is crazy enough to spend that much, they are probably inflicting their own punishment on themselves.

There were no other opponents.

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT referred to page 2 and line 24 and reference on the following two pages are questioned the sense of volunteers.

SENATOR ECK said that one of the things in this bill that they do include as contradiction in kind, which has come from organizations who provide out-of-pocket money. However when it comes to volunteers, I do not think you can limit those that work. Those who pay staff should charge off expenses.

SENATOR MARBUT questioned the amount allowed the Senators vs the Legislators and stated that the Senators have twice the area.

SENATOR ECK stated the Senators run every 4 years.

SENATOR HAMMOND asked if they have taken into consideration the size of the districts.

SENATOR STORY asked if there is no spending limitations if a candidate decides not to accept funds.

SENATOR ECK said it is voluntary. If after the primary election, you have an opponent who is not abiding by the limitations, you may withdraw your agreement. There is that safeguard in that bill.

SENATOR HAMMOND said that it is difficult to see that service is not money and here it is not recognized.

SENATOR ECK said that it is hard to put a price on volunteers but their value is priceless, they run campaigns.

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SENATOR TOWE asked Janelle Fallan how she basis the assumption that the candidate that has the most money has the best chance of winning or that everyone is not only created equal but has an equal amount of assets with which to make contributions to a campaign.

MS. FALLAN stated if you cannot raise the interest, volunteers money or whatever you have a self selected process going on before the election.

SENATOR TOWE said that you don't think if my friends happen to have 1000 employees working at minimum wage and yours happens to have 10 business men making \$5,000 a month, that I can't raise the funds and you can, do you think that's equal.

MS. FALLAN said my friends might make whatever but they will still give only so much.

SENATOR ECK closed on S.B.372.

CONSIDERATION OF SENATE BILL 341.

"AN ACT TO PROVIDE FOR STATE PAYMENTS TO LOCAL GOVERNMENTS THAT PROVIDE FIRE PROTECTION AND LAW ENFORCEMENT SERVICES RESULTING IN MAJOR EXPENSES DIRECTLY ATTRIBUTABLE TO STATE-OWNED PROPERTY."

SENATOR DOROTHY ECK, Senate District 38, introduced this bill and stated that it is the same as the one that came in last year as part of the governor's packet. It was not funded. She said that is talking to the governors office they are still very interested in this. She said that it needed an amendment and what the amendment provides is a negotiation provision. She stated that the problem arises wherever there is a major university but thinks mostly needed in Bozeman, Helena and Missoula where the institutions are much higher. She stated that they are asking the appropriations committee to enter into this to get the fire equipment that is needed. EXHIBIT 6 shows aerials that are requested.

PROPONENTS:

GEORGE BOUSLIMAN, representing urban coalition, testified as a proponent and commended the bill and amendment stating that one of the problems in the past was to receive some financial assistance has been a presumption that could probably be approached in a uniform fashion.

DENNIS HEMMER, Department of State Lands presented EXHIBIT 7, as testimony and submitted a proposed amendment. EXHIBIT 8.

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JUDY MATHRE, city commission of Bozeman, said that according to this concept you would think that they do not like MSU but said that there welfare is dependent upon MSU and said her husband is employed at MSU but as city commissioner one of her prime responsibility is to consider the general health, saftey and welfare of city and think they are failing in that when they consider the safety of the MSU students and said if the legislature does not address this concern they are not meeting their responsibility.

Ms. Mathre submitted information EXHIBIT 8 that addresses their concern about their budget for next year.

DAVE FISHER, lobbist for the Montana Firemen's Association, testified in support of this bill and said that in many of their areas they have state buildings.

LARRY PALMER, police officer for the city of Bozeman, stated that he has been employed there for 18 years. He said each year they have a population increase for about 9 months and their work load increases to an overload. During the summer months they can do their investigations and work that makes them look professional. He said they do not like to do a haphazard job. He said when the students are in Bozeman many of their calls are alcohol related. Their traffic accidents have increased 20%. He said they like the students and are concerned for their saftey.

BILL VERWOLF, representing the city of Helena, stated for the same reasons already stated he too supports this bill.

DAVE WILCOX representing the city of Missoula presented a prepared statement, EXHIBIT 10.

AL THEILAND, city administrator of Billings, said one of the basic concepts is that the cities and counties are asking the state to pay the cost to provide the services to these state facilities and this is pretty basic. He suggested that they should look at paying the services the local government is providing the state. He said it is a double standard. The state spends alot of time and money backing the federal government as they own land throughout the state. The same concept works here.

HARRY CRAWFORD, Helena Fire Department, rose in support of this bill. He said they only have 6 men on at any one given time.

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CLEM DUAIME, president of the Montana Volunteer Firemen, expressed his support toward this bill.

AMENDMENTS presented by SENATOR ECK are shown as EXHIBIT 11.

There were no other proponents.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE said as he understands this, it is putting on the books whatever money is appropriated for this purpose and the rules that would be promulgated would determine in some equitable way how to compensate to the various cities for the protection of state buildings.

SENATOR ECK said that is correct. She said she does not think anyone thinks the state is going to pick up the major share of the operational cost of the city fare but they will look for the identifiable.

SENATOR TOWE asked if they are asking the \$4.6 million dollars.

SENATOR ECK said last time there was \$3 million in there. Each institution will submit a figure that they arrive at in their budget.

SENATOR TOWE suggested that they are asking this to pass even though there may not be any money this year.

SENATOR ECK said that the money now is almost depleted so this would not apply until two years from now, most likely.

SENATOR MARBUT questioned the changes and negotiations.

SENATOR ECK said that she believes there will be negotiations, as she believes each of these institutions recognize that they need services and also they realize the university or institution, depending on what they are dealing with, are a benefit to the city.

SENATOR MARBUT said that he does not think the bill addresses the problem of the Bozeman police who are talking about the impact.

SENATOR ECK said there are situations where the university needs extra policemen on campus in some given events.

SENATOR STORY asked if that were not in their budget now.

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PRESIDENT TIETZ, president of MSU, stated they are covered for regular scheduled events but not the special events such as concerts and that sort of thing. That is an add on. We do sometimes pay for it by the hour and in other cases to the city and the county, but it is out of the regular budget.

SENATOR HAMMOND asked Senator Eck if she had any idea of where this money might come from.

SENATOR ECK said mostly from the general fund. The most important thing now is the fire protection.

The meeting closed on S.B. 341.

CONSIDERATION OF SENATE BILL 405:

"AN ACT REMOVING THE RETAIL LIQUOR BUSINESS FROM STATE CONTROL; PROVIDING FOR THE SALE OF EXISTING STATE RETAIL LIQUOR STORES; PROVIDING FOR AN OFF-PREMISES-CONSUMPTION-ONLY LICENSE AND A STATE LIQUOR WAREHOUSE PERMIT; AMENDING SECTIONS..."

SENATOR DOVER, District 25, introduced this bill by saying that there has been numerous rumors over the past years saying that the state should get out of the retail business and close unprofitable stores. He said that Orlin Todd made this recommendation and in their committee they have been asked to give them guidelines about it applying to the legislative mandate to the closure of unprofitable stores. They said the state would have made more money if eight of the stores had not been opened during the fiscal years of 1981 and 1982. The governor's council on management made this recommendation.

Senator Dover said this is a bill to provide for the discontinuance of the state liquor stores in an orderly manner that they feel will properly service the public, that will provide control and distribution through STYRA and annual fees and add as much or more revenue to the state. The state would operate its wholesale store called a state liquor store in Helena and sell the product on the formula of cost of merchandise plus freight plus mark up as designated by the department, as shown in the bill on page 12, line 6. (Some would like to amend this to show the scale as is now which is 40%.) It would also be plus 26%, which is the tax applied; less 10% for sale in case lots. Page 3, line 15 and 16 defines a retailer who can buy from the store. Number one, they must bid on the inventory, fixtures and the lease which the store presently have. The store would not be required to do business in the same location that it is in now but would be responsible for the lease. They do not have to pay an initial fee to set up this business, but will have to pay an annual fee of \$800.

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The second option comes after January 1, 1985, shown in Section 25, page 28, a qualified applicant could purchase an off premise license under one of two catagories, one with cities with a population 10,000 or more, or within a distance of 5 miles, and they can buy a one-time non-transferrable license at a fee of \$10,000 and the annual fee of \$800. All others, smaller towns, fee is \$5,000 plus the \$800 annual fee. The third catagory is those holding an all beverage license. There is an annual fee of \$2,000 for a state liquor permit, or to be able to buy from the state liquor store, this may be obtained only by a licensed retail business. Page 24, line 25 states that those that have the permit must have a fixed place of business with the facilities to sell to other licensed retailers, meet their demands. Section 22, page 26 states as a condition to retain a state liquor store warehouse permit the holder must give a discount of 5% or more to retail licensees who purchase in unbroken case lots. Section 18, page 24 says no off premise consumption holding license may be issued to any person or corporation that intends to operate a business where the sale of liquor is not the primary source of income. This eliminates grocery stores, etc. EXHIBIT 12.

PROPOSAL:

JIM SPRING presented a chart to the committee, EXHIBIT 13.

BRUCE SIMON, Vice President of Coles Department Store and former member of the Governor's Council on Management appeared as a proponent. He said he was on the team that did the investigation on the liquor division. Mr. Simon submitted written testimony, EXHIBIT 14, and charts, EXHIBIT 15 and 16. He said that they spent about 12 man weeks of effort looking at the liquor division. Exhibit 15 shows a graph of what has happened in the past 8 years. Exhibit 15(a) shows the distribution of gross income. Exhibit 16 shows what would have happened if what they are proposing had taken place by now.

DAVE GOSS, representing the Billings Chamber of Commerce, testified to their support of S.B.405.

JENNELL FALCON, Helena Chamber of Commerce, voiced support of S.B. 405.

There were no other proponents.

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OPPONENTS: H.B. 405

ELLEN FEAVER with the Department of Revenue presented written testimony from their department and testifying on their behalf and the governor. She stated that only profit has been considered in this bill and opening up the distribution of spirits is not supported by Montanans. Much of the legislation has been turned to programs such as alcohol treatment centers, drunk driving, and raising the drinking age and this bill contradicts all of those presentation. Consumption is a concern in any state and right now Montana is 27th in the nation in capita consumption. She said that this bill would cause prices to escalate, possibly 35% to 50% higher.

Ms. Feaver presented EXHIBIT 17 as the written testimony.

DAVID BARNES, international representative for the United Food and Commercial Workers International Union, submitted written testimony, EXHIBIT 18.

DON JUDGE also spoke as a proponent and submitted EXHIBIT 19 as written testimony of the AFL-CIO.

REPRESENTATIVE PAUL PISTORIA spoke out against S.B. 405 and submitted a cartoon shown in the Great Falls tribune November 6, 1978 representing what would happen if the wine initiative passed and that is what happened. We also lost \$3 or \$4 million dollars and they didn't tell us how to make it up. Senator Pistoria said if this bill passes there will be a big alcoholism problem in the state, moreso than we have ever seen.

SENATOR DOVER CLOSED on S.B.405 stated that he noticed the concern of control and if they will look at the bill, there is alot of control, and for all purpose it will be the same people that are handling the liquor now and besides \$10,000 or \$5,000 for the people and that is a pretty initial fee. They talk about all the people that are going to be put out of a job, but there are only about 177 full time people right now and 32 of them are in Helena and they will stay working. Grocery stores are out as far as this bill goes. Liquor prices are going to go up if it stays in the state too.

EXHIBIT 21 was turned in as a written testimony from a clerk at a state liquor store in Billings, Montana, opposing S.B.405.

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QUESTIONS OF THE COMMITTEE: S.B.405

SENATOR TOWE said he does not understand why they are selling licenses for \$10,000 for the warehouses when they are still a function of Montana.

BRUCE SIMON stated that off premise license only is comparable to the all beverage license that we have now would allow the sale of bottles only; the warehouse permit is a permit either one of those people could obtain for an additional \$2,000 giving them the right to buy direct from the state warehouse, otherwise they would have to buy from those who do.

SENATOR TOWE asked about the agency stores and what will happen to them.

BRUCE SIMON said this bill will call for the end of the agency store. If these stores do not sell by the set deadline they will be closed.

SENATOR MANNING asked Mr. Simon how many hours he spent in the Department of Revenue when on the Governor's council.

BRUCE SIMON said there were three on the team with a total of about 12 man weeks of 5 day a week. Between the three of them they had a total of 12 weeks invested in the liquor division alone.

SENATOR MANNING asked Ms. Feaver if this was true to the best of her knowledge. Then directed the question to Mr. Heppelfinger.

HOWARD HEFFELFINGER, Administrator of the Liquor Division, said that the actual time they were there in the office amounted to three or four days but did not deny work was done outside the office.

The hearing closed on S.B.405.

CONSIDERATION OF SENATE BILL 457:

"THE MONTANA JOBS PROGRAM ACT OF 1983; CREATING A GRANT PROGRAM FOR SUBSIDIZED PUBLIC SERVICE EMPLOYMENT."

SENATOR FULLER, Helena, District 15, introduced this bill by saying essentially this is a public service jobs program and his motivation is 10 years of learning federal programs that did effectively the same kind of things, it put people to work and paid them a fair wage, \$4.81 an hour, \$10,000 maximum, and put them out into the cities and counties to do public service projects that are not being done in other ways. He suggested

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to the committee that the economic situation is 'structural' and 'cyclical'. The Build Montana Program addresses the structural issues but what it does not do is deal with the cyclical problems we are having, namely 40 to 55 thousand Montanans out of work. He stated that he somewhat arbitrarily picked the figure of \$10,000 as a separate appropriation bill. He said that he has not come up with a source and would probably think a draw on the interest on the coal tax.

PROPOONENTS:

DON JUDGE, representing the Montana State AFL-CIO stated that he was in support of this bill as it is not much different than the CETA program.

OPPONENTS: None

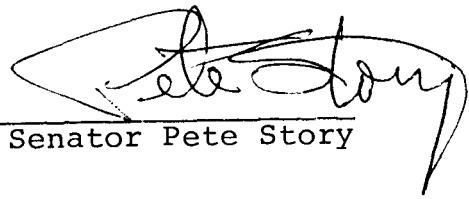
QUESTIONS OF THE COMMITTEE:

SENATOR TOWE asked how they answer the charge that you should not have make-believe funds but you should have genuine directed at structural things that would have to be done. Is that addressed?

SENATOR FULLER said he doesn't know if the language of the bill addresses the philosophical point but the department in the intent of this bill is not to make work kind of thing. He said that the best example he could give, was in northwestern Montana they ran a program two or three years ago and the boys from federal and state said if they could get people for the next ten years, they would not get the job done.

SENATOR FULLER CLOSED ON S.B.457.

The meeting closed at 12:15 p.m.



CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

47th LEGISLATIVE SESSION -- 1983

Date 2/17/83

SENATE
SEAT #

Each day attach to minutes.

COMMITTEE ON

STATE ADMINISTRATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
David R. Barnes	UFCW, Int'l Union	SB 405		X
Don Judge	Jim Murray MT STATE AFL-CIO	SB 405		X
Don Judge	MT STATE AFL-CIO	SB 372		X
Joe Lamson	MT DEMOCRATIC PARTY	SB 372	X	
Joe Lamson	MT DEMOCRATIC PARTY	SB 405		X
HARRY CRAWFORD	MT ST FIREMANS ASSOC	SB 341	X	
Bill Haynes	United Food & Commercial Workers	SB 405		X
Ellen Yeager	Dept of Revenue	SB 405		X
Bob Durkee	Mont Tanners Assn	SB 405		X
Bruce Simon	BCSF	SB 405	X	
George L. Stewart	Mont. Firemen	SB 341		X
Bob ...	Mont. Firemen	SB 341		X
Bob ...	Mont. Firemen	SB 341		X
Dennis Flanner	Dept of State Lands	SB 341	X	
Clem Duaine	President Mont. Tanners	SB 341		X
Dave Fisher				X
Henry F. Lakin	Blwtr. Russ/Free Tax	SB 341	X	
Paul D. Pasteria	State Rep	SB 405		X
	MT 4	SB 405		X

DATE:

FEBRUARY 17, 1983

COMMITTEE ON STATE ADMINISTRATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bob Lynn	Wine & Spirits Co.	405		X
Jose Sue Dulbeck	Owner Stevens Dept Store	405		X
Mr. W. Larson	Argus Hotel MT	405		X
Marie E. Burke	Mont Lavora Inn	405		X
Howard Hall	Montana Liquor Reps Assn	405		X
Don Judy	MT STATE AFL-CIO	457	X	

(Please leave prepared statement with Secretary)

NAME John Lewis BILL NO. 2465
ADDRESS Bellanca DATE 2/11
WHOM DO YOU REPRESENT Rep. Clark of Cleveland
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Duane E. Tice BILL NO. CS-3425
ADDRESS 1020 1/2 10th Street DATE 2/17/88
WHOM DO YOU REPRESENT Montgomery County Board of Education

SUPPORT OPPOSE X AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I do not support the bill.

I oppose the bill.

I do not oppose the bill.

I do not oppose the bill.

None

SENATE COMMITTEE _____

Date 2-17-83 Bill No. 405 Time

Secretary

Chairman

(include enough information on motion--put with yellow copy of committee report.)

NAME

BILL NO. SB 341

ADDRESS 2737 FRONTAGE DR. SE DATE 2-12

WHOM DO YOU REPRESENT M 2737 FRONTAGE APT

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

State of Montana
Office of the Governor
Helena, Montana 59620

EXHIBIT 1
State Admin
Feb. 17, 1983

TED SCHWINDEN
GOVERNOR

TESTIMONY IN OPPOSITION TO SENATE BILL 426

Section 1 of S.B. 426 raises many questions of unconstitutionality under Article V, S. 11, Subsections 3 and 4, of the Montana Constitution. These provisions state as follows:

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject. (Emphasis added).

An appropriation bill, a measure before the Legislature authorizing the expenditures of public monies shall contain only appropriations and may stipulate the amount, manner and purpose of the various items of expenditure. To the extent that lines 3 through 8 of S.B. 426 "amend" any other statute to which a provision, condition, or limitation in an appropriation bill applies, this bill is unconstitutional. Since the Constitution requires that general Appropriation Bills contain only appropriations, the "amending effect" of this bill on other, unnamed, substantive statutes will most likely not meet the tests of constitutionality.

A recent Attorney General's Opinion (Vol. No. 39, Opinion No. 25, July 14, 1981), citing a Montana Supreme Court case, held that "Appropriation bills should not be held to amend substantive statutes by implication." "Repeal by implication is not a concept that is favored in questions of statutory construction."

The Constitution further requires that each bill contain one subject, clearly expressed in its title. Therefore, the title in a general appropriation bill is constitutionally defective if it doesn't indicate the other laws it seeks to amend. On the other hand, with the limitation on the scope of an appropriation bill, that it only contain appropriations, the title cannot indicate anything other than appropriations. Senate Bill 426 cannot lawfully accomplish its purpose.

The effect of S.B. 426 is to turn the Appropriations Bill into a "Super Statute." Another effect is to preclude public participation in the lawmaking process. Other statutes would be amended without public notice and logrolling would occur - an unacceptable and unconstitutional legislative practice in Montana. Simply stated, the elements fundamental to our lawmaking process are ignored by this bill. For these reasons, we recommend do not pass.

Mona Jamison
MONA JAMISON
Chief Legal Counsel

S.B. 372

Amend:

New Section. Section 3.

pg. 9 line 24 strike \$7,500 insert- \$10,000
pg. 9 line 24 strike \$22,500 insert- \$25,000

Section 6 Section 13-37-303 MCA Subsection (1)

pg. 13 line 5 following (1) An individual.....

~~Strike: whose withheld income tax or payment of~~pg. 13 line 6 Strike: estimated tax exceeds by more than
\$1 his income tax....

pg. 13 line 7 Strike: liability for the taxable year.

So that it now reads: Contribution to fund by taxpayer

(1) An individual may designate whether he wishes to have \$1
from tax withheld or paid transferred to the fund. In the case
of a joint return, as provided in 15-30-142, of a husband
and wife.....

pg 13 line 11 strike: whose income tax

pg 13 line 12 strike entirely

pg 13 line 13 strike: income tax liability

So that it now reads: or each spouse may designate individually
whether he or she wishes to have \$1 transferred to the fund

Subsection (2)

pg. 13 line 17 following "designate"; strike "an extra
\$1 to be" and insert "that \$1 of the payment be"

So that it now reads: An individual with an unpaid tax
liability may at the time of payment designate that \$1 of the
payment be transferred to the fund.

Subsection (4) pg. 15

pg. 15 line 14 following - governor, strike 40% insert 25%

pg. 15 line 16 following - court, strike 2.5% insert .875%

pg. 15 line 18 following - court, strike 1% insert .24%

pg. 15 line 19 following - general, strike 6% insert 2.5%

pg. 15 line 20 following state, strike 6% insert 2.5%

pg. 15 line 21 following auditor, strike 6% insert 2.5%

pg. 15 line 23 following instruction, strike 6% insert 2.5%

pg. 15 line 25 following commission, strike 2.5% insert .5%

pg. 16 line 3 following senator, strike .4% insert .2%

pg. 16 line 6 strike .7% insert .38%

<u>Position</u>	<u>% of Fund* (Per Race)</u>	<u>Per Year</u>	<u>No. Years</u>	<u>Total</u>	<u>No. of Candidates Per Race</u>	<u>Amt. per Candidate</u>	<u>Limitation</u>	<u>% of Allowed Expenditure</u>
Gov/Lt. Gov	25	50,000	4	200,000	2	100,000	600,000	16.6
Attny Gen.	2.5	8,000	4	32,000	2	16,000	60,000	26.6
Sec. of State	2.5	8,000	4	32,000	2	16,000	60,000	26.6
Auditor	2.5	8,000	4	32,000	2	16,000	60,000	26.6
Supt of Pub Inst	2.5	8,000	4	32,000	2	16,000	60,000	26.6
Sup Crt	6.125 (.875x5)	1,750	8	14,000	2	7,000	35,000	20
Clerk Sup Crt	.24	480	4	1,920	2	960	8,000	12
Pub Serv Comm	2.50 (.50x5)	1,000	4	4,000	2	2,000	15,000	13
District Crt	8 (.25 x 32)	500	6	3,000	2	1,500	13,750	11
Representatives	38 (.38x100)	760	2	1,520	2	760	8,000	9.5
Senators	10 (.2x50)	400	4	1,600	2	800	10,000	8

Total % of Fund = 99.865%

*Assume an Annual Contribution of \$200,000 to the fund



EXHIBIT 4
State Admin
Feb. 17, 1983

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE, ON SENATE BILL 372, HEARINGS OF THE SENATE STATE ADMINISTRATION COMMITTEE, FEBRUARY 17, 1983

I am Don Judge, representing the Montana State AFL-CIO. We support Senate Bill 372.

This bill provides a limit on campaign expenditures, in return for access to some public funding of campaigns. The funding would be provided from a voluntary taxpayer checkoff.

The Montana State AFL-CIO supports campaign reform. The price of election campaigns is skyrocketing. That presents a danger if the need for candidates to raise money becomes an understandable gratitude to those who provide them with the money they need to win, and when that gratitude is reflected by official action.

The particular spending limits for the different races will have to be left to those who have studied past election expenses. However, the amounts in general appear to be high enough to give challengers a chance, but low enough to provide some sort of ceiling. House Bill 283 also has some campaign expenditure limits in it, which we have supported.

As to the public funding aspect of this bill, it provides a carrot for voluntarily limiting a campaign, without the stick of forcing candidates to do so. This sort of compromise measure is a good way to begin on campaign reform, but is not the final answer. The National AFL-CIO supports public funding of campaigns, as does the state labor federation. It is a good investment of tax dollars to buy elections for the public instead of for special interests. We urge you to support amendments to provide that this provision be a voluntary checkoff of a tax owed the state rather than a voluntary contribution to this fund.

Senate Bill 372 will not cure Montana politics from the inordinate influence of big money. But it is a step in the right direction. We ask for this campaign reform, even though we are one of the state's largest PACs, and involved in contributions to candidates. We look forward to the day when all campaigns will be publicly funded for the good of the public.

We ask you to support Senate Bill 372.

EXHIBIT 5
State Admin.
Feb. 17, 1983

SR 372

Campaign Expenditure Limits and Public Financing

The League of Women Voters of Montana is concerned about candidates being able to compete equitably for office. Political races become more costly with each election year, and this could cause qualified candidates to be reluctant to run - this is even more plausible for a candidate challenging an incumbent.

The League believes that limiting expenditures consistent with allowing a full discussion of the issues and adequate exposure of the candidate can serve the interests of the electorate and allow for citizen participation in the political process.

Along with this the League supports public financing to candidates to assure expenditure limits are adhered to.

A system that provides for a combination of public and private funds while limiting campaign spending could put a needed lid on the escalating price of running for office.

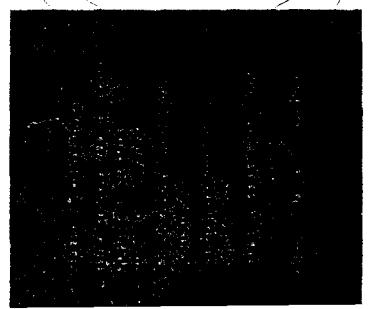
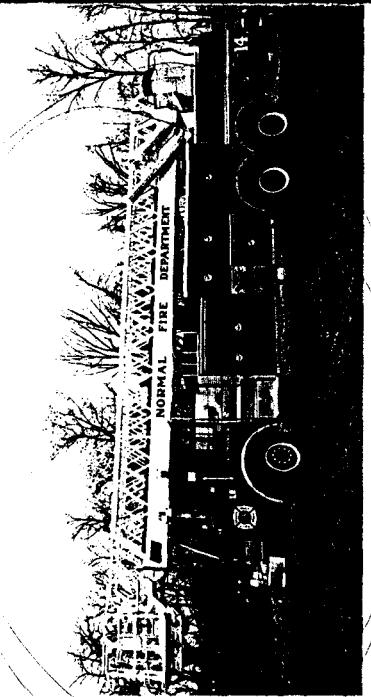
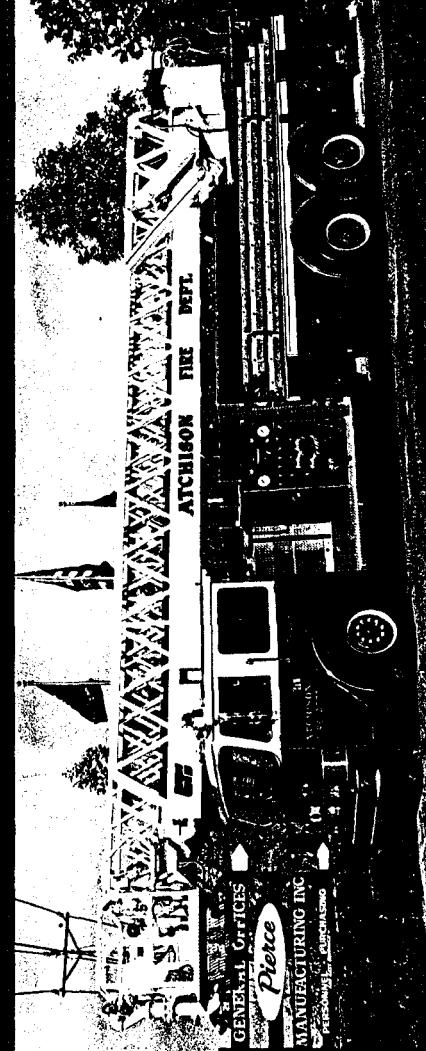
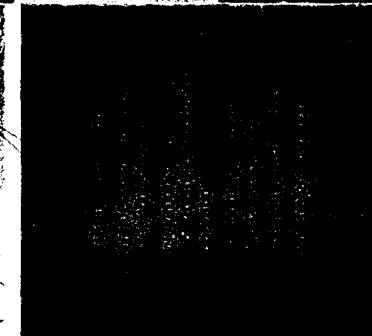
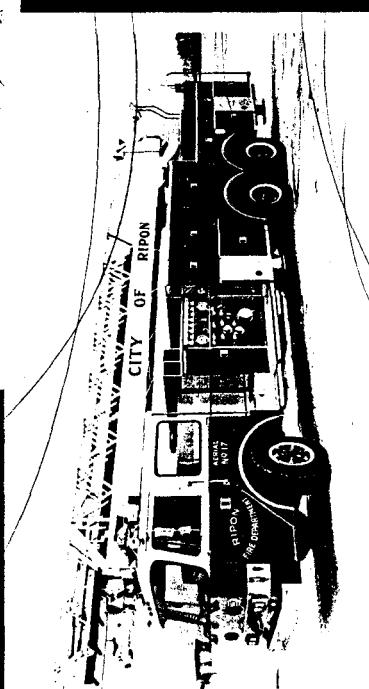
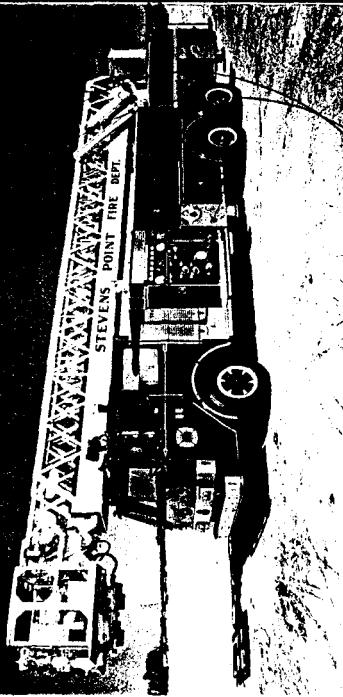
Therefore, we support SR 372, and hope you will give it a "do pass".

Joy Bruck

League of Women Voters of Montana

From the point to which you'll find craftsmanship, advanced design and beauty an integral part of Pierce Fire Fighting and Rescue Equipment.

EXHIBIT 6
State Administration
Feb. 17, 1983

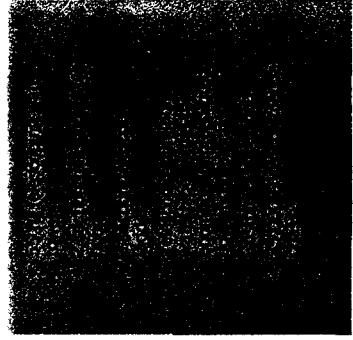
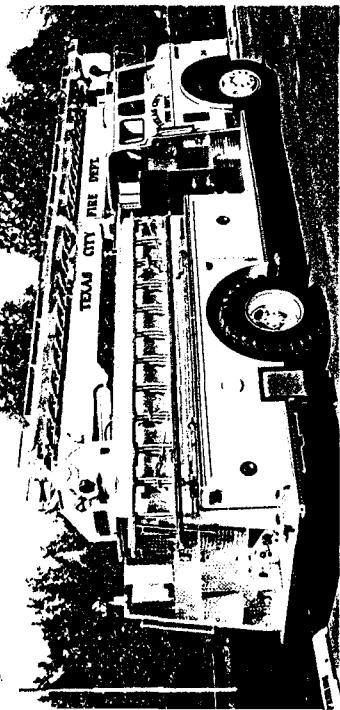


Pierce

Pierce MANUFACTURING INC.
P.O. BOX 2017
APPLETON, WISCONSIN 54913
PHONE 1-414-731-5251

STACLINE EQUIPMENT COMPANY
900 Boeing St. • P. O. Box 7666
Boise, Idaho 83707
Phone 344-8555

"Builders of the Finest"



100-FOOT LADDER TOWER

Three section, aircraft type, seamless, rectangular tubing - stress reinforced at critical areas. 24" handrails with internal depth of 26" to 37" facilitates passing on ladder. Ladder lock prevents movement of ladder in its bed.

Ladder Operation: Twin lift cylinders equipped with integral holding valves provides -4° to 75° elevation. 34° Rotek Honore swing circle ball bearing allows continuous rotation with planetary drive speed reducer gear box powered by hydraulic motor. Spring applied, hydraulically released disc type swing brake holds ladder from drifting. Extension and retraction powered by two hydraulic cylinders and cable. Graphite impregnated nylon near pads distribute load.

Outriggers: Out and down hydraulically operated located two forward and two rear of rear wheels provides excellent stability. Torque box relieves chassis bearing frame of stress and twisting. Diverter valve allows operation of either outriggers or ladder functions but prohibits both operations at the same time. Four additional 576 square inch aluminum pads in addition to standard 210 square in. pads.

Platform: 15 square foot aluminum flooring with 42° handrail, 2 corner gates, and self closing gate at rear for evacuation down ladder. Dual double acting master/slave cylinder arrangement for leveling. Aluminum treadplate step on 3 sides for 3 sides and bottom. 8" aluminum treadplate step on 3 sides.

Controls: Electro-hydraulic operated with deadman switch in platform and turntable. Turntable overrides platform controls. Intercom between turntable and platform.

Watertower: Telescoping aluminum waterway with pre-set dump valve. Elkhart 294-TIX monitor with stacked tips and SH100 nozzle. Gated 3-inlet siphon with gauge at rear. Under-platform spray nozzle.

Body: Galvanized steel body with minimum of compartments, stainless steel rub rail, and aluminum treadplate walk areas. Slip-joint to prevent body damage from flexing. Fully enclosed rear fender housings with full circular "crown".

Electrical: Standard equipment includes 66A siren, two 184 cab beacons, seven spot-lights (two cab, one rear, two base section of ladder, and two in platform), two BR-2 at rear, one clear light to illuminate each outrigger pad area and red flashing light in each outrigger S/S panel.

Ladders: 163' of ground ladders including one each 40'/3', 35'/2', 28'/2', 14'/2', 10' folding, 10' roof and 16' roof.

Miscellaneous: Six pike poles (2 1/2', 2 1/2', 2 1/2'), four axes (2 pickhead and 2 flathead), two 50" crowbars, one clawbar, two extinguishers (20' dry chemical and 2-1/2 gal. water), four Big Beam 211 lights, four shovels (2 scoop and 2 plain), two 125' lengths of rope (5/8" and 3/4"), and four pompey belts.

Combined Loading:

Ladder Elevation	-4° to 20°	20° to 30°	30° to 40°	40° to 50°	50° to 60°	60° to 75°
Base Section	-	200	300	400	600	600
Mid Section	-	-	400	400	400	600
Fly Section	-	-	200	200	400	600
Platform	700	700	700	700	700	700

Loading reduced when water is flowing. 85 foot ladder towers also available.

100-FOOT AERIAL

Four section high strength steel ladder with elevation, rotation, extension, retraction, outriggers, and basically the same as tower.

Combined Loading:

Ladder Elevation	-6° to 20°	20° to 40°	40° to 50°	50° to 60°	60° to 75°
Base Section	-	175	350	350	350
Inner Mid Section	175	175	350	350	350
Outer Mid Section	175	175	350	350	350
Fly Section	175	175	175	175	175

Loading reduced when water is flowing.

Loading :reduced when water is flowing.

CHASSIS RECOMMENDATION

60,000# GVW with 18,000# front axle, 44,000# rear axle, full air brakes, 145 amp alternator, power steering, suspension to match axles, F20X - 18-ply Michelin tires on front and 11.00 x 20 - 14-ply Michelin rear. 228" to 248" wheelbase.

DEPARTMENT OF STATE LAND'S TESTIMONY ON SENATE BILL 341

State Admin

BEFORE THE SENATE STATE ADMINISTRATION COMMITTEE

Feb 17, 1983

The Department of State Lands does not oppose Senate Bill 341, but proposes that it be amended to clarify that it does not apply to school trust lands managed by the Board of Land Commissioners and the department for agricultural, grazing, timber or other uses.

As currently written, the bill would apply to all state-owned property. The amendment proposed by the department would define state-owned property to exclude land outside the city limits of any city or town which is administered by the Board of Land Commissioners and is primarily used for agriculture, grazing or timber production.

In the case of fire protection, the lessee of state agricultural and grazing land is responsible for fire protection of those lands. In addition, the State, through the Department of State Lands, provides certain services to the majority of counties for fire protection on private and state lands within the county. This includes the procurement, maintenance and repair of fire trucks and equipment, training of volunteer firefighters, and additional manpower and equipment when a fire exceeds the county's capabilities. Any county not presently participating in the program can make application to join. Furthermore, the department protects all forest lands in cooperation with counties and land-owners pursuant to Title 76, Chapter 13, Parts 1 and 2.

As can be seen, the provision of fire services for state agricultural, grazing and timber lands does not cause any major impacts on the counties. Also, the provision of law enforcement services for these lands does not have a large impact on county governments. Therefore, the department requests that these lands be deleted from the operation of this bill. A proposed amendment which defines the term "state-owned property" is attached.

EXHIBIT 8
State Administration
Feb. 17, 1983

AMENDMENT TO SENATE BILL 341

INTRODUCED BILL

Page 1, line 25 and page 2, line 1

Following: subsection 2 of section 2

Insert: "(3) "state owned property" means property owned by the state,
the primary use of which is not for agriculture, grazing or
timber production."

I. Attitude of Bozeman citizens towards Montana State University

EXHIBIT 9a
State Admin.
Feb. 17, 1983

- A. We like MSU
- B. The economy of Bozeman is fairly recession proof due to the presence of MSU.
- C. I like MSU. My welfare depends upon MSU because my husband is an employee of MSU.

II. Duties of a city commissioner

- A. Prime concern is to uphold the health, safety and welfare of the citizens of Bozeman.
- B. We are failing in that job when the welfare of MSU students is considered. The level of police and fire services is not adequate. This is not only a concern of mine as a local government official, but it should be a concern of yours. You are also responsible for the welfare of those who are associated with state institutions.

III. The Bozeman situation

- A. If MSU could be separated from the city of Bozeman it would become the seventh largest city in Montana.
But MSU is not separated from the city. It is a very important component of the city. As part of the city MSU is dependent upon the city for services.
The city provides the usual variety of city services. We are reimbursed for some of them, particularly sewer and water. There is no way for the university to reimburse the city now for fire and police protection.
- B. Welfare of people in high rise buildings on the MSU campus
The city cannot provide adequate fire protection to the high rises.
Both manpower and equipment are deficient.
As long as we are knowingly deficient in providing public safety services I can only conclude that I am irresponsible and am failing to do what I as an elected official am supposed to do.

IV. What are the chances of the city for doing something to improve the situation in the next fiscal year?

Projected losses FY 1984

		Mills
Business inventory taxes	\$130,000	6
Federal Revenue sharing	<u>459,000</u>	<u>22</u>
TOTAL	589,000	28

Anticipated Gains

Motor vehicle license fees	\$280,000	14
Carry over federal revenue sharing	164,000	8
TOTAL	444,000	22
 Total loss	 \$589,000	 28
Total gain	444,000	22
NET LOSS	145,000	6

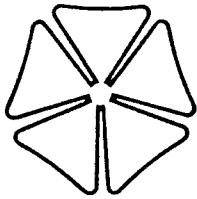
The total mill levy for Bozeman for FY 1983 is 104.89 mills. Though there are too many unknowns to say a lot about next years budget, I would suggest that we will need an increase of 5% to maintain services (about 5 mills). That added to the 6 mills we need to recover suggest an increase of 10-11 mills. To provide services needed for MSU would add 6-8 more mills.

V. Conclusion

Our city manager, John Evans, has talked with the administration at MSU. They are concerned by the lack of police and fire protection. They are sympathetic with our dilemma. They would like to help us. It seems that they do not have the authority to do anything. SB 341 provides one solution.

Since funding looks doubtful for this bill I would like to ask if it is possible to amend SB 341 to give local governments the authority to conduct negotiations with state institutions to agree on some method of funding for police and fire protection.

We at the local level are trying to be responsible for the health, safety and welfare of all of our citizens. We can't do the job without your help. We depend upon you for that help.



THE GARDEN CITY
HUB OF FIVE VALLEYS

Missoula, Montana

5980

EXHIBIT 10a
State Admin.
Feb. 17, 1983

Office of the Mayor
201 West Spruce
Phone

TO: Senator Pete Story, Chairman, Senate State Administration
Members of the Committee.

FROM: The City of Missoula, by *David Wilcox*, Adm. Asst.

SUBJ: SB 341 Providing for State Payment to Local Governments
for Police and Fire Protection to State Owned Property

Senate Bill 341 would result in an unspecified amount of money paid by the State to local governments which provide police and fire protection to State owned property.

The City of Missoula provides fire protection and police protection to the University of Montana Campus, although the U of M does maintain its own security force for minor disturbances and patrol. We are primarily concerned about fire protection.

The University campus houses several thousand students in the highest density housing in Missoula. Moreover, two of the dormitories are high rise buildings, the tallest in Missoula. High density, high rise residential property requires special precautions in fire protection as well as special equipment. Furthermore, the U of M campus represents a substantial portion of the City to which fire protection is supplied; yet no property taxes are collected to help pay for services.

To be sure, the community of Missoula is fortunate to have the University in its midst. The University provides educational opportunities, cultural stimulus and economic support. Business people and landlords benefit from the University population and spending power. This does not necessarily translate into financial support for the City.

U of M property is indeed a major industry in the Missoula area; but unlike every other major industry the University does not contribute to the property tax base. It is tempting to say the University contributes indirectly because its students and faculty live in apartments and houses on which taxes are paid. While this is true, it is also true that residential property does not contribute enough in taxes to pay for services received from local governments.

Generally residential property not fully paying its way is an accepted fact which is not too troubling because the work places of most people also pay substantial taxes. Many residents of Missoula, for example, work for Champion Wood products. Their residential tax combined with the tax paid by their place of work adequately supports the services they receive. For the University, the State does not contribute taxes to match what are paid by the faculty staff and students of the University.

The City of Missoula needs additional revenue from the University, roughly equivalent to property taxes a major industry would pay for the services it receives. I ask your favorable consideration of SB 341.

AMENDMENTS TO SB341

EXHIBIT 11
State Admin
Feb. 17, 1983

1. TITLE, line 4
Before: "STATE"
Insert: "NEGOTIATIONS FOR"
2. TITLE, line 6
Strike: "MAJOR"
3. TITLE, line 7
Strike: "DIRECTLY"
4. Page 1, line 10
Following: "Section 1"
Strike: "State"
Insert: "Negotiations for state"
5. Page 1, line 14
Strike: "major"
6. Page 1, line 15
Strike: "directly"
7. Page 1, line 16
Following: "is"
Strike: "eligible to receive"
Insert: "entitled to negotiate with the state agency or institution receiving the services for"
8. Page 1, line 19
Following: "otherwise"
Strike: "the following definitions"
9. Page 1, strike lines 20, 21, and 22
10. Pages 2 and 3, strike sections 3, 4, and 5 of the bill
Insert: "Section 3. Budget requests. (1) State agencies and institutions shall negotiate in good faith with local governments to determine an equitable amount that would pay for the expenditures incurred by local governments in providing fire protection or law enforcement services for state-owned property.
(2) The amounts negotiated in subsection (1) shall be included in the budget request of the state agencies and institutions to the budget director and, by the budget director, submitted to the legislature."

EXHIBIT 12a
State Admin.
Feb. 17, 1983
SENATOR HAROLD L. DOVER

SENATE BILL 405

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE RETAIL LIQUOR BUSINESS FROM STATE CONTROL; PROVIDING FOR THE SALE OF EXISTING STATE RETAIL LIQUOR STORES; PROVIDING FOR AN OFF-PREMISES CONSUMPTION-ONLY LICENSE AND A STATE LIQUOR WAREHOUSE PERMIT; AMENDING pertinent Sections...

SENATE BILL 405 will take the State out of the liquor retail business. There have been numerous studies made over the past years that have concluded that the State should get out of the retail business. The Performance Audit "recommended the division comply with the legislative mandate regarding closure of unprofitable stores". It said the state would have more money if eight of the stores had not been open during fiscal year 81-82. The trend is already to close more stores.

The Governor's Council on Management recommended closing the stores.

Senate Bill 405 is a bill to provide for the discontinuance of the state retail stores in an orderly manner that we feel will properly service the public, provide control on distribution through start up and annual fees, and provide as much or more revenue to the state.

The state would operate its wholesale store called "State Liquor Store", in Helena and sell the product on the formula of: cost of merchandise (+) freight in (+) "mark up as designated by the department". (Page 12, line 6).

Senator Harold L. Dover
SB 405 p. 2

(This has been suggested it be set at present 40%) (+) 26%
tax less 10% for sale in case lots.

A "Licensed retailer" can buy from the state liquor store (Page 3, lines 15, 16). "A Licensed Retailer" means the owner of an all-beverages license or an off-premises-consumption-only license.

There are three ways to get a license to do retail business:

1. Bid on the inventory, fixtures and lease (Page 27, Section 24). The store would not be required to do business in the same location as the former state store but would assume any legal problems associated with terminating the lease and moving to another location. They do not have to pay the initial fee. They will pay the annual fee of \$800. (It has been suggested we might want to give the present operator 1st option).

2. After January 1, 1985 (Section 25, Page 28), a qualified applicant would be able to purchase an "Off Premise License". There are two categories:

a. Cities with a population of 10,000 or more or within a distance of 5 miles thereof, can buy a one-time, non-transferable license at a fee of \$10,000, and the annual fee ^{and} ~~of~~ \$800.

b. All others can get a one-time, non-transferable at a license fee of \$5,000 or \$800 annual renewal fee.

3. Hold an all-beverage license.

Senator Harold L. Dover
SB 405
p. 3

There is an annual fee of \$2,000 for a state liquor store permit (Page 20, line 25 to Page 21, line 1), which may be obtained only by licensed retail businesses. They can buy packaged goods from the State Liquor Store at a 10% closeout (Section 10, Page 15, lines 3-11).

Those who buy the liquor store permit "must have a fixed place of business with facilities for the distribution and sale to other licensed retailers" (Page 24, line 25 and Section 21 (2), Page 26). They must make a good faith effort to maintain stock that is sufficient to meet the usual and ordinary demands of other liquor license holders.

Section 22, Page 26, "As a condition of retaining a state liquor warehouse permit, the permitholder must give a discount of 5% or more to retail licensees who purchase liquor from the permitholder in unbroken case lots."

Section 18, Page 24, "No off-premises-consumption-only license may be issued pursuant to [sections 15 through 18] to any person, firm or corporation that intends to operate a business in which the sale of liquor is not the primary source of income".

This bill authorizes all license holders to purchase from any owner of an all-beverage license or an off-premises consumption license.

The state will be out of the Liquor Retail Store business by December 31, 1984 (Section 24 (1), Page 27).

We believe this bill provides for an orderly transfer of liquor stores from the state to private licensees. It will retain the revenue for the state with the state having much less responsibility and less exposure to profit loss. It provides a control on the sale of the product - It protects present operators (no initial fee - 2 years to get set up before others can start). It may provide more jobs than presently - because the state is having to close agencies and stores because they are unprofitable. It keeps the liquor business off to itself (not opening it up to grocery stores, etc., - because it must be a major business).

Jim Spring will explain charts of the transition.

Bruce Simon will show the financial charts.

I urge you do pass Senate Bill 405.

SENATE STATE ADMINISTRATION
SENATE BILL NO. 405

Exhibit 12e

1. Page 4, lines 6 and 7.

Following: "wholesale price" on line 6

Strike: "of liquor as fixed and determined by the
department"

2. Page 4, line 24.

Following: "means a"

Strike: "retail"

3. Page 5, line 14, following "The"

Insert: "base"

4. Page 5, line 15, following "department"

Strike: "And charged to persons with a valid state
liquor warehouse permit"

Insert: ", which includes cost, freight, and markup"

5. Page 11, line 14.

Following: "wholesale"

Strike: "selling"

6. Page 12, lines 1 and 4.

Following: "wholesale"

Strike: "selling"

7. Page 20, line 17.

Following: "10,000 or more"

Insert: "or within a distance of 5 miles thereof"

8. Page 24, line 25 through page 25, line 1.

Following: "fixed place of business"

Strike: "and sufficient capital and"

Insert: "with"

9. Page 28, line 2.

Following: "additional"

Insert: "initial"

10. Page 28, line 3.

Following: "paid."

Insert: "The annual renewal fee provided for in 16-4-501
must be paid each year."

HELENA WAREHOUSE

- Receive Merchandise From Distillery
- Add on to the Cost of Merchandise
 - + Freight In
 - + Freight Out
 - + 40% Mark Up
 - + 26% Tax

SHIPPED BY CONTRACT
WITH PRIVATE CARRIER

STATE LIQUOR STORE

RETAIL SALES

60% TO LICENSEE's
40% TO PUBLIC

PROPOSED OPERATIONHELENA WAREHOUSE

- Receive Merchandise From Distillery
- Add on to the Cost of Merchandise
 - + Freight In
 - + 40% Mark Up
 - + 26% Tax
 - 10% Case Discount

ORDERED AND SHIPPED
BY WAREHOUSE PERMITTEE

WAREHOUSE PERMIT

- Require Annual Permit at \$2,000.00
- Require Discount For Case Sales
- Require Qualifications for Permittee

PHASE I

-Existing Licensee
Approx. 1500

Off Premise Sales

Retail Sales →

PUBLIC

Offer for Sale
State Liquor Stores;
Inventory Lease
Assets by Public Bid

PHASE II
January 1, 1983

NEW LICENSES

10,000 (+) Population
\$10,000.00 One Time

Under 10,000 Population
\$5,000 One Time

EXHIBIT 13
State Admin
Feb. 17, 1983

July 1, 1985

Close All Unsold Stores

EXHIBIT 13

EXHIBIT 14a
State Admin.
Feb. 17, 1983

TESTIMONY OF BRUCE SIMON
IN SUPPORT OF SENATE BILL 405

My Chairman and Committee Members. My name is Bruce Simon, Vice President of Coles Department Store and former member of the Governor's Council on Management. I am appearing here today as a proponent of Senate Bill 405. I am representing myself and not the council. The intent of this bill is to phase out the state's involvement in the liquor retail store operations. My testimony will clearly show that by reducing the Liquor Enterprise to warehousing and purchasing operations, more revenue will be returned to the states' general fund.

First, I will provide you with some background information. This bill is the direct result of a recommendation of the Governor's Council on Management. In my opinion, our review of the Liquor Enterprise operations was extremely thorough and professional. A total of twelve man weeks (60 man days) was spent in studying the Liquor Division. Assigned to this phase of the study were myself; Dennis Schanz, who has several years experience in merchandising operations and inventory control with Gibsons of Montana; and Rick Thomas, who is responsible for budgeting and financial planning for the Montana Power Company and worked for four years as a management consultant.

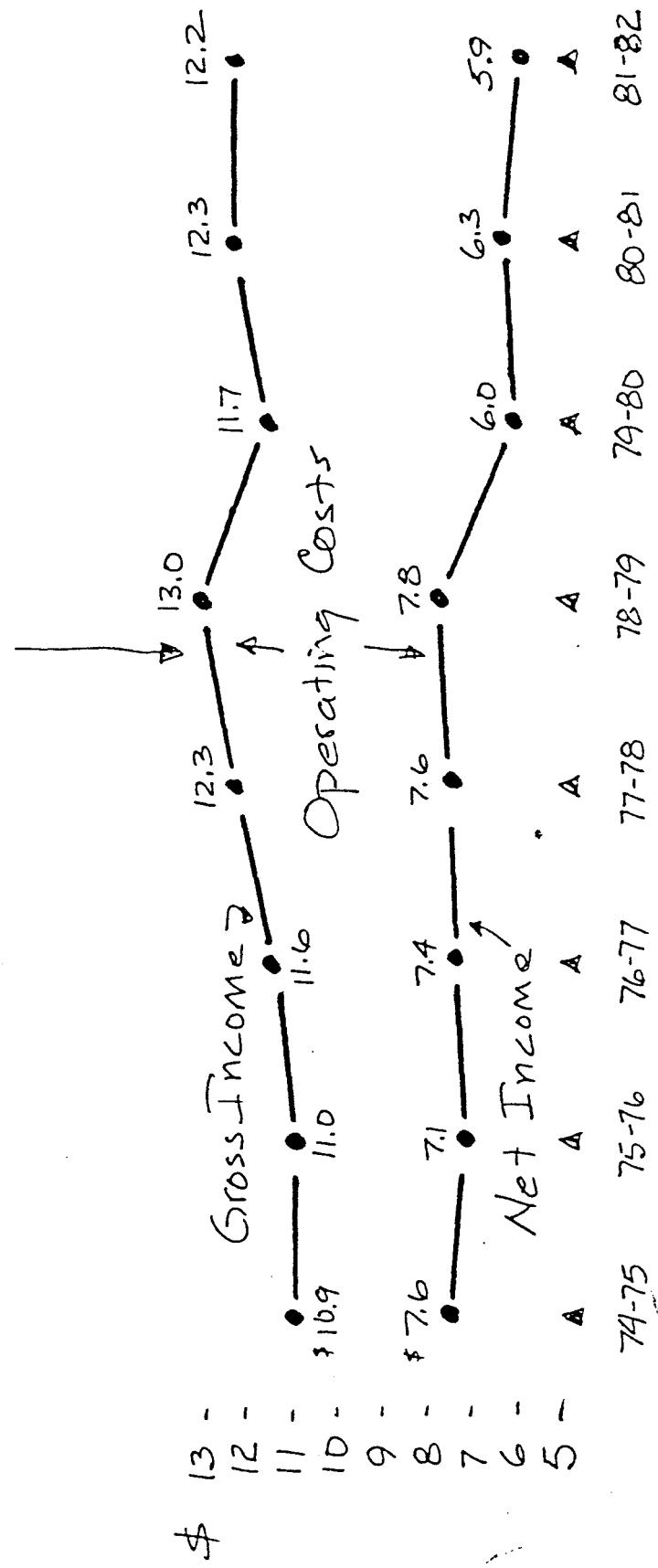
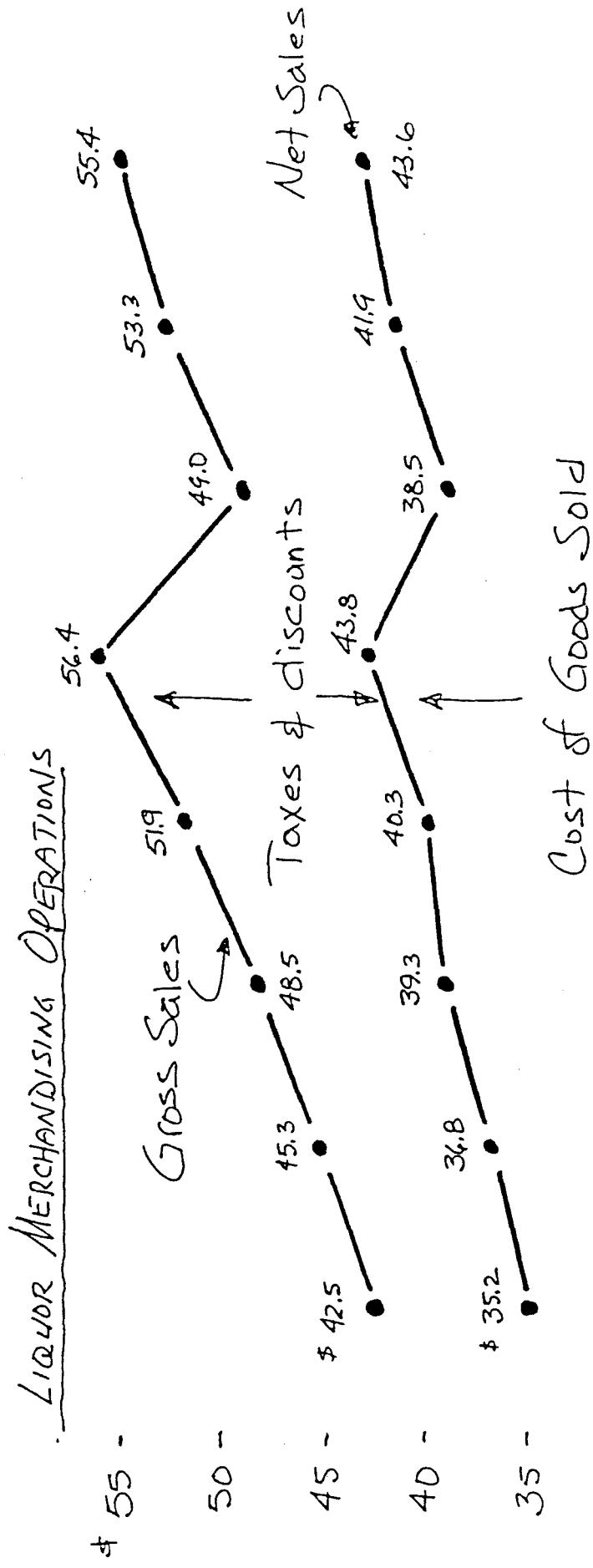
We have prepared two graphs and tables to demonstrate the financial performance over the past eight years and how this continually deteriorating situation can be reversed by passage of Senate Bill 405.

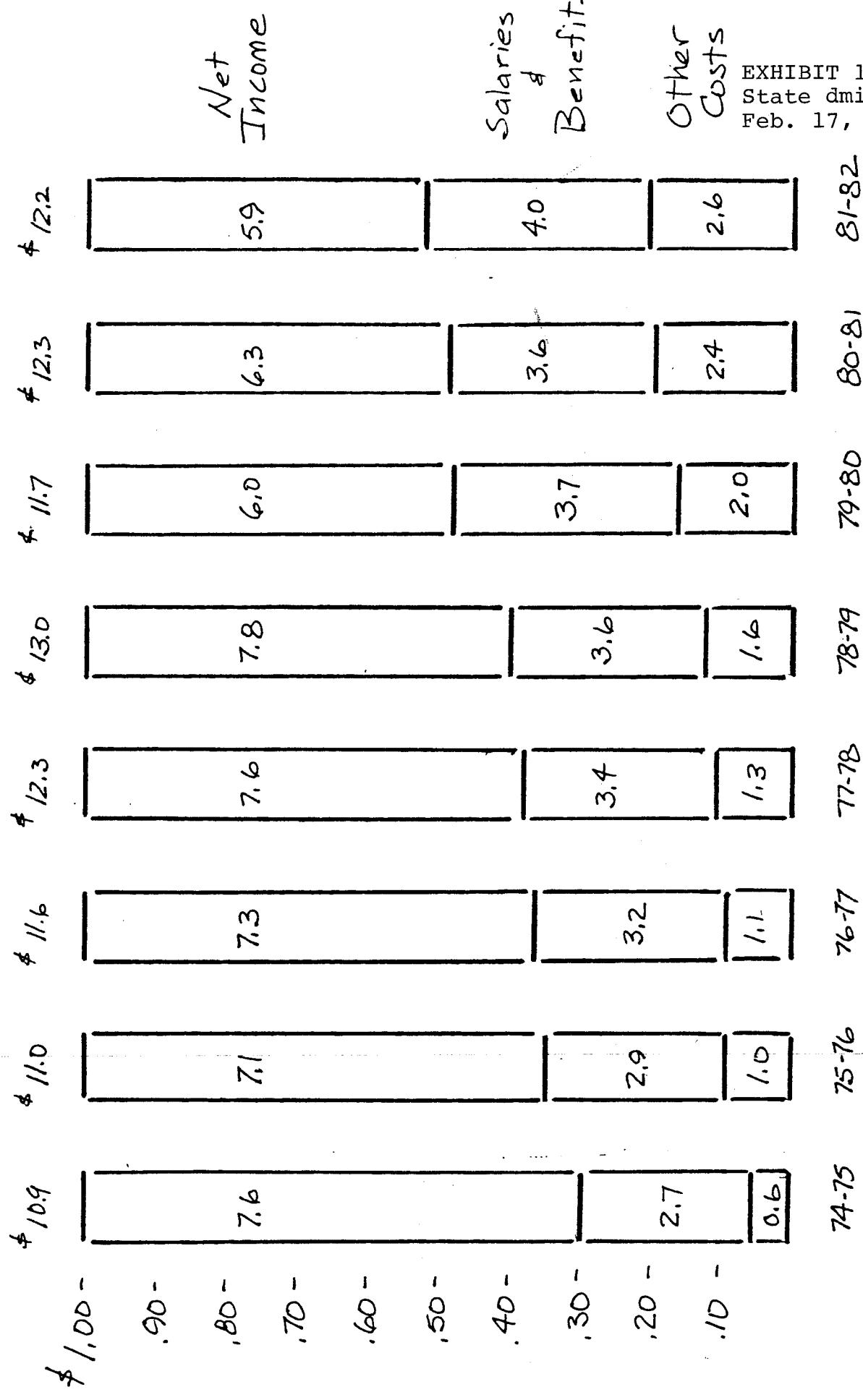
Graph No. 1 shows that Gross Sales increased steadily from 1974-75 (\$42.5 million) to 1978-79 (\$56.4 million) and during this same period Net Income remained fairly steady (\$7.6 to \$7.8 million). In 1979-80 wine was allowed to be sold in grocery stores and drug stores. Gross Sales and Net Income both declined to \$49.0 million and \$6.0 million respectively. Since then, Gross Sales have continued to increase and are at nearly the level prior to the wine initiative (\$55.4 million), but Net Income has gone down (\$5.9 million).

Why has net income gone down, even though sales have increased? Graph No. 2 and Table No. 1 both demonstrate that Salaries, Benefits and Operating Costs have increased steadily from 30.4 cents per dollar of Gross Income in 1974-75 to 52.5 cents in 1981-82. (Gross Income is what is left to pay operating costs and provide net income, after paying for the product, freight and discounts and after deducting for taxes). For any business to remain profitable, it must control its operating costs. The Liquor Division performance over the past years indicates that costs have grown faster than sales.

Our solution to this problem is shown on Table No. 2. This table was taken directly from the Council's report and has been updated for actual results. (Comparing Columns 2 and 3 demonstrate the accuracy of the estimate in May and the thoroughness of the study.) Column 4 represents what the financial statements would have been in 1981-82, if the state had only been in the wholesale business. As you can see, Net Income would increase from \$5,935,000 to \$7,952,000 and there would be \$1,805,000 more revenue returned to the states general fund (cash flow advantage), assuming the same level of sales. If sales had been 10 percent higher, then \$3,679,000 more cash would have been returned. It is likely that wider distribution would result in a sales increase and this is supported by a Legislative Fiscal Analyst report in 1976 which predicted a minimum of 10%.

In conclusion, Mr. Chairman, I support this bill because our investigations clearly show that the trend of increasing costs and declining profits appear to be irreversible. In today's tight budget, the people of Montana cannot afford the luxury of continuing the Liquor Enterprise in its present form, and should enjoy the added revenue that would come from this proposal. I urge this committee to vote a do pass recommendation.



Distribution of Gross Income

	<u>74-75</u>	<u>75-76</u>	<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80-81</u>	<u>Estimate</u>	<u>Actual</u>
								<u>81-82</u>	<u>81-82</u>
Gross Sales	42542	\$ 45445	\$ 48537	\$ 51880	\$ 56350	\$ 48970	\$ 53289	\$ 56700	\$ 55356
Less: Discounts	0	<u>873</u>	<u>974</u>	<u>1039</u>	<u>1142</u>	<u>913</u>	<u>956</u>	<u>980</u>	<u>(960)</u>
Less: Taxes	<u>(7383)</u>	<u>(7745)</u>	<u>(8251)</u>	<u>(10528)</u>	<u>(11360)</u>	<u>(9549)</u>	<u>(10448)</u>	<u>(11100)</u>	<u>(10836)</u>
Net Sales	35159	36827	39312	40313	43848	38508	41885	44620	43560
Cost of Goods Sold	<u>(24281)</u>	<u>(25843)</u>	<u>(27755)</u>	<u>(28043)</u>	<u>(30837)</u>	<u>(26832)</u>	<u>(29585)</u>	<u>(32410)</u>	<u>(31088)</u>
Gross Profit-Sales	10878	10984	11557	12270	13011	11676	12300	12210	12472
Other Income	<u>13</u>	<u>14</u>	<u>6</u>	<u>8</u>	<u>8</u>	<u>9</u>	<u>9</u>	<u>—</u>	<u>14</u>
Gross Income	10891	10998	11563	12278	13019	11685	12309	12210	12486
Operating Expenses:									
Salaries & Benefits	2696	2895	3192	3395	3550	3739	3623	3948	3967
Contract Services	51	237	242	286	378	494	774	874	903
Rent & Utilities	365	420	443	518	645	701	800	1001	886
Allocable Expenses	9	132	119	156	196	370	391	401	439
Other	<u>199</u>	<u>210</u>	<u>252</u>	<u>346</u>	<u>462</u>	<u>338</u>	<u>442</u>	<u>324</u>	<u>356</u>
Total	3320	3894	4248	4701	5231	5642	6030	6548	6551
Net Income	7571	7104	7315	7577	7788	6043	6279	5662	5935
Net Income as a % of Net Sales	21.5%	19.3%	18.6%	18.8%	17.8%	15.7%	15.0%	12.7%	13.6%
Salaries & Benefits as a % of Gross Income	24.8	26.4	27.6	27.7	27.3	32.0	29.4	32.3	33.5
Operating Expenses as a % of Net Sales	9.4	10.6	10.8	11.7	11.9	14.7	14.4	14.7	15.0
Operating Expenses as a % of Gross Income	30.4	35.4	36.7	38.3	40.2	48.3	48.9	53.6	52.5

Note: Estimate for 81-82 based on 9 month's actual results plus 3 month's estimate.

Updated on
11/12/82 by
R. L. Thomas

Table No. 2

Merchandising Operations
1981-82 Proforma Analysis

EXHIBIT 16b
R. L. Thomas
Tenn 4 STATE
Report #14a ADMIN
5/5/82 2/17/83

(Dollars are in thousands)

	(1) 3/31/82	(2) 9 months Actual	(3) 1981-82 Estimate	(4) Same Sales	Wholesale Business (5) 10% Sales Increase
Gross Sales	\$42524	\$56700	\$55356	\$55356	\$60900
Less: Discounts	(734)	(980)	(960)	(5536)	(6090)
Less: Taxes	(8321)	(11100)	(10836)	(10624)	(11690)
Net Sales	33469	44620	43560	39196	43120
Cost of Goods Sold	(24310)	(32410)	(31088)	(30479)	(33530)
Gross Income	9159	12210	12472	8717	9590
Other Income	-	-	14	-	-
Operating Expenses:					
Stores Bureau	3750	5037	5022	0	-
Liquor Administration	187	259	194	97	110
Purchasing Bureau	96	162	134	134	150
Warehouse Bureau	224	350	314	314	330
Stores Administration	267	416	335	0	-
Allocable Expenses	239	324	439	220	240
Total	4763	6548	6551	765	830
Net Income	4396	5662	5935	7952	8760
<u>Cash to State</u>					
Taxes		11100	10836	10624	11690
Net Income		5662	5935	7952	8760
Total		16762	16771	18576	20450
Cash Flow Advantage		-	-	1805	3679
Net Income as a %					
of Net Sales	13.1%	12.7%	13.6%	20.3%	20.3%
Operating Expense as a % of Net Sales	14.2%	14.7%	15.0%	2.0%	2.0%
Operating Expense as a % of Gross Income	52.0%	53.6%	52.5%	8.8%	8.7%

DEPARTMENT OF REVENUE

EXHIBIT 17a
State Admin.
Feb. 17, 1983



TED SCHWINDEN, GOVERNOR

MITCHILL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

MEMORANDUM

TO: Howard Heffelfinger, Administrator
Liquor Division

FROM: Michael G. Garrity, Tax Counsel
Legal Bureau

DATE: February 16, 1983

RE: Senate Bill 405. LC 2091/01 Proposed Legislation
to Remove the State of Montana from the Retail Liquor
Business

A complete legal review of Senate Bill #405, recently introduced before the 48th Legislative Session, is difficult because of the length of the proposed legislation and the time restraints placed upon legal review. The following legal review of Senate Bill 405 shall address specific legal problems of proposed statutory language, where appropriate, and address general legal problems in broad conceptual discussion.

Page 1, lines 4 and 5 - The initial sentence of the bill title appears to be inappropriate. Although Senate Bill 405 proposes to remove the State from the retail liquor business, the State, under its enforcement powers, will retain "control" over retail liquor businesses.

Page 1, lines 21 through 25, and Page 2, lines 1 through 8 - The purported intent of these amendments to §16-1-103, MCA, is to remove the State's authority to operate state liquor stores and engage in the retail sale of liquor. These amendments may be premature since §24 of Senate Bill 405 empowers the Department to operate a state liquor store not sold by the Department until July 1, 1985.

While Senate Bill 405 attempts to remove some statutory references to state liquor stores, it fails to clearly distinguish the state liquor stores from the newly created "retail package liquor stores" which Senate Bill 405 defines as "off-premises-consumption-only licenses".

Page 2, lines 22 through 24, and Page 14, lines 2 through 5 - These amendments repeal the Department's power and authority to contract for and operate agency liquor stores. However, §24 compels the Department

Howard Heffelfinger, Administrator
February 16, 1983
Page - 2 -

to: ". . . sell all existing state retail liquor stores, including agency stores. The sales must be made through a sealed bid procedure to qualified bidders and sold, if possible, by December 31, 1984". The repeal of the Department's power to operate agency liquor stores may be premature in light of §24's previously cited provision which authorizes the Department to operate a state store not sold by the Department until July 1, 1985.

Page 3, lines 15 through 17 - Senate Bill 405 defines "licensed retailer" to be ". . . the owner of an all-beverages license or an off-premises-consumption-only license". The terms "licensed retailer" are later utilized to distinguish which licensees may apply for and receive a State liquor warehouse permit. This newly created class of off-premises-consumption-only licenses is a very awkward designation. There currently exists an off-premises consumption retail beer license. A "licensed retailer" has previously been construed by the Department to mean an all-beverages licensee, an off-premise consumption beer licensee, and an on-premise consumption beer licensee. It would appear Senate Bill 405 creates an off-premises-consumption-only license for a retail package liquor store without on-premises consumption. The latter designation is much less confusing. It is additionally unclear whether the off-premises consumption-only license is limited to distilled spirits and wines with an alcohol content over 14%. However, later amendments to statute found within Senate Bill 405 imply the newly created license is a off-premises-consumption-only "liquor" license. Liquor is defined as "alcoholic beverage except beer and table wine".

Page 5, lines 1 and 2 - Throughout Senate Bill 405, there is repetitious referral to both "state warehouse permits" and "state liquor warehouse permit" and "state wholesale permit". All references should be to "state liquor warehouse permits".

Page 15, lines 3 through 11 - Senate Bill 405 increases the discount on case lot purchases to 10% when the case lot is purchased from the State by a ". . . licensee with a state wholesale permit. . .". It would appear this amendment should authorize the increase discount on case lot purchases to the newly created "state liquor warehouse permittees". This same inconsistent reference to "wholesale permittees" is found in line 15.

Page 16, line 9 - Senate Bill 405 amends §16-4-405, MCA, to include the newly created off-premises-consumption-only licensee to other classes of retail licenses for the purpose of expanding the Department's denial of license power. It would appear the same result may be accomplished accomplished by a general reference to "retail licensees" if the previously discussed definition of a retail license is clarified.

Pages 21 through 28 - Senate Bill 405 proposes new sections to the Montana Alcoholic Beverage Code which would most probably be organized into two parts entitled "off-premise-consumption-only licenses" and "state liquor warehouse permits". Please note there is no restriction similar to §16-4-205, MCA, which might limit an ownership interest in more than one off-premises-consumption-only license or state liquor warehouse permit. Additionally, Senate Bill 405's newly created statutory scheme allows the commingling of the wholesale and retail sectors. The Department of the Treasury, Bureau of Alcohol Tobacco and Firearms has promulgated federal regulations in the area of unlawful trade practices under the Federal Alcohol Administration Act.

27 C.F.R. §6.25 specifically provides:

Industry members are prohibited from inducing the purchases of a retailer by acquiring or holding any interest in any license (State, county or municipal) with respect to the premises of a retailer.

27 C.F.R. §6.31 specifically provides:

Industry members are prohibited from inducing the purchases of retailers by acquiring an interest in real or personal property owned, occupied, or used by the retailer in the conduct of the business.

27 C.F.R. §6.11 defines industry member as "any person engaged in business as a distillery, brewer, rectifier, blender, or other producer, or as an importer or wholesaler of distilled spirits, wine or malt beverages, or as a bottler or warehousemen and bottler, of distilled spirits; industry member does not include an agency of the state or political subdivision thereof, or an officer or employee of such agency. Retailer is defined as: ". . . any person engaged in the sale of distilled spirits, wine, or malt beverages to consumers. A wholesaler who makes incidental retail sales representing less than 5% of the wholesalers total sales volume for the preceding two-month period should not be considered a retailer with respect to such incidental sales".

Page 21, lines 6 through 10 - Senate Bill 405, at §15, empowers the Department to exercise its discretion to ". . . issue an off-premises-consumption-only license for the sale of liquor for off-premises-consumption-only to a fit and proper person, firm, or corporation upon compliance with the provisions of [§§ 15 through 18]." Presumably the licensing criteria found at §§16-4-401, MCA, et seq., would apply in determining which applicants are "fit and proper". However, an argument might be made that mere compliance with §§15 through 18 is the only criteria required by statute.

Howard Heffelfinger, Administrator
February 16, 1983
Page - 4 -

Page 24, lines 15 through 20 - Senate Bill 405, §18, prohibits the issuance of an off-premises-consumption-only license to any applicant who ". . . intends to operate a business in which the sale of liquor is not the primary source of income". This is a vague and ambiguous licensing criteria which could result in off-premises-consumption-only licenses being issued for virtually any form of business, e.g., gas stations, hardware stores, auto parts stores, etc.

Page 24, lines 22 through 25, and Page 25, lines 1 and 2 - Senate Bill 405, §19, requires an applicant for a state liquor warehouse permit to possess ". . . a fixed place of business and sufficient capital and facilities for the distribution and sale of liquor to other licensed retailers". The Department's application of this subjective test to an applicant and his proposed premises should pose considerable problems.

Page 26, lines 17 through 22 - Senate Bill 405, §21, prohibits the Department from issuing a state liquor warehouse permit to an applicant ". . . who does not in good faith intend to maintain an adequate inventory and to carry on a business for the distribution of sale of liquor at wholesale to other licensed holders or at retail to the public at the location named in his license". Such vague and ambiguous statutory criteria appears to be unenforceable and of little merit.

Pages 24 through 27, §§18 through 23, creating and effecting the newly proposed state liquor warehouse permit, fails to provide for the transfer of ownership or transfer of location of a state liquor warehouse permit.

Page 27, lines 9 through 24 - Senate Bill 405, §24, requires the Department to sell all existing state retail liquor stores, including agency stores ". . . through a sealed bid procedure to qualified bidders". A minimum price is established to be ". . . not less than the value of the average daily inventory at the store". It would appear such a minimum price is far less than fair market value of a state liquor store. Additionally, reference is made to the "highest qualified bidder," being entitled to all right, title and interest to the store, inventory, store fixtures, lease and related merchandise and equipment. Clarification of "highest qualified bidder" is necessary to ensure purchase by a highest bidder who qualifies as an applicant for the newly created off-premise-consumption-only license.

Page 28, lines 20 and 21 - Senate Bill 405, §28, provides an effective date upon passage and approval of Senate Bill 405. Such an effective date upon passage and approval might pose severe administrative problems unless sufficient statutory clarification is provided, particularly in the areas of continued operation of state liquor stores and agency liquor stores.

TESTIMONY OF DAVE BARNES
REPRESENTING THE UNITED FOOD & COMMERCIAL WORKERS
ON SENATE BILL 405, HEARINGS BEFORE THE
SENATE STATE ADMINISTRATION COMMITTEE, FEBRUARY 17, 1983

EXHIBIT 18a
State Admin.
Feb. 17, 1983

I am David Barnes, international representative for the United Food and Commercial Workers International Union. Our union represents the approximately 246 people now employed in state liquor stores. Our union opposes Senate Bill 405, which would abolish the state liquor store system.

We oppose this bill first of all because it would throw these employees out of work. At a time when the Montana State Legislature is seeking ways to provide jobs, it doesn't make sense to force these people to join the ranks of the unemployed. There are over 40,000 jobless Montanans right now, with more than 50,000 projected to be unemployed in the next few months.

The average age of liquor store clerks is 47, with more than half of them over 50 years old. These employees will lose not only their jobs, but their health insurance, retirement and other benefits. And, it will be almost impossible for these older workers during the current economic recession to find other employment. Their earnings have not been great, and most have little or no savings to fall back on.

Our union looked into the prospects for re-employment for these liquor store clerks recently. We found the prospects for re-employment in the retail industry are poor. Many retail businesses have reduced their sales staffs and have other employees working on reduced hours.

It has been suggested that many of these liquor store clerks might be employed by the successful bidders on these stores from the private sector. However, our information indicates that at least initially, bidders will be small businesses. In our experience, small businesses tend to hire family and friends first, and pay lower wages and benefits.

It is important to note that these employees do not cost the taxpayers a single dollar.

They are funded entirely through the sales of liquor and wine.

In addition, they collect excise and license taxes and provide a profit which goes into the general fund. This benefits all Montanans.

We also believe that should this bill pass, the consumer will be forced to pay higher prices, especially in smaller communities. The large scale operation of the state allows for lower costs, not available for small businesses.

And eventually we may see in Montana liquor store chains which are wholly-owned subsidiaries of grocery store chains. This is the case in the state of Alaska, for example. These chains would probably run the small business, Montana-owned liquor stores out of business, and the profits would not stay in Montana. With the current state monopoly, every penny of profit goes to benefit the people of Montana.

For jobs, for the consumer and for the Montana taxpayer, we urge you to vote against Senate Bill 405.

Thank you.



EXHIBIT 19
State Admin.
Feb. 17, 1983

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF JAMES W. MURRY ON SENATE BILL 405, BEFORE THE SENATE COMMITTEE
ON STATE ADMINISTRATION, FEBRUARY 17, 1983

I am Jim Murry, executive secretary of the Montana State AFL-CIO. I am here today to oppose Senate Bill 405. This bill would remove the retail liquor business from state control.

The Montana State AFL-CIO believes that the current system of state liquor stores works well. Profits from the sale of liquor go into the state's general fund, which cannot afford to lose more revenues. The state budget is already suffering from the effects of the current economic recession and from cutbacks in federal funding.

State liquor store employees perform their jobs effectively and efficiently. It is unfair that they should lose their jobs through no fault of their own, especially when the state is suffering from the highest unemployment since the days of the Great Depression. And, funding for these employees comes from the sales of liquor, not from taxpayers' pockets.

State liquor stores have provided the consumer with a wide choice of liquor at reasonable prices. We fear that if the stores were not run by the state, the costs to the consumer would rise, and the selection, especially in less populated areas of the state, would be smaller.

You have heard us say before, "if it ain't broke, don't fix it." That is how we feel about the state retail liquor business.

Please vote against Senate Bill 405.

Thank you.



THIS IS WHAT WILL HAPPEN IF WE ALLOW THE OUT-OF-STATE CHAIN STORES TO HAVE A MONOPOLY ON WINE OVER THE COUNTER



BROKEN GLASS LITTER & ACCIDENTS WILL OCCUR

BEER HAS 3.2% ALCOHOL BY VOLUME WHEREAS WINE HAS A 14% ALCOHOL BY VOLUME OR 438% STRONGER. MORE YOUNG PEOPLE WILL BE DRINKING INSTEAD OF BEER & BUSTS! IT WILL BE WINE. IT WILL BE ACCESSIBLE & CREATE MORE ALCOHOLICS AT A TIME WHEN WE'RE TRYING TO CURB & TREAT ALCOHOLISM.

IN THE GUTTER



VISUALIZE THE OUTCOME!

WHAT NEXT BY THE BIG CONGLOMERATES?

GREAT FACTS TRIBUNE - MON. NOV. 6, 1978. PAGE 21.
Pol. Ad. paid for by Political Action League (P.A.L.), Tom O'Brien, Treas., Box 2718, Great Falls, and Paul Pistoria for Legislature, Kathryn M. Pistoria, Treas., 2421 Central Avenue, Great Falls, Mont.

Cartoon by
Paul O'Brien
Sat. Oct. 28,
1978

Good morning. I am Rosemary Connelly, I live in Billings and am employed there 2/17/83 as a clerk in a state liquor store.

Right now I'm as frightened as I can ever remember. Maybe terrified better describes my feeling. This legislative session will determine my future, and the 200 plus co-workers employed by the Department of Revenue.

Last September I celebrated my 60th birthday. Things were fine. I had a job, health insurance, was paying into a retirement fund and I was looking forward to spending another six years doing what I'm doing.

It took me 18 months to find this position. I desperately want to keep it. I'm not asking for any favors. I'm willing to work for what I get. What I am asking is LET ME WORK.

I would like to work for at least another five years so that by the time I retire, I have my retirement fund plus some social security and most important I am not a burden on anyone.

What is to happen to us? And if we're here we're to be dumped into the job market. We have worked and are working hard for the people of Montana.

What is it that you people want from the liquor division that we are not delivering? We're working hard for you. We're putting money into the general fund. Will so called "private enterprise" equal what we are doing?

With our State of Montana controlling the sale of liquor it is the one Montana working for and with Montanans... And we Montanans don't work against our own.

~~By private enterprise I mean the liquor division.~~

Speaking for myself, but I know that many others are in the same situation.....

I don't want to be faced at my age with having to look for a job. This time I have no savings to fall back on. and with the economy the way it is..... jobs are extremely hard to find. Unemployment benefits don't last forever and from there it would no doubt be welfare. I have discovered the only thing I'm too young for is Social Security. ^{our president says him} ~~the standard of my job has come in the job market~~ All of my adult life I have supported the state of Montana. I pray with all my heart and soul that you won't make me end up making the state of Montana support me. PLEASE, I beg of you... don't take our jobs LET US WORK.