

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

February 6, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on February 6, 1987 at 8:00 a.m. in Room 325 of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 562 - Remove the State From the State Liquor Store Business, sponsored by Rep. Bruce Simon, House District 91, Billings. Rep. Simon stated that this bill was one of two bills designed to get the state out of the retail liquor business, and proposed to make a change in the taxing structure of the Liquor Division. He said that currently the taxes are based on the price with a flat percentage markup, and he is proposing a flat tax based on liters which is similar to the current taxes used on wine and beer where the volume of product is used for measuring the taxes instead of the price. He reviewed the information he had compiled and submitted. Exhibit No. 1.

Rep. Simon reviewed the bill and showed the various sections that would be affected, and the minor changes throughout the liquor laws. He said there was a real concern among the persons employed by the liquor stores. He said the state would be leaving the retail liquor business and there would be agency stores, which is the current course. He added that in order to be sensitive to the needs of the employees, a 5% preferential bid for those state employees that wish to become an owner of a state agency store is included in the bill. Exhibit No. 2.

HOUSE BILL NO. 313 - Abolish Liquor Stores, sponsored by Rep. Robert Pavlovich, House District No. 70, Butte. Rep. Pavlovich stated this bill is similar to Rep. Simon's bill, House Bill No. 562, with a different version of having one centrally controlled warehouse in Helena, which we now have, and would only wholesale to taverns. He said there are 1,500 taverns in the state, and those in the Tavern Association feel they are capable of handling the liquor for the state of Montana. He commented that the Department of Revenue is in the process of converting all the agency stores to retail stores on a bidding process, and they plan on converting the state liquor stores in the same respect.

Rep. Pavlovich stated that the Montana Tavern Association fear that eventually the supermarket chains would have the liquor, and possibly would not have good control. He added

that in a newspaper article he read that the state has converted five stores, and one of the stores was making a 6.9 percent profit. He said, it was difficult to believe that anyone could survive on 6.9 percent profit; a large supermarket chain store could because they have other items to sell, but a liquor store could not, and eventually would be out of business. Exhibit No. 3.

Rep. Pavlovich stated he did not want the grocery stores to become involved in the liquor business. He said with his bill the pricing would remain the same; taverns would purchase the liquor from the state warehouse; the freight costs would remain the same, which the tavern owners would share the equally.

PROPOSERS ON HOUSE BILL NOS. 562 AND 313

Phil Strobe, Montana Tavern Association. Mr. Strobe stated that it has been a long standing policy of the tavern industry to encourage the state to get out of the retail business of the sale of liquor. He said the process should be done so that those in the industry are not unreasonably burdened or penalized by the way the state makes the new public policy consideration. He said the system that this bill proposes is that all the liquor is distributed out of a state warehouse and the people that can buy it are similar to beverage licensees and would expand to a package business, and it would include a new market under the tavern businesses, and he feels they would have the capacity to handle this.

Mr. Strobe commented that the concept as proposed by House Bill No. 562 is that the ultimate point of sale is the state warehouse and the private sector picks up the burden of the freight cost. This would give a disproportionate and inordinate advantage to a Helena base retailer because it would not have the freight cost or miles to haul the product, he said.

Roger Tippy, representing Montana Beer and Wine Wholesalers Association. Mr. Tippy stated the Association is in support of both bills. He said that taverns at present have the option of buying wine from a state liquor store or from the wholesaler; and under House Bill No. 562, package stores could obtain their wines either way, so the bills would not be needed to maintain the state as an importer of table wine. He said the wineries and wholesalers feel that the marketing of fortified wines could best be handled as an integrated operation at the wholesale level and do not advocate any new outlets other than those contemplated in the bills be authorized for the retail sale of fortified

wines. He asked that a subcommittee review the marketing and taxation of this under this system.

Mona Jamison, representing the Wine Institute Association of Wineries. Ms. Jamison stated they support both bills, and the comments made by Mr. Tippy on behalf of the wholesalers. She said they believe that the state should be out of the wholesaling of wines, both table and fortified wines, and from an economic standpoint, they believe the wholesalers can better market both of these wines. She said they would be happy to work with the subcommittee for an acceptable resolution to the distribution and wholesale of the wines.

Dwain Iverson, CPA, Shelby. Mr. Iverson stated he is employed by the wholesalers to look at the distribution and the liquor industry in Montana. He commented the state should get out of the retail sale of liquor, that they are in a conflicting position in trying to control consumption and promote the sale of it at the same time. He said he wanted to submit amendments to set up a transportation and distribution system that would be more effective in getting the product to the consumer, because the state is large and if it is done on small packages delivered to each retail establishment it would be very expensive.

Jerome Kohn, consumer, Yellowstone County. Mr. Kohn stated that the state should be out of the liquor business, and believes that House Bill No. 562 would produce as much or more profit for the state than the present system, and consumers would have more selection of brands in the local stores. He said he believes the price of liquor would be lower, there would be more accessibility to the product with a number of liquor stores in the communities, and the employees of the present liquor stores who might be concerned about their jobs need not be because the new store owners would hire them because they knew the business. He said the new store owners would produce more tax roles and an undetermined quantity of additional profit to the state.

OPPONENTS

Claudia Clifford, representing the United Food and Commercial Workers. Ms. Clifford submitted written testimony. Exhibit No. 4.

Frank Capps, owner and manager of Thriftway Stores, Helena. Mr. Capps stated that in October of last year the Department of Revenue, Liquor Division, announced that certain state stores would be offered for bid to the private sector. He said he bid and was awarded a state store, and did some remodeling in his grocery store to accommodate the law requiring a wall between the grocery store and liquor store.

He said he opposes both of these bills because they tend to monopolize the liquor business in the state in the private sector, and would eliminate income from the retail stores.

Bob Heiser, submitted written testimony. Exhibit No. 5.

Warren Peterson, representing state liquor store clerks, Billings, submitted written testimony. Exhibit No. 6.

Marvin Alves, Business Agent for UFCW, representing state liquor store clerks. Mr. Alves submitted written testimony. Exhibit No. 7.

Gary Blewett, Administrator, Liquor Division, Department of Revenue.

Chairman Kitselman cautioned Mr. Blewett regarding testimony given by department administrators in opposition and proposition, testimony should be limited to giving information to the committee.

Mr. Blewett stated that the two bills represent two of several approaches to a liquor recovery plan that the last legislature in special sessions and through the Revenue Oversight Committee considered before settling on the liquor recovery plan the department is operating under at present. He said the last legislature directed the department to convert the 52 stores that were operated by state employees to agencies paid on a sales commission basis. He commented that the liquor recovery plan directed the department to schedule the conversions as existing building leases came due and not before, which would spread the agency conversions over several years, the last to be scheduled in 1991.

Mr. Blewett said the revenue oversight committee recommended this liquor recovery plan to the last legislature for three reasons: 1) it provides the most revenue to the state with the least disruption; 2) it builds on past efforts to improve the profitability of the system; and 3) it honors current contractual obligations. He said the issue over the past few years has not been whether the system produces substantial revenue, it has; the issue is whether the system has reasonably maximized its revenue at little or no additional cost to the purchasing public. He added the liquor system has not been achieving its potential; liquor sales have been declining and is due to different factors: public concern about DUI, new emphasis on health and fitness, and difficult economic times.

Mr. Blewett added that the revenue will decline as sales decline, and reductions need to be made in the expenses of operating the system so that expenses crumbling the public's

revenue return is avoided, and on that issue, the revenue oversight committee focused its attention. He said the liquor recovery plan that's now being implemented will eventually stabilize the expense to sales ratio and maintain a reasonable profit level. These two bills do not meet these considerations that have gone into the current liquor recovery plan, he said.

Ray Trudell, Business Agent representing UFCW. Mr. Trudell stated this bill would eliminate the annual net revenue to the state of Montana, and make the products too widely available to the general public which would promote more DUI.

Mike Grunow, store agent, Lolo. Mr. Grunow stated the important thing is that someone make a decision on which system to use. He said that opening the liquor business to privately owned stores may not produce the amount of revenue that it is currently producing, and felt that all the alternatives haven't been investigated to increase the sales and profits in the state owned and operated liquor stores. He is currently opposed until a better business plan is proposed than these two bills.

QUESTIONS

Rep. Bachini asked Mr. Blewett how many state employees are employed under this program and in the phasing out program what will happen to these employees when the stores are put up for bid. Mr. Blewett replied that there are about 120 people that vary in terms of full-time and part-time, and the only program that is set up is the same program available to all state employees which is the reduction in force policy that gives them preference on any other openings that may become available in the Department, and make referrals to other departments that do have openings for one year after the reduction in force notice. He said there is no opportunity for special severance pay or special reimbursements.

Rep. Bachini commented that within the bills the only thing included is a preference in the bidding process of 5%. He asked the sponsors of the two bills what would happen to these employees if the stores are closed.

Rep. Simon responded that he is sensitive to the employees losing their jobs, and if the state adopts the current plan to convert the stores to agency stores, the state employees would lose their jobs. He said with his plan there is a preference built in and he would like to suggest that a statement of intent be written to address the issue of the employees to mitigate the impacts.

Rep. Pavlovich responded that his bill does not have a provision for the employees. He said there are 1,500 tavern owners and assumed that they would be remodeling to make liquor stores and would be hiring some of the employees.

Rep. Jones asked why the Department of Revenue does not want to lose the agency stores, and what was the basic reason for having the stores, if not for a profit. Ms. Clifford responded that the liquor store system set up by the legislature was a directive to control the sale of liquor.

Rep. Jones asked Mr. Blewett if the system was there to make a profit, and Mr. Blewett responded that it was.

Rep. Brandewie asked Rep. Simon to address the space requirements for a store to carry a full line of liquor, or a requirement for stocking the store with a wide variety of products. Rep. Simon responded that there is nothing in his bill that sets up a specific space requirement, and the state dictating the type of products and quantity the owner should carry would take the control of the inventory away from him.

Rep. Brown stated that the opponents testified that there was a potential in both bills for the increase of sale of the liquor to minors, and increased DUI's, because of the increased selling of liquor to patrons who were already inebriated, and asked both sponsors to comment.

Rep. Simon commented these were the classic fear tactics that were heard every time a bill such as theirs was introduced. He said the fact is that a license to operate a business like this is a precious commodity, and if the owner loses his license he is out of business and severe penalties imposed on him if he sells his product to minors or to someone who is inebriated. He added those same provisions would apply to a package store.

Rep. Pavlovich responded that those liquor licenses are very valuable and the industry would not put their licenses in jeopardy because they have too much to lose.

Rep. Grinde asked Mr. Grunow if House Bill No. 562 became law, would he purchase one of the agency stores. Mr. Grunow responded that he probably would not; he could get a better return on his investment in something else.

Rep. Swysgood asked Ms. Clifford to comment on the question of profitability of the liquor business whether private or state owned. Ms. Clifford responded that the state setting up a state liquor store system was a directive and concern

by the legislature that the state control of the sale of liquor was in the best interests of the public.

Rep. Swysgood asked Ms. Clifford if the state would do a better job of protecting the public and maximizing the profits than the private industry. Ms. Clifford responded that it would; there are no provisions in the proposals other than the current provisions in the law to protect the sale of liquor to minors.

CLOSING - House Bill No. 313

Rep. Pavlovich stated that he did not have a problem with the present system, but if the agency stores are going to convert, he thought it should be done the way his bill proposed. He said that 12 stores have been converted; the one store in Bigfork will get 8.2 percent, and the one in Malta 6.9 percent commission, which does not include expenses. He said eventually these stores would not be able to make a living. He commented that he feared the supermarkets getting the liquor in their stores. He added the biggest problem with the minors getting the beer and wine is that they are buying it in the convenience grocery stores. He said that as long as the state is insistent that they are going to convert, it should be done with either one of the proposals in these two bills.

CLOSING - House Bill No. 562

Rep. Simon stated that from the Liquor Division's annual report for 1985 profits show a decrease since 1983, and that is why they are considering a liquor recovery plan. He said eventually all the stores will be converted, but the problem remains that the system is not working. He said the employees have a legitimate concern, and he would like a statement of intent for the bill to cover the employee issues and to draw up a model of how some of the policy decisions should go for converting the stores from the current system to the proposed system.

EXECUTIVE ACTION - February 6, 1987 - 10:00 a.m.

ACTION ON HOUSE BILL NOS. 313 AND 562

Chairman Kitselman referred House Bill Nos. 313 and 562 to a subcommittee composed of Rep. Simon, Rep. Pavlovich, and Rep. Jones, with Rep. Jones as chairman.

ACTION ON HOUSE BILL NO. 432

Rep. Brown moved that House Bill No. 432 DO PASS.

Rep. Wallin moved a substitute motion that House Bill No. 432 DO NOT PASS.

DISCUSSION

Rep. Simon stated he was in favor of the do not pass motion, because there appeared to be only one facility in the state using pound animals, and there did not appear to be a problem in Montana.

Rep. Wallin stated that the facility at Montana State University buys their animals from out of state and would continue to do that.

Rep. Cohen spoke in favor of the bill. He said there are legitimate uses for animals in research and the bill provides protection to people and their animals by the humane societies operating the pounds around the state.

Rep. Hansen stated she opposed the do not pass motion. She said she felt that the bill was trying to address picking up animals illegally and not the research aspects.

Rep. Brandewie moved amendments to House Bill No. 432. The motion carried unanimously.

Rep. Wallin moved that House Bill No. 432 DO PASS AS AMENDED. The motion carried with Rep. Brown, Rep. Brandewie, Rep. Cohen, Rep. Driscoll, and Rep. Hansen opposed.

ACTION ON HOUSE BILL NO. 381

Rep. Simon moved that House Bill No. 381 DO PASS.

Rep. Simon moved the amendments proposed by the subcommittee.

Rep. Simon stated that the subcommittee tried to resolve the issues in the bill of whether the cosmetologist was an independent business person, and address the issue of who was in control of the shops, the contracts state that they are independent. He said they also added barbers into the bill. He said the subcommittee tried to put definition to address that the people working for a barber shop or a cosmetology establishment would be covered by workers compensation and unemployment insurance, but if they had a contract and acknowledgement that they have sole proprietorship of their individual business they would not be covered.

Rep. Nisbet asked whether the barbers had input on their being added under this bill. Rep. Simon responded that he had spoken to the President of the State Association of

Barbers and discussed the provisions of the bill and she did not see any problems with it. He said he felt they should put barbers in because when barbers are renting individual space in cosmetology salons they should be addressed or there would be another bill on this issue in two years.

Rep. Simon's motion for the amendments was voted on, and carried.

Rep. Simon moved that House Bill 381 DO PASS AS AMENDED. The motion carried with Rep. Brandewie and Rep. Cohen opposed.

ACTION ON HOUSE BILL NO. 569

Rep. Glaser moved that House Bill No. 569 DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 437

Rep. Swysgood moved that House Bill No. 437 DO PASS.

Rep. Swysgood moved the proposed amendments. The motion carried unanimously.

Rep. Swysgood moved that House Bill No. 437 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 232

Rep. Thomas moved that House Bill No. 232 DO PASS.

Rep. Thomas moved the amendments to House Bill No. 232. The motion carried unanimously.

Rep. Thomas moved that House Bill No. 232 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 372

Rep. Brandewie moved that House Bill No. 372 DO PASS.

Rep. Simon moved to amend the bill to insert May 1 as the effective date. The motion carried unanimously.

Rep. Driscoll moved that House Bill NO. 372 DO PASS AS AMENDED. The motion carried with Reps. Grinde, Kitselman, and Swysgood opposed.

COMMITTEE BILL

Rep. Driscoll moved that the Committee be allowed to draft a committee bill to establish independent liability funds.

Rep. Pavlovich suggested that Rep. Cohen sponsor the bill.

The motion carried unanimously.

ADJOURNMENT

The meeting adjourned at 11:00 a.m.

A handwritten signature in black ink, appearing to read "Les Kitseleman", written in a cursive style.

REP. LES KITSELMAN, Chairman

DAILY ROLL CALL

BUSINESS & LABOR

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 6, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

STANDING COMMITTEE REPORT

February 6

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 432

☐ do pass
☒ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1. Page 1, line 12.

Following: "the"

Strike: "importation and"

2. Page 1, line 18.

Following: "all"

Insert: "domesticated"

3. Page 3, lines 11 and 12.

Following: line 10

Strike: line 11 in its entirety and line 12 through
"country"

4. Page 3, lines 15 and 16.

Following: "this state" on line 15

Strike: the remainder of line 15 and line 16 through
"country"

5. Page 4, line 9.

Following: "transported"

Strike: "into or"

6. Page 4, lines 10, 11 and 12.

Following: "state" on line 10

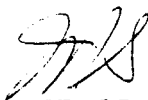
Strike: the remainder of line 10, line 11 in its entirety
and line 12 through "country"

7. Page 5, line 2.

Following: line 1

Insert: "Section 10. Exemptions. Operations and
procedures under the supervision of practicing
veterinarians or physicians who are licensed to
practice medicine in this state are exempt from
the provisions of this act."

Renumber: subsequent sections



FIRST

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STANDING COMMITTEE REPORT

February 6

19 97

BUSINESS AND LABOR

Mr. Speaker: We, the committee on

report **HOUSE BILL NO. 437**

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

AMENDMENTS AS FOLLOWS:

1. Page 1, line 16 and 17
Following: "hearing," on line 16

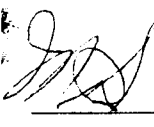
~~Insert: "may"~~
Strike: the remainder of line 16 and line 17 through "may"

2. Page 1, line 17
Following: "may"
Insert: "(B)"
Following: "temporary"
Insert: "cease and desist"

3. Page 1, lines 19 through 21
Strike: lines 19 through 21 in their entirety
Insert: "If the commissioner issues a temporary cease and desist order, the respondent has 15 days from receipt of the order to make a written request for a hearing on the allegations contained in the order. The hearing must be held within 20 days of the commissioner's receipt of the hearing request, unless the time is extended by agreement of the parties. If the respondent does not request a hearing within 15 days of receipt of the order and the commissioner does not order a hearing, the order becomes final."

Renumber: subsequent subsection

4. Page 2, lines 5 through 7
Following: "bond." on line 5
Strike: the remainder of line 5, and lines 6 and 7 in their entirety

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House Bill 437**AMENDMENTS**

Page Two

5. Page 1, lines 8 through 13

Following: "(2)" on line 8

Strike: the remainder of line 8, and lines 9 through 13 in their entirety

Insert: "If a hearing is held on a cease and desist order, both parties have 20 days from the date the hearing is concluded, or from the date a transcript of the hearing is filed if one is requested, to submit proposed findings of fact, conclusions of law, orders, and supporting briefs to the hearing examiner. The parties have an additional 10 days within which to submit comments on the opposing party's proposed findings of fact, conclusions of law, order, and briefs. A final order must issue within 30 days of the submission of the comments."

CLERICAL

Date: 2/1/67

House Bill 437

Time: 2:00 PM

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

House Committee on Business and Labor 2/6

Amendment #1

following: "hearing ^{of}"

#2

insert: " ; (b) "
^

#3

insert: "... receipt of the hearing ^{request} ^{of} unless.."

#5

insert: "... concluded ^{of} or ..."

Lee M. Titus

935 PM Sponsor

Secretary of Senate
or
Chief Clerk

MER

Legislative Council

STANDING COMMITTEE REPORT

February 6

19 37

Mr. Speaker: We, the committee on **BUSINESS AND LABOR**

report **HOUSE BILL NO. 381**

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS.

1) Page 1, line 6
Following: "COSMETOLOGISTS"
Insert: "AND BARBERS"

2) Page 1, line 6
Following: "SPACE"
Insert: ","

3) Page 1, line 7
Following: line 6
Insert: "FURNITURE,"
Following: "OR"
Strike: "EQUIPMENT"
Insert: "FIXTURES"

4) Page 4, lines 8 through 13
Following: "g" on line 8
Strike: the remainder of line 8, lines 9 through 12 in
their entirety, and line 13 through "earnings"
Insert: "cosmetologist who is licensed under Title 37,
chapter 31, or a barber who is licensed under Title 37,
chapter 30, and who has acknowledged in writing that he is
not covered by unemployment insurance and workers'
compensation, and who contracts with a cosmetological
establishment as defined in 37-31-101, or a barbershop as
defined in 37-30-101, which contract shall show the
cosmetologist or barber is free from all control and
direction of the owner, in the contract and in fact;
receives payment for services from his or her individual
clientele; leases, rents or furnishes all or his or her own
equipment, skills or knowledges; and whose contract gives
rise to an action for breach of contract in the event of
contract termination. The existence of a single license for
the cosmetological establishment or barbershop shall not be
construed as a lack of freedom from control or direction
under this subsection."

6

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House Bill No. 381

AMENDMENTS

Page 1

5) Page 7, line 18
Following: "district"
Strike: ".
Insert: "g"

6) Page 7, line 19
Following: line 18
Insert: "(i) cosmetologist's services as defined in
39-51-204(1)(1)."

7) Page 8, lines 1 and 2
Following: "home"
Strike: the remainder of line 1 and line 2 through
"39-51-204(1)(1)."

COMMITTEE OF THE WHOLE AMENDMENT

2-7-87

DATE

9:15

TIME

MR. CHAIRMAN: I MOVE TO AMEND HB 381

2nd

reading copy (yellow) as follows:
Color

1) Page 2, line 10.

Following: "SERVICES"

Insert: "and barber's services"

ADOPT

REJECT

27915T.CW

.....
Rep. Kitzelman

CLERICAL

Date: 2/6/67

H Bill 381

Time: 4:25

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

if B & L Com Rep of 2/6

Amend # 4

insert: line 5	compensation ¹
line 6	37-31-101 ¹
line 11	ments ¹
line 12	skills ¹
line 14	termination ¹ of (the... ¹
line 17	subsection ¹) ¹

11/20/381
for [Signature]
Sponsor
9:36 AM

85

Secretary of Senate
or
Chief Clerk

Legislative Council

STANDING COMMITTEE REPORT

February 6

19 87

Mr. Speaker: We, the committee on **BUSINESS AND LABOR**

report **HOUSE BILL NO. 569**

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman


FIRST

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color

STANDING COMMITTEE REPORT

February 6

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 232

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELHAY

Chairman

AMENDMENTS AS FOLLOWS:

1) Title, line 3

Following: "FEES"

Insert: "AND"

Following: "15-31-524"

Strike: "30-13-217, 30-13-320,"

2) Title, lines 9 and 10

Strike: "35-2-1001," on page 9

Following: "MCA" on line 9

Strike: the remainder of line 9 and line 10 through "MCA"

3) Page 2, line 16 through line 21, page 3

Following: line 15 on page 2

Strike: Sections 2 and 3 in their entirety

Renumber: subsequent sections

4) Page 4, lines 10 through line 6, page 5

Following: line 9 on page 4

Strike: subsection (3) and Section 5 in their entirety

Renumber: subsequent sections

5) Page 7, lines 22 and 23

Strike: Section 8 in its entirety

572
FIRST

WHITE

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color

STANDING COMMITTEE REPORT

February 6

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 372

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1) Page 1, line 6

Strike: "AND"

Following: "MCA"

Insert: , AND PROVIDING AN EFFECTIVE DATE"

2) Page 5, line 9

Following: line 7

Insert: "NEW SECTION. Section 2. Effective date. This act is effective May 1, 1987."

FIRST

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color

HB 562

2/6/32
562

LIQUOR STORE PROPOSAL

I propose to offer a plan that will place the sale of alcoholic beverages in the hands of privately owned stores. Under this plan the state will continue to operate the warehouse in Helena from which all shipments to the private dealers will originate. The state will continue to receive the revenue that it has enjoyed without the risks that the state faces by running the retail stores.

TAXES

The current taxes on liquor are the license tax (10%) and the excise tax (16%). Both of these taxes are added to the price of the product after the state established mark-up (40%) is applied to the distiller cost plus freight in and out. The mark-up produces enough revenue to pay for the cost of operating the Liquor Division and make a sizable contribution to the general fund. Although in recent years the profits have fallen and that has forced several changes to try to improve the shrinking bottom line. This formula has been in use for several years and reflect a major policy that the state has with regard to liquor. That policy is to use liquor as a significant source of revenue.

It is proposed to change the tax structure to tax by the measure of volume rather than by price. The license tax would be changed to \$.65 per liter. This is sufficient to replace the tax now being collected. The excise tax will become \$1.75 per liter. This will replace the taxes and the profit now being produced. Both the excise tax and the profits are going to the general fund so this level of tax will produce the same dollars for the taxpayers. The cost of operating the Liquor Division can be recovered with a handling charge on the distillery price (8%).

PRICE

A goal of the plan has been to keep the price of product at the same level or less while preserving the revenue the state receives from liquor. This plan will do just that. The components of the price will become as follows: distiller cost, handling (8% of cost), freight, excise tax (\$1.75/liter), and license tax (\$.65/liter). The following table shows the price under the present system and the proposed system for several products. It can be seen that the price is less for all products except the least expensive. It should be pointed out however,

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that the Department of Revenue is proposing a price restructuring that will raise the price on products especially in the lower price range.

PRODUCT PRICE COMPARISON

CURRENT 750ML

BRAND	BLACK VELVET	CUTTY SARK	CANADIAN CLUB	SEAGRAMS 7	BARCLAYS BOURBON	GORDONS VODKA
DISTILLER COST	\$4.28	\$7.15	\$5.69	\$4.10	\$3.72	\$3.05
FREIGHT	\$.19	\$.22	\$.23	\$.23	\$.19	\$.19
MARK-UP 40%	\$1.79	\$2.95	\$2.37	\$1.73	\$1.56	\$1.30
EXCISE & LICENSE	\$1.63	\$2.68	\$2.15	\$1.58	\$1.42	\$1.18
TOTAL	\$7.89	\$12.99	\$10.43	\$7.64	\$6.89	\$5.72
STATE PRICE	\$7.90	\$13.00	\$10.45	\$7.65	\$6.90	\$5.75

PROPOSED 750ML STATE PLAN

BRAND	BLACK VELVET	CUTTY SARK	CANADIAN CLUB	SEAGRAMS 7	BARCLAYS BOURBON	GORDONS VODKA
DISTILLER COST	\$4.28	\$7.15	\$5.69	\$4.10	\$3.72	\$3.05
FREIGHT	\$.19	\$.22	\$.23	\$.23	\$.19	\$.19
FLAT CHARGE	\$.28	\$.28	\$.28	\$.28	\$.28	\$.28
MARK-UP .4601	\$2.06	\$3.09	\$2.72	\$1.99	\$1.30	\$1.49
EXCISE & LICENSE	\$1.77	\$2.87	\$2.32	\$1.72	\$1.56	\$1.30
TOTAL	\$8.58	\$13.91	\$11.23	\$8.32	\$7.54	\$6.32
STATE PRICE	\$7.90	\$13.00	\$10.45	\$7.65	\$6.90	\$5.75
INCREASE	\$.68	\$.91	\$.78	\$.67	\$.64	\$.57

PROPOSAL 750ML SIMON

DISTILLER COST	\$4.28	\$7.15	\$5.69	\$4.10	\$3.72	\$3.05
FREIGHT	\$.09	\$.12	\$.13	\$.13	\$.09	\$.09
EXCISE-\$1.75/LITER	\$1.31	\$1.31	\$1.31	\$1.31	\$1.31	\$1.31
LICENSE-\$.65/LITER	\$.49	\$.49	\$.49	\$.49	\$.49	\$.49
HANDLING 8%	\$.34	\$.57	\$.46	\$.33	\$.30	\$.24
<hr/>						
COST TO BAR/RETAIL	\$6.51	\$9.64	\$8.07	\$6.36	\$5.91	\$5.19
RETAIL MARK-UP 20%	\$1.30	\$1.93	\$1.61	\$1.27	\$1.18	\$1.04
<hr/>						
SUGGESTED RETAIL	\$7.81	\$11.57	\$9.69	\$7.63	\$7.09	\$6.22
<hr/>						
STATE PRICE	\$7.60	\$13.00	\$10.45	\$7.65	\$6.90	\$5.75
CONSUMER SAVINGS	(\$.21)	\$1.43	\$.76	\$.02	(\$.19)	(\$.47)
<hr/>						

PACKAGE LICENSE

It is proposed that a new class of license be issued. This package store license would be for a retail store that sells for off premise consumption only. Holders of this license would be authorized to purchase from the state warehouse. This store would replace the present state run store. Owners of these licenses must meet the same qualifications as those that hold all beverage licenses. Except in towns of 2500 or less inhabitants, a license may not be granted to an applicant that operates, manages, or directly or indirectly owns a controlling interest in a grocery store or supermarket of any size that is adjacent to the premises where the license is exercised. Further, at least 60% of the gross sales for any 3-month period must be derived from the sale of alcoholic beverages. The price of a new package store license will be \$15,000 in cities of over 10,000 population and \$5,000 in cities of 10,000 or less inhabitants. The annual renewal fee will be \$1,200.

It is also contemplated that some all-beverage license holders may wish to purchase directly from the state warehouse. It is recommended that an endorsement on the present license be offered. This endorsement would allow the license holder to purchase from the warehouse. The cost of operation of the warehouse would increase if all license holders were granted such authority, therefore the cost of such an endorsement would be \$400 annually. This fee should compensate for the increase in warehouse expense.

STATE REVENUES

The effect on state revenues will be felt in several ways. First the present revenue from liquor will be preserved. In addition, there will be new revenue from the sale and renewal of licenses. These licenses are a new class of license and the money from their sale is totally new money for the state. The renewal is a yearly fee and will continue each year. Of special note is the revenue in the first year. With our current budget problems the sale of the new licenses at their high first year cost will produce some relief but the major dollars comes from the sale of the inventory in the stores. Even allowing a discount of 20% of the retail price we should add over \$5.5 million to the general fund this year. The next table shows the effect on the state revenues.

STATE WAREHOUSE AS PROPOSED

	1986
GROSS SALES	\$28,340,000
(COST+ 8%+FREIGHT)	
PURCHASES	\$25,500,000
FREIGHT	\$800,000
COST OF GOODS SOLD	\$26,300,000
GROSS PROFIT	\$2,040,000
EXPENSE	
ADMINISTRATION	\$170,000
LICENSING	\$170,000
PURCHASING	\$140,000
WAREHOUSE	\$320,000
LEGAL & AUDIT	\$30,000
DEPRECIATION	\$80,000
RESEARCH & INFORMATION	\$220,000
INVESTIGATIONS & ENFORCEMENT	\$300,000
TOTAL EXPENSE	\$1,430,000
PROFIT FROM WAREHOUSE	\$610,000

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REVENUE COMPARISON

PRESENT SYSTEM

1986

EXCISE TAX	\$5,833,106
LICENSE TAX	\$3,645,692
LIQUOR DIVISION PROFITS	\$4,708,199
TOTAL	\$14,186,996

PROPOSED SYSTEM

EXCISE TAX \$1.75/LITER (5.6M LITERS)	\$9,800,000
LICENSE TAX .65/LITER	\$3,640,000
LIQUOR DIVISION PROFITS	\$610,000
TOTAL	\$14,050,000

FIRST YEAR REVENUES

PACKAGE STORE LICENSE	\$1,160,000
LIQUOR STORE INVENTORY AT RETAIL	\$7,021,027
LIQUOR STORE FURNITURE	\$250,000
LESS DISCOUNT ON INVENTORY - .2	(\$1,404,205)
TOTAL	\$7,026,822

ADDITIONAL YEARLY REVENUE

PACKAGE STORE RENEWALS	\$280,000
TAXES ON PRIVATE STORES	+++++
TOTAL	\$280,000

GRAND TOTAL YEARLY	\$143,014
GRAND TOTAL FIRST YEAR	\$6,897,836

TRANSITION

During the change from state run stores to private stores several issues will need to be addressed. The sale of the existing stores should proceed in an orderly fashion and it is recommended that invitations for bids be prepared. The bid price will include the inventory, the furniture and fixtures and the package license. The bid on a state store must exceed 80% of the total value of the inventory at the posted price plus the cost of a package store license. The new operator must also agree to assume the lease that the state may have on the property.

Agents for the state may apply for a package license for their agency provided they agree to purchase the total inventory at 80% of the total value of the inventory at the posted price and pay the license fee required under this proposal. Present employees or landlords of state owned stores will be granted a bid preference of 5% when bidding on 'their' store. In addition the state could provide for early retirement for older employees with several years of service. Money from the sale of furniture and fixtures could be set aside to fund such a program.

BENEFITS FOR MONTANA

The state will receive several benefits from the plan that is presented above. These include:

1. The state will have continuing revenue from liquor without the risk that is present in the retail business.
2. The state will no longer be in the conflicting position of selling liquor on the one hand and combating the drunk driver on the other hand.
3. The price to the consumer can be kept as low as possible and avoid the price restructuring (price increase) that the state has proposed.
4. The constant political problems of running the stores would be eliminated.
5. New opportunity would be available to businesspeople that in turn would provide jobs and pay taxes.

Simon's Bill has promise

Privatize liquor business

Rep. Bruce Simons, R-Billings, wants the state out of the liquor business — except for the profit, that is.

Simon's House Bill 562 would eliminate Montana's state-run retail liquor store system.

That process has been under way for some time.

Revenue Director John LaFaver told the Legislature recently that he has signed contracts converting 13 more state stores to "agency" status to comply with a directive given him during last June's special session. All remaining 40 state-owned stores are scheduled for conversion by 1991.

Agency stores are operated by private vendors, who must bid for the stores.

But more than 30 legislators sent a letter to LaFaver this session asking him to forego further conversions pending legislative action.

"We feel that it would be inconsiderate of the department to continue to convert state stores to agency stores when it is very likely that the Legislature will decide to make immediate changes in the liquor-retail system other than those being implemented by the department," the legislators wrote.

There are currently five proposals before the Legislature dealing with the subject.

Simon's bill would limit liquor sales to taverns or stores that rely on alcoholic beverages for at least 60 percent of their gross sales over any three-month period.

The point is to keep liquor sales out of supermarkets. That point is debatable. The state has beer and wine sales in supermarkets. The sale of liquor seems little different. Some states, for example, sell liquor in drug stores.

But most of Simon's bill makes great sense.

According to figures he compiled, the bill would offer consumers cheaper liquor and the state an additional \$5.5 million in its first year of operation.

Simon's proposal would get the state liquor stores out of the taxpayers' pockets and on the tax roles. How can the legislators argue with results like that?

NEWS Kalispell, Montana, January 30, 1987

—3

Stuff

New liquor agents signed

The Montana State Liquor Division has awarded contracts to successful bidders/agents in five cities throughout Montana.

In Bigfork, Sam Stephens, a former store manager, will operate the Liquor Agency at the same site as the current operated liquor store, beginning March 2.

The commissioner rate for the Bigfork store is 8.297 percent of sales. Other recently awarded contracts in Conrad, Helena, Malta and Sidney had commission rates varying from as low as 6.9 percent in Sidney to a high of 9.75 percent in Conrad.

Taxi program increased

The Flathead County Area on Aging has increased the subsidized taxi ticket program from two booklets of taxi tickets per week per senior to four booklets per week for each individual senior. A total of 16 booklets may be picked up for the month at one time.

Seniors may pick up ticket booklets at the Flathead County Area on Aging Office at the Courthouse East, Room 205, Kalispell, or at the senior centers in Kalispell, Columbia Falls or Whitefish.

Each booklet contains \$5 worth of taxi coupons which are accepted by the private taxi services within the county. Seniors are asked to donate according to their ability for the tickets.

Progress slow on work comp bill



4
2/6/87
562 - 313

CHARTERED BY
UNITED FOOD & COMMERCIAL WORKERS INTERNATIONAL UNION

TESTIMONY IN OPPOSITION TO HB 562 AND HB 313 PRESENTED BY CLAUDIA CLIFFORD
TO HOUSE BUSINESS AND LABOR, FEBRUARY 6, 1987.

Mr. Chairman, members of the committee, my name is Claudia Clifford and I am here today on behalf of United Food and Commercial Workers. UFCW represents approximately 4,000 workers in Montana, which includes all the state liquor store employees.

You need ~~need~~ to be perfectly clear on what is at issue here: The debate today is de-control of the state's liquor system. You are considering whether the state should retain direct control over the responsible sale of liquor. Your other choice is to trust that private businesses, whose goal is to maximize profits, will assure that minors and irresponsible sectors of the public are prohibited from purchasing liquor. At hand is not the profitability of the state liquor stores or whether Montana has more to gain in revenues by abolishing the state's retail stores.

Let me remind you that the state's retail liquor system was created in 1933 and is based on the premise that it is in the best interest of the people of Montana to have general direct over the sale of liquor. The 1975 legislature reiterated this concern for control when it recodified the state's liquor laws. Thus, these proposals for dismantling the retail system represents more than forty years of explicit legislative concern for control. For almost as many years as there has been control someone proposes to de-control the system, but never gains sympathy from the majority of the legislature.

Just how does the state regulate the sale of liquor? First, it restricts the largest inventory of closed container sales to the hours of 8 AM to 6 PM Tuesday through Saturday. After hours the public must be willing to pay significantly higher prices by purchasing from taverns. Under both HB 313 and HB 562 all liquor can be retailed seven days a week from 8 AM to 2 AM. A very important restraint on DUI is the fact that the largest inventories of liquor are not for sale in the evening hours.

Realize, too, that you employee people in the state liquor stores not only to stock shelves and make sales, but to ensure that liquor is not sold to minors or to inebriated individuals. In privately owned liquor stores, employees tend to be paid low wages and consequently care less about the responsibility of their job. The incentive is to sell more liquor.

Finally, the state regulates the promotion of liquor sales by prohibiting advertising by the stores and requiring that store signs hang only flush in the window and not out from the building to attract

business.

Control does have an effect on the consumption of alcohol. In a report from the Department of Revenue, "the pattern in all eighteen control states (nationwide) has been very clear in that the per capita consumption of alcohol is consistently lower in the control as opposed to open states." In Montana the consumption of beer tripled following implementation of the wine initiative by merely having the product more accessible.

De-control of liquor seems to contradicts all that the state and the legislature has done to curb DUI in the last years.

Proponents of de-control often promise that the private sector can offer a broader selection of products at lower prices. However, when Montana de-controlled the sale of wine just the opposite proved to be the case.

Liquor sales are an important source of revenue to the state. The fiscal note for HB 313 speaks for itself in a biennium loss of revenue over \$8 million dollars. There is not yet a fiscal note on HB 562, but consider the revenue difference in controlled verse uncontrolled states. Although 13 control states have approximately 30% of the nation's population, they generate more than 39% of the total alcohol beverage revenues. The per capita revenue income from alcohol is 8% higher in control states, yet consumers in the remainder of the country drink on the average, 32 percent more liquor. It seems hard to believe that privatizing the system will not be a revenue loss for the state.

Let me also comment on Rep. Simon's projected \$5.5 increases revenue to the state from selling its retail inventory. First, I question whether all or even a majority of the inventory will be purchased. According to Bob Heiser's testimony it is not likely that anyone will purchase the inventory. In previous attempts to sell off the state liquor system, the Department of Revenue reported that estimated "one-time savings from the sale of inventory and equipment ... is highly questionable. Much of the store's inventory... would be returned to the warehouse." Moreover, it is poor public policy to balance the state's budget on one-time shots of revenue.

The fact remains that the state's retail liquor store system is profitable. After paying employees and all expenses, the state retail liquor stores put \$4.4 million dollars into the general fund in FY 85 and \$4.8 million in FY 86. Note that revenues increased 8.16% from 1985 to 1986. The legislature has set a guideline, not to be confused with a mandate, for the Liquor Division to attain a profit goal of 13% The profit in FY 86 was 12.61% which is quite close to the goal and not bad for these hard economic times.

I recommend that you check with the folks in your districts to see if de-control of liquor is a palatable idea. I believe you will find that the Montanans still feel that it is in the best interest of youth and families that liquor sales be controlled. Also, the state's revenue base is shaky enough as is and to consider questionable changes with unpredictable loses of revenue is not wise.

For these reasons I recommend that this committee give HB 313 and HB 562 a DO NOT PASS recommendation.

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DATE 2/6/87
HB 562

THE REALITIES OF ESTABLISHING A "PACKAGE STORE" UNDER HB 562:

NOT FOR THE COMMON MAN

Mr. Chairman, members of the committee, my name is Bob Heiser and I am here today to testify in opposition to HB 562. HB 562 offers a guy like myself the chance to get into a new business. So I sat down and calculated the realities.

For the purposes of this example I have chosen to buy out my local state store in Billings, Liquor store 196 on 24th Street West. Of the four stores in Billings, this ranks third in sales.

The following is a calculation just to buy this package store:

Purchase of current inventory in existing state store the minimum bid of 80% of the retail value.....	\$240,000
Lease for first and last month	\$ 4,400
Utilities first month and deposits	\$ 750
Insurance for first 6 months	\$ 1,750
Retail Package Store license	\$ 15,000
Liquor liability insurance	\$ 5,000
(Carrier will want full year payment upfront.)	-----
TOTAL	\$266,900

Just to open my doors I need almost \$267,000. This excludes operating capital for the first month of business. This is not an option for the common man like myself.

If the tavern across the street want to expand its retail off premise sales it would merely cost them \$400.00 for a warehouse indorsement fee. Then they can begin to sell liquor at the same price or lower than I could afford.

The difference in cost between purchasing a package store and expanding tavern sales is \$266,500. Based on this difference, my package store would be at a significant disadvantage competitively.

WITNESS STATEMENT

2/6/87
562

NAME WARREN L. Peterson BILL NO. 562
 ADDRESS 3833 N. Tanager Lane, Billings, MT 59102 DATE 2-6-87
 WHOM DO YOU REPRESENT? Liquor-store clerks
 SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mr. Chairman, House committee members, my name is Warren Peterson. I work at a state liquor store in Billings, Montana, where I have been employed for 6 years.

Everytime I read a Montana newspaper I am reminded of the tough economic conditions the people of Montana are facing. I do not understand why the legislature would want to contribute to this condition by laying off 155 employees who work in profitable state retail liquor stores which contribute valuable dollars to the general fund. If House Bill 562 is passed the legislature is sending a signal to its citizens that if you want work you will have to leave Montana to find comparable retail work.

I would be reluctant to accept unemployment in a private store because of probable low wages and lack of benefits.

As a state liquor store employee we do not cost the taxpayers one dime in fact we net in 4+ million dollar profit that goes into the general fund that doesn't come off the taxpayers back.

I urge you to oppose House Bill 562

Thank you.

WITNESS STATEMENT

2/6/82
HB 313

NAME Warren L. Petersen BILL NO. 313
ADDRESS 3833 N. Tanager Lane, Billings, MT DATE 2-6-87
WHOM DO YOU REPRESENT? Liquor store clerks
SUPPORT _____ OPPOSE X AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mr. Chairman, House committee members, my name is Warren Petersen. I work at a state liquor store in Billings, Montana, where I have been employed for 6 years.

Everytime I read a Montana newspaper I am reminded of the tough economic conditions the people of Montana are facing. I do not understand why the legislature would want to contribute to this condition by laying off 155 employees who work in profitable state retail liquor stores which contribute valuable dollars to the general fund. If House Bill 313 is passed the legislature is sending a signal to its citizens that if you want work you will have to leave Montana to find comparable retail work.

I would be reluctant to accept employment in a private store because of probable low wages and lack of benefits.

As a state liquor store employee we do not cost the taxpayers one dime in fact we net in 4+ million dollar profit that goes into the general fund that doesn't come off the tax payers back.

I urge you to oppose House Bill 313.
Thank you.

My name is Marv Alves and I am the business agent for the union which currently represents state liquor store clerks. I am here today to express my support for HB 623 and to voice my strong opposition to HB 562 and HB 313. I have received numerous calls from state liquor store employees who have voiced their concerns over the scheduling of this hearing for Friday. Many of these employees wanted to testify on these bills which directly effect their jobs.

State liquor store clerks see their main responsibility as one of guaranteeing public safety. They must ensure that liquor is not sold to minors or to inebriated individuals. We can be grateful for their concerns for our children's safety and the public's general welfare. If one drunk driver is kept off the highways and lives are saved, they have performed an immeasurable service to the public. I personally have never heard of incidents where employees of state owned liquor stores sold alcohol to minors or to intoxicated individuals.

Problems do occur when the private sector sells liquor to the public. Bars and privately owned outlets offer much easier access to alcoholic beverages, especially to minors. My personal experiences with my teenage son have proven this to me. When he was a teenager, he threw a party in my absence, and as result forty-seven minors were arrested for possession of alcohol. There is no doubt in my mind that he did not get the three gallons of Everclear found in the house at a state liquor store. Barkeepers and store owners rarely card an individual as strictly as liquor store employees do; they are just too busy.

The proponents to privatize liquor stores innacurately contend that the state can prevent package stores and taverns from selling liquor to minors and inebriated individuals. But it is very difficult to revoke a license, and it only happens in extreme cases.

In Missoula, for example, three people were tragically killed at a bar before the tavern was shutdown. In state stores, the state can

discharge managers and employees on the slightest infractions; controlling the situation before it gets worse.

In closing, I ask that you vote against HB 562 and HB 313 and vote for HB 623.

COMMITTEE

DATE February 6, 1987

SPONSOR Rep. Robert Pavlovich

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

BUSINESS AND LABOR

BILL NO. House Bill No. 313

DATE February 6, 1987

SPONSOR Rep. Robert Pavlovich

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

CS-33

COMMITTEE

DATE February 6, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE

DATE February 6, 1987

SPONSOR Rep. Bruce T. Simon

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.