

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - SPECIAL SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Senator Mike Halligan, on December 10, 1993,  
at 9:04 a.m.

**ROLL CALL**

**Members Present:**

Sen. Mike Halligan, Chair (D)  
Sen. Dorothy Eck, Vice Chair (D)  
Sen. Bob Brown (R)  
Sen. Steve Doherty (D)  
Sen. Delwyn Gage (R)  
Sen. Lorents Grosfield (R)  
Sen. John Harp (R)  
Sen. Spook Stang (D)  
Sen. Tom Towe (D)  
Sen. Fred Van Valkenburg (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Council  
Beth Satre, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 35, SB 40, SB 41, SB 42  
Executive Action: SB 35

**HEARING ON SENATE BILL 35**

**Opening Statement by Sponsor:**

Senator Bruski-Maus, Senate District 12, said she had realized SB 35 was unmanageable after agreeing to carry it. She indicated she would rather withdraw SB 35 rather than take up the Committee's and the Legislature's limited time.

**EXECUTIVE ACTION ON SENATE BILL 35**

**Motion/Vote:**

Senator Brown moved SB 35 BE TABLED. The MOTION CARRIED  
UNANIMOUSLY.

HEARING ON SENATE BILL 40Opening Statement by Sponsor:

**Senator Mesaros, Senate District 21**, said SB 40 would shorten the time county and local governments must wait before starting the redemption process on property with delinquent taxes. SB 40 would change the current three-year waiting period to 18 months, a move which, he said, would return those properties to the tax rolls a little bit sooner. Currently, he noted, the waiting period and the redemption process mean that generally five or six years pass before the property was back on the tax rolls. He said he had requested SB 40 after being asked to do so by the Cascade County treasurer. He stated 18 months was a fair period of time to allow interested parties to "rectify the situation", and added SB 40 would standardize the redemption period allowed on properties.

Proponents' Testimony:

None.

Opponents' Testimony:

**Cort Harrington, County Treasurers Association (CTA)**, said he had not received any clear direction from CTA members regarding SB 40. He noted that SB 40 had been requested by the current treasurer of Cascade County, but added he had gotten numerous calls from other treasurers. He informed the Committee, however, that there was a sort of consensus among those treasurers who had called; if the time period was changed, 24 months would be more appropriate than 18 months, since the latter would involve a half year of taxes. **Mr. Harrington** said that the Legislature had already adopted the 24 month time frame with respect to subdivided land and occupied structures on that land. He added that some treasurers were concerned about a potential taxpayers' revolt and did not want CTA to go on record supporting a measure which would shorten the time people were allowed to bring their tax payments up to date.

Questions From Committee Members and Responses:

**Senator Gage** asked **Cort Harrington** why the 18 month period would present additional difficulties. **Cort Harrington** replied that the tax deed process was confusing, but it helped both county treasurers and taxpayers when taxes on a property could be looked at in one year increments.

Referring to the call of the special session, **Senator Towe** asked **Senator Mesaros** how SB 40 would help relieve the state's financial situation. **Senator Mesaros** replied that with the current three year waiting period, five or six years usually elapse before delinquent property reentered the tax rolls. He said SB 40 would help to shrink that extended period of time

while still allowing a reasonable amount of time for people to pay their taxes.

**Senator Towe** asked **Senator Mesaros** if he disagreed with the fiscal note accompanying SB 40 indicating there would be no fiscal impact. **Senator Mesaros** replied he would dispute the fiscal note since the provisions in SB 40 should definitely have a fiscal impact.

**Senator Towe** asked **Cort Harrington** about the historical background of Montana's long redemption period. He noted there must be a reason, and wondered if it had originated in the Depression Era. **Mr. Harrington** replied Montana's 36 month redemption period predated the depression, although much of the related case and tax law did take place during the Depression. He stated he did not know why the 36-month period was originally adopted.

**Closing by Sponsor:**

**Senator Mesaros** said SB 40 was a simple matter which posed the question how much time should be allowed for a redemption period.

**HEARING ON SENATE BILL 41**

**Opening Statement by Sponsor:**

**Senator Brown, Senate District 2**, said SB 41 would privatize the retail liquor business in Montana. He noted that legislation with a similar purpose had been introduced in, at least, the past two legislative sessions. He stated the state's involvement in the retail liquor business had been the focus of a long-time debate with its roots in 1933, the year the current system was established. According to **Senator Brown**, it was "a generally recognized fact....and a commonly held belief" that the state no more belonged in the retail liquor business than it did in the retail grocery store business.

**Senator Brown** said those who have struggled with the problem of getting the state out of the retail liquor business knew that it was a complicated issue with legitimate interests on both sides. He noted that extricating the state from its long-time role was more difficult than many people appreciated. He stated SB 41 was requested by the Department of Revenue (DOR) and the Office of Budget and Program Planning (OBPP) and would eliminate DOR's authority to establish and maintain state liquor stores after Nov. 30, 1994 and would order the activities of existing state liquor stores to be phased out by the same date. **Senator Brown** explained if SB 41 were to pass, all state employee operated and agent operated liquor stores would be eliminated along with about 57 full time equivalents (FTEs). He said the state warehouses would continue to sell liquor wholesale and the state would deliver that liquor to the 1500 all-beverage liquor retailers who

have licenses to retail liquor through taverns and bars, Because they would become the only package liquor retailers in Montana, the business of those retailers would probably increase by approximately 80 percent. He emphasized that the provisions in SB 41 would maintain the existing liquor license requirements and would specifically prohibit the sale of liquor in grocery stores.

Referring to the fiscal note, **Senator Brown** quoted DOR estimates that SB 41's implementation would increase state revenue from liquor by about \$875,000 per year. In addition, he said, the state would liquidate its existing liquor inventory which would make about \$4 million more available to the General Fund. He stated SB 41 also made provision for the people affected by the state's withdrawal from the retail of liquor. He outlined the benefits available to current state employees and the compensation available for current proprietors of agency liquor stores. He stated that currently SB 41 would reserve about \$1.5 million of the total money generated for these purposes. **Senator Brown** stressed the fact that both he and the administration believed that dollar amount to be negotiable.

**Senator Brown** reiterated his opinion that the people of Montana wanted the state out of the business, a fact which, he stated, legislators recognized. He noted that throughout all levels of bureaucracy time caused interests to build while the Legislature was trying to make government more efficient, make it run in a more business-like manner, and trying to make taxpayers understand that the Legislature wanted to provide the maximum amount of service for the minimum amount of tax dollars. **Senator Brown** said the privatization of liquor retail was one area where that purpose could be accomplished in spite of the ingrained resistance on the part of those who would be affected.

#### Proponents' Testimony:

**Dave Lewis, Director, Office of Budget and Program Planning**, said SB 41 was incorporated into the Governor's budget for the special session because of the money it would make available. He stated the \$4 million in the current biennium and the future savings of almost \$900,000 per year made removing the state from the retail liquor business very reasonable, especially when considered along with the alternative of additional cuts in human services or education. He referred to his long-time involvement with state government and stated the provisions in SB 41 represented the best proposal of its kind ever brought forward. He stated SB 41 would deal fairly with state employees and with the operators of agency stores. **Mr. Lewis** reiterated that the money in SB 41 made it possible to "head off" additional cuts that would have had to be included in the Governor's budget. He stated SB 41 was critical to balancing the budget and ending the special session.

**Mick Robinson, Director, Department of Revenue (DOR)**, stated that SB 41 had been included in Governor Racicot's budget for two

reasons: one, it would move the state out of a business that many feel the state should be out of; and two, the one-time and annual savings would help to mitigate some of the other serious reductions necessary to balancing the state budget. He stated the ramifications of this particular budget reduction and the impact it would have on individuals was less serious than those connected to some of the other reductions in human services and education. He stated it was his "firm belief that the state should not be in the retail liquor business". He added it was very important that the state maintained control of the liquor business within Montana, but added that control could be accomplished through sensible regulation.

**Mr. Robinson** detailed the concept of SB 41. He said SB 41 would remove one tier in liquor marketing within Montana by eliminating the present liquor retail stores. He noted, however, that DOR would maintain a central liquor warehouse and would continue facilitate the distribution of liquor throughout the state. He said the private sector would be allowed to respond to meet the needs of those consumers who buy packaged liquor at the retail level. According to **Mr. Robinson**, the 1500 all-beverage license holders throughout Montana would respond to the demand by opening liquor stores connected with their current premises. He stated that eventually the consumer would experience much greater convenience when purchasing packaged liquor. He also mentioned that the response of the private sector would also accommodate those consumers who did not want to have to go into a bar to purchase packaged liquor.

**Mr. Robinson** addressed the cost reductions contained in SB 41. He noted the net impact of SB 41 would be an \$800,000 annual reduction in operating expenses connected with DOR's liquor division. He noted that the cost of operating the present retail stores would be eliminated, but distribution costs would increase, since packaged liquor would be distributed to 1500 locations instead of the 108 present stores. He acknowledged that DOR's estimated distribution costs had been challenged because delivery would be made to 1500 instead of 108 locations. He stated, however, that the state was currently paying for shipping the same quantity of liquor statewide; the only increase in cost would be for the increased off-loading and transfer to the retail outlet. He stated SB 41 contained sufficient dollars to accommodate that increase. He noted that the increase from \$0.09 to \$0.31 per bottle might, in fact, be overkill. **Mr. Robinson** informed the Committee that the distribution network proposed in SB 41 would not utilize the beer distributors, but contract with presently authorized Public Service Commission (PSC) common carriers. He stated those contracts would be opened up to other businesses only if no PSC common carriers were interested.

**Mick Robinson** explained that part of the financial computation addressing the provisions in SB 41 was a reduction in the wholesale price of the bottle. He said that reduction was to

make sure that operators of the all-beverage licensed establishment would be able to continue to sell a bottle of liquor at the current price. He added, however, SB 41 would not place a cap on the price. According to Mr. Robinson, the state's tax revenue on a bottle of liquor would remain the same, but the impact to the General Fund will be reduced by \$800,000 per year due to cost reductions in the DOR Liquor Division. He noted that the calculations on the fiscal note also did not include any increase in alcohol sales. He expressed the administration's recognition of the adverse impacts that SB 41 would have on employees and the operators of agency stores. He stated that \$1.5 million of the one-time savings from liquidating the approximately \$5 million liquor inventory would be applied to providing incentives to mitigate that adverse impact. He explained that state employees would be able to qualify for the incentive packages passed in the 1993 regular session, and agency store operators would receive financial incentives to continue operating those stores throughout the transition period as well as some compensation for investments they made in equipment and leases. Mr. Robinson expressed his willingness to work with the dollar amounts allocated to provide relief if the Committee felt the money allocated in SB 41 was insufficient.

Mr. Robinson stated that SB 41 was a down-sizing proposal and would eliminate 57 FTEs. He explained that the majority of those positions would be the state employees of state liquor stores, but the administrative staff in Helena would also be reduced by one bureau chief and three supervisors. He noted, however, that it would be necessary to add to the number of employees in the state liquor warehouse because of the increase in distribution associated with SB 41.

Mr. Robinson commented on an alternative proposal to SB 41 which had been prepared by the AFL-CIO and the Montana Agency Liquor Stores Association (MALSA). He noted that the proposal came up with a one-time savings as well as increased revenue, but added that the majority of that increased revenue would come from a \$0.05 increase in the price of a bottle of alcohol. Mr. Robinson said the proposal would also abolish the current practice of passing product discounts along to the customer. He stated about two-thirds of the projected annual savings in the counter proposal would be an increase in the price of the product, similar to a tax increase, for the consumer of that product. He said the other main component of the AFL-CIO/MALSA proposal was a 20 percent decrease in expenses connected with the operation of DOR's Liquor Division. According to Mr. Robinson, there had been no discussion with either himself or the liquor division personnel as to whether the 20 percent was practical. He noted that a number of expenses associated with the current system would not decrease as a result of the counterproposal to SB 41 or any other proposal being presented in the special session. He cautioned the Committee to be careful about the facts in the particular proposal. He distributed a DOR fact sheet on the proposal in SB 41 (Exhibit #1).

**Walt Page** expressed his support of SB 41. He stated the state should get out of the retail liquor business because the private sector could run the business much more efficiently. He said the money that SB 41 would make available could be funneled into those "other areas" that need the money. He noted that the privatization of the retail liquor business would provide those people who insist that government employ them an opportunity to get into business for themselves, especially since job training would be made available.

**Dick Motta, Montanans for a Better Government**, expressed his support for the concept of getting the state out of the liquor business, but stated SB 41 did not adequately address the "distribution of liquor and the termination of the warehouse facility". He expressed his belief that the object of the state should be to collect the taxes necessary to provide funds for state required revenue. He stated there was no reason the state needed to be in the liquor business at all. **Mr. Motta** noted that there were currently wholesale distributors of beer and wine, and he said the same procedures could also be extended to the distribution of liquor. He stated the state tax on liquor sales could be applied to the purchases made by the individual wholesalers. He said such an approach would mean that the state would not have to maintain the central warehouse in Helena, a costly inventory, nor would it have to handle distribution to different parts of the state. According to **Mr. Motta**, the buildings and equipment currently being used would no longer be necessary. He concluded his comments by stating that a much greater savings could be achieved by getting the state out of the liquor distribution business entirely.

#### Opponents' Testimony:

**Mike Grunow, MALSA**, assured the Committee that he had objectively and honestly attempted to analyze Montana's budgetary problems. He stated the Legislature had hard decisions to make which would adversely affect programming and people. He pointed out, however, that if a person had a stable full of racehorses and was trying to determine which horse would help win the race, it would not be wise to walk into the barn and shoot the best horse. He expressed his concern that the administration as well as several legislators were considering shooting that horse. He added one of the reasons that the state's involvement in the liquor industry was a constant topic of discussion was that neither the public nor a lot of the legislators actually understood the nature of the horse.

**Mr. Grunow** asked the Committee to put aside the moral or social question of whether the state should be involved in the liquor business. He stated that in the past year the liquor business had generated \$49.8 million of sales with a revenue of approximately \$17 million for the benefit of every man, woman and child in Montana. He said \$5.5 million of that \$17 million was profit going directly into the General Fund while the remaining

\$11 million were tax dollars which were already earmarked. **Mr. Grunow** noted that SB 41 would also liquidate the liquor inventory worth between \$3 and \$5 million which the state had owned since 1933. He stated that initial investment has had an annual return of about 110 percent, an amount which rivaled or equaled any of the State Board of Investments' work.

**Mr. Grunow** outlined three proposals from MALSA for the Committee. First, he said SB 41 should be killed and the system should be left intact. Second, he suggested that the contracts that MALSA members have just recently signed needed to be honored. Third, he asked the Committee to consider the MALSA proposal as a model to streamline and make DOR's Liquor Division even more efficient and profitable for the state.

**Darrell Holzer, Montana AFL-CIO**, expressed his organizations opposition to SB 41. He stated that the numbers indicated that the Liquor Division was currently pursuing efficient government. He agreed that the current system could be improved upon, but noted that the members of groups like Montanans for Better Government and other organizations that had been leading the charge and clamor for efficiency in government obviously did not have a clear understanding of dollars consistently generated by the program. **Mr. Holzer** noted that the inconsistent figures regarding the annual savings associated with SB 41 that administration officials and **Senator Brown** had quoted clearly indicated that the figures were padded and based on speculation, not hard fact. He also questioned the assertion that the public believed the state had absolutely no business in the liquor retail business. He said he read seven newspapers daily and did not recall ever seeing a letter to the editor to that effect from a Montana citizen although he had seen numerous articles and newspaper editorials promulgating that theory. **Mr. Holzer** said if he were in the advertising business and trying to sell newspapers, he would also like see SB 41 adopted, especially in the eventuality that a full-fledged liquor war were to develop in its wake.

**Mr. Holzer** asked that the Committee consider the counterproposal to SB 41, which, although not an official proposal, could be implemented by the encouragement of the Legislature. He stated it would not require any administrative action and had, in fact, been discussed over the last three years and even implemented to a small degree. He noted, however, the final step had not been taken and indicated the rational behind that hesitation was that the positions could not be eliminated unless it were possible to detract from the credibility of the system. **Mr. Holzer** also contradicted **Mick Robinson's** statement that liquor division personnel had not been consulted about the information in the MALSA/AFL-CIO proposal. He stated on December 8, 1993, **Gary Blewett, Administrator, DOR Liquor Division**, had discussed the issues with the AFL-CIO researcher and writer and had affirmed the realistic nature of the potential cost-savings associated with the alternative proposal. **Mr. Holzer** noted that **Mr. Blewett**



had been very cooperative in supplying his office with the necessary information. In closing he encouraged the Committee to seriously look at the counterproposal and to question the need for privatizing a part of government that was working well and efficiently.

**Robert Lemm, Montana Liquor Reps Association (MLRA)**, expressed MLRA's opposition to SB 41. He stated his membership traveled throughout Montana and heard the public say that the current system was making a profit and should be left intact. He admitted that the system needed to be updated in order to make a greater profit and "move into the 20th Century" like the other states which remain in the liquor industry. He added, however, that process was slowly occurring. He stated if SB 41 were to pass, there would be neither the variety nor the distribution available and the cost to the consumer would increase.

**Bill Stevens, President, Montana Food Distributors Association (MFDA)**, read from written testimony in opposition to SB 41 (Exhibit #2).

**Ken W. Hurt, Pharmacist and Operator of an Agency Store Franchise in St. Ignatius**, read a letter he had written opposing SB 41 (Exhibit #3). He stated SB 41 would result in price increases and decreases in selection, especially in rural Montana.

**Dale Davis, Whitehall Liquor Store Agent**, said he had been an agent for 2.5 years and found it frustrating that the current system was attacked every legislative session. He stated DOR had issued his second contract in September, but two days after he had received his final contract, had sent him a letter indicating that the administration wanted to eliminate the franchise contracts. He informed the Committee that he had invested in a computer system and improvements for his store based on the security of the 10 year contract. He said that MALSA had surveyed agents, and the results of the survey showed that agents had about \$3.5 million in investments, and that 112 full-time employees and 164 part-time employees would lose their jobs if SB 41 were adopted. Mr. Davis mentioned that MALSA had also surveyed some members of the Montana Tavern Association (MTA). He stated the response indicated that 95 percent of those surveyed opposed SB 41 because of the inconvenience and cost involved for bar and tavern operators to stock and supply packaged liquor.

**Mr. Davis** questioned the actual benefits to the state that SB 41 would bring. He noted that the supposed savings to the state depended upon the figures used in the calculation; if the numbers in the state's 1992 fiscal report was used, the state would actually lose \$50,000. He said he had clients who said Montana needed to get out of the liquor business, but noted no other business in Montana was actually making 33 percent return on its investment. According to Mr. Davis, the SB 41 would only raise the cost of liquor. He said the state was currently taking a 40

percent mark-up plus taxes and a private businessperson needed a mark up of at least 30 percent. He asked the Committee to "throw SB 41 out" and stay with the state contract the agents had signed in the last three months.

**Scott St. Arnauld, American Federation of State County and Municipal Employees**, stated it was wrong to characterize the benefit and incentive package in HB 522, HB 198, and HB 517 as mitigating the effects of being laid-off. He explained that although the package provided some money for retraining, for assisting workers, and helping with health insurance, none of those possibilities would "put back together a life". He reminded the Committee that HB 198 only provided two weeks worth of severance pay and that the early retirement provisions in HB 517 would expire on December 31, 1993. **Mr. St. Arnauld** said only the 58 state employees would qualify for that protection and urged committee members to also consider the SB 41's impact on the 112 full-time and 164 part-time agency store employees.

**Willard Hill, Operator, Ronan Store**, agreed with most of the testimony in opposition to SB 41. He recommended that the current system be maintained, but that efforts be made to operate it more efficiently. In the event that the Committee did choose to approve SB 41, **Mr. Hill** suggested that the effective date be extended from November 31 until at least January of 1995. He explained that his store had usually incurred most of its yearly expenses by November 31, while 60 percent of its profits came in December. He added that if the state should get out of the liquor business, it should get out completely, wholesale and distribution as well as retail.

**Senator Rea, Senate District 38**, agreed with the testimony against SB 41 which had been presented. Referring to the recently signed 10-year contracts with agency store operators, he said SB 41 was a "prime example" of why government and the Legislature have a bad public image. He stated the Legislature's credibility was on the line; while giving a great advantage to the 1500 all-beverage licensees, the state would be reneging on its agreement with agency stores.

#### Questions From Committee Members and Responses:

**Senator Eck** noted that legislation affecting quotas always drew testimony and discussion about property rights. She asked **Gary Blewett** whether SB 41 would destroy the property rights of agency store contract holders while essentially giving a new property right to all-beverage licensees that would increase the value of their licenses. **Gary Blewett** responded SB 41 would not grant any new right to existing all-beverage licensees since they can currently sell liquor for off-premiss or home consumption. He stated SB 41 would simply eliminate agency and state-employee-operated stores.

**Senator Eck** asked if SB 41 would eliminate any property rights of agency store operators. She noted that the Committee had heard testimony over the years on the investments agents make in order to receive a license that was supposed to be valid for a substantial period of time. **Gary Blewett** replied the agents legal rights were determined by the terms of the contract they have with the state. He stated SB 41 was consistent with that contract since it contained a provision for its termination if the Legislature did not appropriate the funds for the operation of those stores. He added the question as to whether or not the termination of those contracts was fair might exist, but it was outside the realm of rights.

**Senator Eck** said during the regular session, the Committee had agreed to write a letter to the Governor and DOR asking for a interim committee composed of industry representatives, state stores, and others concerned as well as legislators. She asked **Senator Gage**, who had been very involved, whether that request had been made and whether any action had been taken. **Senator Gage** answered that the governor's staff had indicated to him that they could not fund such a committee and the Legislature needed to be involved. **Senator Gage** said there had not been enough support in the Legislature to establish that committee. **Chair Halligan** said that an ad hoc committee had been formed under Governor Stevens at the end of his administration which brought together industry, agency and state store representatives. He noted that the Legislature had encouraged that committee to come up with some recommendations but had killed the last bill they had presented. He said the Committee's letter had requested that the ad hoc committee be reinstated under the auspices of the governor, but, to his knowledge, that had not occurred.

**Senator Doherty** asked **Gary Blewett** how many 10-year agency contracts had been signed in or around September. **Gary Blewett** replied that of the 82 agencies currently operating, all but four had signed the new franchise agreement shortly before or right after the month of September. He said state statute requires that those agreements be 10-year contracts.

After noting that the state currently has 10-year contracts with 78 people who have made substantial investments, **Senator Doherty** asked how much money was allocated in SB 41 to compensate for the state's breaking those 78 business contracts. **Gary Blewett** said \$325,000 had been budgeted into the computations in SB 41.

**Senator Doherty** noted that figure averaged out to about \$4,000 for each business. He wondered if that amount was realistic, given the losses each of those businesses could claim. **Gary Blewett** said DOR's position was that the language of both the statute and the contract would sever any future liability associated with those contracts if the Legislature did not appropriate the necessary funds. He stated \$325,000 represented an estimate of the current dollar amount of any existing

investments listed in the agents' contracts as well as an estimate of six months lease value for each agent.

**Senator Doherty** referred to the opinion expressed by administration representatives when they testified on HB 57 that the state had a moral obligation to federal retirees who had not filed timely as well as to those who had. He then asked **Mick Robinson** if the state had any moral obligation to the people with whom DOR had existing business contracts. **Mick Robinson** replied that the state did need to consider its moral obligation to the holders of those long-term franchise agreements. He argued, however, that the provisions in SB 41 left room to evaluate the impacts of eliminating the state's role in the retail liquor business and to flow some benefits in order to mitigate those impacts. He stated DOR had sought the input of individual agents and MALSA on the proposal in SB 41 in August or September, had met with representatives of employee groups, had tried to provide information to all those groups, and had reserved money to offset the negative effects of SB 41. **Mr. Robinson** stated it was also necessary to balance the level and kinds of services the state could provide with a limited budget. He noted that, in the current situation, the state's primary service associated with liquor retail was to ensure that the price of liquor remained low while maintaining the selection. He stated that service had a much lower priority than other services that were being adversely affected in the special session.

After informing those in attendance that he was a stockholder in a corporation which has an interest in the outcome of SB 41, **Senator Stang** asked why SB 41 would allow liquor dealers 14 days to pay for the liquor they receive, even though current law requires that wine and beer retailers pay for their shipments within seven days. **Mr. Robinson** noted that the state was not involved in beer distribution, but that a statute existed requiring that retailers pay beer distributors within seven days. He explained that the state must make payment to distilleries within 30 days, and in order to share that interest-free period with the other parties in the distribution system, SB 41 would allow retailers 14 days to pay for their liquor shipments.

**Senator Stang** said agency stores currently deposit the money from their liquor sales the next day. He asked if the cost estimates associated with SB 41 had been adjusted to reflect the money the state might lose by not having that money available for 13 additional days. **Gary Blewett** replied the figures in SB 41 had not been adjusted to reflect the interest computation on the 13 day delay. He explained that currently the state incurred the cost of a bottle as soon as it was shipped to agency and employee operated stores. Because the state carries that cost until the bottle was sold, he said the daily profit was essential to the present system. He stated that would not be the case if SB 41 were adopted.

**Senator Stang** asked if DOR had consulted with any distributors like the associated grocers or the beer distributors while developing the transportation plan contained in SB 41. He noted that those distributors could probably better "tie down" the cost estimates of the liquor distribution. **Mick Robinson** replied the transportation model had been based on the model used in Wyoming and that DOR representatives had "done their homework" on the cost and possible efficiency of that distribution network in Montana. He stated that DOR had consulted with the Wyoming government and the Montana PSC, but said there had been no specific discussions with the associated foods in that regard nor had the beer distributors been approached. He stated that based on the figures DOR had collected, the provision in SB 41 would be more than sufficient to cover the transportation costs.

**Senator Stang** asked how DOR arrived at the three case minimum delivery. Based on his experience in the retail grocery business, he said delivering only three cases on a weekly basis would not be very cost-effective. **Mr. Robinson** replied that DOR had originally set that minimum at four cases but had adjusted that number to three based on input from the Montana Tavern Association MTA. He explained MTA had expressed concern that rural all-beverage operators would find it difficult to invest that much money in inventory.

**Senator Stang** responded he was not interested in the investment of the person ordering three cases, he was questioning the cost-effectiveness of the state delivering only three cases to more remote rural Montana on a weekly basis. **Mr. Robinson** responded that the proposal in SB 41 was designed to make the liquor business more efficient. He stated the current liquor retail system was operated more like a state office and not a retail operation because of certain statutory constraints. He argued that SB 41 presented the best alternative to move a very needed fundamental change forward.

**Senator Towe** noted that the fiscal note showed that there would be \$1 million less sales. He asked **Mick Robinson** whether he believed that less or more liquor would be sold if SB 41 were adopted. **Mr. Robinson** replied that the figure in the fiscal note reflected the reduction in the wholesale price of the liquor sold to retail operations.

**Senator Towe** asked **Mick Robinson** whether he believed that the adoption of SB 41 would not cause the price of liquor to go up. **Mr. Robinson** replied that SB 41 would establish a minimum product price in order to eliminate the possibility of price wars, but would not place a cap on the price of liquor. He stated there would be some areas where prices for packaged liquor would be higher than they are presently.

**Senator Towe** asked **Mick Robinson** if he disputed that selection would probably go down, especially in rural areas. **Mr. Robinson** agreed there would be some decrease in selection. He stated,

however, the pertinent question was whether or not the state should continue to subsidize selection and low prices.

**Senator Towe** asked whether allowing only all-beverage licensees to sell packaged liquor would grant those people a third monopoly and inevitably cause the price of those licenses to increase drastically in value. **Mr. Robinson** replied there would be an increase in profitability flowing to licensed all-beverage operations.

**Senator Towe** asked **Mr. Robinson** how he would respond to a proposal which would change the language in SB 41 to allow "no distribution shall be made to liquor licensees" instead of "all distribution". He stated that would allow opportunity for other entrepreneurs to take on the job of selling packaged liquor. **Mr. Robinson** replied he did not believe that expanding the number of locations where alcohol could be purchased would correspond to the wishes of most Montana residents and taxpayers. He stated most people in Montana considered it important for the state to retain control over liquor, especially the number of retail outlets. He questioned whether anybody in Montana would support a proposal, like the one **Senator Towe** had mentioned, which could result in a liquor retail outlet on every street corner.

**Senator Towe** expressed his displeasure at the fact that DOR had renewed almost every agency license in Montana in September and then sent out notices two weeks later informing those agents that DOR was going to propose canceling those 10-year contracts. He asked **Gary Blewett** if he had "any inkling whatsoever" that would happen when those agency agreements were renewed. **Gary Blewett** replied statute specified that the DOR Liquor Division had an obligation to distribute the contracts. He stated most of the contracts had been distributed by mid-August when it seemed likely that the administration would propose to privatize the liquor retail business. He noted that at that point not all of those contracts had been finalized and his division continued to work on that as currently as two weeks ago.

**Senator Towe** asked if the agents were notified or aware that the privatization proposal was likely when they signed the new 10-year contracts. **Gary Blewett** replied the only notice at that time were some newspaper articles associated with that possibility. He stated nothing formal had been said, because the Liquor Division had not been informed.

**Senator Towe** noted that **Mr. Blewett** had indicated that he had tried to identify and estimate the capital expenditures of the 78 people who signed the new agreement. He asked if **Mr. Blewett** knew how many dollars had been invested, and how many dollars that each agent could apply for in capital reimbursement. **Gary Blewett** replied he did not know what each agent had invested or the value of that investment, but he did know what was specified in the contract under the requirements to which the agents had agreed. He stated his estimate of the amount was \$325,000

considering the limits expressed in SB 41. He added, however, the actual value might be different.

**Senator Towe** expressed his surprise that the estimate would be so low. He stated that he would expect agents to have made substantial investments since the contract was for 10 years. He asked **Mr. Blewett** how much capital reimbursement the agents would really request. **Gary Blewett** replied he did believe the amount would be around \$325,000. He stated some but not many agents might have entered into new business commitments or purchased property shortly after finalizing their contract. He explained that, for the most part, the basic framework in those stores had remained pretty stable. He noted the testimony on SB 41 indicated that a MALSA survey had determined that the agents would be applying for \$3.5 million worth of value. He agreed that sum varied considerably from his estimates and that there was different perspectives on the issue. He emphasized, however, that his was an honest answer.

**Senator Towe** stated a genuine possibility existed that \$325,000 had been set aside in SB 41 to deal with a \$3.5 million problem. He noted that statute dictated that if more money is applied for than is appropriated in statute, the amount in statute would simply be pro-rated, which would effectively mean that the agents would only receive about one-tenth of their capital expenditure. He asked **Mr. Blewett** if he would advise the Committee to change the figures. **Gary Blewett** responded that **Mick Robinson** had indicated that DOR and the administration would be willing to adjust the figures in SB 41. He stated the actual figure, whether it would be \$3.5 million or something less, would have to be arrived at through discussion.

**Senator Towe** asked what the agents were supposed to do with any inventory remaining after November 30, 1994. **Gary Blewett** replied the inventory was owned not by the agents, but by the state. He stated any remaining inventory would be sold in a fire sale during the last few weeks.

**Senator Towe** he asked **Gary Blewett** if he would explain the mechanics of the bonus to the lessee and the agency stores provided for in SB 41. **Mr. Blewett** noted the bonus was incorporated into SB 41 in order to provide an incentive for all involved parties to continue their current duties up through the close. He noted employees, landlords and agents would receive bonuses for that reason. He stated landlords would receive six weeks additional rent and agents would receive a nine-week average commission if they agreed to stay with the state through the entire period. **Mr. Blewett** explained that the consistency would help facilitate the transition period.

**Senator Van Valkenburg** said the MALSA proposal would require all agency stores to invest in computer and communications equipment in order to facilitate the business. He asked **Mr. Grunow** if all MALSA members and all the agency liquor stores were willing to

make that investment. Mr. Grunow replied that with the exception of a few very small agencies, the agents in the system would be willing to make that investment if the new contracts were fulfilled and they could count on the word of the state.

Senator Van Valkenburg said the MALSA proposal also involved reducing the price of some very high volume products in order to create additional sales while increasing the average price of the products by about \$0.05 per bottle. He asked Mr. Grunow how he would expect his customers to react to that increase in price. Mr. Grunow replied he had dealt with many people on a pretty regular basis for almost 15 years, including the period where a seven percent surtax was put on all products. He stated that, for the most part, that increase was not even noticed. He said the \$0.05 per bottle increase would be palatable and would not create much public response. He defined the public as those 200,000 people who buy liquor in the state, not the state's population. Mr. Grunow added, however, that public response would depend on the way that the increase was presented; no increase could be "slam[med]... down anybody's throat".

Senator Van Valkenburg referred to the DOR fact sheet on SB 41 (Exhibit #1), noting that it compared the current retail price with the proposed new wholesale price in a "somewhat less than straightforward way". He asked Mick Robinson to estimate how the retail price under SB 41 would actually compare to the current retail price. Mr. Robinson responded under SB 41 the new wholesale price per bottle would be an average of \$0.40 below what bars and taverns presently pay. He stated the state would have no control on how much the bars and taverns would mark-up that product for sale to retail customers.

Senator Van Valkenburg asked Mr. Grunow what he would expect Montanans to be paying for retail liquor. Mr. Grunow noted he owned two grocery stores and a couple of other retail businesses and had been communicating with a consulting firm involved in the liquor industry nationwide. He stated that consulting firm, using the \$0.40 rollback and the \$0.20 increase per item stipulated in SB 41, had indicated that the mark-up on a bottle of liquor would be between 22 percent and 40 percent. He explained the actual percentage rate depended upon the statutory constraints in particular states and situations. He added that the mark-up in Montana would probably be 40 percent since the bars and taverns would have a monopoly and could control the price. Using a bottle of Black Velvet as an example, Mr. Grunow noted that people would be enraged if SB 41 passed because they could be paying \$25.00 for the same bottle they had been getting for \$17.80. He stated those people would be calling their legislators, and added the DOR graph did not reflect the way the pricing would work.

Senator Van Valkenburg asked if the 200,000 customers Mr. Grunow had mentioned earlier were basically between the ages of 21 and 65. Mr. Grunow replied yes.



**Senator Doherty** asked **Mr. Motta** if he supported SB 41 but wanted the state out of the wholesale liquor business as well. **Mr. Motta** replied if the state did remove itself entirely from the liquor business many of the problems currently being discussed would be eliminated. He stated there was no reason that current agents could not maintain their agency status, their investments, and their current operations.

**Senator Doherty** noted that if SB 41 were approved in its current form, the value of the current liquor licenses, which were controlled by a quota system, would increase. He asked **Mr. Motta** whether he also believed the state should be getting out of the quota system for bars and taverns. **Mr. Motta** replied there was no reason to go to the licensee for the distribution of liquor for sale. He noted that the state could maintain control over the distribution of liquor by allowing beer and wine distributors to also transport liquor. He said the dollar amount collected would need to be based on delivery to the individual bar or tavern agencies, and possibly the agency stores. This approach, **Mr. Motta** stated, would ensure a higher level of competition between the various wholesale distributors which would result in lower prices for the consumer while maintaining the state's ability to collect the same level of revenue presently associated with the sale of liquor.

**Senator Doherty** asked **Mr. Grunow** to respond to his question. **Mr. Grunow** noted that **Senator Doherty's** question dealt with total privatization and said that the Legislature had established year after year and session after session that it did not want total privatization of liquor retail throughout Montana. He stated the public did not want a liquor store on every corner, did want MTA members to stay in business, but did not necessarily want the state to remain in the liquor business. He added, however, if SB 41 were adopted, the state would not be getting out of the business although administration officials were making that claim: SB 41 would require approximately 30 additional employees at the state warehouse. **Mr. Grunow** stated the current system worked very well and had worked well for a long time. He said the various proposals show that there was great potential for running the system in a more business-like manner and for generating a lot more revenue.

**Senator Towe** asked whether the language in sections two and three limiting the liabilities of DOR to lessors and unamortized capital expenditures would constitute a sovereign immunity waiver and, as such, would require a two-thirds vote. **Bruce McGinnis, Tax Counsel, DOR**, replied the language in sections two and three paralleled the language in the rental agreement with landlords for state stores or in the franchise agency agreement with the agents. He said because that language corresponded to the contractual agreements it would not constitute a sovereign immunity waiver.

**Senator Towe** noted that even if it already existed in contractual agreements, by putting that language into statute, the liability of the state was being limited. **Mr. McGinnis** replied that **Senator Towe's** comment was worth consideration. He stated that putting the same language in statute, which DOR had already contracted, would establish that the legislative intent was to provide these individuals what the state had already obligated itself to provide and no more.

**Senator Towe** said if it were established that SB 41 contained a sovereign immunity limitation, the liability would have to be opened up to virtually all capital expenditure in order to avoid a two-thirds vote issue. He asked **Mick Robinson** if he agreed that action would probably jeopardize the entire \$3.5 million savings. **Mr. Robinson** replied he did not "have a handle" on the agents' total investments. He agreed that, using **Senator Towe's** logic, the sovereign immunity question could have "some impact and upward movement" on the \$325,000 currently covered in SB 41. He reiterated the administration's willingness to discuss adjusting that figure.

**Senator Towe** noted **Mark Staples, MTA**, was in the audience. He asked **Mr. Staples** if he had any comments regarding his suggestion that the Legislature prohibit current liquor license holders from selling packaged liquor in order to avoid having all-beverage licenses increase in value as a result of SB 41. **Mark Staples** replied MTA members already possessed the right to sell packaged liquor, to have separate places to sell that liquor, and to hire extra employees to do that. He stated MTA would oppose **Senator Towe's** suggestion because it would not restrain current licensees from future privileges, but take from them privileges for which they had already paid. **Mr. Staples** noted MTA did not care to get involved in the debate around SB 41, because that debate should rightly be between government, which feels that there should be a new direction, and those people that now staff, manage, and handle the agency and state stores. He stated it was MTA's position that the current system was "doing a fine job".

**Senator Gage** commented that SB 41 would eliminate wine from the state warehouse. He asked what would happen with the wine currently stocked and distributed through the state warehouse. **Mick Robinson** replied that wine was not really existent in the state operated stores and warehouses. He said agency stores did have a wine selection available but that it was procured directly from the wine distributors.

**Senator Gage** asked for a break down of the years of service of the 57 FTEs who SB 41 would displace from the state payroll. **Mr. Robinson** replied DOR would provide **Senator Gage** with that information.

**Senator Gage** asked how many agency stores handled only liquor and related mixes as opposed to being a part of another line of business. **Mick Robinson** answered that about two-thirds of the

agency stores were combined with some other business enterprise.

**Senator Gage** asked if anybody had an estimate of the loss of employment in the agency stores and the increase in all-beverage licenses establishments SB 41 would cause. **Mick Robinson** replied MALSA would be the best source for information on SB 41's impact on agency store employees. He predicted that SB 41 would cause an increase in employment in association with bars and taverns, but noted the actual level would be dependent upon how all-beverage licensees structured their packaged liquor operation.

**Senator Gage** asked **Mr. Grunow** how many agency store employees he would anticipate being laid off as a result of SB 41. **Mr. Grunow** referred to the number of full-time and part-time employees which had been presented in testimony on SB 41. He assured the Committee that if the agency stores were eliminated, all of those employees would lose their jobs even if the agency store was associated with another business. He explained a business which relied so heavily on the liquor retail operation could not afford to absorb those additional salaries. Referring to discussions he had with all-beverage licensees and MTA members, **Mr. Grunow** said he would not anticipate any great number of people being reemployed through all-beverage license operations, since many of those people were not "real thrilled" with having to hire an additional employee to do what they were currently doing.

**Senator Towe** requested that either **Mick Robinson** or **Gary Blewett** provide the Committee with sample copies of the agency contracts and the lease agreements so that committee members could review the possible liabilities associated with SB 41.

**Closing by Sponsor:**

**Senator Brown** said some of the opponents had argued that the current system generated profit. He added, however, no one had discredited the fiscal note for SB 41 which indicated that SB 41 would generate more revenue for the state than the current system. He compared MALSA's proposal with the current system and noted the proposal would increase the price per bottle by \$0.05 while retaining the same antiquated system that only a relatively small minority of states still use. He explained that at least 32 states handle the sale of liquor differently than Montana, and most of those use private enterprise. **Senator Brown** reminded the Committee that the spokespersons for Montanans for Better Government and the Montana Food Distributors Association had testified that SB 41 did not go far enough. He added that the general feeling in the state was probably that the entire business should be privatized. **Senator Brown** argued, however, that SB 41 tried to recognize the realities of the current situation in Montana and mitigate possible adverse effects of complete privatization. He stated SB 41 represented a middle approach which recognized that different interests were involved which were entitled to protection to the extent that the state

could extend that protection. According to **Senator Brown**, the concern that SB 41 would create a monopoly for all-beverage licensees was "pretty satisfactorily refuted". He commented that the competition created among the 1500 outlets would be more than adequate to take care of the problem, since those licenses were private entrepreneurs and could not get away with price fixing.

**Senator Brown** said the idea of privatizing the liquor business continued to be an issue because Montana's system was an anomaly. He stated if SB 41 did not pass, sooner or later legislation would pass, but the longer it took, the more radical and drastic that legislation would be and the less care there would be for protecting the interest of the public employees and phasing Montana out of this system. **Senator Brown** noted that change was always met with resistance. He referred to the tsar of Russia at the turn of the 20th Century who had attempted to modernize Russia. **Senator Brown** commented that the tsar was not successful even though he had the power to chop off peoples' heads. He stated it was necessary to consider all of the competing interests and all the societal problems along with any proposed change in a democracy. He said that all the special interests associated with SB 41 were represented at the hearing. He added, however, that those representatives were actually an infinitesimal minority of the people in the state. He stated if the Legislature failed to accomplish even a minor thing like adopting SB 41 it would show the government's inability to respond and to adapt in a time of change and Montana's government might go the way of the Romanovs of Russia.

In closing **Senator Brown** reminded the Committee that the \$1.5 million set aside in SB 41 to help mitigate the problems its adoption would create was negotiable.

#### HEARING ON SENATE BILL 42

##### Opening Statement by Sponsor:

**Senator Bartlett**, Senate District 23, said sticker shock was a primary problem associated with the 1993 property tax increases. She stated the concern most often expressed in legislative discussions was that the increased property taxes might force some people to sell their homes or to move in order to continue living within their incomes. She stated SB 42 would target that specific problem because it contained a mechanism to provide help where property tax relief was most needed. She explained SB 42 represented an expansion of Montana's existing elderly homeowner renter credit and an approach to property tax relief known as a circuit breaker. She said the concept behind a circuit breaker was that property taxes could be excessive in relation to household income and that assistance should be targeted to those property owners who have a property tax increase exceeding a specified percentage of their household income. She outlined the features of the current low income elderly homeowner renter

credit, discussed the specific changes SB 42 would make to that current system, and the benefits of that approach as identified in a handout she distributed (Exhibit #4).

**Senator Bartlett** stated that the property tax relief in SB 42 came with a price tag; the fiscal note indicated that, as introduced, SB 42 would reduce income tax collections by an estimated \$20.3 million over the biennium. She assured committee members that she recognized that the funds for that much income tax reduction might not be available and said the provisions could be "worked" to make SB 42 more affordable. She cautioned committee members, however, that it was necessary to make sure that the relief went to those individuals who might in fact be forced out of their homes because their income level did not allow them to pay the increased rate of property taxes.

**Proponents' Testimony:**

**Representative Elliott, House District 51**, said the Governor's Property Tax Advisory Council (PTAC) had seriously explored the option contained in SB 42. He stated the mechanism had been crafted to target relief to those most in need of it, not only to homeowners but also to renters. He noted that while the Governor's rebate proposal would give rebates to homeowners and to people who owned rented property, it made no provision for giving relief to those people who would suffer the rent increase passed along by the landlords. According to **Representative Elliott**, renters comprised 33 percent of the home dwellers in Montana and have suffered an increase of 5 percent in taxable value statewide, including new construction but not tax increases. He stated if the Legislature was going to give property tax relief to Montanans, SB 42 represented a viable alternative to the proposals so far put forth.

**David Smith, Executive Director, Montana Education Association (MEA) and Member, PTAC**, said the current elderly homeowner renter tax credit program had been looked at seriously during the course of the PTAC deliberations as a way to effect property tax relief. He stated the PTAC found a circuit breaker to be a very effective way to address the tendency of property taxes to lose all relation to the individual taxpayer's ability to pay, which, he said, was the problem occurring in the Flathead and other booming areas of the state and triggering the current debate on property taxes. According to **Mr. Smith**, PTAC members overwhelmingly favored a circuit breaker approach because it would accomplish four important things: one, it would target tax relief to those most in need of it; two, it would reinforce the link between property taxes and the ability to pay; three, it would not channel scarce dollars into tax relief for those who did not need it, such as second homeowners, the wealthy, etc.; and four, It would provide tax relief for renters, and owners of mobile homes. **Mr. Smith** informed the Committee that the cost was the sole reason a circuit breaker had not been included in the PTAC final recommendations. He said PTAC members had not thought it

responsible to propose an extra \$10 million drain to a special session which had been convened to deal with a \$54 million cut in income tax. He noted, if PTAC members had been clearly informed at the beginning of their deliberations that \$10 million was available to spend on property tax relief for those in need of a break, a circuit breaker similar to the one in SB 42 would "undoubtedly" have been one of the group's recommendations.

As a PTAC member and on behalf of MEA, Mr. Smith said if the Legislature had \$10 million that did not have to come out of the hides of Montana's school children to spend on relieving the property tax burden of those most oppressed by the property tax, SB 42 represented the best method to grant that relief. He added, however, if the Legislature wanted to provide long-term property tax relief without spending income tax dollars, the package of Senate Bills 25, 26 and 27 were the most preferable. He noted either choice would be an acceptable alternative.

Tom Hopgood, Montana Association of Realtors (MAR), expressed MAR's support of SB 42 and applauded the efforts of the PTAC and Senator Bartlett and Representative Elliott on SB 42.

#### Opponents' Testimony:

None.

#### Questions From Committee Members and Responses:

Chair Halligan asked Senator Bartlett why SB 42 contained a sunset provision. Senator Bartlett responded SB 42 contained a sunset provision because other proposals addressing long-term issues about property tax appraisals and tax increases had been introduced during the special session and additional proposals would be developed for the 1995 regular session. She stated SB 42 was specifically designed to deal with the immediate sticker shock this year and next year.

Senator Towe asked Senator Bartlett to explain how the percentage of income and the maximum amount of credit would be computed. Senator Bartlett said that the concept behind a circuit breaker was that individuals would need to pay a specific percentage of their income. She used as an example a homeowner whose income level was \$25,000. She said that homeowner would have to pay five percent of that \$25,000, or \$1250, in property taxes and any additional property taxes would be eligible for up to \$800 in income tax credit.

Senator Towe noted that on page six, the language specifically provided that the credit would be computed as five percent of the income of \$25,000. Jeff Martin said the intent of SB 42 as explained by Senator Bartlett was clear until the point Senator Towe had referenced. Mr. Martin agreed that the language needed work. He suggested that the areas which refer to the "amount specified in subsection four in excess of the income determined

in subsection four" be changed and that the language listing the table of incomes and percentages be revised to better convey the intent.

**Senator Towe** asked **Senator Bartlett** to explain the purpose of the five, six, and seven percent floors. **Senator Bartlett** replied the basic concept behind a circuit breaker approach was that property taxes may be excessive in relation to household income. She said SB 42 would identify those excessive property taxes as exceeding the percentages of gross household incomes laid out in SB 42.

**Senator Towe** asked if the money in SB 42 would be a credit on taxable income. **Senator Bartlett** answered it would be a refundable tax credit.

**Senator Towe** asked **Mr. Smith** why the PTAC had not informed **Governor Racicot** of the positive effects of a circuit breaker when he indicated that the PTAC recommendations did not go far enough. **Mr. Smith** noted that no further communication between the PTAC and the Governor's office or DOR had occurred after the PTAC's last meeting. He said that PTAC members were unaware of the Governor's dissatisfaction with the amount of money they had recommended for immediate relief until it was reported in the newspaper.

**Senator Towe** asked if PTAC members had discussed either the possibility that the PTAC recommendations did not spend enough money or any more expensive alternatives. **Mr. Smith** replied at the last meeting DOR representatives had raised the possibility that the PTAC had not looked sufficiently at providing immediate relief for taxpayers, although it had looked expensively at the long-term reform of the property tax system. As a result, he said, PTAC members had thoroughly discussed whether the PTAC final recommendations should include some sort of rebate. **Mr. Smith** informed the Committee that the PTAC had rejected rebates for two reasons: one, PTAC members never got past the obstacle of believing it inappropriate to recommend massive infusions of General Fund money to address the property tax issue, especially when the problem could be addressed in the long run without that money; and, two, a strong majority of PTAC members were opposed to a rebate scheme because rebates did not target the money effectively to help those experiencing actual problems. **Mr. Smith** stated there was no question that the PTAC would not have approved an across-the-board rebate proposal even if it had been given the authority to spend those dollars.

**Senator Gage** asked **Senator Bartlett** why the state should pick up the entire tab on property tax relief, especially since local governments received a "pretty decent windfall" out of the increases in property tax. **Senator Bartlett** replied there was not a good theoretical reason for the state to be the exclusive source of relief on property taxes. She added, however, that in reality SB 42 presented one of the most efficient ways to deal

with the situation; the mechanism already existed, could easily be expanded and made available to more people, would not require new employees, and would effectively target the relief.

**Senator Gage** asked if **Senator Bartlett** would object to reducing the local government reimbursement for personal property taxes in order to pay for the circuit breaker program. He noted it would first be necessary to develop an mechanism by which to measure the windfall for local governments on property taxes. **Senator Bartlett** replied she was willing to work with **Senator Gage** and to take a look at that possibility. She expressed her concern, however, about reaching agreement on a definition of "windfall for local governments". She also emphasized the need to limit the use of the personal property reimbursement to the current biennium, since the intent of SB 42 was to limit the expansion of the elderly homeowner renter credit to this biennium as well.

**Closing by Sponsor:**

**Senator Bartlett** expressed her concern about the level to which people's expectations for property tax relief had been raised during the progress of the special session and the reality of the funds available and the amount of relief individual taxpayers might receive. She noted most of what had occurred so far in the special session simply fed into the people's disenchantment and distrust in their government. She said SB 42 was an honest approach which attempted to deal with the immediate situation; it could do what was necessary in a way that focussed the available dollars on those most in jeopardy and most in need of tax relief.

**ADJOURNMENT**

**Adjournment:** 11:52 a.m.

  
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SENATOR MIKE HALLIGAN, Chair  
\_\_\_\_\_  
BETH E. SATRE, Secretary

MH/bs

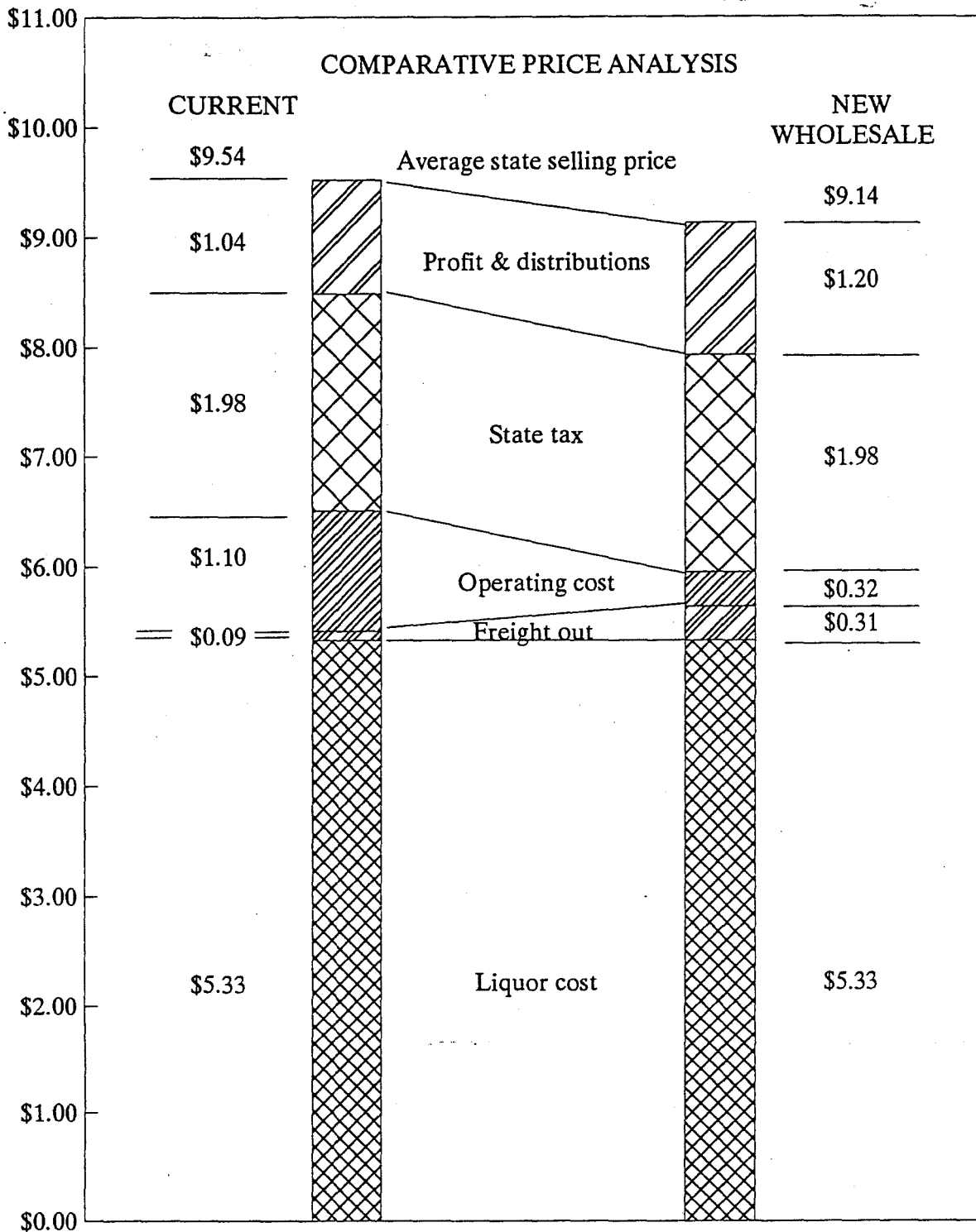


# ROLL CALL

SENATE COMMITTEE TAXATION DATE 12-10-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	X		
Sen. Eck, Vice Chair	X		
Sen. Brown	X		
Sen. Doherty	X		
Sen. Gage	X		
Sen. Grosfield	X		
Sen. Harp	X		
Sen. Stang	X		
Sen. Towe	X		
Sen. Van Valkenburg	X		
Sen. Yellowtail	X		

# LIQUOR PRIVATIZATION PROPOSAL



Detail of price components

This graph shows that the new wholesale price per bottle under the department's proposal on the average will be 40 cents cheaper than the current price from state liquor stores. This happens because the combination of operating costs and freight costs are reduced by an average of 56 cents per bottle while profit, which goes to the state general fund, increases by 16 cents per bottle.

MONTANA DEPARTMENT OF REVENUE  
LIQUOR PRIVATIZATION PROPOSAL

11/26/93

**Background:** Since 1933 the State of Montana has not only controlled liquor sales through regulation, but has also maintained a monopoly on the public's access to liquor through a central warehouse located in Helena and up to 168 liquor stores located throughout the state. Currently there are 108 state liquor stores. The State licenses private retailers to sell liquor for consumption on their licensed premises and for home consumption (package sales). The number of licenses are limited by a quota system. Licensed liquor retailers are required by law to purchase all the liquor they sell from a state liquor store. Licensees are not permitted to sell liquor at prices lower than state liquor store prices. While state liquor stores perform a wholesale function for licensees, the general public is permitted to purchase from state liquor stores at the same price available to licensees. State liquor stores on average sell 55% of their total sales to licensees.

**What is proposed and how will retail liquor privatization be accomplished?** The Department of Revenue's proposal removes the state liquor store tier from the liquor distribution system. All state-employee-operated liquor stores and agent-operated liquor stores will be eliminated. The state warehouse will sell liquor at wholesale and make direct delivery to the existing 1500 liquor retailers licensed by the State. Liquor sales to the general public previously transacted at state liquor stores will shift to these licensed liquor retailers. As a result these licensees will experience about an 80% increase in liquor sales volume. Retail liquor licensees interested in attracting this new (to them) package liquor market will invest in improving or establishing a package sales area on their premises. Since liquor retail licensees are already authorized to sell package liquor under their existing licenses, the State will not be requiring additional license fees for package sales.

**Why privatize the liquor retail business?** Profit to the State will increase by \$800,000 a year. The State also sheds costly inventory investment in state liquor stores. This transfers \$3.5 million to the general fund one time. Privatizing retail liquor helps reduce the budget deficit, now and in the future. Furthermore, the State doesn't belong in the retail market for any commodity, including liquor. The State needs to control the availability of liquor, but that doesn't mean it needs to compete with licensed liquor retailers to do that.

**Will the State be giving up control over liquor if all retail liquor sales are privatized?** No. Control is really maintained through sensible regulation of those licensed to sell alcoholic beverages -- not through State operation of stores. Existing liquor licensing requirements will be maintained, which specify, among other requirements, prohibiting free-standing package stores and mandating their separation from other operations on the licensed premises such as gambling and alcohol consumption.

**Will the price of liquor change for liquor customers?** Probably. An average bottle of liquor will be 40 cents cheaper from the state warehouse. (See the chart on the back.) Licensed liquor retailers will add their own markups. Licensees will not be permitted to sell liquor at prices lower than the State's wholesale price. The wholesale price to licensed liquor retailers will be the same throughout the state and will include freight costs.

**Will a dependable freight system be in place to deliver liquor to each licensee?** Yes. Currently the state warehouse ships liquor to 108 state liquor stores every 2 weeks. Under this proposal the state warehouse will ship to approximately 1500 licensees -- at least once a week for licensees in incorporated communities and every other week for those elsewhere. To keep shipments manageable, licensees' must purchase at least 3 cases per order. Purchases from the warehouse may include cases of mixed items with a surcharge for repacking these cases, averaging about 20 cents a bottle. Licensees may choose to pool orders from the warehouse to reduce costs. Motor carriers authorized by the Public Service Commission will deliver to each licensed liquor retailer at the licensee's place of business, complying with local ordinances and PSC requirements. A network of motor carriers capable of reaching every locale in the state already exists.

**Will the State lose money because freight costs go up due to greater number of shipments?** No. Freight costs go up, but other expenses go down even more. Under the current system freight and operating costs total \$1.19 per bottle sold. The privatization proposal reduces this to a combined cost of 63 cents per bottle sold. (See the chart on the back.)

**Will privatizing retail liquor allow liquor to be sold in grocery stores?** No. The law will specifically prohibit this.

**Will the variety of liquor products change?** Probably. Licensed liquor retailers will be able to respond to local demand more flexibly than the State has through its stores. The state warehouse will continue to maintain liquor in stock when liquor manufacturers are willing to actively promote their products and stock them in the state warehouse. In addition, the State will continue to handle special orders.

**Why doesn't the State get out of the wholesale business too?** Appropriate control of the availability of liquor is the primary responsibility of the State. Privatization of the liquor wholesale function has not been studied previously. Retail privatization and its implications, on the other hand, have been studied frequently and in depth. Bottom line: privatization of the wholesale function will not be considered until all the ramifications and alternatives are determined.

**What happens to state employees and agents who work in state liquor stores?** Everyone affected by the change will get almost a year's advance notice. Furthermore, to protect the consumer, the department will pay employees, agents and landlords a bonus to continue with the State during the transition period and not terminate early. Employees also get hiring preference for other state jobs, training for those jobs, 6-months of paid health insurance, severance pay or 3 years of additional retirement benefits. Agents also get paid for up to six months of investments or lease commitments that cannot be recouped due to store closures. Bottom line: altogether \$1.5 million are budgeted for closeout costs for employees, leases, agents and loss on inventory.

**Questions?** Contact Gary Blewett, Liquor Division Administrator, 444-0700.



# MONTANA FOOD DISTRIBUTORS ASSOCIATION

2700 Airport Way • P.O. Box 5775 • Helena, Montana 59604 • (406) 449-6394 • 1-800-735-1082

10 December 1993

SENATE TAXATION

EXHIBIT NO. 8 2

DATE December 10, 1993

BILL NO. SB 41

## Testimony before the Senate Taxation Committee Regarding Senate Bill 41

Good morning, Mr. Chairman and members of this Committee, I am Bill Stevens, president of the MONTANA FOOD DISTRIBUTORS ASSOCIATION. Headquartered in Helena, the MFDA represents more than 400 participants in the region's retail food industry. This involves grocery and convenience stores, warehouses and suppliers.

I appear in opposition to Senate Bill 41 primarily because of Section 32 which defines "suitable premises for licensed retail establishments." I am concerned not only because the proposal would limit retail sales of liquor to bars/casinos, but also because it specifically excludes "food markets."

Arbitrarily creating such a monopoly would be unfair both to retail grocers and the community at large. Grocers who are willing to comply with the access requirements should be allowed to sell liquor at retail. And, the public should be given the option to purchase liquor at grocery stores as well as bars/casinos. In a recent editorial in the Helena Independent Record, one citizen complained:

"Our governor wants to close all state liquor stores, and give the bars and casinos a bigger monopoly. They would then control all gambling, all liquor, all licenses, and of course, all liquor prices. Believe me, the prices would go up.

"I wonder whether our First Lady would appreciate going into a bar to buy spirits. I'd rather see liquor in grocery stores."

Of particular concern to us is the radical reduction in variety that will occur if all sales are left in the hands of bars and taverns, especially in rural Montana. There are a great many liqueurs and after-dinner and cooking beverages that most small-town bars don't even stock.

Another reason why grocery stores should be included is that for the most part they are better equipped for retail liquor sales than bars/casinos. Groceries stores are built to sell many items at retail for off premise consumption. Conversely, bars/casinos derive much of their profits from on-premise activity. As a result,

EXHIBIT 2  
12-10-93  
SB 41

grocery stores have better facilities and trained personnel in place for product display, inventory, storage, sales, and yes, even security, than do many bars/casinos.

For these reasons, I ask you to make room for grocery stores when switching the responsibility for retail sales of acholic beverages from State Stores.

Thank you.

Mission Drug  
Agency Store # 74  
P. O. Box 662  
St. Ignatius, Mt. 59865-0662

Dec. 9, 1993

SENATE TAXATION

EXHIBIT NO. 3

DATE December 10, 1993

BILL NO. SB 41

Senator Mike Halligan, Chairman  
Committee Members of Senate Taxation Committee

RE: SENATE BILL # 41

I am asking for your support in defeating Senate Bill # 41, sponsored by Senator Bob Brown.

It seems like we have to go through this process with every Legislative Session. I realize that there are only a few States that use the same liquor sales method that Montana uses, and only a few that do NOT have a Sales Tax. This does not mean that Montana is wrong to not have a Sales Tax or to have a controlled liquor distribution/sales system. It simply means that Montanans choose to be different. Hopefully we can put this to rest once and for all.

I have a small Liquor Agency franchise. My Agency is run as a part of my small, and the only, retail pharmacy in St. Ignatius as Mission Drug. In 1985, my store burned to the ground. At this same time, the State of Montana decided to close the existing State Store and run it as an Agency. If I had not been awarded the Agency contract I would not have rebuilt at that time. There is simply not enough pharmacy business in our area to support a pharmacy without the Agency sales commission to help subsidize the operational costs/expenses. We are located on the Flathead Indian Reservation and there is a free Federal IHS/PHS Pharmacy located here for tribal members only. It is impossible to compete with free. The advent of mail-order pharmacies, AARP programs, chain-store volume drug discounts, pharmacist salaries at a chain-store, etc., have simply made it infeasible for a pharmacy to continue here without income from other sources. I need the Agency sales commission to continue to serve my community with a pharmacy.

I was given a new 10-year Agency contract by the State of Montana on September 23, 1993. Now, 2 1/2 months later, it is being proposed that all existing contracts be canceled as of 11/30/94. This sure does not seem fair to me, and I am wondering if the contract was in fact a good faith instrument at the time it was issued?

Senate Bill # 41 proposes that liquor be available from the all-beverage licensees. I have had many customers say that they would simply not buy liquor in Montana under this requirement. I do not know how the statewide Montana Tavern Owners Association feels about this bill. However, yesterday at the Lake County Tavern Association meeting the association went on record as being opposed to this proposition. I have given a questionnaire to all of the 9 or 10 all-beverage licensees that regularly trade with me. Not a single owner has indicated he/she favors this proposal. In fact, every single questionnaire that was returned to me had checked the "NO - NOT INTERESTED" box in reference to becoming a package liquor store that was different than what was currently being utilized.

Please vote NO on Senate Bill # 41.

Respectfully,

*Ken W. Hurst*

**PROPERTY TAX CIRCUIT BREAKER**EXHIBIT NO. 4

Introduced by Senator Bartlett

DATE December 10, 1993BILL NO. SB 42**General Description:**

A property tax circuit breaker is based on the concept that property taxes can be excessive in relation to household income. It targets assistance to those who have a property tax liability that exceeds a specified percentage of their household income.

**Features of Current Law Retained in SB 42:**

- \* Provides a refundable income tax credit.
- \* Taxpayer must have resided in Montana for at least 9 months and have occupied the residence for at least 6 months of the year.
- \* Applies solely to the taxpayer's primary residence (homestead).
- \* Property taxes must have been paid.
- \* Applies to all ad valorem property taxes, excluding fees and improvement districts.
- \* Includes renters when property tax liability exceeds 15% of the rent paid.
- \* Income is adjusted gross income, without regard to loss, plus all nontaxable income.

**New Provisions in SB 42**

- \* Eliminates age requirement; applies to all taxpayers.
- \* Increases maximum credit from \$400 to \$800.
- \* Eliminates retirement benefits deduction from household income.
- \* Establishes this schedule of income brackets and percentage of household income to be paid in property taxes:

<u>Income</u>	<u>%</u>
\$ 0-25,000	5%
\$25-50,000	6%
\$50-75,000	7%

- \* Sunsets on January 1, 1995, after which the current circuit breaker would again be effective.

**Advantages of SB 42**

- \* Provides a response to the immediate problem of increased property taxes.
- \* Targets the response to the real problem: Taxpayers who may be forced out of their homes by the increase in property taxes.
- \* Uses an administrative mechanism that is already in place.

# Fax Transmittal Memo

To: Dave Crosner & David  
 Company: Santa AFL-CIO  
 Location:  
 Fax #  
 Telephone #

7872

No. of Pages

From

Company

Location

Fax #

Original  
 Disposition

☐ Destroy

☐ Preserve

☐ Retain for audit

Today's Date

Time

UFCW Local 7872 SENATE TAXATION

EXHIBIT NO. WITNESS SHEET

DATE December 10, 1993

BILL NO. SB 41

Comments: -- FOR FRIDAY'S HEARING --

Please enter as testimony to privatize liquor stores

Jill Dunning  
 710 Birch Blvd  
 Billings MT 59105  
 12/9/93

Dear Taxation Committee Members:

I am writing in regard to the proposal to eliminate the retail State Liquor Stores. I am a liquor clerk at the Billings 1296 store, and I am opposed to this proposal.

First, the personal and financial hardship on the affected state employees will be great. Many of us are supporting families. We work hard to feed our children. If the stores are closed a number of people will be collecting unemployment as well as qualify for food stamps or other financial assistance. I have not seen in the proposal where the cost of paying unemployment & other financial assistance is accounted.

Second, in my opinion, the state budget needs work, but this proposal and others are depending on one-time money allotments. It would be more effective to raise liquor prices slightly & realize the increased profit on a longer term basis. After our salaries are paid (right now we pay taxes too) the liquor division earns \$5,000,000 annually.

Third, lastly, the customers like our store. It is clean, dry, well-designed and stocked. Many of them will come to a private or state store where alcohol consumption is not permitted, but would never go into a bar to purchase alcohol. Any of



the customers I've spoken with feel that we make money for the state and the state needs it. The people who are for privatization don't seem to be for this plan, but for complete privatization.

I believe that if the State retail stores are eliminated, then complete privatization is the next step that will occur. Then the income to the state will be completely eliminated. I hope you will recognize that this proposal at this time is not in the best interests of most Montanans and vote to support the state stores, the employees and our customers.

Sincerely,

Bill Dunning

SENATE TAXATION

WITNESS  
SHEET

EXHIBIT NO.

DATE

December 10, 1993

BILL NO.

SB 41

Dear Senator,

I am writing to you about the privatization bill, Senate Bill 41. I am a liquor store employee and have just received a copy of the bill today, Wednesday, and have been told it will be heard by you on Friday morning at 9:00 am. As this is the busiest day of the week for my store, and most others, and also the busiest month, I will not be able to attend the hearing. Due to the short notice, I'm faxing this to you as it is the only course open to me.

First, the idea behind this bill is to generate 5,000,000 dollars. This is the retail price of the merchandise in the stores. If they sold every bottle, this is the amount of cash to be deposited in the bank. If they were going to get out of the business altogether, the license tax (13% of the base price) would not, by law, go into the general fund. This is approximately \$274,000. Closeout costs amount to \$1,500,000, (their figures). They are not getting out of the business, so they have to keep the amount it would take to restock. This comes to \$2,230,900. If you add these up, they come to \$4,004,900, and that leaves you \$995,100.

Second, we have the price of the liquor to the public. They say it will not go up much. Let's look at it.

Price New Bill		Price Old Bill	
Vender Base Price	10.00	10.00	Vender Base Price
28.6% Warehouse markup	2.86	4.00	40% retail markup
22.9 Excise Tax	2.29	4.68	22.15% Excise Tax
14.3 License Tax	1.43	4.68	14.11% License Tax
TOTAL	16.58	16.68	17.67
Freight (Their Fig.)	1.58	1.16	Freight

TOTAL 17.16 ~~16.76~~ 17.83

This is a difference of \$~~40.07~~ 1.67 increase and we have not even added on the markup that the bars will require. I called around Missoula and the lowest price for a \$8.90 fifth of Black Velvet sold for \$10.40. That's a \$1.50 more, a 16.8% markup. Most businesses operate, the state included, on a 40% markup, or \$6.85. This means the price could go up from \$2.19 to \$7.25, and we haven't even figured in the added cost of a split case. This figure is based on added handling costs in the warehouse which are uncertain at this time. Nowhere in the bill does it address the cost of freight.

Third, we have the stores. For two years they have had the money for new computers set aside, and they keep putting it off because we may be getting out of the business. AT&T recently bought NCR, our current cash registers, and have offered an early retirement to NCR employees. My machines have been down every week for the last month. Who is going to fix them?

A decision needs to be made to either stay in the business and go forward, or get out. Please end this axe hanging over our heads so we may get on with our own lives and jobs.

Sincerely,

Sandra Lee

DATE 10 DecSENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: SB 41, SB 35, SB 40, SB 42

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Check One

Name	Representing	Bill No.	Support	Oppose
CARLA DENNISON	MT FOR BETTER GOVT	41	X	
John J. Cochran	MT for Better Govt	41	X	
Debi Haessly	mt for Better Govt	41	X	
DAVID MCCANNEL	MT- FOR BETTER GOVT	41	X	
Leonid D. Perpentov	MT. for Better Gov't	541	X	
David R. Robertson	MT. for Better Gov't	541	X	
Rae Carpenter	MT For better Gov't	41	X	
Norma Robertson	MT. For Better Gov't	41	X	
Susan A. Thomas	MT. for Better Government	41	X	
LeRoy Musick	" " " "	41	X	
Stef Celmer	MT for Better Gov.	41	X	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 10 DecemberSENATE COMMITTEE ON VocationBILLS BEING HEARD TODAY: SB41, SB35, SB40, SB42

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Check One

Name	Representing	Bill No.	Support	Oppose
Robert Lemm	Liquor Rep	41		X
Tom Schauder	MPEA	41		X
Carolyn Givens	N.A.H. 58	41		X
Brett Hardy	Self	41		
DUCE NEWINS	Self	41		X
DAVE THOMAS	Mount. For Better Govt	41	X	
LARK A DAVIS	" " " "	41	X	
Edgar C. Dunlop	" " " "	41	X	
Tom Connor	" " " "	41	✓	
JOSEPH HALL DORSON	" " " "	41	✓	
CORKY, INDRELAND	" " " "	41	✓	
John Rice	Mount for Better Govt	41	✓	
ROGER SAYLOR	" " " "	41	✓	
DICK BENNISON	" " " "	41	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 10 December

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SBs 35, 40, 41, 42

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Check One

Name	Representing	Bill No.	Support	Oppose
Helen Christensen	AFL-CIO	41		X
Darrell Holzer	AFL-CIO	41		X
Willard Hill	SELF			X
B AND W Alliance	BFW			X
Roger A. Donovan	SELF	41		X
Danella Miller	UFCW 412	41		X
Mary Alves	U.F.C.W 1981	41		X
Mary J Schuler	Liquors ST #8	41		
Merilee McClurg	Liquor Store #12, Kal.	41		X
Ray Tindell	UFCW 8	41		X
Don Corson	UFCW 33	41		X
MIKE GRUNOW	MAJSA	41		X
Dale J. Davis	MAJSA	41		X
Tim Dahin	MAJSA	41		X

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 10 December

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SBs 35, 40, 41, 42

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Bill Stevens	MZDA	41		X
Ken W. Hunt	Mission Drug - MALSA	41		X
Kathe Kane	Liquor Store #68	41		X
Kenny K. Kane	Liquor Store #68	41		X
Senator Jack Doc' Rea	Senato	41		X
Mike	Liquor Rep	41		X
Roger O'Headite	Store #12	41		X
GARY GIANNINI	GAS BROKER	41		X
Dan	Liquor Rep	41		X
Cory Harrington	Montana County Treasurer	40		
Scott H. Arnold	A.F.S. C.M.E.	41		X
Gary Blumett	DOR	41	X	
Walt Dupea	Self	41	X	
Rick Sore	Self	41	X	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 10 DecemberSENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: SB, 35, 40, 41, 42

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
DAVID SMITH	GOW'S TAX ADVISORY COUNCIL & MEA	42	X	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY