

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - 2nd SPECIAL SESSION**

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on July 10, 1992, at 2:05 p.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Fred Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: Dorothy Eck, Vice Chairman (D), John Harp (R)

Staff Present: Dave Bohyer (Legislative Council)

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

Announcements/Discussion:

HEARING ON SENATE BILL 5

Presentation and Opening Statement by Sponsor:

Senator Bob Brown, District 2, read from the title of SB 5 which would privatize state employee-operated liquor stores in Montana. He said the bill is not a perfect piece of legislation, and that his January, 1992, offer to accept suggestions to make it better is still open. Senator Brown asked the Committee to give the bill its consideration.

Proponents' Testimony:

Gary Blewett, Liquor Division Administrator, Department of Revenue (DOR), referred to and explained charts on revenue flow and what the bill does (Exhibit #1). He said the system would remain with price controls and the same service, but with private agents who only inventory what they sell.

Charles Brooks, Montana Retail Association, said he recognizes the bill does not totally privatize, and that the Constitution states government should provide only services that the people can't provide for themselves. He urged government to look at privatization.

Opponents' Testimony:

Representative Jerry Driscoll, District 92, asked the Committee to kill the bill.

Representative Dan Harrington, District 68, said the Liquor Division has caused great consternation across Montana in not staying within legislative direction, and in writing new rules, changing the ways agency stores are run, and moving to destroy the basic system. He told the Committee he would introduce a bill to slow down the DOR process until the Legislature meets in January, 1993 and can address the situation.

Tim Daily, East Helena Store, and Montana State Liquor Agency Association, opposed any legislation to privatize until 1993 (Exhibits #2 and #3). He said he believes privatization can't be done, and agencies changed, within two weeks, and that those involved haven't looked at all the options available. He advised the Committee that the state would lose millions of dollars with privatization.

Leo Thomas, Manager of Store #1, told the Committee his store is doing well, and has shown a 15.8 percent profit margin the first four months of this year. He further stated his store did \$52,000 in business in four days, and that he believed his sales were up partly due to the closure of stores in Townsend and Cascade. Mr. Thomas said he believes things are run too loosely, and that there is no control on spending. He also commented that supplies are needed in order that stores may maintain their inventories.

Mark Staples, Montana Tavern Association, explained that the Governor's task force met December 17, 1991, at which time the privatization bill from last session was put before them. He said the task force has not met since, and doesn't know if it is impaneled or what. Mr. Staples advised the Committee that they should not do wholesale revamping of businesses existing for so long for the sake of \$2 million. He asked that the task force be reconstituted, that it be allowed to do its work, and make recommendations next legislative session.

Don Judge, Montana State AFL-CIO, explained that members of this union were attending a health meeting in Whitefish, but asked him to let the Committee know they still oppose the bill. He said there is no evidence the bill will provide better service to customers or more on-going revenue. Mr. Judge stated that the bill is a transfer of existing jobs in each community, or fewer jobs, and that he believes it is lousy legislation, with lousy

timing. He urged the Committee not to pass the bill.

Bob Lemm, Montana Liquor Representatives Association, advised the Committee that the Revenue Oversight Committee maintained that this legislation should be tabled until the 1993 legislative session, and that he was in favor of that direction.

Questions From Committee Members:

Senator Doherty asked about the task force. Gary Blewett replied Denis Adams, Director of DOR, had advised him the task force was created before the Governor decided not to run for re-election, and that the administration saw no need to continue it now.

Senator Doherty asked if the fact that the Lieutenant Governor is running for re-election was not cause to continue the task force.

Senator Towe commented that the business of the state goes on whether or not the Governor runs for re-election. He asked why the Legislature's requests have not been followed. Gary Blewett replied that bids in process prior to the Revenue Oversight Committee's recommendations were considered, but none have been done since.

Senator Towe asked if DOR would award new bids in spite of the Committee's recommendations. Mr. Blewett replied it would.

Senator Towe asked if there were no preference in awarding bids. Mr. Blewett replied there is none.

Senator Towe asked if flipping a coin to decide the award was okay. Mr. Blewett replied that would not be his first choice of action, and said DOR has not found a resolution concerning the East Glacier store, and has not yet selected an agent because it is still determining if bidders meet qualifications. Senator Towe commented that he was very disappointed in the actions of DOR.

Senator Gage commented that the East Glacier store is in his district, and said he understood that DOR took action against a party who applied for the agency store, but were convicted felons. Gary Blewett replied that DOR does have the Glacier County Attorney reviewing past accounts of criminal behavior of the applicants.

Senator Thayer asked if the selection criteria gives credit for years of experience. Mr. Blewett replied it does take into account prior experience, but does not add weight if there is a tie.

Closing by Sponsor:

Senator Brown told the Committee he does not believe the state should be in the retail business of selling anything. He said the reduction of 125 employee-operated stores in 1975 to 30 in 1992 clearly supports this.

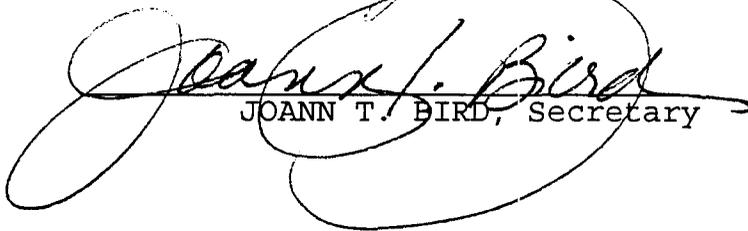
Senator Halligan offered the Committee the option of taking executive action on the bill this date, but they declined.

ADJOURNMENT

Adjournment At: 2:45 p.m.



MIKE HALLIGAN, Chairman



JOANN T. BIRD, Secretary

MH/jtb

ROLL CALL

SEN. TAXATION COMMITTEE

DATE 10 July 92

52nd LEGISLATIVE SESSION _____

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	✓		
SENATOR DOHERTY	✓		
SENATOR GAGE	✓		
SENATOR HARP			✓
SENATOR KOEHNKE	✓		
SENATOR THAYER	✓		
SENATOR TOWE	✓		
SENATOR VAN VALKENBURG	✓		
SENATOR YELLOWTAIL	✓		
SENATOR ECK, VICE CHAIR			✓
SENATOR HALLIGAN, CHAIR	✓		

Each day attach to minutes.

What Senate Bill 5 Will Do

- PROVIDE BETTER SERVICE TO CONSUMERS
- PROVIDE BETTER SERVICE TO LICENSEES
- INCREASE ONGOING REVENUE TO THE STATE
- MAINTAIN CURRENT RETAIL PRICES TO THE CONSUMER
- PROVIDE ABSOLUTE EMPLOYMENT PREFERENCES TO EMPLOYEE
- CREATE NEW JOBS IN EACH COMMUNITY
- LIMIT THE NUMBER OF AGENCY FRANCHISES TO ONE PER COMMUNITY
- PROVIDE THE OPTION FOR EXISTING AGENTS TO BECOME FRANCHISE AGENTS AND RECEIVE A 20% INCREASE IN THEIR COMMISSION RATE

What Senate Bill 5 Will Not Do

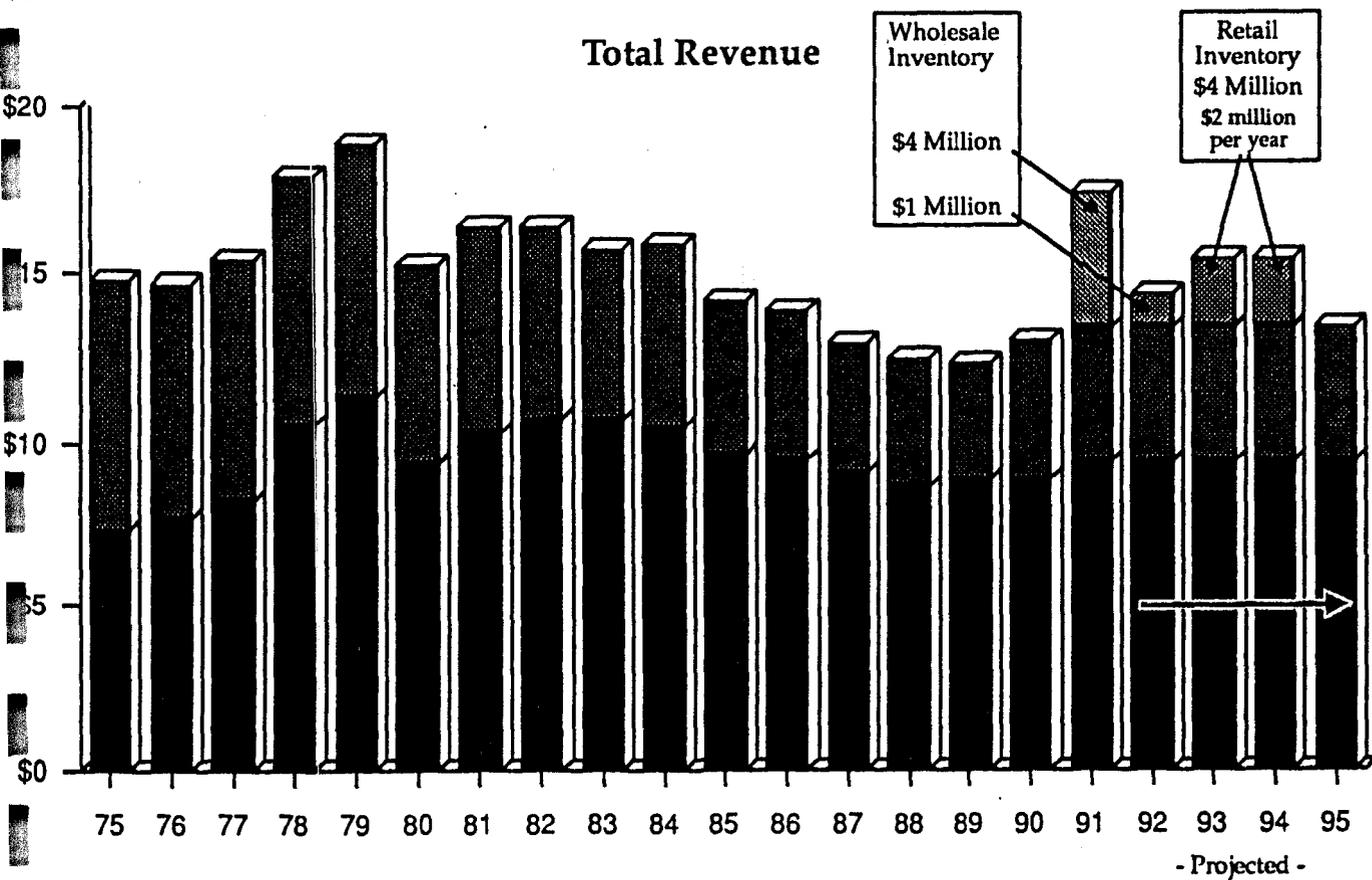
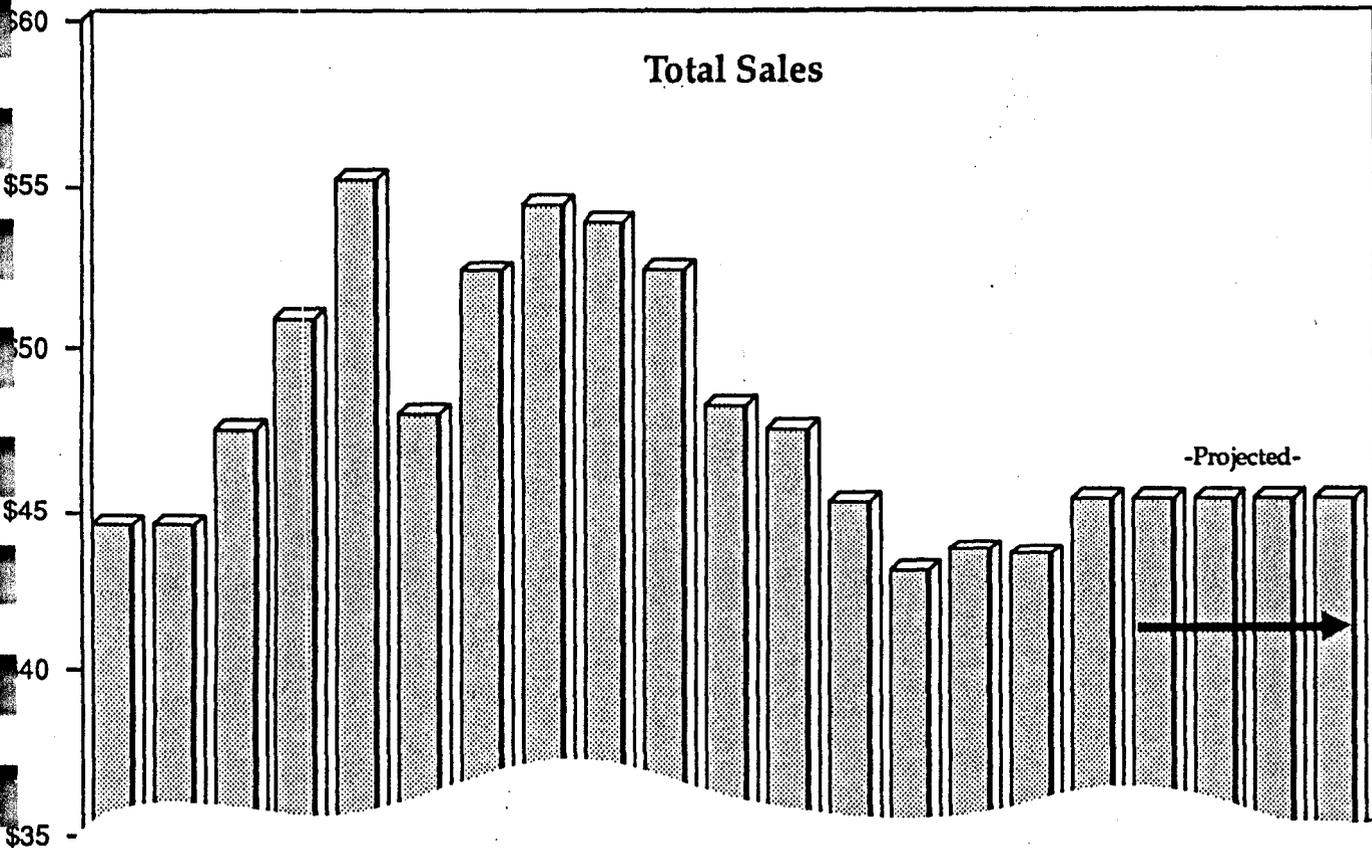
- **IT WILL NOT RESULT IN HIGHER PRICES TO CONSUMERS OR LICENSEES**
- **IT WILL NOT RESULT IN LIQUOR BEING SOLD IN GROCERY STORES**
- **IT WILL NOT DECREASE STATE REVENUES**
- **IT WILL NOT AFFECT EXISTING AGENCY STORES IN ANY WAY**
- **IT WILL NOT PRIVATIZE THE LIQUOR ENTERPRISE**

Liquor Enterprise

Historical Sales and Revenue Trends

Fiscal Years 1975 to 1991

In Millions



Liquor Taxes
 Liquor Profits
 Added Profits
 Sales

NEWSFLASH.....NEWSFLASH.....

This administration is going into special session on July 6 and one of the topics is going to be the liquor business again.....I know that the legislature doesn't want to listen to this again but it will have to be discussed if the administration requires it..... It is imperative that all of the agents in this association call their legislators and ask them to stop all of the rebidding of the stores and that the legislators ask the administration and the Department of Revenue [Dennis Adams] to follow the directions of the REVENUE OVERSIGHT COMMITTEE RESOLUTIONS OF MAY 15, 1992 and not make any changes until a review by the 1993 LEGISLATURE.....

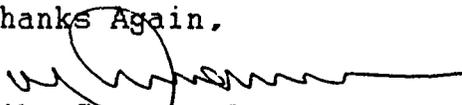
ATTENTION.....ATTENTION.....ATTENTION

Winnie Greenshield, Agent of E. Glacier, had to bid her store in this last round and wound-up in a "TIE" with another bidder with no liquor sales experience..... They are scheduled to have their names thrown into a hat and someone from the liquor division is going to draw for the agency store in E. Glacier.....THIS IS ABSOLUTLEY WRONG!!!!!!!!!!!! AGAIN, CALL YOUR LEGISLATORS AND LET THEM KNOW WHAT IS GOING ON AND HAVE THEM CALL TO GET THIS STOPPED.....The Greenshields have been agents for 14 years.....

Please get your dues checks into Chad Ouelette of the Big Sky "#190" Store so that this association will work for all of us.....

AND REMEMBER, CALL, CALL, CALL, CALL YOUR LEGISLATORS!!!!!!

Thanks Again,


Mike Grunow, Agent

He recommended that legislation clarify the Department of Transportation's responsibility for distributing revenue that is based on the domicile of each motor vehicle (61-3-325, MCA). He also recommended that both 20-9-331, MCA, and 20-9-333, MCA, be amended to exempt motor vehicles subject to taxation under 15-24-101, MCA.

Mr. Morris said that there was a conflict between 15-24-102, MCA, and 15-6-138 (f). In 1989, the property tax rate was reduced from 16 percent to 9 percent. The tax rate (15-24-102) is still 16 percent for proportionately registered vehicles. He suggested the tax rate in 15-24-102 be made consistent with 15-6-138.

Sen. Towe asked that Jeff Martin request comments from the Legislative Auditors Office concerning the recommended changes made by Mr. Morris. If the changes are needed, a bill should be drafted to make the changes.

REPORT FROM THE DEPARTMENT OF REVENUE ON THE REBIDDING FOR LIQUOR STORE LEASES

Denis Adams, Director, Department of Revenue (DOR) said the Montana Procurement Act was enacted in 1983. The purpose of the Act is to simplify, clarify, and modernize the laws governing procurement by the state and permit the continued development of procurement policies and practices; make as consistent as possible procurement among the various jurisdictions; provide for increased public confidence in the procedures followed by procurement; insure fair and equitable treatment of all persons who deal with the procurement systems of the state; foster effective broad-based competition for the free enterprise system; and provide safeguards of quality and integrity for the maintenance of the procurement systems. The Montana Procurement Act is applicable to all state agencies except that portion which deals with construction contracts.

The Department of Administration (DOA) is charged with adopting the rules for administering the Act. The DOA sets guidelines for all types of procurement. To ensure that the DOR followed those guidelines, the Department developed rules that deal with commission bids and the bidding of non-priced, non-dollar criteria. Agency stores located

in communities above 3,000 in population must bid on a commission basis. Agency stores in communities with less than 3,000 in population receive a 10 percent commission as required by law.

Mr. Adams said that by December 1992, 26 building leases and 72 agency contracts will be rebid. Three stores will be converted from state operated stores to agency stores. Eventually, all the main agency contracts will be rebid. He referred to 18-4-313, MCA, "(Contracts--terms, extensions, and time limits) Unless otherwise provided by law, no contract, lease, or rental agreement for supplies or services may be made for a longer period than 3 years; however, the department may contract for the lease or purchase of telecommunications equipment and systems, data processing equipment, and the department of social and rehabilitation services medicaid management information system (MMIS) for a period not to exceed 10 years". These are the only exemptions from the Montana Procurement Act.

DOR is rebidding the leases of agency contracts for two reasons. First, periodic solicitation of bids and proposals from anyone who may be interested in providing space for agency services allows the state to obtain the best space and service it can for the money. Second, periodic solicitation gives new people the opportunity to do business with the state instead of limiting the opportunity to the same people. It fosters effective broad-based competition within the free enterprise system.

Mr. Adams said circumstances have changed since the DOR last solicited bids and requests for proposals (RFP) for agency stores. Existing contracts no longer conform to these changes. The following are some of those changes:

Agencies used to be bonded by the state's insurance carrier for theft of product and cash. This is no longer the case. The state can no longer obtain bond coverage for agency outlets because insurance carriers in Montana refuse to provide this coverage. Bonding requirements will be changed for agents.

These are the first contracts issued since the 1990 census. There are a number of communities in the state which have either gone above or below the 3,000 population threshold. This requires adjustments to commission levels and other criteria.

Another change deals with inventory management. The agent is required to better manage the inventory levels. The DOR looks at maintaining a 6-week supply of inventory.

Space requirements change because of inventory and sales levels. In some cases more space is needed, in others, less space. Some bidders that could not bid previously because of the higher space requirement, are now able to bid.

The last change has been in liquor liability insurance. Liquor liability is excluded unless it is specifically added to an agency's policy. The Tort Claims Division of the DOA said that there was a definite risk to the state without the coverage. There is no insurance company that the state does business with that will issue a liquor liability policy.

In conclusion, Mr. Adams said that another issue involves whether DOR can give preference to existing agents. The provisions of Title 18 are very specific as to who is entitled to preference.

Gary Blewett, Administrator, Liquor Division, Department of Revenue, gave a report on the status of the current bids. He said that DOR advertises for bids and RFP's in 37 locations. To date, there have been 86 requests for bid packets. All but two locations have one or more requests for bid.

PUBLIC COMMENT

Mike Grunow, Agent, Lolo, provided written testimony. (EXHIBIT #8) He said that he has been a liquor agent for 15 years and is the chairman of the Montana Agency Liquor Store Association (M.A.L.S.A.) Steering Committee. The Steering Committee has been formed because there are 100 agents who fear losing their livelihoods.

Mr. Grunow said a large percentage of the agency's leases are on a month-to-month basis and some agents have not had a lease or agreement for up to 2 years. The new requirements are making it virtually impossible to remain agents or landlords.

He said that the state has given the liquor agents contracts in the past and asked them to make an investment in the business. It has ask them to remain in the communities and raise families. It has asked them to sign the contracts. The agents have done it. He suggested to the Committee that if there is no major crisis or reason why the agency liquor stores have to be bid by a certain time, there should be no reason why the DOR shouldn't agree to waiting until the problem could be addressed by the Legislature.

Mr. Grunow said that the Steering Committee has worked diligently to deal with the insurance and bonding requirements. The agencies can provide the \$1 million liability insurance and the bonding that is required. But, he finds unacceptable the portion of the contract which gives the DOR the discretion to waive any informality, cancel or terminate the request for proposal, reject any or all proposals received in response to the RFP, waive any undesirable, inconsequential, or inconsistent provisions of the RFP, and not sign any contract.

Mr. Grunow has invested \$100,000 in his business. Because of the point system, another person can match him on points. If that happens, the two names are thrown into a pot and a third party draws a name. He does not believe this was the intention of the Legislature.

Tim Dalan, Agent, East Helena, said that he received an RFP from the DOR on May 12, 1992. The deadline was May 15, 1992, although it was extended to May 22. He did not have much time to find the insurance needed. The RFP states that if the bond is not received when the DOR requests it, the bid may be void. Mr. Dalan was the only bidder, but DOR dismissed his bid and were going to close the store. He thought that the issue should be decided by the Legislature.

Rep. Jim Rice, House District 43, East Helena, addressed the bidder preference issue. He has dealt with the bidder preference question for concessionaires on Canyon Ferry Lake. The Department of Fish and Game leases the concessions and have decided to put the concessions up for public bid. Many of those people have made million-dollar investments into docks and marinas and stand to lose it all to someone who could put in a better bid.

House Bill No. 2 (1992 Special Session) included a provision that gave liquor store agents preference during the bidding process. According to the DOR, there is a question of the legality of that provision. He did not want the state to move too quickly before the problem could be resolved legislatively. He said that if a lessee is doing a bad job, then the state should have the contractual right to cancel the lease. But if a person is doing a good job, is complying with the lease agreement, and has made a substantial investment, then the lessee is entitled to the opportunity to have a preference.

Questions from the Committee

Rep. Harrington said that DOR is using the Montana Procurement Act as an excuse to break the agency stores, and he found it ridiculous. He asked Mr. Adams to comment. Mr. Adams said that DOR had nothing to do with the Montana Procurement Act. It has been in the administrative rules since 1987. He added that there would probably not be a large turnover of agents with the new bidding process. DOR is not trying to eliminate agents, but it is his responsibility, as Director of DOR, to look out for the state's interests.

Rep. Harrington asked if DOR has always enforced the Montana Procurement Act laws or has DOR just begun enforcing the laws in the last few years. Mr. Adams said the Procurement Act was effective for contracts after 1984. The rule was then adopted to put DOR under that Law. Rep. Harrington suggested that the Committee review this issue as it pertains to the Montana Procurement Act.

Rep. Foster said that a moratorium would close the liquor store in Townsend. He asked Mr. Grunow if he would agree that a moratorium not apply to situations where there is a need for a new contract bid. Mr. Grunow said situations like Townsend could be addressed on an individual basis.

Rep. Foster asked Mr. Adams if a moratorium were to be put in place, could there be exceptions made. Mr. Adams said that DOR would have to look at it to see if any problems would arise.

Sen. Towe asked if DOR has required 3-year renewals in the past or is this something new; and if it is new, why is it being done now. Mr. Adams said that this was new. He does not know what happened before, but the DOR attorneys are now saying that the law must be followed.

Sen. Towe asked Mr. Adams to comment on bidder preference. Mr. Adams said the bidder preference was part of the HB 2 appropriations bill. **Lee Heiman, Staff Attorney**, said that any provision in an appropriations bill that does not directly relate to appropriations would not have an effect. Even if it does relate to appropriations but conflicts with substantive law, it has no effect. Sen. Towe asked Mr. Heiman if that meant that DOR is taking the position that since the bidder preference was attached to an appropriations bill, that it is meaningless. Mr. Heiman said yes.

Sen. Towe asked Mr. Adams if he would put a moratorium on the bidding, at the Committee request, until the issue could be addressed by the Legislature. Mr. Adams said he has reservations because contract changes have to be made, and there is no assurance that the Legislature will act.

Sen. Towe asked Mr. Grunow why he had a problem with letting DOR bid the stores. Mr. Grunow said he would not have a problem if there was a preference for existing agents.

Sen. Towe said the problem is that there is no bidder preference. The DOR attorneys have said that the bidder preference in HB 2 cannot be followed. He asked Mr. Adams if DOR is saying the highest bidder wins, regardless of who is bidding and how much money and time an existing agent has put into a business. Mr. Adams said this is the way it is in any other contract bid. New bidders are at a disadvantage because existing agents have a preference, in a way, because they know how the system works.

Rep. Gilbert presented the Committee with a letter from **Margaret Nelson, Agent, Victor**, regarding her concerns over the bidding process and bidders preference. (EXHIBIT #9)

Rep. Schye said that agricultural leases offer a preference. They are also offered to match a high bid, and they have a 10-year contract. He asked why agricultural leases do not have to go through the Procurement Act. Mr. Adams said that for whatever reason, DOR is under Title 18 for the procurement of services.

Sen. Crippen asked Mr. Grunow what would be a reasonable length of time for agents to amortize their investments. Mr. Grunow said his first agency contract was for 10 years. His second contract was a 3-year contract with some discussion on renewal clauses. He and his attorney understood that if he continued to do a good job, there would be no problem with regard to preference. He said a number of agents in Montana have renewal clauses in their contracts. Now, DOR has refused to honor the renewal clauses and has chosen to rebid the contracts. He thought that the Steering Committee would be comfortable with a 5- to 10-year term.

Sen. Crippen commented that he has leased property to the state in the past. He knows from experience that unless a person has a lease for a period of time, there is no way that person can come out ahead. The Committee must take a serious look at this problem.

Sen. Van Valkenburg asked if there was a court decision or an Attorney General's opinion that the Montana Procurement Act applies to contracts with agency liquor stores. Mr. Adams said he is not aware of any. Sen. Van Valkenburg asked if Mr. Adams would stop the procedure until there was an Attorney General's opinion on the issue. **Dave Woodgerd, Chief Legal Counsel, DOR**, said that an Attorney General's opinion could be requested, but he didn't know how long it would take.

Sen. Van Valkenburg read the purpose section of the Montana Procurement Act. Subsection 5 states "to ensure the fair and equitable treatment of all persons who deal with the state". Section 18-4-131 says "unless displaced by particular provisions of this chapter, the principals of law and equity including the Uniform Commercial Code, the law

merchant, and law relative to capacity to contract supplement the provisions of this chapter. There are also provisions dealing with services and provisions, terms, extensions, and remedies that could subject the state to considerable liability if people are not dealt with fairly. He thought that all of these provisions needed an Attorney General's opinion.

Mr. Adams said fairness involves everyone, not just those who have the contracts, but also those who want an opportunity to bid. There are more requests for bids than there are locations available to bid. All parties must be treated fairly and equitably.

Rep. Foster asked for the Committee's support for situations such as in Townsend where an agency store may close. There is a need for immediate action to insure that this store is changed over to a new agent.

Rep. Gilbert said that he believed a liquor store agency contract does not properly come under Title 18 because those contracts should not be put under a 3-year renewable lease. The fact that the law was passed in 1981 but has not applied to agency stores until now indicates that there is no urgent need to suddenly enforce the law. The Legislature needs to look at this issue.

Sen. Towe asked Mr. Blewett if he agreed that it was the agent's understanding that if the agents did a good job, their contracts would be renewed. Mr. Blewett said he has heard that the agents are saying that this is their impression. However, this concept has never been the framework by which DOR offers the contracts. From a management standpoint, it is more convenient to extend contracts to agents doing a good job; but if public policy says different, he must follow the policy.

COMMITTEE ACTION

Sen. Towe quoted from 18-4-223 (3), MCA, which states "No rule may change a commitment, right, or obligation of the state or of a contractor under contract in existence on the effective date of such rule". For this reason and because it is clear that the legislative intent was to allow bidder preference for these types of contracts, Sen. Towe

moved that the Revenue Oversight Committee recommend to the Department of Revenue that it suspend all current bidding on agency contracts and give extensions to existing agents until after the next session of the Legislature, or in some other manner, allow continuation of existing contracts until the Legislature has had an opportunity to act, unless a particular store should be rebid sooner in the best interest of the state.

Sen. Crippen said although he disagrees with the rule and the 3-year and 10-year provisions, he does not fault Mr. Adams for looking at the law and following it. The DOR has an obligation to obey the law as they see it. However, there is a problem with this issue and he would support the motion. Sen. Towe said it was not his intent with the motion to criticize DOR for attempting to follow the law. In this situation, it has caused problems, and it needs legislative review.

Sen. Towe's motion carried unanimously.

Sen. Van Valkenburg moved that the Revenue Oversight Committee ask Denis Adams, Director, Department of Revenue, to request an Attorney General's opinion as to whether the Montana Procurement Act applies to the awarding of agency liquor store contracts; and if such act does apply, whether there are any limitation on the Act's applicability to renewal of contract by existing agency liquor store operators. Motion carried unanimously.

Sen. Van Valkenburg said that there are 5 state liquor store building leases that are up for renewal. In Great Falls, a state liquor store fell below the 10 percent profit margin. DOR is now converting this store to an agency store because it changed locations due to a building lease change. He is concerned, with respect to building leases on state liquor stores, that DOR is trying to set it up so that the existing state liquor stores will fall below the 10 percent profit margin, and therefore, be able to move them towards a agency conversion. One of the easiest way to make sure that a state liquor store does not meet the 10 percent profit requirement is to force it to change locations. He wanted to bring this to the public's attention.

TESTIMONY OF LEO THOMAS
UFCW LOCAL 1981
IN OPPOSITION TO SENATE BILL 5
FRIDAY, JULY 10, 1992

APPROVE TESTIMONY
NO. 4
10 July 92
BILL NO. SB 5

Mr. Chairman and members of the Committee, for the record, my name is Leo Thomas, Store Manager for Helena Store #1 and I am here in opposition to Senate Bill 5.

First and foremost, as a Montana Taxpayer I object to the continuing attempts to remove the liquor industry from state control. Based upon my nearly 20 years of experience as both a liquor store clerk and manager, I do not believe the citizens of Montana for whom we are providing services, and to whom we are accountable for the management of these state services will, in any way, benefit from this attempt at privatization. At a time when revenues continue to decline in this state, why would you enact legislation that would further reduce those revenues? Passage of SB 5 is a terribly irresponsible means of attaining someone's particular political agenda.

To take a little look at recent history, during the last session this Legislature mandated that State liquor stores attain a margin of profit of at least 10% or expect to be fair game for conversion to agency status. From my level of observation, that policy has been followed by the State in its' administration of the retail segment of the liquor industry. For those of us who are still operating as State liquor stores, attainment of the 10% goal has been realized. Just as a matter of interest, Helena store #1 currently has a profit margin of 15.8% and this month I expect we will do even better. During the first four days of July we realized profit of \$52,000.00.

Helena Store #1 has achieved this level of profit through cooperative efforts between individual store employees and local management without the involvement of either State personnel or policy changes. Members of this Legislative committee have repeatedly called for sound management practices and for rewarding such efforts in state government. When Helena Store #1 follows such sound management practices, why is it that we are rewarded with the continued threat of privatization and layoff? Why is this one agency of State government continually singled-out session after session and attacked by the Administration as a prime candidate for privatization? Are there any other State agencies that pay their own way, contribute to indirect overhead cost here in Helena, and still bring an annual profit of over four million dollars into the State General Fund?

Under the proposal before you today, you will not even have a mechanism available to provide answers to these and similar questions. SB 5 exempts the State Liquor Store conversion process from the privatization plan review currently provided for by law.

If SB 5 passes, as a State employee, what are my options for continued employment under this bill? The bill does contain provisions to allow liquor store employees first priority for other state jobs. Big deal. Most store employees are rooted into the locales where they now live. While the number of available state jobs continues to decline in proportion to the shrinking General Fund, where are the jobs going to come from for those forced out of work by the adoption of SB 5? How many liquor store employees are going to be willing to relocate home and family to take those few jobs for which they may qualify?

You know there are only so many highway maintenance, weight scales, welfare or job service jobs scattered across the state. No provision exists in the proposed bill for severance pay, early retirement or other possible benefits normally associate with an employer initiated reduction in force or does the State just not care about the people who have served in faithfully for years?

My second option might be to become a commissioned agent for the State and run an agency store. If, for some reason, I decided that the red tape provided for in this bill was worth the hassle, SB 5 does provide for the use of coal tax dollars that might allow me get a loan to acquire an agency store. Provisions for applying, obtaining and repaying this loan are, however, sketchy at best. Utilization of trust fund dollars for this kind of situation ought to be carefully considered before such a plan is seriously considered.

In summary, if the State of Montana wants to give away an agency contributing not only all of its own costs to operate but which also normally contributes more than four million dollars into the General Fund in further financial support of our State Government, let's privatize. If we can benefit from putting present state employees earning a fairly decent wage out of work and replace them with individuals making wages at or slightly above minimum wage (also paying smaller amounts in state income tax which directly impacts on how much revenue the state has to spend), let's privatize. If our intent is to further encourage the out migration of Montana Citizens because the jobs available to them pay a wage insufficient to feed, clothe and educate a family, let's privatize.

These analogies could be continued on and on, but I feel I've said enough. The final decision is yours and I am sure whatever you decide will be in the best interest of Montana. But, for the folks I represent, and myself, I encourage you to vote "no" on SB 5.

Thank you.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 10 July 92 Senate Bill No. 5 Time 2:45 pm

NAME	YES	NO
SENATOR BROWN		1
SENATOR DOHERTY	1	
SENATOR GAGE	1	
SENATOR HARP		
SENATOR KOEHNKE	1	
SENATOR THAYER		1
SENATOR TOWE	1	
SENATOR VAN VALKENBURG		
SENATOR YELLOWTAIL	1	
SENATOR ECK, VICE CHAIR	1	
SENATOR HALLIGAN, CHAIR	1	

Joanna L Bird
Secretary

Sen Mike Halligan
Chairman

Motion: DNP - Towe
