

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 11, 1997, at 8:00 a.m., in Room 325 of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Jody Bird, Judiciary Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 354, SB 372, March 3, 1997
Executive Action: None

HEARING ON SB 354

Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena

Proponents: Lowell L. Bartels, McDonald's, Helena and Butte
Betsy Barnhart, Bozeman, self
Paul Cartwright, self
B. A. Brockmeyer, self
Leonard Eckel, Helena small business owner and citizen
Bob Stevens, Bozeman, self
John Toenyes, owner, Elmer's Pancakes and Steaks, Great Falls
Carol Cassie, Mama Cassie's, Great Falls
Fred Weiner, Fred's Mesquite Grill, Bozeman
Jim Crand, small business owner, Bozeman

Patrick and Missy Orliss, Whitefish restaurant owners
John Shontz, Montana Association of Realtors
Robert Leach, Billings Association of Realtors
John Precciello, Costine's, Black Eagle
Bruce Evanson, self
Dave (unable to discern surname), Great Falls
restaurant owner
June James, Centennial Inn, Dillon
Steve Randolph, Emilinos, Helena
Mike Casey, Helena Economic Development Commission, and
Helena Prudence Society
Cathy and John Ramirez, Mountain Meadow Inn, Helena
Tim Ryan, Executive Director, High Plains Development,
Great Falls
Alec Hansen, Montana League of Cities and Towns
Stephen Tang, Jade Garden, Helena
Denny and Christine Staggs, Red Bird, Missoula
Ellen Engstedt, Don't Gamble with the Future
Keith Clevenger, Staggering Ox, Helena
Alan Ruby, Kalispell contractor
Jim Crestmeier, Missoula
Bruce Warner, Bozeman
J.M. Bender and B. Cullinan

Opponents: REPRESENTATIVE BOB KEENAN, Bigfork
Mark Staples, Montana Tavern Association
Allen Bock, self and The Brewhouse, Helena
Robin Hampton, Sec-Treas, The Brewhouse, Helena
Laurie Shadoan, Bozeman
Darrell Keck, Shelby tavern owner and President, Gaming
Association
Bill Hands, Darby, small business owner
Marilyn and Kevin Conner, co-owners, Woodpecker's,
Helena
Gene Burgett, owner, The Rex, Billings
Bob Fletcher, The Cannery Lounge, Bozeman
Mike Muncie, The Depot Restaurant, Missoula
Bill Hannaker, Walker's Grill, Billings
Bob Zimmorino, Red Pies over Montana, Missoula
Sarah Herold, Capitol City Bowl
Harold Fraser, First Security Bank, Missoula
Reeder Seshy, Black Eagle
Jim Grubbs, casino-restaurant operator, Billings
Ramani Mohan, high school student/restaurant worker
Patti Warburton, Pizza Depot, Shelby
Rose and Chester Bullock, Basin, and Tri-County Tavern
Association.
Burr Lively, Southwest Montana Tavern Association,
Dillon, and owner, Melrose Bar
Bill MacIntyre, Pug Mahon's, Billings
Jim Johnson, self and Montana Fraternal Order of
Eagles, Red Lodge
Barry Smith, Somers
Carl Solvie, Gran Tree Inn, Bozeman

Diane Guy, El Commodore, Great Falls
Clare O'Malley Gould, O'Malley's, Canyon Ferry
Fred Keller, family restaurant manager, Missoula
Tami Kinoker, Iron Horse, Missoula, and Missoula County
Tavern Owners
Brian Cote, Coyote's Sports Grill
Blu Funk, Showthyme Restaurant, Bigfork
Loren Bateen, JD's, Billings
Cal McOmber, Corvallis Tavern
Bruce Fowler, Missoula
John Greenwood, Frenchtown Club, and President,
Missoula County Tavern Association
Dean Clinkenbeard, Deano's, Missoula
Laura Fix, River Grill, Helena
Barb Morris, Jorgenson's Helena
John Tovson, Cascade County Tavern Association
Gary Hildenbank, Shortbranch Lounge, Whitefish
John Gordon, Great Falls
Lynn Seelye, Sailboat Lounge, Great Falls
Casey LaFlesh, Missoula
Dan Clark, Helena
Steve Nelson, Missoula
Paul Gies, Lewistown
Labey, Montana Coin Machine Operators
Jim Lange, Missoula
Ron Scharf
J. Hayes, Secretary, Cascade County Tavern Assoc.

Opening Statement by Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena. This bill will allow restaurants to serve beer and wine. The public demand for change, and the change in public policy has been the scene for liquor control in Montana. Fraternal licenses and veterans were allowed these licenses which were originally transferable. Tourism and airports were given non-transferable and non-assignable licenses, then came golf courses under the same regulations. Then we allowed license for grocery stores and pharmacies which were also not transferable and had no quotas. Later these licenses were attached to gambling to help mom and pop places. We are tired of watching small restaurants in Helena go down, as they couldn't sell beer and wine with dinner.

This bill requires that 75 percent of gross annual income come from food, and is the highest percentage in the nation. The license can't be sold or transferred. The application fee is \$1000 and the annual renewal fee is \$300. Seventy licenses were issued the first year, so no more beer and wine licenses would be sold with gambling attached.

The Fiscal Note estimates eight beer and wine licenses with gambling were sold or transferred across Montana this year, and 16 new licenses under the existing quota system. The concerns of the industry about devaluation of licenses didn't happen. I have

an amendment proposed by Bruce McGinnis (EXHIBIT #1). The amendment simplifies and streamlines the whole process.

{Tape: 1; Side: A; Approx. Time Count: #10.9; Comments: None}

I also asked for an amendment to clarify what happens when someone applies for a license now with gambling attached. I will be available for questions and closing.

Proponents' Testimony: Lowell L. Bartels, McDonald's, Helena and Butte. We're not interested in obtaining such a license, and McDonald's in the U.S. are not allowed to have them.

Betsy Barnhart, Bozeman, self. I have 1000 signatures in support of the bill (EXHIBIT #2).

Paul Cartwright, self, read from prepared testimony in support of SB 354 (EXHIBIT #3).

B. A. Brockmeyer, self, stated his support of the bill.

Leonard Eckel, Helena small business owner and citizen, read from prepared testimony in support of the bill (EXHIBIT #4).

Bob Stevens, Bozeman, self. I am world-traveled, and was just in Bolivia. We were able to get beer and wine in restaurants there. In Salt Lake City, Utah they changed the liquor laws, and now they will host the 2002 Olympics. Seven thousand people will eat in Montana restaurants today. I have heard comments from travelers in Montana about the lack of beer and wine in restaurants.

John Toenyes, owner, Elmer's Pancakes and Steaks, Great Falls. I am not interested in gaming at this point, and I don't have the money to buy a \$150-250,000 license. My customers are mostly age 55-65, and continually ask me to get a beer and wine license. A number of formerly good restaurants have either become casinos or have been purchased by casinos in Bozeman. I don't believe the government had free breakfast in mind at casinos when they originally passed gambling legislation in Montana.

{Tape: 1; Side: A; Approx. Time Count: #27.0; Comments: 8:30 a.m.}

Carol Cassie, Mama Cassie's, Great Falls, read from prepared testimony (EXHIBIT #5). I don't want gambling machines, and I end up selling a lot of food to go so people can drink beer and wine with their meal at home. I only want to be able to meet the needs of my customers, and ask the Committee for favorable consideration of this bill.

Fred Weiner, Fred's Mesquite Grill, Bozeman. People constantly want to bring beer and wine into my restaurant. My customers want freedom of choice.

Jim Crand, small business owner, Bozeman. I believe we may begin to lose small mom and pop restaurants if this bill is not passed.

Patrick and Missy Orliss, Whitefish restaurant owners. We have a restaurant in Whitefish. We are asking for a chance to compete on a level playing field.

John Shontz, Montana Association of Realtors. If the bill doesn't pass, I believe there will be an initiative and a petition on the ballot which will be far more onerous than this bill. I encourage your favorable consideration.

Robert Leach, Billings Association of Realtors. Member Ernie Dutton has done much research on this bill. A Pizza Hut closed and rebuilt in another location so as not to have to buy a new liquor license.

{Tape: 1; Side: A; Approx. Time Count: #39.8; Comments: None}

John Precciello, Costine's, Black Eagle. I don't want to be in the casino and bar business, but I'd rather be able to provide a glass of beer or wine to a customer. The net income off a gambling machine is said to be \$186,000 per year. Some own multiple machines, and they're giving away free food and beer to casino players. I saw a woman gambler pay for her groceries with food stamps. I ask that you pass this bill.

Bruce Evanson, self. I believe it's a person's right to go have a beer with his food when dining out.

Dave (unable to discern surname), Great Falls restaurant owner. I believe there is great concern over devaluation of liquor licenses.

June James, Centennial Inn, Dillon. People question me because I don't have a liquor license. My restaurant is in a historic structure built in 1905. Clientele come from all over the U.S. and the world. Western Montana College uses my restaurant for prospective teachers.

{Tape: 1; Side: B; Approx. Time Count: #.09; Comments: 8:48 a.m.}

Steve Randolph, Emiliano's, Helena. I ask that the Committee support this bill.

Mike Casey, Helena Economic Development Commission, and Helena Prudence Society. I believe the bill addresses the past concerns of the Montana Tavern Association.

Cathy and John Ramirez, Mountain Meadow Inn, Helena (formerly the Upcountry Inn). We want to offer fine dining without gaming machines. We encourage the Committee to look at this alternative, and believe it will increase jobs and the state tax base.

Tim Ryan, Executive Director, High Plains Development, Great Falls. We believe this is a good compromise, and that the amendments address the concerns of the Montana Tavern Association. I'm not sure the State should be in the business of selling something for \$800 which could be worth \$200,000.

Alec Hansen, Montana League of Cities and Towns. Our members voted to strongly support this type of legislation for community development and expansion of small business in Montana. I am a long term financial supporter of the finance industry.

Stephen Tang, Jade Garden, Helena, stated his support of the bill and provided a petition with 400 signatures (EXHIBIT #6).

Denny and Christine Staggs, Red Bird, Missoula, comments they have 17 tables in their restaurant. This bill would allow for fair and healthy competition. We're from Montana, and we want to stay here. A beer and wine license in Missoula now sells for \$315,000, a ten-fold increase in 10 years. There are 26 inactive beer and wine licenses in Missoula, and about 20 are in convenient stores and connected with gaming. I also have a petition with 210 signatures obtained over the past two weeks (EXHIBIT #7). There was a recent "CLB overlay" problem in Missoula, and they wanted to zone without gaming.

{Tape: 1; Side: B; Approx. Time Count: #15.9; Comments: None}

Ellen Engstedt, Don't Gamble with the Future, read from prepared testimony in support of the bill (EXHIBIT #8).

Keith Clevenger, Staggering Ox, Helena. This goes beyond the monetary issue. We want to offer the public what they want to drink. (EXHIBIT #9).

Alan Ruby, Kalispell contractor, read from prepared testimony (EXHIBIT #10). I don't own a restaurant, but am a contractor. I spoke with area professional people. The bar owners have no problem with this bill. The bankers use the licenses as security collateral. Others were bothered by the limit of licenses. I asked your favorable consideration and have a letter from Dick Gordon (EXHIBIT #11).

Jim Crestmeier, Missoula. It appears existing licenses have become a commodity.

Bruce Warner, Bozeman, stated his support of the bill.

J. M. Bender and B. Cullinan sent in letters in support of SB 354 (EXHIBIT 12).

(EXHIBIT 13) petitions sent in from all over the state in support of SB 354.

Opponents' Testimony: REPRESENTATIVE BOB KEENAN, Bigfork. I am a fine restaurant owner with no gambling. As of December 13, 1996 there were beer and wine licenses available in Billings, Helena, Missoula, and Bozeman. I suggest the Committee make the new licenses cost \$10-15,000. Cascade County has three all-beverage licenses available within Great Falls. Yellowstone County has 24 all-beverage licenses available.

Mark Staples, Montana Tavern Association. We are here to defend the rights and privileges of 2000 Montana families, who are also mom and pop organizations. We have gathered petitions in the past ten days with tens of thousands of signatures to dwarf those presented by the proponents. We represent 200 all-beverage licenses and 200 beer and wine licenses, most of which have five or fewer gaming machines.

Gaming has been in place in Montana since 1989. One owner in Great Falls has been offered a license for free, but won't take it. Fine restaurants don't have to be associated with gaming.

It's not fair to current license owners for new ones to pay far less for their licenses in this bill. Most banks are concerned about the ramifications of this bill, and I have letters from some of them (EXHIBIT #14).

This is a competition issue. We believe hundreds of current licenses will be sold if this bill passes. If the Department of Revenue were to investigate all these new businesses, that would cost millions of dollars. And without these investigations, we don't have a level playing field.

Allen Bock, self and The Brewhouse, Helena. We just went through the licensing process and to change now would be horribly unfair.

Robin Hampton, Sec-Treas, The Brewhouse, Helena. I specialize in small business loans, and do not finance casinos. The government tendency is to close the barn door after the horses are out. The restaurant business is more competitive than any other, and has had more failures than any other. In the past five years liquor licenses have become a good form of collateral. If the bill passes we will see a drop in value. The Brewhouse is a non-smoking restaurant. Many would like to be compensated for probably huge losses if this bill passes, and I believe it would benefit large out-of-state corporations far more than mom and pop operations.

Laurie Shadoan, Bozeman. We have two restaurants in Bozeman and a lounge, as well as an all-beverage liquor license. The problems are that it is difficult to monitor and the low fee for the license in this bill. We have one poker machine. Alcohol consumption per capital was down to 25.1 gallons in 1995 from 28.1 gallons in 1990.

Darrell Keck, Shelby tavern owner and President, Gaming Association. Twenty-five percent of people in Shelby signed against this bill. I believe it is a poor bill. In 1995 the National Restaurant Association reported a 90 percent failure during the first year of business. I ask that you all call home before you vote for this bill for unlimited alcohol outlets in Montana. A deli-restaurant in Shelby failed twice with a beer and wine license, and has now been open for a year without beer and wine and is doing very well.

{Tape: 2; Side: A; Approx. Time Count: #13.0; Comments: 9:40 a.m.}

Bill Hands, Darby, small business owner, stated his opposition to the bill.

Marilyn and Kevin Conner, co-owners, Woodpecker's, Helena. We own a full family restaurant on one side with no smoking or gaming, and we oppose this bill.

Gene Burgett, owner, The Rex, Billings. I pay \$15,000 per month on my liquor license. Restaurants without gaming would be forced to consider gaming as their licenses will be devalued. This bill creates tremendous potential for expansion of gambling. We serve alcohol responsibly and don't our it down our customers.

Bob Fletcher, The Cannery Lounge, Bozeman. I have been in this business nearly 20 years, and I believe we will see beer joints galore with this bill. I don't see how the Department of Revenue will be able to check upon on this, and that is a good reason to look seriously at this bill.

Mike Muncie, The Depot Restaurant, Missoula. This is my 24th year, and I have invested substantially in real estate and the building my restaurant is in, using the value of my liquor license. My alcohol sales are less than seven percent of sales. There have been 16 beer and wine and all-beverage licenses issued in the past six months. We are asking for a level playing field.

Bill Hannaker, Walker's Grill, Billings. I am here to save my business, and am a licensed real estate broker in Montana. The problem is that only one side has something at risk. My license cost 30 times what they'd be paying for theirs. We must look at who this affects - mostly restaurants without gaming.

I would sell my license and try to get a \$1000 license, but I don't believe I could afford to do so now. We all believe in free enterprise, and it can't be freer for some than for others.

Bob Zimmorino, Red Pies over Montana, Missoula. We began in 1979. In 1981 we were granted a census license. I didn't take the profit and run, but chose to reinvest, yet I couldn't afford to open in Bozeman because the liquor license would have cost \$200,000-plus. My businesses are no-smoking and non-gaming.

I had to play by the rules, and now I don't think it's fair to be penalized. I ask that if you are going to change the rules, you do so fairly.

{Tape: 2; Side: A; Approx. Time Count: #28.8; Comments: None}

Sarah Herold, Capitol City Bowl. I am required to pay \$800 to the state, \$500 to the city, and \$250 to the federal government in order to use my current license. Will our fees be reduced to be equitable? Wendy's and McDonald's fit the 75 percent food income requirement and kids work there. Would a waitress card all customers at a table before serving a food order? I have a full liquor license and eight machines, but we make our money on bowling. My husband and I choose not to drink with dinner. I ask that the Committee do not pass this bill.

{Tape: 2; Side: A; Approx. Time Count: #31.5; Comments: None}

Harold Fraser, First Security Bank, Missoula. I am Senior Vice President and Director of this bank, and have a lot of experience which should represent common sense. I am not in favor of this bill as it sits. I ask that you table the bill until it is amended, as it does not address the equity issue for current license holders and access to capital. I predict an increase in business failure with this bill, which will cost Montana much in lost tax revenue and elsewhere. For the past ten years Montana restaurants already have a failure rate higher than the national average, and it has the highest restaurant failure rate in the six-state region. I believe we need a more meaningful price of \$15,000-30,000 for these licenses, and ask that you listen to my 30-plus years of experience.

Reeder Seshy, Black Eagle. I have been in business for 60 years, and have held the same license for that time. I am also a lifetime member of the Montana Tavern Association, and have only five gaming machines. This quota was pushed by church people before, but the juvenile problem in this bill is not addressed. Central Avenue in Great Falls just went bankrupt and left the American Legion license debt of \$325,000 when the original cost was \$25.

{Tape: 2; Side: A; Approx. Time Count: #39.2; Comments: None}

Jim Grubbs, casino-restaurant operator, Billings. I am in the pizza business. This same thing happened in Wyoming in the early 1980s, and within six months about thirty percent of existing licenses were up for sale. In nine months the value had dropped by fifty percent, so within two years we had to sell our business at a loss.

Ramani Mohan, high school student/restaurant worker. I am sixteen years old and work in a food service establishment. If they began to serve alcohol, we teens would lose our jobs. She presented (EXHIBIT 15).

Patti Warburton, Pizza Depot, Shelby. I have operated the Pizza Depot in Shelby for the past five months and am on a temporary license now.

Rose and Chester Bullock, Basin, and Tri-County Tavern Association. Our retirement is our place of business. Two years ago a license was issued to a fine dining restaurant in Basin which is no longer in operation. So, liquor doesn't guarantee success.

{Tape: 2; Side: B; Approx. Time Count: #00.0; Comments: 10:12 a.m.}

Burr Lively, Southwest Montana Tavern Association, Dillon, and owner, Melrose Bar, stated his opposition to the bill.

Bill MacIntyre, Pug Mahon's, Billings, stated his opposition to the bill.

Jim Johnson, self and Montana Fraternal Order of Eagles, Red Lodge. I own a saloon in Red Lodge and have put my life savings in this, so I'm concerned about devaluing of licenses. I'm also a member of the Eagles Lodge, and at their state convention, they voted overwhelmingly to oppose this bill.

Barry Smith, Somers. I urge caution in this bill, and have sympathy for the situation. I have a dinner house in Somers with an all-beverage license. I am concerned with the ripple effect if the Legislature acts too quickly, and as to how the State will monitor the far and away bed and breakfast establishments, for example.

Carl Solvie, Gran Tree Inn, Bozeman. I have a motor inn and restaurant in Bozeman, and am a beverage license owner. I believe this bill is wide open, and urge you to vote no.

Diane Guy, El Commodore, Great Falls. I do not serve alcohol, and was initially denied a beer and wine license. I have worked in the Restaurant since age 14, and am still trying to make a living. She presented (EXHIBIT 16).

Clare O'Malley Gould, O'Malley's, Canyon Ferry. We paid top dollar for our license, and SB 354 would jeopardize our investment.

Fred Keller, family restaurant manager, Missoula. Our license was purchased in 1972 for \$10,000.

Tami Kinoker, Iron Horse, Missoula, and Missoula County Tavern Owners. I oppose this legislation.

Brian Cote, Coyote's Sports Grill. I borrowed \$300,000 for my license.

Blu Funk, Showthyme Restaurant, Bigfork. My restaurant is non-gaming and non-smoking.

{Tape: 2; Side: B; Approx. Time Count: #2.8; Comments: 10:22 a.m.}

Loren Bateen, JD's, Billings. We confiscated six fake I.D. cards last Saturday night, and I believe this bill will enhance minor drinking. There are tons of false I.D.s around. We had 350 of them in one year. How concerned would someone be about losing a \$1,000 license?

Cal McOmber, Corvallis Tavern. Maybe we need a bottle club bill.

Bruce Fowler, Missoula. I have had my license for 24 years. Sales have declined on average 10-30 percent.

John Greenwood, Frenchtown Club, and President, Missoula County Tavern Association. I suggest making a commitment and buying small if you want to own a restaurant and don't have a lot of money for a license.

Dean Clinkenbeard, Deano's, Missoula. We have two licenses, and I strongly oppose this bill.

Laura Fix, River Grill, Helena. As general manager, and on behalf of my family, we strongly oppose this bill.

Barb Morris, Jorgenson's Helena. I believe this bill will hurt more than it will help.

John Tovson, Cascade County Tavern Association, stated his opposition to the bill.

Gary Hildenbank, Shortbranch Lounge, Whitefish, stated his opposition to the bill.

John Gordon, Great Falls. I have been in the restaurant business for 15 years, and am now in the business of consulting and am a non-institutional investor in restaurants and bars. I want to go on record in agreement with Mr. Fraser from Missoula.

Lynn Seelye, Sailboat Lounge, Great Falls. Red Lobster said Great Falls didn't fit their criteria, and Chili's said it didn't fit their system.

Casey LaFlesh, Missoula, Dan Clark, Helena, Steve Nelson, Missoula, Paul Gies, Lewistown, Labey, Montana Coin Machine Operators, Jim Lange, Missoula, and Ron Scharf, Missoula all stated their opposition to SB 354.

(EXHIBIT 17) was sent in by J. Hayes, Secretary of the Cascade County Tavern Association.

{Tape: 2; Side: B; Approx. Time Count: #22.6; Comments: None}

Questions From Committee Members and Responses: SENATOR BARRY

STANG. I would like a breakdown of application fees and license renewals for the Committee. **Diane Kuntz, Department of Revenue.** I will get this information for the Committee.

SENATOR MIKE SPRAGUE. Concerning establishing "value", it seems this is a problem whose time has come. What do you deem the value of a restaurant receiving a license and the loss of value to someone already invested. **John Gordon.** A new license value would be about \$25,000, but it would require more study to make a more accurate estimate.

SENATOR SPRAGUE. How do you account for an increase in value of these licenses? **SENATOR WATERMAN.** I see this as supply-side economics, because there will be fewer licenses available; however there are 126 licenses without gaming attached now, and 60 with gaming attached.

SENATOR MACK COLE. Can you make this livable? **Mark Staples.** There does need to be a value, and we can't have an unlimited class of licenses and still have a legal structure and a quote system, too. Other states have taken new licenses as a percent of the quote system. Airport licenses are very controlled already. Otherwise, people can bring their own bottle, which is illegal now.

SENATOR DOROTHY ECK. I would like to see information on the taverns and gaming in Bozeman from the list you gave us, and I want to see the number of licenses purchased prior to 1985, as that's when license prices began to change. **Mark Staples.** Okay.

SENATOR FRED VAN VALKENBURG. We were asked to consider testimony concerning the possibility of liquor licenses in fast food restaurants, so would you be amenable to prohibiting workers under age 21 from such establishments, or allow them to work, but not serve alcohol if they're under 21? **SENATOR WATERMAN.** If you'd support this for all classes with no restrictions, I believe we would see a great employment opportunity, as restaurants in the state would begin to thrive.

SENATOR VAN VALKENBURG. How do we separate the mom and pop restaurants from the Red Lobsters and the Olive Gardens? **SENATOR WATERMAN.** I don't believe we can require them to be a state resident to own one of these licenses.

{Tape: 3; Side: A; Approx. Time Count: #00.0; Comments: 10:50 a.m.}

SENATOR VAN VALKENBURG. What value do you put on such a license? **Harold Fraser.** I would not give them a value, as they are not transferrable from a collateral standpoint.

SENATOR SPRAGUE. I believe the whole argument boils down to value, and ask that you give us a ball park figure in gain or

loss of value. **Harold Fraser.** It could lead to devaluing of existing licenses by up to 50 percent. I believe this will seriously affect access to capital. We are the biggest lender in Montana with SBA loans, and we make a lot of restaurant loans, so we need to restrict entry to being established by market value.

CHAIRMAN DEVLIN. Would you loan more to a new licensee? **Harold Fraser.** If revenue were enough to offset the lack of collateral, that is, it would be a very limited asset.

{Tape: 3; Side: A; Approx. Time Count: #5,8; Comments: None}

SENATOR BOB DEPRATU. Can restaurants sell this devalued licenses and buy a new \$1000 license and continue in operation? **Mark Staples.** Some could and might. Only one-third of fifty fraternal licenses have sold, and some are holding on as they still hold value.

SENATOR DEPRATU. Are you familiar with the corporation that owns Pizza Huts? If they sold, could another entity, such as a casino be started? **Mark Staples.** Plausibly, yes.

Closing by Sponsor: **SENATOR WATERMAN.** **REPRESENTATIVE KEENAN** was referring to licenses five miles outside the city limits. Regarding the Great Falls fraternal license, I believe Montana businesses should 'make or break' it on their own.

I realize some current licenses could become casinos. Are we saying that 100-150 fine dining restaurants in Montana are enough? There are applications and requirements to obtain new licenses.

I felt that the opponents were worried about being put out of business. My supporters are not afraid of competition. I have no lines in the sand with this bill, and am more than willing to work with folks on both sides to resolve this matter now.

The cost of renewal for off-premise is \$400, and the license if \$500. I am not wed to \$1000, to believe \$25,000 is also out of line. Under the quota system you could get a license for \$400 which 24 hours later sold for \$150,000. We've set this license price two and one-half times as high with no provision to transfer or sell. It costs \$400 for a license and \$400 for renewal for the 700 grocery and pharmacy outlets in Montana.

I find the bottle bill idea very interesting. A new bank charter costs only \$3000. I'm not sure why we'd want a quota system. I tried to keep this simple.

In **SENATOR DEPRATU's** district they can support twice as many restaurants as they have greater tourism. A quota system has criteria and quotas, and this bill has requirements and limits. This is like a grocery store license, so there are no guarantees.

It is capped because we will have 30-32 more licenses in two years, and if the bill passes we will have half that number.

You do not pay personal property tax on that beer and wine license. Montana has seen a dramatic increase in the value of these licenses. We need to think on how to protect those with current licenses, yet address Montanans who want the same opportunity. I believe McDonald's is an example of good competition, and I urge you to pass this bill for economic development.

HEARING ON SB 372

Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena

Proponents: Mary Bryson, Director, Department of Revenue
Gordon Morris, Director, Montana Association of
Counties (MACO)
John Shontz, Montana Association of Realtors

Opponents: Letter sent in from Carbon County Courthouse Personnel
(EXHIBIT 18).

Opening Statement by Sponsor: SENATOR MIGNON WATERMAN, SD 26, Helena. This bill is the product of the concerns of county commissioners and others in the real estate industry about the time it takes to get the name of the current owner of a property on the property tax rolls.

{Tape: 3; Side: A; Approx. Time Count: #30.8; Comments: None}

Right now, they take the owner of record as of January 1 of that year, so even if ownership changed later on, the tax notice would go to the owner on record of January 1. The new owner is then dependent upon the former owner's willingness to forward the tax notice. At times these notices are not forward, and this has resulted in tax delinquencies. "Splits" in the bill have been difficult and controversial, and we have gray bill amendments.

Proponents' Testimony: Mary Bryson, Director, Department of Revenue. We support the bill and believe it is good legislation.

Gordon Morris, Director, Montana Association of Counties (MACO). Governor Racicot heard from people concerning these transfers and convened an interim committee of title companies, treasurers and assessors, and real estate people to study the situation, and they came up with SB 372. There was concern that we could not follow "splits" appropriately, so they were removed from the bill. This legislation takes a step in the right direction to address taxpayers' concerns.

John Shontz, Montana Association of Realtors. We believe the task force effort was a waste of time, because if you buy property in January currently, you would not become the owner of

record until that fall or the following January, and you would not get a tax notice. So, as a buyer, you have no opportunity to object to the taxable valuation of the property.

{Tape: 3; Side: A; Approx. Time Count: #37.6; Comments: None}

The idea here is to put in a real time basis and the name and address of the buyer who then would get a copy of the tax bill, as they are responsible for it. This would avert the possibility of a statutory lien. One piece basically does that: Section 4, page 7, item (b). We have some issues with the bill: 1) the effective date of 1-1-99; 2) reliable evidence; and 3) splits. We oppose the effective date and want to see it put in place on July 1, 1998, at the latest. We believe we will have more foot-dragging if we wait until the next biennium. Our issue with splits is that it sets up a whole other system of splits and non-splits. There needs to be a way to do this the same for everyone whether property is split or not. We also encourage timeliness for notices in the year of transfer only.

Stuart Doggett, Montana Land Title Association. We have received a letter from members regarding the potential problem of reliable as evidence that the grantee is the owner for tax purposes.
(EXHIBIT #19 - Maffei letter)

Questions From Committee Members and Responses: None

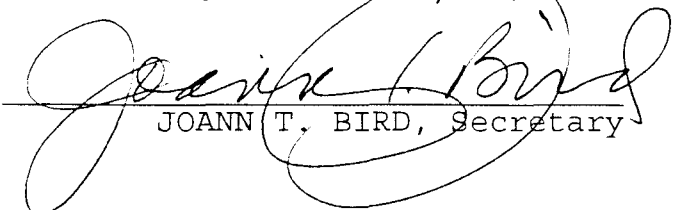
{Tape: 3; Side: B; Approx. Time Count: #00; Comments: 11:35 a.m.}

Closing by Sponsor: **SENATOR WATERMAN.** I apologize for the gray bill (EXHIBIT 20). There are two changes in the gray bill: 1) elimination of land splits; and 2) a change in the effective date. I would be glad to work with these people and the Department on clarifying the bill.

ADJOURNMENT

Adjournment: 11:35 a.m.



SEN. GERRY DEVLIN, Chairman

JOANN T. BIRD, Secretary

BDC/JTB