

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Chairman Gary C. Aklestad, on February 4, 1989, at 1:00 P.M. in Room 415 of the state Capitol.

ROLL CALL

Members Present: All members were present; Senator Tom Keating, Vice Chairman, Senator Sam Hofman, Senator J. D. Lynch, Senator Gerry Devlin, Senator Bob Pipinich, Senator Dennis Nathe, Senator Richard Manning, Senator Chet Blaylock, Senator Gary Aklestad.

Members Excused: There were no members excused.

Members Absent: There were no member absent.

Staff Present: Tom Gomez, Legislative Council Analyst.

Announcements/Discussion: There were no announcements of discussion.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 101

Discussion:

Senator Aklestad discussed the governor's amendments. Tom Gomez defined "unemployable". The definition goes beyond matters of medical infirmities, but includes vocational matters, such as, if a person is able to be employed. The department wants to adopt rules to determine individual employability.

Tom Gomez discussed the amendment. (Line 23 though page 24 line, 1) The amendment will eliminate the entire subsection 12. The section will require physicians and other health care providers to accept general assistance medical payment as payment in full.

Senator Aklestad stated the amendment will increase the costs considerably. Senator Aklestad stated doctors do not want to perform services, if they are mandated to charge a certain amount.

Tom Gomez stated SRS has a bill to amend GA laws in order to do retrospective budgeting and payments in full requirements. If this amendment is removed, SRS will put the information in it's own bill. Amendments are included because SRS asked for changes in GA laws, and at that time SRS did not consider drafting their own bill.

Senator Blaylock asked what guarantees the administration will put this information into a bill. Senator Aklestad stated the committee should keep the amendment. Blaylock asked what if the doctors bow their necks and say they are not going to provide the service. Senator Aklestad said the situation is a catch 22 because doctors are already saying they will not provide service.

Amendments and Votes:

Senator Hofman moved to amend the language out on Page 7, line 14 and 15, and to amend the language in subsequent pages regarding proper English. The motion passed.

Senator Aklestad asked for further amendments.

Senator Blaylock stated he wants to be recorded as a NO vote on the catch 22, governor's amendment. (Page 23, line 23.) Senator Blaylock stated he also wants to be recorded as a NO vote on any previous Governor's amendments. Senator Manning stated he would like to be recorded as a NO vote on the governor's amendments, also.

The committee asked Mr. Ruppert to speak. Michael Ruppert, Boyd Andrews Chemical Dependency Center, Helena, MT, stated mandatory treatment for chemical dependency is an excellent idea, a long term, real solution directed towards a lot of people on welfare. There is no question a lot of alcoholics are on welfare. There are essential three kinds of treatment. Inpatient treatment, intensive out patient treatment, which meet five times a week, and the out patient are the treatment programs. Most of the people will need either in patient or intensive outpatient treatment. Inpatient programs consist of 28 days, followed by 12 weeks of aftercare. The total amount of time is four months of treatment. People who have been through the inpatient treatment program should be able to get a job as soon as they are released. They have to stay sober when they get out. Not all the clients will stay sober. We need to look

at the person who chooses to drink after treatment, and refuses treatment. Once a person has been through treatment, they have a choice, and they have been given the tools to stay away from alcohol. The primary phase of extensive out patient program lasts four to six weeks, depending on the program. The person should be able to look for a job after two weeks of treatment, assuming they stay sober. A once a week program will allow the client to look for employment almost immediately. These individuals need to be well motivated. Once the client gets involved in a program, it should take a month for the individual to start looking for a job. The fee is based on ability to pay. The extensive out patient minimum charge is approximate \$400. The maximum is approximately \$2,600. The key to the alcoholic's success, is the person who assesses the client's needs. The intensive inpatient program obviously does the best job.

Senator Keating stated, if someone goes through treatment, comes out and starts drinking, but asks to go back on GA, we would be enabling. We would be supplementing their habit with GA. These people had an opportunity to chose to stay dry or to drink. If they drink, it means they refuse treatment and refuse to work. Senator Keating stated there should be a six month exemption penalty instead of a two month penalty, and he would like to see this condition amended into the bill, particularly for chemical dependency after treatment. If we enable people to continue drinking over time, their brain actually converts the alcohol to a heroine derivative. Once they are at that stage, there is no recovery. The alcohol continues to become converted to an opiate. If we get people early, dry them out, and get them going in a different direction, they can recover. General Assistance will enable them down the wrong road. The alcoholic is never cured, only recovering. Senator Aklestad said the six month time frame will be entered into the minutes.

Michael Ruppert stated Boyd Andrews has a six month waiting list. It takes approximately five to ten working days for the client to see a counselor.

Senator Keating stated there is a alcohol tax. It has been appropriated to the forensic lab in Missoula. It was stripped from the Department of Institutions's budget for chemical dependency treatment, and now it covers the forensic lab under the Attorney General's office in the last session. The money should be taken out of forensic and used for chemical dependency, the original purpose of the tax. Senator Blaylock agreed. Mr. Ruppert stated, possibly, 30% of GA's population could be chemically dependent.

Recommendation and Vote

Senator Devlin moved the bill: AS AMENDED, BE CONCURRED IN.
The motion passed unanimously.

SB-
DISPOSITION OF 128

Discussion:

Senator Nathe stated there is a question regarding SB 128. The legislature appropriates money to OPI for adult basic education. Senate Bill 128 has approximately \$400,000 adult basic education funding. Nancy Keenan and staff want to discuss the GED issue. Everything must go back to OPI, and they do not see this kind of money. Senator Nathe asked the committee to delay the bill until Monday. Remedial and job skill training is the point of interest.

Senator Manning stated most of the work programs that constitute job training, school, etc., work in agreement with the local boards and education people. They do not try to administer GED. Senator Nathe stated, according to OPI's adult education administrator, \$1.2 million is appropriated for adult education under JEPICA. The \$400,000 amount is in addition. If it is remedial education, adult basic education is in OPI

DISPOSITION OF SENATE BILL 129

Discussion:

Senator Pipinich asked Tom Gomez to discuss two amendments. The first is on page 13, line 23, following the word "hiring." and continues to page 14, line 1. Strike the sentence: "If a payer fails to make the inquiry, the payer is liable to the department for any amount up to the accumulative amount that should have been withheld and delivered, if it is not paid by the obligator." To eliminate the sentence is to eliminate the liability of the employer, upon hiring an individual, for failing to ask whether or not a person has a child support obligation, required under this law. By failing to make the inquiry, the employer becomes liable for any child support amount not collected through the employer.

Amendments and Votes:

Senator Pipinich moved to accept the amendment. The motion passed.

Discussion:

The second amendment amends current law to make it unlawful for an employer to discharge, discipline or refuse to hire a person... It is illegal for a employer to discharge the employee if he finds out the individual has a child support obligation.

Senator Aklestad asked if the individual is let go, could an employee use this argument against the employer. The employee could say they were fired because they owe child support. Senator Pipinich said it could be used the other way. The employer, upon finding out the individual was behind on child support payments, could let the employee go because the employer didn't like the way the employee combed his hair. There are laws to protect the employee under these circumstances.

Senator Keating stated the bill reads: (on page 13, section 5, line 22) "a person shall disclose the information at time of hiring". If a person is going to work, he/she must disclose this information to the employer, so the employer may begin to withhold child support. The person is not going to get hired, if the employee objects. The employer does not want to get involved with people paying child support.

Senator Blaylock stated the employer must ask about child support obligations.

The second amendment failed.

Recommendation and Vote:

Senator Manning made a DO PASS, AS AMENDED motion. The motion passed unanimous.

DISPOSITION OF SENATE BILL 130

Discussion:

Senator Manning stated he has requested a new fiscal note. There is also a Statement of Intent.

DISPOSITION OF SENATE 163

Discussion:

Senator Aklestad stated SB 163 extends the radius, without limitations, at \$.45 per mile. Senate Bill 163 has a fiscal note of approximately \$700,000. Senator Keating stated, during the questions from the committee time of the hearing, he asked the department if they were paying milage. Senator Keating stated he had just talked to a lady in Geraldine, MT, who is getting services in Great Falls. Senator Keating

was concerned the state would have to pay \$.45 per mile. At the present time, the state does not reimburse. Dennis Taylor said no limitation would be established with SB 163. Senator Aklestad stated there is law in existing statutes, which allow the ten miles radius.

Recommendation and Vote:

Senator Keating stated he does not want to take action on Senator Lynch's bill when he is not at the committee hearing. Senator Aklestad stated when left, Senator Lynch asked if he would be given the opportunity to vote. (Yes.) Senator Lynch did not leave a vote.

Senator Keating moved DO NOT PASS. Senate Bill 163 takes additional developmentally disabled money for transportation. There are four hundred and nine people in Montana who are not served at the present time. The bill was prompted by the request of a person in Butte, who happens to be on the opposite side of town from the DD transportation circuit. Senate Bill 163 obtains funds for that particular situation and opens up the door for a tremendous expense throughout the state. The expense is for milage. Butte-Silver Bow is one of the assumed counties. The Legislature is putting an additional \$6 million General Assistance money into assumed counties. The poor fund is used for such purposes. There is enough money in the GA Assistance Fund, poor fund, to help with the transportation of the Butte person without having to effect increased costs for Montanans. Especially, when the state is having such a difficult time funding the developmentally disabled program. There are still many people who are not served in any manner. This is a poor way to spend money.

Recommendation and Vote.

The DO NOT PASS motion carried.

DISPOSITION OF SENATE BILL 218

Discussion:

Senator Nathe asked what is equitable estoppel. Equitable estoppel is the situation where someone presents information to an individual, who may be employed in a government agency or an insurance company. The person has the knowledge of telling the person how to do what you are supposed to do. In fact, the individual is telling them something incorrect. The other people, relying upon what they are told, takes action on the other's interpretation. The estoppel principle says the person who is in the position is: "no estoppel" by taking another position. They led the person to do what they thought was right, by virtue of telling the

person how to do something do.

Senator Aklestad stated he has a notation that SB 218 has been put on the consent calendar.

DISPOSITION OF SENATE BILL 234

Discussion:

Tom Gomez stated Senator Keating asked for amendments. The amendments have not been approved by the requesting legislators.

Senator Keating talked about the tip credit amendment. The tip credit actually takes money away from people. If we affect the tip credit for the employer at the current minimum wage, which is \$3.35, the \$3.35 minimum wage would always remain. The tip credit would only apply to any increases in minimum wage. It would alleviate the taxes against tips above the \$3.35 minimum wage. The credit would be in place for minimum wage increases.

Senator Nathe asked: Suppose I have a restaurant, and I am employing good waitresses. The waitresses are being paid \$4.50 per hour. In this case, does the tip credit go from \$4.50 on. No. Do these people lose their tips for the amount between \$3.35 and \$4.50, regarding social security and other benefits. Senator Keating stated the tip credit will be in place at the \$3.35 amount. Senator Keating stated the waitress working for \$4.40 gets more money, but the employer does not have to pay taxes on tips, beyond the \$3.35.

DISPOSITION OF SENATE BILL 129

Discussion:

Senator Manning moved to call back SB 129. Senator Manning stated Mr. Gomez called his attention to a statement of intent, needing bill attachment.

Senator Manning moved to accept the statement of intent. The motion passed unanimously.

Tom Gomez discussed the statement of intent. The department of Revenue is required by section 3 to adopt a uniform child support guide line for use by judges and other officials who have the power to determine child support awards with an estate. The department shall initially adopt and implement the uniform child support guide lines, recommended by the Montana Supreme Court. Thereafter, the department will periodically review the guidelines to determine if they are

appropriate to determine adequate minimum child support amounts. If department determines the guidelines are no longer adequate, they shall amend them after considering the factors set forth in various statutes.

Amendments and Votes:

Senator Manning moved the statement of intent. The motion carried unanimously.

Recommendation and Vote:

Senator Manning moved DO PASS, AS AMENDED. The amendment is the statement of intent. The motion passed unanimously.

DISPOSITION OF SENATE BILL 276

Amendments and Votes:

Senator Blaylock made a DO PASS motion on SB 276.

The fiscal note is for \$6,000. The amount is for an extra day. Currently, the money comes out of the General Fund. Jensen stated there are several programs that are paid for out of the Administrative Tax Fund. Senator Aklestad stated the employer has to pay for his own defense, plus the defense of the employee. Currently, the General Fund is picking up the expense, so Montanans do not have to fund the expense.

Senator Keating asked what the Board of Personnel Appeals reviews. Complaints between employee and employer, grievances, and strike action are reviewed. Senator Keating stated he put a repealer on SB 276.

Bob Jensen stated he deals with two board. The Board of Personnel Appeals handles all appeals on collective bargaining matters and hears grievance for Highways and Fish Wild Life and Parks. The other board is the Board of Labor Appeals, which deals with unemployment insurance matters.

Senator Devlin asked is there is a drastic overload of work for the board. Senator Blaylock stated the bill will give people a chance to come in and be heard by the Board of Personnel Appeals before going directly into mediation process. It will give people a chance to come before the Board of Personnel Appeals without a lawyer and be heard.

Bob Jensen stated the Board of Personnel Appeals currently meets approximately every other month. At one time, the board met every month. Senate Bill 276 allows one more due

process step.

Senator Keating asked if there is a limit on the claim size. Mr. Jensen said no. Wage claims vary from under one hundred dollars to multiple claims of thousands of dollar.

Senator Hofman asked what savings will be realized. Mr. Jensen stated the saving will be to the parties who do not have to go to court. The board can weed out approximately forty percent of the cases.

Senator Blaylock stated any group of people who have not been treated fairly, would want someone to collect for him/her. Senator Aklestad stated, as he reads the bill, the commissioner can maintain the action. Senator Blaylock asked if Senator Aklestad would object to that. Senator Aklestad stated he would not want to get into a situation that would depend on the commissioner to keep things alive and on the books, if the individual was not pursuing the action. There could be additional administrative costs and bureaucratic intervention. Senator Keating asked if the Commissioner of Labor could bring suit on behalf of unpaid workers. As of now, the person is responsible to bring action for himself/herself. Now the state is lining up against the contractor, under the prevailing wage section. So, the state is in the position of the unpaid worker, and is the champion against the employers. Senator Aklestad stated he does not want to be interpreted as trying to take the individual's latitude to be able to bring the action, they should be able to bring the action. The bureaucracy should not be involved in situations where the individual is not interested in the action being sought

Senator Blaylock stated he can not believe the Commissioner of Labor is going to take any action, unless people come, saying they were cheated. If a group of people have been cheated, then the Commissioner of Labor should be their champion. Senator Aklestad stated he did know if the state should put bureaucracy on one side or the other side. Tax dollars should not be taking sides.

Senator Keating stated he was excused to present a bill in another committee when SB 276 was presented. Does SB 276 review wage claims by the board, and do they take into account workers who have wage claims and want a hearing on the dispute. Under the review procedures, only the prevailing wage issue is concerned when the department of labor is bringing suit against the employer on behalf of the employee. The situation is divided, and we are giving the department power to bring a claim. It seems that we are dealing with two different sectors. The single topic is wage claims, but we are differentiating between wage claims

in the bill. Senator Keating asked if we are dealing with two different topic. Senator Blaylock stated a wage claim is a wage claim, and a prevailing wage claim is under Little Bacon Davis. If the employer is not paying the prevailing wage, the individual will have a cause to adjust the wage. If the individual is working a job where they have not been paid, the individual will have a cause.

Senator Hofman stated the bill may go further than what Senator Manning wants to do. If the laborers go to the commissioner and say they are being discriminated against, the commissioner of labor could help. If the commissioner of labor is going to go out and look for things to create problems, harassment could be an issue when dealing with contractors. Senator Blaylock stated he would resist taking the language out. Senator Hofman stated the individual or group has had recourse. The legislation is not taking recourse away. (Title 39, chapter 8, part 2)

Bob Jensen stated minimum wage and overtime are a lot clearer under the statute. These cases are investigated, and they go to district court hearing. The department wants the board in between the hearing and the court, when the claims concern prevailing wage and overtime. Currently, there is no provision for any hearing on the prevailing wage issue. The prevailing wage complaints usually concern whether he/she has not been paid the prevailing wage on a public work project. The bill is intended to handle the minimum wage issue and the prevailing wage issue in the same manner. The other kind of a prevailing wage question is when a contractor files a claim against another contractor, saying they are not paying their employees the prevailing wage. Put these issues into an administrative hearing. The bill does not address the contractor against contractor issue concerning a public works project.

Senator Nathe stated at the present time an employee, under the prevailing wage section, who feels a prevailing wage has not been paid, can go directly to district court. Mr. Jensen said the case must be investigated. The only recourse for the employer is to go into district court action. Senator Nathe stated the bill will allow for hearing determinations. Then, if the client is dissatisfied, they can go to court. Mr. Jensen said there should be an administrative hearing, and the board should deal with court action.

Senator Aklestad stated it appears the contractor against contractor should be addressed. The language states "all prevailing wage cases."

Senator Nathe asked, when the school district contracts out bus services to contracted bus services individuals, to what

extent is the school liable. I have often thought this situation is an existing time bomb waiting to explode because government-taxpayer's money is involved, and the school district contracts the bus services. If they are not being paid the prevailing wage, then the school district may be subjected to litigation. Mr. Jensen stated, under present law, the janitorial services, under the prevailing wage law, fall under the same category. However, there is a bill being drafted that will delete all janitorial services out of prevailing wage.

Recommendation and Vote:

The motion passed. Senator Aklestad stated he wants to be recorded as a NO vote.

DISPOSITION OF HOUSE BILL 21

Discussion:

Senator Blaylock stated this court case has gone to the Supreme Court. The Court said no, and the state was stuck. Senator Blaylock stated what bothers him is, if the family members get seriously hurt, what happens and who takes care of the injured worker. In some cases they go on welfare. The business is really going out on a limb if they do not have workers' compensation. Senator Nathe stated one of the things with workers' comp is: If the injured party sues, they sue the state. They don't sue the small business or the farmer. Senator Aklestad stated the bill pertains to immediate family members. Senator Keating said the bill reads: "a dependent member". Senator Nathe asked if workers' compensation is a guaranteed protection to the employer, so they will not be sued for injuries. The employer pays the premium, and the injured person can only sue the state. Senator Nathe stated he does not understand the court's rationale on the Crottrill decision. The boy was a family member, and he was twenty-two. Perhaps, this is the reason he was able to come back. Senator Nathe questioned why he didn't sue his father. Senator Manning stated there will be instances where the son or daughter will not be the least reluctant, if they get hurt, to sue dad. The father should be protected, as well as everyone else. Senator Nathe said he understands why there are restrictions, such as a dependent member restriction.

Recommendation and Vote:

Senator Hofman moved HB 21 BE CONCURRED IN. The motion carried. Senator Manning voted NO. Senator Hofman will carry the bill.

DISPOSITION OF HOUSE BILL 99

Discussion:

Senator Nathe read Representative Driscoll's amendment. The amendment stated at no time a new employer will be assigned a rate less than one percent.

Amendments and Votes:

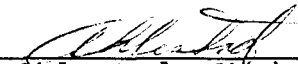
Senator Manning moved the amendment. The motion carried.

Recommendation and Vote:

Senator Manning moved the bill BE CONCURRED IN, AS AMENDED. The motion passed.

ADJOURNMENT

Adjournment At: 1:32 p.m.



Senator Gary C. Aklestad, Chairman

GCA/mfe

Executive.204

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: Feb 4, 1989

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	Y		
SENATOR SAM HOFMAN	Y		
SENATOR J.D. LYNCH	Y		
SENATOR GERRY DEVLIN	Y		
SENATOR BOB PIPINICH	Y		
SENATOR DENNIS NATHE	Y		
SENATOR RICHARD MANNING	Y		
SENATOR CHET BLAYLOCK	Y		
SENATOR GARY AKLESTAD	Y		

SENATE STANDING COMMITTEE REPORT

page 1 of 2
February 6, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 101 (first reading copy -- white), respectfully report that SB 101 be amended and as so amended do pass:

1. Title, line 14.
Strike: "53-3-311,"
2. Page 3, lines 17 through 19.
Strike: subsection (1) in its entirety
Re-number: subsequent subsections
3. Page 7, line 13.
Strike: "or"
4. Page 7, lines 14 and 15.
Strike: lines 14 and 15 in their entirety
5. Page 7, line 16.
Strike: "(A) have"
Insert: "(ii) has"
6. Page 7, line 19.
Strike: "(B) suffer"
Insert: "(iii) suffers"
7. Page 13, line 18.
Strike: ":"
8. Page 13, lines 19 through 24.
Strike: subsection (a) in its entirety
9. Page 13, line 25.
Strike: "(b)"
Insert: ","
10. Page 21, line 18 through page 22, line 19.
Strike: section 10 in its entirety
Re-number: subsequent sections

11. Page 23, line 23.

Following: line 22

Insert: "NEW SECTION. Section 11. Coordination requirements -- consolidation of programs authorized. (1) The governor shall assure that program activities under 53-3-304 and [section 10] are coordinated with programs administered under the federal Job Training Partnership Act and any other relevant employment, training, education, or work program in this state.

(2) The governor may consolidate the program provided for in 53-3-304 and [section 10] with other programs in order to maximize coordination of program activities as required in subsection (1) and to prevent overlapping and duplication of services."

12. Page 24, line 17.

Following: "4,"

Insert: "10,"

13. Page 24, line 19.

Following: "4,"

Insert: "10,"

14. Page 24, line 20.

Following: "if"

Insert: "Senate"

15. Page 24, line 21.

Following: line 20

Insert: "128"

16. Page 24, line 23.

Following: "section"

Strike: "11"

Insert: "10"

17. Page 24, line 24.

Following: "in"

Insert: "Senate"

Following: "No."

Insert: "128"

AND AS AMENDED DO PASS

Signed: _____
Gary C. Aklestad, Chairman

41. C. 89
3/11/99
9:00 AM

SENATE STANDING COMMITTEE REPORT

February 7, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 163 (first reading copy -- white), respectfully report that SB 163 do not pass.

DO NOT PASS

Signed: _____
Gary C. Aklestad, Chairman

J.C. 1/18/89
10:00

SENATE STANDING COMMITTEE REPORT

February 6, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 21 (third reading copy -- blue), respectfully report that HB 21 be concurred in.

Sponsor: Marks (Hofman)

BE CONCURRED IN

Signed: _____
Gary C. Aklestad, Chairman

4/10/89
2/7/89
G. C. Aklestad

SENATE STANDING COMMITTEE REPORT

February 6, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 276 (first reading copy -- white), respectfully report that SB 276 do pass.

DO PASS

Signed: 
Gary C. Aklestad, Chairman

410.
2/7/89
9:00 a.m.

SENATE STANDING COMMITTEE REPORT

February 6, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 99 (third reading copy -- blue), respectfully report that HB 99 be amended and as so amended be concurred in:

Sponsor: Driscoll (Keating)

1. Page 5, line 5.

Following: "year."

Insert: "At no time may an unrated employer be assigned a rate lower than 1%."

BE CONCURRED IN AS AMENDED

Signed: 
Gary C. Aklestad, Chairman

4/6
2/7/89
9:37
P. A. M.

Amendments to House Bill No. 99
Third Reading Copy

For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez, Staff Researcher
February 6, 1989

1. Page 5, line 5.

Following: "year."

Insert: "At no time may an unrated employer be assigned a rate lower than 1%."

The Montana Standard, Butte, Wednesday, February 1, 1989

Tip credit' bill hurts vulnerable, critics say

HELENA (AP) — A bill allowing employers to count tips against employee wages is an attack on people at the bottom of the state's economic ladder, opponents told a Senate committee Tuesday.

Senate Bill 234 would allow employers to withhold up to 40 percent of the state's minimum wage, which is currently \$3.35 per hour, from employees who regularly receive \$30 or more a month in tips.

That means the amount actually paid by the employer to tipped employees would fall to \$2.01 per hour, while \$1.34 per hour from tips would be credited toward the minimum wage.

The measure, sponsored by Sen. Paul Boylan, D-Bozeman, would undo a statute passed by the 1987 Legislature that specifically excludes tips from the definition of wages.

Restaurant owners and others who support the bill told the Senate Labor Committee that many waiters and waitresses earn considerably more than the minimum wage because of



BOYLAN

tips, and that about 40 states already allow the practice of "tip credits" against wages.

"We ask to be treated like businesses in other states," said Leon Stalcup of the Montana Restaurant Association.

"We're vitally concerned about Montana's competitive position to do business," which would be enhanced by parity with other states on tip credits, said James Tutwiler of the Montana Chamber of Commerce.

Peter Ovrantic of the Bozeman-based Frontier Restaurants said the tip-credit legislation would make it more attractive for his company to expand in Montana.

One restaurant owner, however, said the underlying purpose of SB234 was to diminish the effect on employers of another bill, already passed by the House, that would raise the state's minimum wage to \$3.75 as of July 1 and to \$4.00 on July 1, 1990. The legislation has yet to be acted on in the Senate.

Laurie Shadoan, who owns two restaurants in Bozeman, told the committee that restaurant owners would be willing to amend SB234 so that actual wages paid to tipped employees would not fall below the current minimum of \$3.35.

The Senate committee did not act on the bill, which Don Judge of the Montana AFL-CIO said would in effect authorize a \$1.34-per-hour wage cut for those Montanans who could least afford it.

The bill would "take the lowest of the low-paid and push them down even further," he said.

In 1987 the average annual wage of employees of Montana eating and drinking establishments was \$5,709, according to Judge, who said the loss of \$1.34 an hour would reduce their wages by almost 29 percent or about \$1,632 per worker. As many as 29,000 tipped employees in Montana could be affected by the bill, he said.

Union officials representing restaurant, hotel and food-service employees noted that many do not work a 40-hour week and have no health insurance or retirement benefits.

"I personally cannot raise my 7-year-old on \$2.01 an hour," said Debbie Ball, a waitress from Cascade.

Frank Sullivan of the Hotel and Restaurant Employees International Union presented signatures he said were gathered from 10,000 restaurant patrons across the state in opposition to the bill.

ROLL CALL VOTE

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: Feb 7, 1989 BILL NO: SB 101 TIME: _____

Blaylock Amendment

VOTE:	YES	NO
SENATOR TOM KEATING		X
SENATOR SAM HOFMAN		X
SENATOR J.D. LYNCH	X	
SENATOR GERRY DEVLIN		X
SENATOR BOB PIPINICH	X	
SENATOR DENNIS NATHE		X
SENATOR RICHARD MANNING	X	
SENATOR CHET BLAYLOCK		X
SENATOR GARY AKLESTAD		X

Failed

3

6