

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By CHAIRMAN BRUCE T. SIMON, on February 2, 1995,
at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Alvin A. Ellis, Jr. (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Joe Barnett (R)

Members Excused: Rep. Jon Ellingson
Rep. David Ewer
Rep. Rose Forbes
Rep. Jack Herron
Rep. Bob Keenan
Rep. Paul Sliter
Rep. Carley Tuss

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

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

Committee Business Summary:

Hearing: HB 326
Executive Action: HB 359, HB 326, HB 372, HB 272

EXECUTIVE ACTION ON HB 359

Motion/Vote: REP. PAVLOVICH MOVED TO TABLE HB 359. Motion
carried 11-0.

EXECUTIVE ACTION ON HB 326

Motion: REP. COCCHIARELLA MOVED HB 326 DO PASS. REP. COCCHIARELLA MOVED THE AMENDMENTS.

Discussion:

REP. COCCHIARELLA explained the amendments.

CHAIRMAN SIMON said it might be better to reduce the license to an I.D. badge. It would be available for anyone to see on the job site.

Vote: Motion carried to adopt the Cocchiarella amendment 11-0.

Motion: REP. COCCHIARELLA MOVED HB 326 DO PASS AS AMENDED.

Discussion:

REP. BARNETT asked if another licensed person may approach any other person working on a job site and request proof of license.

REP. MILLS said there is one other facet to that. It does not eliminate a laborer approaching an electrician for proof of license.

REP. SIMON said it would also allow for a homeowner to request the license.

Vote: Motion carried 11-0.

HEARING ON HB 372

Opening Statement by Sponsor:

REP. JEANETTE MCKEE, HD 60, Ravalli County said this bill was an act to eliminate one testing procedure.

Proponents' Testimony:

REP. MARGE FISHER, HD 80, Flathead County said the State Auditor's Office decided there were some problems in the field of securities and a test referred to as the Series 65 was established. A strategic assets management account was established.

Opponents' Testimony:

None.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 372

Motion/Vote: REP. MCKEE MOVED HB 372 DO PASS. Motion carried DO PASS on HB 372 11-0.

EXECUTIVE ACTION ON HB 272

Motion: REP. MILLS MOVED HB 272 DO PASS. REP. ELLIS MOVED THE AMENDMENTS ON HB 272.

Discussion:

REP. ELLIS explained the amendments.

CHAIRMAN SIMON further explained the amendments.

REP. COCCHIARELLA said under current law tips are not taxed. If the amendments are adopted there will be a situation where some tips are taxed and some are not.

CHAIRMAN SIMON said upon reviewing page 23, this includes all money due an employee from an employer whether paid by the hour, day, week, or semi-monthly, and includes bonuses, piecework and all tips. That is current law. Tips and gratuities are taxed.

REP. COCCHIARELLA said they were just defined as wages in the sections where they are being eliminated.

CHAIRMAN SIMON said state law was not being changed.

REP. COCCHIARELLA said service charges were added to tips, and are not taxed. She said the committee should not want to get into a situations where they are taxing some kinds of tips and not others.

CHAIRMAN SIMON said that area was covered by the way they have struck service charge in one place and reinserted it in another it place.

REP. COCCHIARELLA asked when these amendments are adopted are the service charges going to be taxed because they were not included in the exemption list.

Melissa Case said service charges will be state taxed. Initially, these were all covered by the same IRS code. When the fiscal note was released, that was not the case. Service charges were covered in 34-01 and not 34-02. When the bill was drafted, service charges were made consistent with the language in the tax

code with tips and gratuity. The original intent of the bill was not to touch code. The definition of service charges was the point so the employees would then receive the service charges prior to having the service charges removed. Those service charges have always been taxed.


CHAIRMAN SIMON said by adopting the amendments and passing this bill as it stands tips would be treated as they were in the past. Waitresses have paid tax on service charges. There would be a tax break.

Jerry Driscoll said in 1983 there was a bill exempting tips and gratuity from Montana income tax, because the federal government passed legislation to add 8% of the gross revenue. There were certain restaurants where an automatic service charge was placed on the bill. Because service charges were not addressed in the 1983 bill, the Department of Revenue said if it appears on the W-2 form as a service charge it is taxable. If it appears as a tip or gratuity it is not taxable. On the filing form, tips must be reported and an adjustment is made. If this bill passes with the amendments and if the W-2 shows a service charge, taxes will be paid.

CHAIRMAN SIMON suggested the remainder of the action on this bill be delayed.

ADJOURNMENT

Adjournment: 9:00 AM.



BRUCE T. SIMON, Chairman



ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES
BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 2-2-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chair, Maj.	X		
Rep. Bob Pavlovich, Vice Chair, Min.	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson			X
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer			X
Rep. Rose Forbes			X
Rep. Jack Herron			X
Rep. Bob Keenan			X
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter			X
Rep. Carley Tuss			X

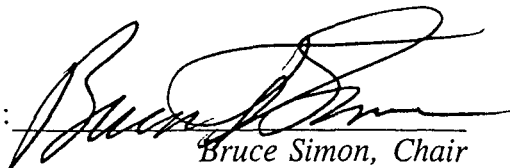


HOUSE STANDING COMMITTEE REPORT

February 2, 1995

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Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 372** (first reading copy -- white) **do pass**.

Signed: 
Bruce Simon, Chair

45.
Committee Vote:
Yes 11, No 0.

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HOUSE STANDING COMMITTEE REPORT

February 2, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 326** (first reading copy -- white) do pass as amended.

Signed:

A handwritten signature in dark ink, appearing to read "Bruce Simon", is written over a horizontal line.

Bruce Simon, Chair

And, that such amendments read:

1. Title, line 4.

Following: "AN ACT"

Strike: "ALLOWING"

Insert: "PROVIDING THE RIGHT OF AN EMPLOYEE OF A PRIVATE OR
PUBLIC EMPLOYMENT AGENCY OR LABOR UNION, A BUILDING CODE
COMPLIANCE INSPECTOR, A PERSON WHO IS PROFESSIONALLY
RESPONSIBLE FOR A JOB SITE, OR"

2. Title, lines 6 and 7.

Following: "ALLOWING" on line 6

Strike: "THE LICENSED ELECTRICIAN OR LICENSED PLUMBER TO REPORT"

Following: "LICENSE" on line 7

Insert: "TO BE REPORTED"

3. Page 1, lines 12 through 15.

Following: "An" on line 12

Insert: "employee of a private or public employment agency or
labor union, a building code compliance inspector, a person
who is professionally responsible for a job site, or an"

Following: "ask" on line 13

Strike: "any other"

Insert: "a"

Following: "If the" on line 14

Strike: "other"

Committee Vote:

Yes 11, No 0.

281107SC.Hbk

Following: "person"
Insert: "performing the work"
Following: "licensure, the"
Strike: "licensed electrician"
Insert: "requesting person" on line 15

4. Page 1, lines 17 through 19.

Following: "**Proof of license.**" on line 17

Strike: "A"

Insert: "An employee of a private or public employment agency or
labor union, a building code compliance inspector, a person
who is professionally responsible for a job site, or a"

Following: "ask" on line 18

Strike: "any other"

Insert: "a"

Following: "If the" on line 19

Strike: "other"

Following: "person"

Insert: "performing the work"

Following: "licensure, the"

Strike: "licensed plumber"

Insert: "requesting person"

-END-