

MINUTES OF THE MEETING OF THE HOUSE LABOR AND EMPLOYMENT RELATIONS
COMMITTEE

February 12, 1981

The House Committee on Labor and Employment Relations convened at 12:30 p.m., Thursday, February 12, 1981, in Room 129 of the State Capitol with Chairman Ellerd presiding and Reps. Keyser, Sivertsen and Thoft excused and Rep. Smith absent.

Chairman Ellerd opened the meeting to a hearing on the following bills: HJR 25 and HB 430.

HOUSE JOINT RESOLUTION 25

REPRESENTATIVE HAL HARPER, District 30, Chief sponsor, said this resolution is an afterthought to a bill. He said he had drafted HB 78 which dealt with child labor laws and got so much static that he decided to go this route instead. He said the laws have not been addressed since 1907. He said one reason this is a good area to study is that there are no vested interests and so the recommendation of an interim committee will be implemented. He said his concern for this resolution is that the study include input from all interested persons and we come up with results that are fair to everyone. He said he has talked to concerned people and he feels this is the only reasonable and logical approach to this problem.

DAVID HUNTER, Designee as Labor Commissioner, said they feel the best way to go is with the interim study process. He said a resolution has gone successfully through the committee twice but has failed to make the priority list in the Council. He said they are having problems with enforcing the child labor law as written in 1907. He mentioned problems with the using of a child in "Heavens Gates," a film made in Montana. He said the law needs to be updated and modernized as it is hard to mesh 1981 employment conditions and a 1907 law. He said if they ignore the law they risk a potential suit. By the law they can't work on a railroad, operate any machinery or where the machinery is being operated, or in any occupation known to be dangerous. Mr. Hunter felt a careful look needs to be taken in regards to todays employment conditions. He said Dick Kane was with him to help answer questions.

DON JUDGE, Montana AFL-CIO, spoke next in support and a copy of his testimony is EXHIBIT 1 and part of the minutes.

There were no opponents. Questions were asked by the committee. Rep. Briggs said there had been a tremendous improvement in regards to child labor through OSHA. Rep. Harper said he was sure OSHA regulations would be considered - maybe they could do a better job.

Rep. Keedy said he supports the idea behind the resolution. He said you realize what happens to most resolutions, and that it is a perilous ground for important issues. He asked of the possibility and

desirability to address a bill rather than have a resolution. Rep. Harper said in this area of child labor we have no specific interest group interested in killing the bill and everybody agrees the laws are antiquated. He said this is about the only area in which he would support a study. He said this problem is so comprehensive that it could not be a bill this session - too many technicalities. He said OPI heard he had the bill (HB 78) and they panicked. He felt many people would have to be involved for it to be a good law. Hopefully it won't have to be amended after it is made law in 1983.

Rep. Harper explained for the new legislators that resolutions are all printed on a paper at the end of the session and each legislator will prioritize them as only so many can be funded.

HOUSE BILL 430

REP. MELVIN UNDERDAL, District 12, chief sponsor, said this is the most concise bill before the committee, and it is to repeal the Restaurant, Bar and Tavern Wage Protection Act of 1965. He said the enforcement of this act has been erratic. He said it discriminates against operators in a shopping center, the bond is not readily available and is costly. He said it is the only business in the shopping center that requires a bond. He said the law is virtually unenforceable - 985 required bonds and 132 are bonded so there are 853 legally in violation.

ROGER ANDERSON, Great Falls, Montana Restaurant Association, said he represented about 100 members of the state and Robbies Restaurant, and they strongly support HB 430.

JERRY BAKER, Missoula, MT, spoke in support saying he went clear to the Supreme Court. He can't own the building because of the attachment to other properties. He felt the law was an insult to the integrity of the bar and restaurant people. He said the bond costs about \$300 a year. He said the people of America voted to tell the Legislature and the Congress they are fed up with such regulations and to give some breathing room to business. Many laws on the books to protect the workers and there are other ways then through a bond. He said he never has cheated anyone out of wages.

PHIL STROPE, Montana Tavern Association, said that many who are liable for the bond under this law are not bonded which makes the few that are feel discriminated against. He said those few who are bonded are not the ones who are likely to go broke.

DAVID HUNTER, Designee for Labor Commissioner, said he has to rise in opposition. He said the reason that this bill is discriminatory against the rented facility is that if there is a wage claim against them there will be a bond to attach - the owner would have real property to attach. This protects the wages of those employees. It may be argued that it is discriminatory. Restaurants closed down and we had outstanding wage claims and penalties for \$300,000. \$300 is

a small price to pay to protect this kind of wage claim. This protects these employees that are legitimately owed wages. Our labor standards do try to get those bonded who aren't. He said it is an issue of funding, but it is something that the department is working on. Why is it just against restaurant and bar owners? Prime source of complaint for this kind of bankruptcy. Question of integrity. There are restaurants and bars which don't pay their employees and without the bond we would have nothing to go after to see the wages are paid. It provides a little protection. This law is necessary and necessary for the department to protect the employees.

REP. DAN HARRINGTON said he had been asked to read a letter opposing from the Culinary and Miscellaneous Employees Union. He read the letter and a copy is EXHIBIT 2.

BILL REVELL, Montana State Council of Hotel and Restaurant Employees and Bartenders, spoke in opposition. He said more employees fail under these businesses than any other. Without owning any of the necessary equipment and property, very few of these businesses are still operating at the end of the second year of their enterprise. He felt this law gives the Labor Department the necessary tool to use in making sure labor gets paid if a business fails. He felt to the true Montanan his pride is worth much more than the premium for the bond. He passed to the committee members testimony which listed the losses and recoveries under the Restaurant, Bar and Tavern Wage Protection Act, (EXHIBIT 3 of the minutes.)

KATHY VAN HOOK, UFCW, Local 1981, said with the economy as it is today it would not make sense to remove this law now. She said there were a lot of businesses going out of business in the past year. She said the proponents said they feel insulted by this law - should we be insulted because there are anti-rape laws on the books even though we don't think we are going to be a victim. She urged the committee not to give up this protection for the working people.

SYMOUR FLANAGAN, HREB International Union, said they urged the committee to vote no on this bill. He said one of the proponents made much of the fact that he has never cheated anybody out of money and never will. He said at the present time Local 427, Missoula, has a district order in the Fourth Judicial District against Jerry Baker as Jerry's Village Inn.

JOSEPHINE JENSEN, HNRE&B, spoke in opposition and a copy of her testimony is EXHIBIT 4 and part of the minutes.

ALICE SHEPKA, HRME Local 509, State Council Districts, spoke in opposition and a copy of her testimony is EXHIBIT 5 and part of the minutes.

HELEN UTSOND, Hotel, Restaurant and Bartenders, Local 42, spoke next in opposition and a copy of her testimony is EXHIBIT 6 and part of the minutes.

DONNA ALLEN, Missoula, HRE&B, Local 427, said they support the

testimony given by the opponents of the bill.

DON JUDGE, MT AFL-CIO, spoke next in opposition and a copy of his testimony is EXHIBIT 7 and part of the minutes.

Questions were asked by the committee. Rep. Pavlovitch asked Mr. Strobe of the possibility of using the liquor license as a lien instead of posting a bond. Mr. Strobe said this would depend on how many taverns there were as opposed to restaurants.

Rep. Seifert asked the percentage of service stations and other small businesses that fail. Mr. Judge said the Department of Labor might be better able to answer that question. Rep. Seifert asked Dick Kane of the Labor Department how many complaints they have had against other employers filed in the same period of time. Mr. Kane said 1100 claims of all kinds. The restaurant and taverns constitute about 23% of the claims, with the service station and construction at the top and logging also. Mr. Hunter said as a proportion of the labor force restaurant owners represent 5% of the work force but 23% of the claims.

Rep. Seifert asked what work guarantees workers in other fields had. Mr. Kane said there are bonds in the construction field. The other cases where there are no bonds we proceed through normal court channels. We try to execute on the judgement which is the normal process everybody uses to try to collect money.

Rep. Schultz asked why the law wasn't being enforced. Mr. Kane said they address 11 to 13 laws and their priorities change depending on work load. With the increasing curtailment of funds they will have to curtail a lot of their activity. Mr. Schultz asked how much money has been collected for the workers because the bond is in effect. Mr. Kane said at the present \$9,513.24 recovered from bonds.

Rep. Menahan said if a building supplier ends up on the short end because of a contractor not paying he can attach the building. He suggested having the building owner responsible for the guy who skips. Mr. Kane said this is the way the law was at one time. Then in 1975 the legislature saw fit to require just a bond.

Rep. Hanson asked just who pays the actual cost of the bond - the customer. Mr. Strobe said this is how any individual would handle additional cost. Rep. Hanson said the main objection then is the actual money spent for the bond. Mr. Strobe said they feel it is discriminatory.

Chairman Ellerd asked how much money has been spent on the actual enforcement of this law. Mr. Kane said it is difficult to pull the figures out as when their compliance officers go out they handle many different kinds of laws. He said they have never separated each trip out to prorate for each type of claim. Chairman Ellerd said we should find out what this would cost and then get an appropriation to do it. It should be funded or gone.

In response to a question Mr. Kane said when an employer gets in trouble several things have usually happened: there has been a period of time when he has not paid the taxes; he begins to default on loans at the bank; stave off employees until several pay periods have been missed. He said secured notes take the second priority, government takes the first priority for income taxes.

Chairman Ellerd asked about all the people who are required to have bonds and don't - only 132 that have paid their bonds. Mr. Kane said there are more than 132 restaurants that are covered as large chains post one bond to cover all their outlets in the state.

Chairman Ellerd said there is some discrimination when you police some and not the other.

Rep. Pavlovitch said in his opinion you should post a bond until you are established in the business for a number of years.

Rep. Dozier said an analogy is we should repeal the DWI law because there are a lot of people driving that are drunk and aren't caught.

Rep. Pavlovitch suggested the liquor license as that can't be sold without the approval of the state. We should look at it.

Rep. Schultz went back to Rep. Pavlovitch's idea that a bond is posted until the business is established. He asked Mr. Kane what he thought about this. Mr. Kane said it has never been addressed.

Rep. Harrington asked Mr. Anderson about Robbies. Mr. Anderson said they have 2700 square feet and are just in the middle of a remodeling project that will cost \$150,000. He said their payroll is \$10,000 a month. He said they do have the bond because they are in a leased premise. He said they also have a 36 page lease with the shopping center. They can have no liens in the shopping center. He said in their case they have a big investment, he said in other cases the investment might be much less - factors like inflation and the type of employee hired. He said what makes the thing go is good management and good employees. He felt their assets should be considered like property.

Rep. Harrington said he could understand Mr. Anderson's point. He asked about amendments rather than repealing the law. Mr. Anderson said they would prefer total repeal of the law but if you are going to attach an amendment provide like a \$50,000 net worth on the individual operating the business on a rental premise.

Rep. Seifert suggested since a lot of employees work under bargaining agreements some of the funds could be funneled into this. Mr. Judge replied that the problem being addressed is where the employer picks up and takes off without leaving any wages so there is no unemployment compensation. The one who skips should be held responsible..

Rep. Keedy expressed to Rep. Underdal his gratitude that this bill was introduced as it brings out a couple of problems. Primarily the one of discrimination - some taverns are required to be bonded and some are not and enforcement is almost nonexistent.

Rep. Underdal said that sums up a lot of it. He said the restaurants that do go belly up are due at times not only to the operator but to the employees. He said he did not put the bill in for himself but for a personal friend who has now passed on who had a problem with this law and the unavailability of a bond.

Rep. Keedy asked about enforcement. He wondered what the time table was. Mr. Hunter said every bar and restaurant that did not respond adequately to the letter sent out will be followed up on. Mr. Kane said they wrote initially to every bar and restaurant they had an address for. They determined if a bond was needed and then wrote to them again. Now they are in the process of going out with a third letter telling them a bond is required. There will be appropriate legal action for compliance with the law. Case by case basis is our preference rather than going in and enjoining them. The law provides that but we would take every other way to avoid that. He said Missoula County is done to about the letter c or d and that is the last place we had any activity. If given appropriate funding for our travel, inside of 16 months we should have made much progress to getting those additional 800 into compliance.

Rep. Keedy asked if there was any possibility of drawing a connection with liquor licenses and compliance with the bonding requirement. Mr. Kane replied they have tried to attach liquor licenses but it is difficult as usually they have been put up for security.

Rep. Underdal in closing said only 13% of the eligible establishments are bonded. He said this is a poor track record as it has been on the books for 15 years. He felt a law that is not enforced and so difficult to enforce and so discriminatory should not be on the books. He said he didn't believe we could protect everyone from all of the problems that arise. Some has to be a gamble. He said you shouldn't gamble to the extent where you lose very much in the line of wages, but he failed to see where the government can protect us to that extent.

EXECUTIVE SESSION

HOUSE BILL 577

Chairman Ellerd said Mr. David Hunter, Designee Commissioner of Labor, has some figures. A copy of a letter and the figures is EXHIBIT 8. He explained the figures on the three attachments (A, B & C) and asked if the committee would like more information. The consensus seemed to be this was enough information.

Rep. Seifert said he would like to get the opinion of the committee on this bill. He suggested raising the minimum wage in some manner or other and to add the tip credit as it is in the federal law.

Rep. Harrington said the tip is something he gives for good service and didn't give it to the company. He said he would oppose and talk strongly against it.

Chairman Ellerd recognized the researcher, Ms. Brodsky, who said she has drafted the suggested committee bill on tips. This bill prohibits the use of tip credits. She went through the bill, a copy is EXHIBIT 9 and part of the minutes.

Rep. Keedy said he likes some of the things Rep. Seifert is saying. In the context of Brown's bill what he would like to see is an amendment to Brown's bill that would peg the state bill to the federal. \$3.35 minimum wage and meet him halfway on the tip credit. Do it the federal way. The state minimum wage will then float with the federal. In the committee bill we would amend that part but would keep the part that makes sure the tips are the property of the employee rather than the employer. He suggested a subcommittee to put this together. Ms. Brodsky said she could change the language in the committee bill with that suggestion and put together the amendatory language for Brown's bill so they would be the same.

Rep. Harper said when we do this we are guaranteeing a raise for all employees but tipped employees.

Rep. Harrington said basically what we are doing at \$2.95, these people would get \$1.58 per hour. If we go to \$3.35 they will get \$2.09 on the basic wage.

Rep. Keedy said he agreed with the idea that when you leave a tip it is for the employee. Consider tips to be part of one's earnings. They are considered that and it might give a break to the employer. He is not trying to penalize the employer with the bill. The employee will be paid wages plus tips to equal the minimum wage.

Ms. Brodsky pointed out (upon request) that in the federal law a tipped employee is one that received more than \$35 in tips.

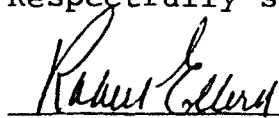
Rep. Menahan said he would like to see it proven that the cheaper prices are where the wages are lowest.

Rep. Menahan moved to introduce the committee bill LC 1414.

A vote was taken and voting no were Reps. Schultz, Seifert, and Ellerd and absent were Briggs, Keyser, Sivertsen, Thoft and Smith. The bill does not get the necessary 3/4 committee vote to be introduced.

Rep. Carl Seifert moved to adjourn. Meeting adjourned at 2:35 p.m.

Respectfully submitted,



ROBERT ELLERD CHAIRMAN

Ex. 1



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601
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616 Helena Ave.

TESTIMONY OF DONALD R. JUDGE, MONTANA STATE AFL-CIO, ON HOUSE JOINT RESOLUTION 25,
BEFORE THE HOUSE LABOR COMMITTEE, FEBRUARY 12, 1981

I am here today for the Montana State AFL-CIO to speak in strong support of HJR 25, to establish an interim committee to study Montana's Child Labor laws.

Child Labor laws are essential to protect the health, safety and well-being of Montana's children and young people. However, our current laws do not properly address the issue, because they were written seventy-four years ago, in 1907.

No matter how far-sighted, no lawmakers of that era could begin to conceive the tremendous changes and advances in our industrial society. Technology has changed that society in innumerable ways.

Antiquated, out of date laws are not applicable today, and they are difficult, if not impossible to enforce. The limitations of those laws may lead to abuse. On the other hand, there may well be provisions which unnecessarily limit the employment of young people, because of technological advances unheard of in 1907. What was relevant and important in terms of child labor, at that time, needs to be carefully reexamined and reconsidered in the light of present day working conditions and the provisions of the Federal laws regarding child labor.

We ask your support in bringing Montana's Child Labor laws up to date in a deliberate and reasonable way.

New 622

CULINARY AND MISCELLANEOUS EMPLOYEES UNION

No. 457

MINERS UNION HALL
125 WEST GRANITE ST.
SECOND FLOOR
PHONE 792 8733



AFFILIATED WITH A.F.L. - C.I.O.
AND SILVER BOW TRADES COUNCIL
(Hotel & Restaurant Employees' and Bartenders' International Union)

MEETINGS

First and Third Friday
at 1 P. M.
Second and Fourth Friday
at 8:30 P. M.

MINERS' UNION HALL

BUTTE, MONTANA, February 2, 1981

House Labor Committee:

Bill P. Smith
Mr. Chairman, Gentlemen of the Committee:

We are appealing to you, and your sense of fair play to consider H.B. No. 430 carefully, and then send it out with a "DO NOT PASS."

This law is sorely needed by all of the hard working Culinary Workers throughout our state and there are thousands of them. Tax payers all; voters--home owners; and many of them the sole support of their families. And most of them are on the bottom rung of the economic ladder.

Some years ago, the then Commissioner of Labor, Sid Smith, and his assistant Tony Softich, felt the need of this law, as a deterrent to the many fly-by night; would be restaurant operators who, when finding out they could not make a go out of re-opening small restaurants all over the State--closing at night, and shipping out---owing their workers wages due them. Two said instances occurred here in Butte. In another instance a large cafe, Green's went bankrupt owing 19 workers past wages. The workers were only able to collect a small percentage of the wages due them. The hardship brought on these workers would have been alleviated had we had this Bonding Law at that time.

The Commissioners, who had been besieged by calls and mail, in an effort to collect their money--got this bonding law passed. We also worked hard and lobbied to get it passed. It is a good law. It serves as a deterrent to would-be restaurant operators, who only want to make a fast buck and move on. And our underprivileged and underpaid workers have no protection.

This bond should not create hardship to the bonafide restaurant or tavern operator. If they can afford the price of a Montana Liquor License they surely should not object to putting up a small bond to protect the people who work for them.

This law is badly needed in our rapidly changing industry.
Please give this bill your careful consideration before
voting to repeal, hopefully you will vote no.

Yours most sincerely,

Signed: The Officers and Members
of Local 457 Butte, Montana

Charles Dean Thomas
PRESIDENT

Charles E. Sullivan
ACTING FINANCIAL-SECRETARY

Frank Sullivan
ACTING BUSINESS AGENT

James W. Morgan
RECORDING SECRETARY

W. A. E. O'Neil
EXECUTIVE BOARD MEMBER

W. L. H. H. H. H. H.
EXECUTIVE BOARD MEMBER

James W. Morgan
EXECUTIVE BOARD MEMBER

AND Immediate Past-President State
Culinary Council

W. L. H. H. H. H. H.

BC/df

Losses and Recoveries Under Restaurant, Bar and Tavern
Wage Protection Act

1. Macks Cafe - Forsyth - Bond required - no bond posted - Bankrupt - 12 employees
2. Stagecoach Inn - West Yellowstone - Bond required - no bond posted - Bankrupt
3. Golden Wheel - Stevensville - No bond required - Bankrupt - 8 employees
4. Wrangler Cafe - Great Falls - Bond paid \$3,600.00 to 18 employees.
5. Ramshead - Red Lodge - Bond required - no bond posted - owner disappeared 13 employees
6. Carols Cafe - Bozeman - Bond paid \$1,199.00 to 17 employees
7. Roys Cafe - Conrad - Bond required - no bond posted - Bankrupt
8. ~~Feed Bin - Bozeman~~
9. Glacier Cafe and Shanty Cafe (1 employer) - Havre - Bond required - no bond posted - owner disappeared
Have Judgements totaling \$3,709.00 in wages and penalty.
10. Establishment - Helena - closure by S.B.A. - no bond required - Judgements totaling \$74,842.76 in wages and penalties. Applications for judgements pending total \$22,626.30.
11. Mercantile - Lewistown - no bond required - closure by S.B.A.
12. Husky House Cafe - Glendive - Bond paid \$3,733.98 to 28 employees.
13. Blue Stonehouse - Helena - no bond required - 3 employees
14. O'Haire Manor Coffee Shop - Great Falls - Bond required - no bond posted - 5 employees
15. Teton Valley Inn - Gateway Inn - Bond required - no bond posted - owner disappeared - 6 employees

RESTAURANT BAR AND TAVERN WAGE PROTECTION ACT

39-3-601 through 39-3-608

- 1) January 1, 1981 there were 132 bonds in force guaranteeing over \$700,000.00 in wages.
- 2) FY 80 there were 177 complaints against restaurants and \$20,155.81 in wages were recovered for 382 employees.
- 3) FY 81 to January 1, 1981 there were 83 complaints against restaurants and bars. \$10,997.66 in wages have been recovered for 68 employees.
- 4) In the present biennium 3 bonds in force have paid \$8,532.98 in wages to 63 employees.

TESTIMONY OF JO JENSEN, BUSINESS AGENT FOR HOTEL AND MOTEL AND RESTAURANT AND BARTENDERS
INTERNATIONAL - LOCAL 101 - ON HOUSE BILL 430 BEFORE THE HOUSE LABOR COMMITTEE
FEBRUARY 12, 1981

My name is Jo Jensen, and I am with the Hotel, Motel, Restaurant and Tavern Employees Union Local #101. I am against House Bill 430.

This bill does away with the Restaurant, Bar and Tavern Wage Protection Act. The wage protection act is very important to my members and to all the employees of these places. Every so often a restaurant or a bar closes up and the employees are left with wages owed to them. When a bond is posted, it protects the wages of these people. And they don't make much money as it is.

The problem is that a lot of places don't put up the bond money. I don't mean to run down the Department of Labor, because they help us in a lot of different ways. But it appears they don't have the people to enforce this law.

Let me tell you what happens when the law isn't enforced. In Great Falls the O'Haire Manor Coffee Shop closed down. The owner left town and went to Tennessee. There were 10 employees who were left with money owed to them.

One of those ten women was 65 years old. She had \$441.36 coming to her, one month's pay. She is what you call the working poor, and she needs that money bad. When the place went belly up, we filed a wage claim with the Department of Labor. They sent an order to the owner to pay up. But that was back in October. You could bet a million dollars that she won't ever see a dime coming back from Tennessee.

If you passed this law, that sort of criminal activity against poor working people would be legal. What you need to do is quit protecting the dishonest people, and give the Department of Labor whatever it needs to enforce the bonds. That is the only way people in these risky businesses will get the money they have worked for.

I'm not just asking you to vote against this House Bill 430, I'm begging you to -- for the protection of our workers.

Ex. 5

TESTIMONY OF ALICE SHEPKA, BUSINESS AGENT FOR HOTEL AND MOTEL AND RESTAURANT AND
BARTENDERS INTERNATIONAL - LOCAL 509, ANACONDA - ON HOUSE BILL 430 BEFORE THE HOUSE
LABOR COMMITTEE, FEBRUARY 12, 1981

I am Alice Shepka with the Hotel, Motel and Restaurant Employees Local 509, Anaconda. I am also vice president of District 1, Butte-Anaconda - Deer Lodge, of our state council.

I drove through a blizzard to get over here to tell you how upset I am about House Bill 430. It is asinine to be taking away the protection of people who are making menial wages to begin with.

Back before this law went into effect in 1965, we had an establishment that went out of business. Eleven people were stuck without jobs. To make things worse, the place didn't have a bond, because it wasn't in the law then. These eleven people were all owed back wages, some as much as six weeks worth. They didn't have unemployment insurance. Their state and federal tax hadn't been paid. Some of them had to go on welfare.

After that, we got the law passed that makes these places put up a bond so that the wages are guaranteed.

These people make menial wages. They don't have insurance, no health insurance of any kind. They have to buy their own uniforms, etc. They work bad hours. They get menial benefits. The only thing they have is that paycheck, and it's darn small. They are just about the poorest paid people there are in the state.

Now you want to take away the guarantee for their wages. If they work for low wages anyway, at least they should get paid. These people want to stay off welfare. They need protection for their wages. There should be improvements in the law so the Department of Labor can enforce it. It is ridiculous to keep trying to take away protection from these people every session.

TESTIMONY OF HELEN UTSOND, SECRETARY-TREASURER FOR THE HOTEL, RESTAURANT AND BAR UNION IN MISSOULA - ON HOUSE BILL 430, BEFORE THE HOUSE AND LABOR COMMITTEE, FEBRUARY 12, 1981.

I am Helena Utsond, Secretary-Treasurer for the Hotel, Restaurant and Bar Union in Missoula. I strongly oppose House Bill 430. I am in complete agreement with the testimony already given by other opponents of this bill.

I think it is immoral to penalize some of the lowest paid workers in the state. Though some of these workers may make high tips, the majority of my members do not make high tips. Most of my members are single heads of household. They are struggling to support their families on a very low wage.

These workers can hardly make it from paycheck to paycheck buying only the bare necessities. If an establishment closes, even the lack of a week or two weeks in wages is enough to put these workers behind for a long time.

Last year there were 177 complaints against restaurants and approximately \$20,000 in wages were recovered for 382 employees. Without that protection those employees would have really suffered.

The law is fair and reasonable. It gives some protection to workers who need it the most. Why change a good law so that innocent victims of a shutdown are hurt?

8x.7



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

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406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave

TESTIMONY OF DONALD R. JUDGE, MONTANA STATE AFL-CIO, ON HOUSE JOINT RESOLUTION 25,
BEFORE THE HOUSE LABOR COMMITTEE, FEBRUARY 12, 1981

I am here today for the Montana State AFL-CIO to speak in strong support of HJR 25,
to establish an interim committee to study Montana's Child Labor laws.

Child Labor laws are essential to protect the health, safety and well-being of
Montana's children and young people. However, our current laws do not properly address
the issue, because they were written seventy-four years ago, in 1907.

No matter how far-sighted, no lawmakers of that era could begin to conceive the
tremendous changes and advances in our industrial society. Technology has changed that
society in innumerable ways.

Antiquated, out of date laws are not applicable today, and they are difficult, if
not impossible to enforce. The limitations of those laws may lead to abuse. On the
other hand, there may well be provisions which unnecessarily limit the employment of
young people, because of technological advances unheard of in 1907. What was relevant
and important in terms of child labor, at that time, needs to be carefully reexamined
and reconsidered in the light of present day working conditions and the provisions of
the Federal laws regarding child labor.

We ask your support in bringing Montana's Child Labor laws up to date in a deliberate
and reasonable way.

DEPARTMENT OF LABOR AND INDUSTRY

COMMISSIONER OF LABOR

RECEIVED

STATE OF MONTANA

February 11, 1981

To: Representative Bob Ellerd
Chairman, House Labor and Industry Committee

From: David L. Hunter *DH*

Re: Response to Information Request on House Bill 557

As requested, I have attached information readily available in the Department of Labor and Industry. Some of the breakouts you requested would require extensive computer programming and even then would be only marginally accurate; however, should you request that information, we would try to have the information available late next week.

Attachment A shows the two general occupations of employees affected by the federal tip credit law. The far right column indicates in thousands the annual average number of employees for 1979 in those occupations. The eating and drinking places would have the bulk of employees affected by the federal tip credit.

Attachment B lists are the most current estimates of occupations within the general classification of eating and drinking places. Those estimates were based on a total of 19,390 which is fairly close to the 1979 average of 20,700 for that occupation. The Percent Distribution column could be applied to the 20,700 jobs to give you a more accurate estimate of the number of employees in any particular occupation within this general classification.

Attachment C is the best we can do for age and sex distribution for this general category of work. The underlined classification on Attachment C would be a rough approximation for people working in the eating and drinking places category.

We have no way of knowing which people in the above mentioned categories would be subject to the federal tip credit and which people would not. To be eligible under the federal tip credit law, the employee must receive at least \$30 in tips in a month. Additionally, for an establishment to use the federal tip credit, the establishment must gross \$325,000 in a fiscal year. This amount will go to \$362,500 on January 1, 1982.

If the employer loses coverage under the federal tip credit legislation when the gross increases to \$362,500, they are required by federal law

Representative Ellerd
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to pay the minimum federal wage in affect at the time they lose coverage from the federal legislation. Additionally, they lose the ability to take the tip provision at that time.

I recognize this information is not exactly as the committee requested, however, it is the best we are able to do on short notice. I would be happy to get the committee any information in addition to what has been provided. I will need a slightly longer time frame in order to get that information.

If additional information is required, please let me know.

cc: Committee Members

MONTANA

ANNUAL STATEWIDE LABOR FORCE REPORT FOR 1979

U.S. Department of Labor
Employment and Training Administration

	(In Thousands)												ANN. AVG.
	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	
CIVILIAN LABOR FORCE - PERSONS ^{1/}	348.8	347.9	353.2	363.5	372.0	390.6	390.6	391.5	380.8	371.1	365.5	364.3	370.0
EMPLOYED PERSONS.....	320.8	323.2	330.7	343.3	355.3	370.4	372.4	376.0	367.5	357.3	349.8	345.3	351.0
Persons Employed in Agriculture.....	21.3	23.2	27.8	34.2	35.3	40.2	43.0	46.0	35.9	30.5	26.2	22.6	32.2
UNEMPLOYED PERSONS.....	28.0	24.7	22.5	20.2	16.7	20.2	18.2	15.5	13.3	13.8	15.7	19.0	19.0
Percent of Labor Force, Unadjusted ^{2/}	8.0	7.1	6.4	5.5	4.5	5.2	4.7	4.0	3.5	3.7	4.3	5.2	5.1
Percent of Labor Force, Seasonally Adjusted ^{2/}	6.4	5.7	5.3	5.5	5.2	5.0	5.1	4.7	4.6	4.7	4.6	4.9	5.1
NON-FARM WAGE AND SALARY JOBS (Establishment Data)^{3/}....													
MANUFACTURING.....	268.9	266.5	271.1	277.4	285.2	294.2	291.9	293.8	296.6	292.5	290.1	288.7	284.9
Durable Goods.....	25.9	27.1	25.9	25.6	26.0	27.4	28.0	28.2	27.5	27.4	27.1	26.4	26.9
24 Lumber and Wood Products.....	17.0	18.1	17.1	16.8	17.2	18.4	18.9	18.9	18.3	18.0	17.7	16.9	17.8
33 Primary Metal Industries.....	10.9	11.7	10.5	10.2	10.3	11.3	11.6	11.6	11.1	11.0	10.7	10.1	10.9
Other Durable Goods.....	3.1	3.3	3.2	3.1	3.2	3.3	3.5	3.5	3.3	3.3	3.3	3.1	3.3
Non-durable Goods.....	3.0	3.1	3.3	3.5	3.7	3.8	3.8	3.9	3.8	3.7	3.7	3.7	3.6
20 Food and Kindred Products.....	8.9	9.0	8.8	8.8	8.9	9.0	9.1	9.3	9.2	9.4	9.4	9.5	9.1
27 Printing and Publishing.....	4.1	4.1	3.9	3.8	3.8	3.8	3.9	4.1	4.0	4.4	4.5	4.4	4.1
29 Petroleum and Coal Products.....	2.3	2.3	2.3	2.3	2.4	2.4	2.4	2.3	2.3	2.3	2.4	2.3	2.3
Other Non-durable Goods.....	1.0	1.0	1.0	1.0	1.0	1.1	1.1	1.2	1.2	1.2	1.1	1.1	1.1
1.5	1.5	1.6	1.7	1.7	1.7	1.7	1.7	1.7	1.6	1.6	1.5	1.6	1.6
MINING.....	7.0	7.0	7.1	7.0	7.4	7.8	7.8	7.9	7.9	7.9	8.0	7.9	7.6
10 Metal Mining.....	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
12 & 14 Bitum., Coal, Quarrying, Non-Metal Mining.....	2.0	2.0	2.0	2.1	2.2	2.0	2.3	2.4	2.4	2.4	2.5	2.3	2.2
13 Oil and Gas Extraction.....	3.0	3.0	3.1	2.9	3.2	3.5	3.5	3.5	3.5	3.5	3.6	3.5	3.3
CONTRACT CONSTRUCTION.....	11.2	10.8	11.8	13.8	15.8	18.0	18.2	18.2	17.9	17.5	15.9	14.5	15.3
15 General Building Contractors.....	4.1	4.0	4.3	4.9	5.5	6.2	6.2	6.3	6.2	6.0	5.5	5.4	5.4
16 Heavy Construction Contractors.....	2.7	2.4	2.5	3.3	4.1	5.0	5.1	5.0	4.7	4.8	4.0	3.4	3.9
17 Special Trade Contractors.....	4.4	4.5	5.0	5.6	6.3	6.8	6.9	6.9	7.0	6.8	6.4	5.9	6.0
TRANSPORTATION AND PUBLIC UTILITIES.....	21.8	21.8	22.0	22.1	23.1	23.7	24.1	24.3	24.6	24.0	23.6	23.2	23.2
40 Railroad Transportation.....	6.7	6.8	6.9	7.0	7.5	7.9	7.9	8.0	8.1	7.6	7.6	7.1	7.4
41-47 Transportation, except Railroad.....	6.6	6.5	6.5	6.4	6.8	6.8	6.8	6.9	7.1	6.9	6.9	7.0	6.8
48-49 Comm., Electric, Gas, Sanitary Services.....	8.5	8.5	8.6	8.7	8.9	9.0	9.4	9.4	9.4	9.3	9.2	9.1	9.0
WHOLESALE AND RETAIL TRADE.....	69.9	69.1	70.4	72.6	74.4	76.7	76.9	78.0	78.0	75.6	76.1	76.5	74.5
Wholesale Trade.....	16.2	16.1	16.6	17.1	17.5	18.2	18.0	17.8	17.8	17.6	17.8	17.8	17.4
Retail Trade.....	53.6	53.0	53.8	55.5	56.9	58.6	59.0	60.2	60.2	58.0	58.3	58.7	57.1
53-56 General Merchandise, Apparel, Accessories.....	8.7	8.2	8.2	8.3	8.4	8.5	8.6	8.8	8.0	8.6	9.0	9.3	8.6
54 Food Stores.....	7.7	7.5	7.5	7.6	7.7	8.1	8.1	8.1	7.9	7.9	8.1	7.9	7.8
55 Automotive Dealers, Service Stations.....	8.6	8.5	8.6	8.8	8.9	9.1	9.1	9.2	9.1	9.0	9.0	9.0	8.9
56 Eating and Drinking Places.....	18.1	18.2	18.9	19.9	20.8	21.7	22.0	22.8	22.8	21.2	20.9	20.8	20.7
52, 57, 59 Bldg., Mat., Farm Equip., Fum., Misc.....	10.6	10.5	10.7	10.8	11.1	11.5	11.1	11.3	11.4	11.3	11.3	11.7	11.1
FINANCE, INSURANCE AND REAL ESTATE.....	12.3	12.2	12.4	12.5	12.6	13.0	13.0	13.1	13.0	12.9	12.9	12.9	12.7
SERVICES.....	51.7	51.8	52.4	53.9	54.6	56.7	57.0	56.7	56.6	55.0	54.5	55.1	54.7
70 Hotels and other Lodging Places.....	5.9	5.8	5.9	6.1	6.3	7.7	8.1	8.2	7.6	6.4	6.0	6.3	6.7
72 Personal Services.....	2.4	2.4	2.5	2.6	2.6	2.6	2.6	2.6	2.6	2.5	2.5	2.6	2.5
80 Medical and other Health Services.....	17.1	17.0	17.1	17.4	17.4	17.7	17.6	17.8	17.8	17.5	17.6	17.9	17.5
Other Services.....	28.2	28.6	28.9	27.8	28.3	28.7	28.7	28.8	28.5	28.5	28.4	28.4	27.9
GOVERNMENT.....	69.3	68.6	69.0	70.0	71.2	70.9	66.8	67.5	71.1	72.2	72.1	72.2	70.1
91 Federal Government.....	12.6	12.4	12.4	12.7	13.5	15.1	15.2	16.3	13.7	12.8	12.1	12.0	13.3
92 State Colleges and Universities.....	8.5	8.4	8.4	8.4	8.5	8.5	8.4	8.4	7.9	8.2	8.3	8.2	7.8
92 Other State Government.....	11.0	10.9	11.0	10.7	10.7	11.0	11.1	11.2	11.3	10.4	10.4	10.6	10.9
93 Local Education.....	23.8	24.0	24.2	24.5	24.4	21.3	17.0	17.6	22.2	25.5	26.4	26.4	23.1
93 Other Local Government.....	13.4	12.9	12.9	13.7	14.0	17.0	17.0	17.0	16.0	15.4	14.9	15.0	14.9

^{1/} Estimates based on National Household Sample, Census and Other Relationships; includes nonagricultural self-employed, unpaid family, and domestic workers.
^{2/} Computed from whole (unrounded) numbers.
^{3/} Produced in cooperation with the U.S. Bureau of Labor Statistics, by Research and Analysis, Employment Security Division, Helena, Montana.
 Revised to 1979 Benchmarks.

^{4/} 1972 Standard Industrial Classification.

TABLE LXI
EATING AND DRINKING PLACES
(SIC 58)

This major group includes retail establishments selling prepared foods and drinks for consumption on the premises, and also lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption.

OCCUPATIONAL TITLE	ESTIMATED EMPLOYMENT	RELATIVE ERROR%	PERCENT DISTRIBUTION	PERCENT OF ESTABLISHMENTS REPORTING THE OCCUPATION
TOTAL ALL OCCUPATIONS.....	<u>19,390</u>			
MANAGERS AND OFFICERS.....	<u>1,579</u>	NA	<u>8.12</u>	NA
Director, Food & Beverage.....	159	11	0.82	14
Manager, Automobiles.....	13	39	0.06	1
Manager, Restaurant.....	1,381	2	7.12	77
All Other Managers.....	26	NA	0.12	NA
PROFESSIONAL OCCUPATIONS.....	<u>16</u>	NA	<u>0.07</u>	NA
Musician, Instrumental.....	13	28	0.06	1
All Other Professional.....	3	NA	0.01	NA
SERVICE OCCUPATIONS.....	<u>16,815</u>	NA	<u>86.66</u>	NA
Janitors, Porters & Cleaners...	737	3	3.80	47
Baker, Bread & Pastries.....	40	21	0.20	2
Bartenders.....	1,876	5	9.67	47
Dining Room Attendant.....	413	10	2.13	18
Hostess/Host, Restaurant &/or Lounge.....	377	14	1.94	16
Kitchen Helper.....	1,437	4	7.41	49
Waiter &/or Waitress.....	6,117	2	31.55	70
Counter Attendant, Lunch.....	912	13	4.70	12
Cook, Short Order.....	1,374	6	7.08	33
Cook, Restaurant.....	1,202	5	6.20	41
Food Preparation & Service Worker.....	1,850	11	9.54	16
Pantry, Sandwich, & Coffee Maker.....	152	15	0.78	8
All Other Food Services.....	106	26	0.54	NA
Supervisor, Non Working.....	53	19	0.27	5
All Other Service Workers.....	169	NA	0.85	NA

MONTANA
EMPLOYED PERSONS 16 YEARS AND OVER BY OCCUPATION GROUP
BY AGE, SEX, AND RACE
1978 Annual Averages

(In Thousands)

TOTAL WHITE AND NON-WHITE

	TOTAL	MALE					FEMALE				
	BOTH	TOTAL	16-19	20-24	25-64	65+	TOTAL	16-19	20-24	25-64	65+
TOTAL	348	214	20	29	159	6	134	16	22	93	3
WHITE COLLAR	155	72	2	7	62	1	83	7	12	63	1
PROF. TECH, ETC.	46	27	0	2	24	0	19	0	3	15	0
TEACHERS, EXC COLL	12	5	0	0	4	0	8	0	1	7	0
ALL OTHER	33	22	0	2	20	0	11	0	2	9	0
MANAGERS, OFF, ETC.	38	27	0	2	24	1	10	0	0	9	0
SALES	22	10	1	2	8	0	12	2	2	7	0
CLERICAL	50	8	0	2	6	0	42	4	7	31	0
BLUE COLLAR	104	95	11	16	66	2	8	1	2	5	0
CRAFTSMAN	47	45	2	5	37	1	1	0	0	1	0
CARPENTERS	8	8	0	1	6	0	0	0	0	0	0
ALL OTHER	39	37	2	5	31	0	1	0	0	1	0
OPERATIVES	22	18	2	5	10	1	4	0	1	2	0
TRANSPORT	16	15	1	2	12	0	1	0	0	1	0
LABORERS	19	17	6	4	8	0	2	1	1	1	0
SERVICE WORKERS	49	14	3	2	8	1	35	8	6	20	1
PRIV. HSHLD.	3	0	0	0	0	0	3	1	0	2	0
PROTECTIVE SERV.	4	4	0	0	3	0	0	0	0	0	0
ALL OTHER	42	10	3	2	5	1	32	7	6	19	1
FARM	40	33	4	4	23	3	7	1	1	5	0
FARMERS	24	22	0	1	18	2	2	0	0	2	0
FARM LABORERS	16	11	4	2	5	0	5	1	1	3	0
NO PREV. WORK EXP.	0	0	0	0	0	0	0	0	0	0	0

PERCENT DISTRIBUTION

	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL PERSONS	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
WHITE COLLAR	44.6	33.6	8.7	23.8	39.0	21.6	62.2	43.5	57.5	67.4	39.1
PROF. TECH, ETC.	13.1	12.5	2.2	6.4	15.1	6.0	14.2	2.3	13.3	16.5	11.6
TCHRS, EX. COLL	3.6	2.1	.0	.8	2.7	.0	5.9	.2	6.2	7.0	1.1
ALL OTHER	9.5	10.4	2.2	5.6	12.4	6.0	8.2	2.1	7.1	9.5	10.5
MANGRS, OFF, ETC.	10.8	12.7	1.3	5.7	15.4	12.8	7.8	2.9	1.7	10.0	11.3
SALES	6.3	4.8	3.5	5.6	5.0	1.3	8.7	14.8	8.2	7.8	5.4
CLERICAL	14.4	3.6	1.6	6.1	3.5	1.5	31.5	23.4	34.4	33.0	10.8
BLUE COLLAR	29.8	44.6	55.3	57.2	41.8	26.3	6.2	7.3	10.1	5.0	8.0
CRAFTSMAN	13.4	21.1	11.4	19.0	23.2	8.3	1.1	1.1	2.0	.9	.8
CARPENTERS	2.2	3.5	1.9	3.3	3.9	1.5	.1	.0	.0	.2	.0
ALL OTHER	11.1	17.5	9.5	15.7	19.3	6.8	1.0	1.1	2.0	.7	.8
OPERATIVES	6.2	8.4	10.8	17.2	6.5	8.9	2.7	1.7	3.1	2.6	6.1
TRANSPORT	4.6	7.1	4.4	8.3	7.3	4.6	.7	.6	1.0	.7	1.1
LABORERS	5.6	8.0	28.8	12.7	4.7	4.5	1.7	3.9	3.9	.9	.0
SERVICE WORKERS	14.1	6.4	15.8	6.2	5.0	13.0	26.3	45.9	28.5	21.8	40.1
PRIV. HSHLD.	1.0	.0	.0	.1	.0	.0	2.6	5.8	1.9	1.8	13.3
PROTECTIVE SERV.	1.1	1.7	.3	.8	2.0	1.9	.1	.0	.0	.1	.7
ALL OTHER	12.0	4.7	15.5	5.4	2.9	11.1	23.7	40.2	26.6	20.0	26.1
FARM	11.5	15.4	20.3	12.8	14.3	39.0	5.3	3.3	3.8	5.8	12.8
FARMERS	6.9	10.2	1.1	4.4	11.2	36.8	1.8	.0	.3	2.2	7.3
FARM LABORERS	4.6	5.2	19.2	8.4	3.0	2.2	3.5	3.3	3.5	3.6	5.5
NO PREV. WORK EXP.	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0

Items may not add due to rounding.

Percents computed from whole (unrounded) numbers.

Source: 1978 Current Population Survey, provided by
Bureau of Labor Statistics