1 2 LC 1297/01

INTRUDUCED BY LABOR & EMPLOYMENT RELATIONS COMMITTEE

Lee Chairman BY REQUEST OF THE DIVISION OF WORKERS\* COMPENSATION 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 92-411, R.C.M. 1947, CONCERNING THE DEFINITION OF EMPLOYEE 6 UNDER THE WORKERS\* COMPENSATION ACT, BY REMOVING SUPERFLUOUS 7 IANGUAGE. CLARIFYING THE COVERAGE OF CASUAL EMPLOYEES. AND 8 CLARIFYING THE COVERAGE OF STUDENTS ENROLLED IN VOCATIONAL 9 REHABILITATION OR OTHER ON-THE-JOB TRAINING COURSES." 10 11 12 BE IT ENALTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 92-411, R.C.M. 1947, is amended to read as follows: 14 15 "92-411. Employee and workman defined. (1) "Employee" 16 and-"workman"-are-used-synonymously-and-mean-every The terms 17 "employee", "workman", or "worker" mean: 18 (a) each person in this state, including a contractor 19 other than an "independent contractor" who is in the service 20 of an employer as defined by the preceding section, under 21 any appointment or contract of hire, expressed or implied, oral or writtenve including The terms include aliens and 22 23 also--including minors, whether lawfully or unlawfully 24 employed, and all of the elected and appointed paid public 25 officers and officers and members of boards of directors of

INTRODUCED BILL

1 quasi-public or private corporations while rendering actual 2 service for such corporations for payve including--city--and 3 town--firemeny--highway--patrolmeny--police-officersy-county 4 sheriffsy-deputy-sheriffsy-constablesy-truant--officers--and 5 all--peace--officersy--also--all--public--officers-and-their deputiesy-assistants-and-employeesy-but-excluding-any-person 6 7 whose-employment-is-both-casual-and-not-in--the--courses--of 8 the---tradey--businessy--profession--or--occupation--of--his 9 employery-unless-such Casual employees as defined by .92-436 10 are included as employees if they are not otherwise covered 11 by workerst compensation and if an employer has elected to 12 be bound by the provisions of the compensation lawy-in-which 13 cose-all-employees-are-includedy-whether-their-employment-is 14 casual-or-otherwisey-and-also-excluding-any-employee-engaged 15 in---household---or---domestic---service for\_\_these\_.casual 16 employments, as provided in 92-202-1(2). 17 (2)(b) "Employee"-also-means a recipient of general 18 relief who is performing work for a county of this state 19 under the provisions of section 71-307, and any juvenile 20 performing work under authorization of a district court 21 judge in a delinguency prevention or rehabilitation programy 22 and-any-person-receiving-vocational-rehabilitation-trainingy 23 of-othef-on-the-job-training--under--any--state--or--federal 24 vocational--training--programy--whether--or--not--under--any 25 appointment-or--contract--of--hire--with--an--#employer#--as

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1 defined--in-this-titley-and-whether-or-not-receiving-payment z from-a-third-party-; or 3 (c) a person receiving on-the-iob vocational 4 rehabilitation training or other on-the-job training under a 5 state or federal vocational training program. whether or not 6 under an appointment or contract of hire with an employer as 7 defined in this chapter and whether or not receiving payment 8 from a third party. However, this subsection does not apply 9 to students enrolled in vocational training programs as 10 outlined above while they are on the premises of a public 11 school. postsecondary training center. dr community college. 12 +3+(2) If the employer is a partnership, or sole 13 proprietorship, such employer may elect to include as an 14 "employee" within the provisions of this act, any member of 15 such partnership, or the owner of the sole proprietorship, devoting full time to the partnership or proprietorship 16 17 business. In the event of such election, the employer must serve upon the employer's insurance-carrier-and-the-division 18 insurer written notice naming the partners or sole 19 20 proprietor to be covered, and no partner or sole proprietor shall be deemed an employee within this act until such 21 22 notice has been given. For premium rate making, and for the 23 determination of weekly wage for weekly compensation benefits, the insurance carrier shall assume a salary or 24 wage of such electing "employee" to be mine-hundred--dollars 25

**{\$900}** per month.♥

-End-

Approved by Committee on Labor & Employment

Relations

4 BILL NO. 358 ı z INTRODUCED BY LABOR & EMPLOYMENT RELATIONS COMMITTEE The Chairman 3 BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION 4 A BILL FOR AN ACT ENTITLED: MAN ACT AMENDING SECTION 5 4 92-411, R.G.M. 1947, CONCERNING THE DEFINITION OF EMPLOYEE 7 UNDER THE WORKERS" COMPENSATION ACT. BY REMOVING SUPERFLUOUS LANGUAGE. CLARIFYING THE COVERAGE OF CASUAL EMPLOYEES. AND 8 CLARIFYING THE COVERAGE OF STUDENTS ENROLLED IN VOCATIONAL 9 REHABILITATION OR OTHER ON-THE-JOB TRAINING COURSES." 10 11 BE IT ENALTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 13 Section 1. Section 92-411. R.C.M. 1947. is amended to read as follows: 14 #92-411. Employee and workman defined. (1) #Employee# 15 and-"workman"-are-used-synonymously-and-mean-every The terms 16 17 "employee", "workman", or "worker" mean: (a) each person in this state, including a contractor 18 19 other than an "independent contractor" who is in the service 20 of an employer as defined by the preceding section, under 21 any appointment or contract of hire, expressed or implied, 22 oral or writteny, including The terms include aliens and also--including minors, whether lawfully or unlawfully 23 24 employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of 25 SECOND READING

1 quasi-public or private corporations while rendering actual service for such corporations for payse including -- city-- and 2 а. town--firemeny--highway--patrolmeny--police-officersy-county 4 sheriffsy-deputy-sheriffsy-constablesy-truant--officers--and 5 all--peace--officersy--also--all--public--officers-and-their 6 deputiesy-assistants-and-employeesy-but-excluding-ony-person 7 whose-employment-is-both-casual-and-not-in--the--courses--of 8 the---tradev--business--profession--or--occupation--of--his 9 employery unless-such Casual employees as defined by .92-436 10 are included as employees if they are not otherwise covered 11 by workers' compensation and if an employer has elected to 12 be bound by the provisions of the compensation lawy-in-which 13 case-all-employees-are-includedy-whether-their-employment-is 14 cosual-or-otherwisey-and-also-excluding-any-employee-engaged 15 in---household---or---domestic---service for these casual 16 employments, as provided in 92-202.1(2). 17 (2)(b) "Employee"-also-means a recipient of general relief who is performing work for a county of this state 18 19 under the provisions of section 71-307, and any juvenile 20 performing work under authorization of a district court 21 judge in a delinguency prevention or rehabilitation programs 22 and-any-person-receiving-vocational-rehabilitation-training 23 of-other-on-the-job-training--under--any--state--or--federal 24 vocational--training--programy--whether--or--not--under--any 25 appointment-or--contract--of--hire--with--an--\*employer\*--as

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SB358

1 defined--in-this-titley-and-whether-or-not-receiving-payment 2 from-a-third-partyw; or 3 [c] a person receiving on-the-iob vocational 4 rehabilitation training or other on-the-iob training under a 5 state or federal vocational "training program. whether or not 6 under an appointment or contract of bire with an employer as 7 defined in this chapter and whether or not receiving payment 8 from a third party. However, this subsection does not apply 9 to students enrolled in vocational training programs as 10 outlined above while they are on the premises of a public 11 school, postsecondary training center, or comunity collede. 12 (3)(2) If the employer is a partnership, or sole 13 proprietorship, such employer may elect to include as an 14 "employee" within the provisions of this act, any member of 15 such partnership, or the owner of the sole proprietorship, 16 devoting full time to the partnership or proprietorship business. In the event of such election, the employer must 17 18 serve upon the employer's insurance-carrier-and-the-division 19 insurer written notice naming the partners or sole 20 proprietor to be covered, and no partner or sole proprietor 21 shall be deemed an employee within this act until such notice has been given. For premium rate making, and for the 22 23 determination of weekly wage for weekly compensation 24 benefits, the insurance carrier shall assume a salary or 25 wage of such electing "employee" to be nine-hundred -doilars

1 (\$900) per month."

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2 INTRODUCED BY LAROR & EMPLOYMENT RELATIONS COMMITTEE. 3 BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION

5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 6 92-411, R.C.M. 1947, CONCERNING THE DEFINITION OF EMPLOYEE 7 UNDER THE WORKERS' COMPENSATION ACT, BY REMOVING SUPERFLUOUS 8 LANGUAGE, CLARIFYING THE COVERAGE OF CASUAL EMPLOYEES, AND 9 CLARIFYING THE COVERAGE OF STUDENTS ENROLLED IN VOCATIONAL 10 REHABILITATION OR OTHER ON-THE-JOB TRAINING COURSES."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 92-411. R.C.N. 1947. is amended to
read as follows:

15 \*92-411. Employee and workman defined. (1) \*Employee\*
16 and-\*workman\*-are-used-synonymously-and-mean-every <u>The\_terms</u>
17 \*employee\*. \*workman\*. or \*worker\*\_mean:

(a) each person in this state, including a contractor 18 other than an "independent contractor" who is in the service 19 of an employer as defined by the preceding section, under 20 any appointment or contract of hire, expressed or implied, 21 oral or writteny, including The terms include aliens and 22 elso--including minors, whether lawfully or unlawfully 23 employed, and all of the elected and appointed paid public 24 officers and officers and members of boards of directors of 25

THIRD READING

1 quasi-public or private corporations while rendering actual service for such corporations for payse including--city--and 2 3 town--firemeny--highway--patrolmeny--police-officersy-county 4 sheriffsy-deputy-sheriffsy-constablesy-truent--officers--and 5 all--peace--officersy--also--all--public--officers-and-their 6 deputiesy-assistants-and-employeesy-but-excluding-any-person 7 whose-employment-is-both-casual-and-not-in--the--courses-of 8 the---trades--business--profession--pr-occupation--of--bis 9 10 are included as employees if they are not otherwise covered 11 by workers' compensation and if an employer has elected to 12 be bound by the provisions of the compensation lawy-in-which 13 case-all-employees-are-includedy-whether-their-employment-is 14 casual-or-otherwiser-and-also-excluding-any-employee-engaged 15 in---household---or---domestic---service for these casual 16 employments, as provided in 92-202,1(2). 17 (2)(b) "Employee"-also-means a recipient of general 18 relief who is performing work for a county of this state 19 under the provisions of section 71-307, and any juvenile 20 performing work under authorization of a district court 21 judge in a delinguency prevention or rehabilitation programy 22 and-any-person-receiving-vocational-rehabilitation-trainingy 23 of-other-on-the-job-training--under--any--state--or--federal 24 vocational--training--programy--whether--or--not--under--any 25 appointment-or--contract--of--hire--with--an--\*employer\*--as

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1	<del>definedin-this-titley-and-whet</del> her-or-not-rece <del>iving-payment</del>
2	from-a-third-portyw <u>: or</u>
3	(c) a person receiving on-the-job vocational
4	rehabilitation_training_or_other_on=the=job_training_under_a
5	state or federal vocational training programs whether or not
6	under an appointment or contract of hire with an employer as
7	defined in this chapter and whether or not receiving payment
8	from a third party. However, this subsection does not apply
9	to students enrolled in vocational training programs as
10	outlined above while they are on the premises of a public
11	schooly postsecondary training center, or community college.
12	<pre>(3)(2) If the employer is a partnership, or sole</pre>
13	proprietorship, such employer may elect to include as an
14	<pre>"employee" within the provisions of this act: any member of</pre>
15	such partnership, or the owner of the sole proprietorship,
16	devoting full time to the partnership or proprietorship
17	business. In the event of such election, the employer must
18	serve upon the employer's insurance-carrier-and-the-division
19	insurer written notice naming the partners or sole
20	proprietor to be covered, and no partner or sole proprietor
21	shall be deemed an employee within this act until such
22	notice has been given. For premium rate making, and for the
23	determination of weekly wage for weekly compensation
24	benefits, the insurance carrier shall assume a salary or
25	wage of such electing "employee" to be <del>nine-hundreddollars</del>

1 (\$900) per month."

-End-

LC 1297/01

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HOUSE OF REPRESENTATIVES March 11, 1977 LABOR AND EMPLOYMENT RELATIONS COMMITTEE AMENDMENTS TO SENATE BILL 358, Third Reading Copy: 1. Amend page 2, section 1, line 16. Following: "92-202.1(2)." Insert: "Household or domestic service is excluded." 2. Amend page 3, section 1, line 2. Following: "party-" Strike: "; or" Insert: "." 3. Amend page 3, section 1, line 11. Following: "school" Strike: ", postsecondary training center," Following: "college" Strike: "." Insert: "; or" 4. Amend page 3, section 1. Following: line ll Insert: "(d) students enrolled and in attendance in programs of vocational technical education approved by the state board of public education at designated post-secondary vocational technical centers."

AS AMENDED BE CONCURRED IN

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SB 0358/02

SENATE BILL NC. 358 1 TATRODUCED BY LABOR AND EMPLOYMENT RELATIONS COMBITTEE 2 3 LEE. CHAIPMAN BY REQUEST OF THE DIVISION OF WORKEBS" COMPENSATION 14 5 A BILL FOR AN ACT ENTITLED: "AB ACT AMENDING SECTION 6 92-411, R.C.B. 1947, CONCEBNING THE DEFINITION OF EMPLOYEE 7 UNDER THE NORKERS CORPENSATION ACT, BY REMOVING SUPERFLUCUS 8 LANGUAGE, CLABIPYING THE COVERAGE OF CASUAL EMPLOYEES, AND 9 CLARIFYING THE COVERAGE OF STUDENTS ENROLLED IN VOCATIONAL 10 REHABILITATION OR OTHER ON-THE-JOB TRAINING COURSES." 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 92-411, B.C.M. 1947, is amended to 14 read as follows: 15 "92-411. Employee and workman defined. (1) "Employee" 16 and-"worksaan"-are-weed-eysenyseessig-and-seen-every Ibe\_terss 17 "esployee", "worksas", or "worker" sean; 18 (a) each person in this state, including a contractor 19 other than an "independent contractor" who is in the service 20 of an employer as defined by the preceding section, under 21 any appointment or contract of hire, expressed or implied, 22 oral or writteny, including The terms include aliens and 23 also--including minors, whether lawfully cr unlawfully 24

employed, and all of the elected and appointed paid public

REFERENCE BILL

1 officers and officers and members of boards of directors of 2 quasi-public or private corporations while rendering actual 3 service for such corporations for pay-, including--city--and ы town--firemeny--highway--satrolseny--police-officetey-coupty 5 shoriffoy-deputy-sheriffsy-coastablesy-tstant--officers--and 6 all--pease--officers---also---all---public---officers--and their 7 deputies-accietante-and-employees-but-excluding-asy-percon 8 whose-caployment-is-both-caseal-and-not-is--the--coverses--of 9 the----tradey--businessy--profession--or--sesupation--of---his 10 employees\_such Casual\_employees\_as\_defined\_by\_ 92-436 11 are included as employees if they are not otherwise covered 12 by workers' compensation and if an employer has elected to 13 be bound by the provisions of the compensation law--in-which 14 case-all-capleycoc-are-isoluded,-whether-their-espleyeest-ic 15 Gasual-or-otherwisey-and-also-excluding-any-employee-engaged 16 in---household---or---domestig---service for these casual 17 employments, as provided in 92-202.1(2). BOUSPBOLD OB 18 COMESTIC SERVICE IS EXCLUDED. 19 (2) (b) "Employee"--also--seans a recipient of general

relief who is performing work for a county of this state under the provisions of section 71-307, and any juvenile performing work under authorization of a district court judge in a delinguency prevention or rehabilitation program, and any performing vocational-rehabilitation-training, or -- other -- on-the-job--training -- under -- any state or federal

SE 0358/02

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SB 358

## SE 0358/02

1	<del>ToGationaltrainingprogram,whethertrmotwhderan</del> y
2	<del>appointmentorcontractofhirewithanmesployerm-ac</del>
3	<del>defined in this title, and whet</del> her-er-net-reseiving
4	from-e-third-party-; gr
5	<u>(c) a person receiving on-the-job vccational</u>
6	<u>rebabilitation_training_or_other_op-the-jcb_training_wnder_a</u>
7	<u>state or federal vocational training program, whether or not</u>
8	under an appointment or contract of hire with an employer as
9	<u>defined in this chapter and whether or not receiving payment</u>
10	from a third party. Bowever, this subsection does not apply
11	<u>to_students_enrolled_in_vocational_training_programs_as</u>
12	outlined above while they are on the premises of a public
13	<u>schoolpostscopdarytrainingconter</u> orconnumity
14	<u>college+: CB</u>
15	1D1 STUDENTS ENROLLED AND IN ATTENCANCE IN PROGRAMS OF
16	VOCATIONAL TECHNICAL EDUCATION APPROVED BY THE STATE BOARD
17	OF_PUBLIC_EDUCATION_AT_EPSIGNATED_POSTSECCUDABY_VGCATIONAL
18	TECHNICAL_CENTERS.

19 (d) (2) If the employer is a partnership, or sole 20 proprietorship, such employer may elect to include as an 21 "employee" within the provisions of this act, any member of 22 such partnership, or the owner of the scle proprietorship, 23 devoting full time to the partnership or proprietorship 24 business. In the event of such election, the employer must 25 serve upon the employer's insurance-carrier and-the-division

insurer written notice naming the partners cr scle 1 proprietor to be covered, and no partner or sole proprietor 2 shall be deemed an employee within this act until such 3 notice has been given. For presium rate making, and for the 4 determination of weekly wage for weekly compensation 5 tenefits, the insurance carrier shall assume a salary or 6 wage of such electing "employee" to be mise-hundred--dellars 7 -{\$900} per month." 8

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