

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 5, 1987

The sixteenth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lynch on March 5, 1987, at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present with the exception of Senator Thayer who was excused by the Chairman.

CONSIDERATION OF HOUSE BILL NO. 129: Rep. Jerry Driscoll, House District 92, sponsor of the bill, stated this bill deals with the Subsequent Injury Fund. To apply for this you must use the State form because the form requests medical information and gives authority to the department to look at the claimant's medical file.

PROPONENTS: Mr. Hiram Shaw, representing the Insurance Compliance Bureau, Division of Workers' Compensation, Department of Labor and Industry, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 1.

OPPONENTS: There were no opponents present.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 129: Senator Blaylock asked Mr. Shaw if this bill is a necessity. Mr. Shaw replied there is confusion whether an employer can or cannot submit any type of form. This will standardize procedure.

Senator Gage asked Mr. Shaw how many people currently are not certified as vocationally handicapped workers. Mr. Shaw replied this will not effect the number of people applying, it only affects the procedure of applying.

There being no further questions of the committee, Rep. Driscoll closed.

LABOR AND EMPLOYMENT RELATIONS

March 5, 1987

Page 2

CONSIDERATION OF HOUSE BILL NO. 130: Rep. Driscoll, House District 92, sponsor of the bill, stated this bill is in relation to a Subsequent Injury Fund for vocationally handicapped people. If a person has suffered an on-the-job injury and they are certified by the department as a vocationally handicapped person, the liability of a new employer is limited to 104 weeks of benefits. After the person has received the 104 weeks of benefits, then the Subsequent Injury Fund pays the benefits. Rep. Driscoll stated there are amendments for this bill that changes the word 'employer' to 'insurer'. This bill will clarify that it is 104 weeks of benefits actually paid, and that determines the time limit the new employer is liable for the subsequent injury.

PROPOSERS: Mr. Hiram Shaw, representing the Insurance Compliance Bureau, Division of Workers' Compensation, Department of Labor and Industry, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 2.

OPPOSERS: There were no opposers present.

QUESTION (OR DISCUSSION) ON HOUSE BILL NO. 130: Senator Lynch stated Mr. George Wood, representing the Montana Self-Insurers Association, called and sent a letter to Senator Lynch with suggested amendments for SB 130. Exhibit 3.

There being no further questions of the committee, Rep. Driscoll closed.

DISPOSITION OF HOUSE BILL NO. 129: Senator Keating made a motion that HB 129 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 130: Senator Blaylock made a motion to adopt the amendments. The motion CARRIED UNANIMOUSLY. Senator Blaylock made a motion that HB 130 AND AS AMENDED, BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

CONSIDERATION OF HOUSE BILL NO. 142: Rep. Hal Harper, House District 44, sponsor of the bill, stated this is a result of a recommendation by the Unemployment Insurance Advisory Council. The bill has three purposes: (1) It indexes the minimum base period of wages necessary to qualify for benefits; (2) It deletes obsolete references; and (3) It adopts the concept of maximum benefit amounts rather than the duration concept. Rep. Harper reserved the right to close.

PROPONENTS: Mr. Bob Durkee, representing the Unemployment Insurance Advisory Council, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 4.

Ms. Peg Hartman, representing the Department of Labor and Industry, stated she would be happy to answer any question concerning HB 142.

OPPONENTS: There were no opponents present.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 142: Senator Blaylock asked Mr. Durkee if there is a fall-out from taxes of people on unemployment, who are working part time. Mr. Durkee stated the person is inclined to draw less benefits as a part time worker and this is the purpose for this bill, to encourage these people to obtain a part time job and it will not effect the amount of benefits received.

There being no further questions of the committee, Rep. Harper closed.

CONSIDERATION OF HOUSE BILL NO. 143: Rep. Hal Harper, House District 44, sponsor of the bill, stated this bill is the result of the Unemployment Insurance Advisory Council. This bill will revise the laws on unemployment insurance. It will take care of the compliance issues the Federal Government would have them dealing with. Both HB 142 and HB 143 were put into a subcommittee in the House and there does not seem to be any problems with these bills.

PROPONENTS: Mr. Bob Durkee, representing the Unemployment Insurance Advisory Council, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 5.

Mr. Peg Hartman, representing the Department of Labor and Industry, stated she would be happy to answer any questions concerning HB 143.

OPPONENTS: There were no opponents present.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 143: Mr. Gomez stated the amendments are technical, and will be included in the title of the bill to reflect the subject matter. Section 26, page 50, would allow the Department of Administration to remove a person or suspend a person from the state vendor list. The title, as it presently reads, indicates the act would prohibit vendors who are delinquent on unemployment workers' compensation payments from being included on the vendors list. Since the title does not reflect the subject, the constitution of the state would

LABOR AND EMPLOYMENT RELATIONS

March 5, 1987

Page 4

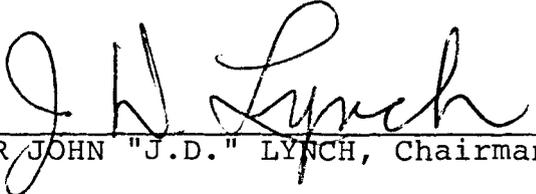
require this section be void, and in order to correct that, this amendment is needed so the title properly reflects the subject matter.

There being no further questions of the committee, Rep. Harper closed.

DISPOSITION OF HOUSE BILL NO. 143: Senator Keating made a motion that HB 143 AND AS AMENDED, BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 142: Senator Keating made a motion that HB 142 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT: There being no further business to come before this committee, the hearing adjourned at 1:40 p.m.



SENATOR JOHN "J.D." LYNCH, Chairman

jr

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 5, 1987 Bill No. HB 129 Time 1:17 p.m.

<u>NAME</u>	<u>YES</u>	<u>NO</u>
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman	X	
Richard Manning	X	
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage	X	
Jack Haffey	X	
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Do Pass Be Amended In
Sen. Keating

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 5, 1987 Bill No. HB 130 Time 1:17

<u>NAME</u>	<u>YES</u>	<u>NO</u>
John "J.D." Lynch, Chairman	✓	
Gene Thayer, Vice Chairman	✓	
Richard Manning	X	
Thomas Keating	✓	
Chet Blaylock	✓	
Delwyn Gage	✓	
Jack Haffey	✓	
Jack Galt	✓	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Amendments

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 5 1987 Bill No. HB 130 Time 1:30

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman		
Richard Manning	X	
Thomas Keating		
Chet Blaylock	X	
Delwyn Gage	X	
Jack Haffey	X	
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Be Continued To Be Amended
In Stage

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 5, 1987 Bill No. HB 142 Time 1:00 p.m.

<u>NAME</u>	<u>YES</u>	<u>NO</u>
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman		
Richard Manning	X	
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage	X	
Jack Haffey	X	
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Be passed by
Sen Blaylock

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 5, 1987 Bill No. HB 1-13 Time 1:30 p.m.

<u>NAME</u>	<u>YES</u>	<u>NO</u>
John "J.D." Lynch, Chairman	*	
Gene Thayer, Vice Chairman		
Richard Manning	✓	
Thomas Keating	✓	
Chet Blaylock	✓	
Delwyn Gage	✓	
Jack Haffey	✓	
Jack Galt	✓	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: As Reported On As Amended
Sen. Blaylock

OUTLINE OF TESTIMONY BY
HIRAM SHAW, CHIEF, INSURANCE COMPLIANCE BUREAU
DIVISION OF WORKERS' COMPENSATION
DEPARTMENT OF LABOR & INDUSTRY

In Support of House Bill 129
Regarding the Subsequent Injury Fund

The Department is in support of House Bill 129. As the Division prepared its proposals for the Department of Labor Workers' Compensation Bill, some housekeeping-type changes were recognized.

House Bill 129 required persons wishing to be certified under the Subsequent Injury Fund as vocationally handicapped to use forms furnished by the Division.

I have distributed copies of the form currently in use. Our intention is to keep using this one-page format and House Bill 129 allows us to assure uniform reporting. Use of standard forms helps the Division manage the program, and also helps applicants because they are sure to furnish all needed information the first time they apply.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 3/5/87
BILL NO. HB 129

HB 129-130

FACT SHEET -- SUBSEQUENT INJURY FUND

<u>NUMBER CERTIFIED</u>	309
<u>CLAIMS PAID OUT</u>	11
<u>TURN AROUND TIME</u>	

The Division can act on an application in 72 hours or less.

FINANCIAL CONDITION

Fund balance end of June, 1986 \$2,804,861

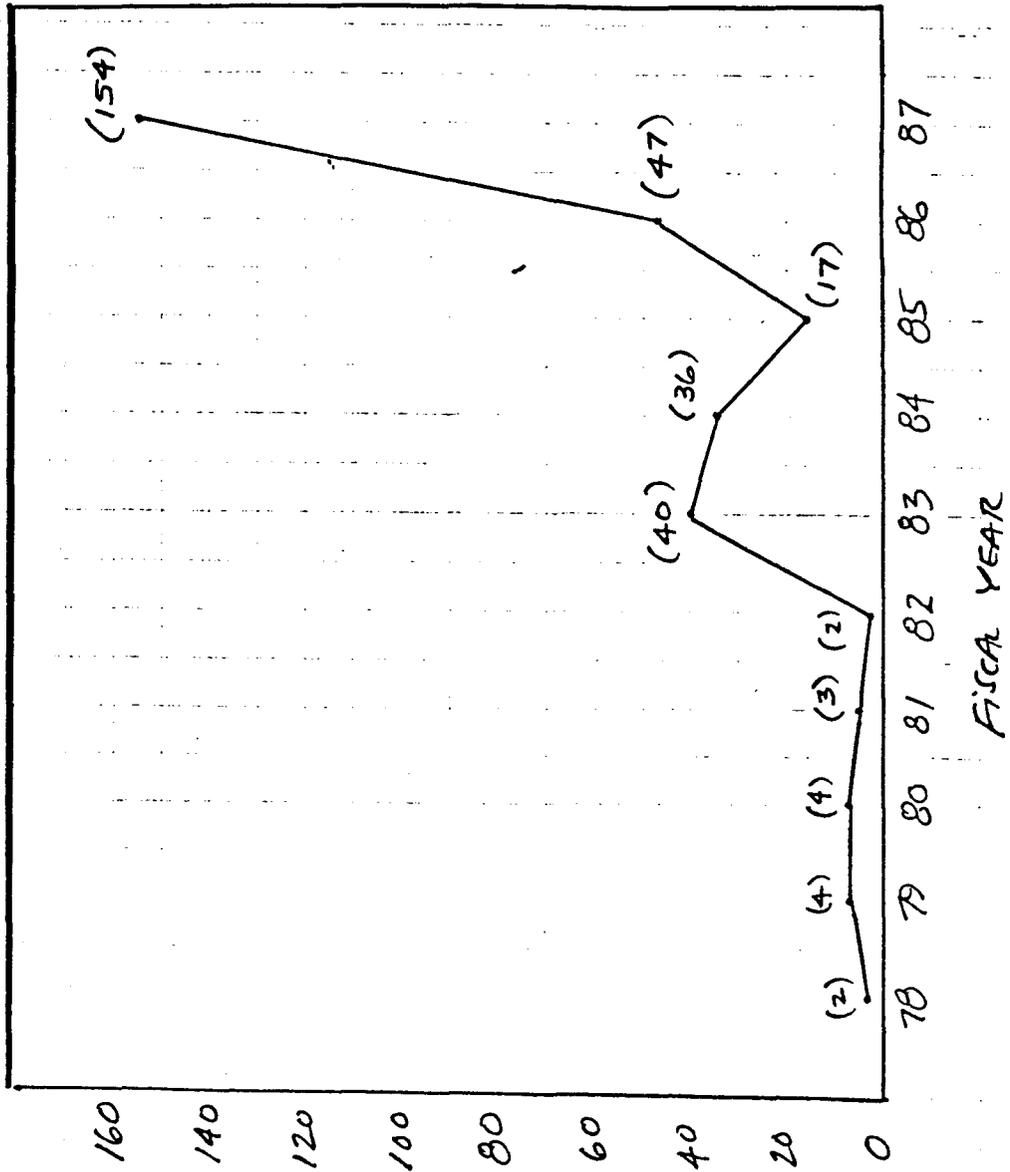
Actuary Statement: "Our evaluation confirmed the financial soundness of the Fund as of June 30, 1986 and indicated that there will be no need for an assessment during the 1986/87 fiscal year."

HOW FINANCED?

- \$1,000 for each workers' compensation fatality
- Division may assess every insurer up to 5% of compensation paid.
- Presently, the Fund is financed from the interest on investments.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 3/5/87
BILL NO. HB 129

SUBSEQUENT INJURY FUND
CERTIFICATIONS FY 78-87



NUMBER OF

CERTIFICATIONS
SENATE LABOR & EMPLOYMENT
FUND NO. /
DATE 3/5/87
BILL NO. HB 129

STATE OF MONTANA
DIVISION OF WORKERS' COMPENSATION
DEPARTMENT OF LABOR AND INDUSTRY
5 SOUTH LAST CHANCE GULCH (Phone 444-6530)
HELENA, MONTANA 59601

APPLICATION FOR CERTIFICATION - SUBSEQUENT INJURY FUND

NAME: _____ Date of Birth: _____
Last First Middle Month Day Year

ADDRESS: _____ SOCIAL SECURITY NO: _____
Street

City State ZIP PHONE NO: _____

NATURE OF PERMANENT IMPAIRMENT(S) (Medical Reports Substantiating Impairment MUST Be Submitted With Application): _____

DATE OF IMPAIRMENT: _____ ATTENDING PHYSICIAN'S NAME: _____

CAUSE OF IMPAIRMENT: Work Related: Yes ___ No ___ Non-Work Related: Yes ___ No ___
Other (Explain): _____

ARE YOU CURRENTLY RECEIVING WORKERS' COMPENSATION BENEFITS? Yes ___ No ___

EDUCATION: Grade School ___ High School ___ College (Years Completed) _____

OTHER TRANSFERABLE WORK SKILLS: _____

ARE YOU CURRENTLY EMPLOYED: Yes ___ No ___ TYPE OF JOB: _____

EMPLOYER: _____
Name Phone

Address City State Zip

HAVE YOU EVER BEEN DECLINED A JOB DUE TO YOUR IMPAIRMENT? Yes ___ No ___

ARE YOU CURRENTLY APPLYING FOR A JOB? Yes ___ No ___

NAME OF PROSPECTIVE EMPLOYER: _____

Address City State Zip Phone

TYPE OF JOB APPLIED FOR: _____

By filing this application the applicant authorizes release of medical records and records of the Social Security Administration to the Division.

Referring Agency or Individual

Signature of Applicant Date

OUTLINE OF TESTIMONY BY
HIRAM SHAW, CHIEF, INSURANCE COMPLIANCE BUREAU
DIVISION OF WORKERS' COMPENSATION
DEPARTMENT OF LABOR & INDUSTRY

In Support of House Bill 129
Regarding the Subsequent Injury Fund

The Department is in support of House Bill 129. As the Division prepared its proposals for the Department of Labor Workers' Compensation Bill, some housekeeping-type changes were recognized.

House Bill 129 required persons wishing to be certified under the Subsequent Injury Fund as vocationally handicapped to use forms furnished by the Division.

I have distributed copies of the form currently in use. Our intention is to keep using this one-page format and House Bill 129 allows us to assure uniform reporting. Use of standard forms helps the Division manage the program, and also helps applicants because they are sure to furnish all needed information the first time they apply.

3-5-87

SENATE LABOR COMMITTEE
FILE NO. 1
DATE 3/5/87
BILL NO. HB 129

OUTLINE OF TESTIMONY BY
HIRAM SHAW, CHIEF, INSURANCE COMPLIANCE BUREAU
DIVISION OF WORKERS' COMPENSATION
DEPARTMENT OF LABOR & INDUSTRY

In Support of House Bill 130
Regarding the Subsequent Injury Fund

The Department is in support of House Bill 130 and I will briefly discuss the amendments.

Section 39-71-907 is amended on page 1 and the top of page 2 to clarify the insurer's liability and when the Fund is to become liable for wage benefits.

As it stands now, an injured worker may continue to work after the date of injury. The clock begins with the date of injury. So an insurer is liable only for the wage loss and medical benefits during the 104-week period after the injury.

The amendment would require the insurer to pay a full 104 weeks of wage benefits before the Fund takes over.

SER. _____
EXHIBIT NO. 3
DATE 3/5/57
BILL NO. HB 130

The Fund has become very popular, with a 100% increase in certifications since the end of Fiscal Year 1986. An actuarial study at the end of Fiscal Year 1986 confirmed the Fund's stability, but warned an assessment for the Fund may be needed at the end of Fiscal Year 1988. It is incumbent on the Division to assure the soundness of the Fund while also assuring it meets the needs of injured workers.

The question has come up: Won't such amendment discourage employers from using the Fund? The Fund still provides coverage after 104 weeks. 80% of the certifications are to back injuries. Back injuries often result in long-term care and wage loss. Therefore, we believe the program would continue to be attractive to employers so they would continue to hire vocationally handicapped personnel.

3-5-87

DATE 3/5/87
BILL NO. HB 131

MONTANA SELF-INSURERS ASSOCIATION

GEORGE WOOD, Executive Secretary

March 2, 1987

Senator J.D. Lynch, Chairman
Senate Labor & Employment Committee
State Capitol
Helena, MT 59601

Re: House Bill 130

Dear Senator Lynch:

I have been advised the House Bill 130 is scheduled for hearing March 5, 1987. The Montana Self-Insurer's Association has no objection to the intent of the bill. That is, to have the insurer provide medical benefits for 104 weeks from the date of the injury and have the insurer provide compensation benefits for 104 weeks before there is liability for the Subsequent Injury Fund.

However, there are numerous amendments necessary so that the terminology used will be the same as that used in the Workers' Compensation Act.

The attached sheet contains the suggested Amendments.

Thank you.

Very truly yours,

MONTANA SELF-INSURER'S
ASSOCIATION


George Wood
Executive Secretary

GW/cs
Enclosure

SENATE LABOR & EMPLOYMENT
E.M. 3
DATE 3/2/87
BILL NO. HB 130

HOUSE BILL 130 AMENDMENTS

- Page 1 - Line 14 - Strike employer - insert insurer
- Page 1 - Line 21 - Strike employer - insert insurer
- Page 2 - Line 1 - Strike employer - insert insurer
- Page 2 - Line 10 - Strike carrier - insert insurer
- Page 2 - Line 11 - after burial benefits, strike "the employer, carrier, or Industrial State Compensation Insurance Fund" and insert insurer.
- Page 2 - Line 16 - Strike carrier - insert insurer
- Page 2 - Line 18 - Strike carrier - insert insurer
- Page 2 - Line 20 - Strike employer, carrier or the Industrial State Compensation Insurance Fund and insert insurer.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 3/5/87
BILL NO. HB 130

HB 142

Speaking on behalf of the Unemployment Insurance Advisory Council. This bill has the consensus support of both business and labor representatives on our Council.

The purpose of the change is to encourage unemployment insurance claimants to go back to work even if on a temporary basis. Currently, if a claimant returns to work part-time and receives only partial benefits they may lose a substantial portion of their benefits. Thus, there is a short-term economic incentive to avoid part-time work. Unfortunately, in the long term there may be substantial problems for both the claimant and society. Many employers now offer only part-time work and recent studies by the Montana Job Service indicate that long-term unemployment is the most absolute barrier to re-employment. If people are out of work for more than a year it becomes very difficult for them to return to work.

So, although this law would technically allow claimants who work part-time to draw benefits for a longer period of time, most of these part-time workers will find permanent work and not draw as many dollars of benefits.

SENATE L. 2014
EXHIBIT NO. 21
DATE 3/5/17
BILL NO. HB 142

*HARRIS
Dept
Dunkin*

*\$ figure for
Trust fund*

HB 143

Speaking today on behalf of the Unemployment Insurance Advisory Council.

We are pleased to note that the recommendations we made and you enacted into law two years ago have paid off. The Unemployment Insurance Trust Fund is now solvent with a balance of approximately *25 million* and, consequently, Unemployment Insurance Taxes for this quarter will drop 13% on a state-wide basis.

Our Advisory Council is a committee of labor and business people. We reviewed the Department of Labor's suggestions for legislative change. The business people had a few suggestions - the labor people had a few suggestions. And the result is our second piece of legislation, which has a consensus of support from both points of view.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 5
DATE 3/5/87
BILL NO. HB 143

HOUSE BILL 130 - BLUE COPY
AMENDMENTS

1. Page 1, line 14.
Strike: "employer"
Insert: "insurer"
2. Page 1, line 21.
Strike: "employer"
Insert: "insurer"
3. Page 2, line 1.
Strike: "EMPLOYER"
Insert: "insurer"
4. Page 2, line 10.
Strike: "carrier"
Insert: "insurer"
5. Page 2, lines 11 and 12.
Following: "the" on line 11
Strike: the remainder of line 11 and line 12 in its entirety
Insert: "insurer"
6. Page 2, line 16.
Strike: "carrier's"
Insert: "insurer's"
7. Page 2, line 18.
Strike: "carrier"
Insert: "insurer"
8. Page 2, lines 20 and 21.
Strike: line 20 in its entirety and lines 21 through "fund"
Insert: "insurer"

7063b/C:JEANNE\WP:jj

STANDING COMMITTEE REPORT

March 5,

37

19.....

MR. PRESIDENT

LABOR AND EMPLOYMENT RELATIONS

We, your committee on.....

HOUSE BILL

129

having had under consideration..... No.....

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color

DRISCOLL (KEATING)

CERTIFICATION FOR SUBSEQUENT INJURY FUND

Respectfully report as follows: That..... HOUSE BILL..... No 129.....

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXX~~

.....
Sen. John "J.D." Lynch Chairman.

STANDING COMMITTEE REPORT

March 5,

37

19.....

MR. PRESIDENT

We, your committee on **LABOR AND EMPLOYMENT RELATIONS**

having had under consideration **HOUSE BILL** No. **142**

third reading copy (blue)
color

HARPER (BLAYLOCK)

SIMPLIFYING UNEMPLOYMENT BENEFITS

Respectfully report as follows: That **HOUSE BILL** No. **142**

BE CONCURRED IN

XXXXX
DO PASS

XXXXXXXXX
DO NOT PASS

Sen. John "J.D." Lynch.....

STANDING COMMITTEE REPORT

March 5,

37

19.....

MR. PRESIDENT

We, your committee on **LABOR AND EMPLOYMENT RELATIONS**

having had under consideration **HOUSE BILL**

142

No.....

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color

HARPER (BLAYLOCK)

SIMPLIFYING UNEMPLOYMENT BENEFITS

Respectfully report as follows: That **HOUSE BILL**

142

No.....

BE CONCURRED IN

~~XXXXXX~~
DO PASS

~~XXXXXXXX~~
DO NOT PASS

Sen. John "J.D." Lynch.....

Chairman.

STANDING COMMITTEE REPORT

March 5,

19⁸⁷.....

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No. 143

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color

HARPER (BLAYLOCK)

GENERAL REVISION OF UNEMPLOYMENT INSURANCE LAW

Respectfully report as follows: That HOUSE BILL No. 143

be amended as follows;

1. Title, lines 6 through 8.

Following: ";"

Strike: remainder of lines 6 through "LIST" on line 8

Insert: "PROVIDING FOR REMOVAL OR SUSPENSION OF A PERSON FROM THE STATE VENDOR LIST FOR FAILURE TO COMPLY WITH THE UNEMPLOYMENT INSURANCE LAW OR THE WORKERS' COMPENSATION ACT"

**AND AS AMENDED,
BE CONCURRED IN**

~~SEN. J.D. LYNCH~~

~~SEN. J.D. LYNCH~~

Sen. John "J.D." Lynch

Chairman.

STANDING COMMITTEE REPORT

March 5, 1937

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration... HOUSE BILL No. 130

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color

DRISCOLL (GAGE)

CLARIFYING INSURERS' LIABILITY UNDER SUBSEQUENT INJURY FUND

Respectfully report as follows: That... HOUSE BILL No. 130

1. Page 1, line 14.

Strike: "employer"

Insert: "insurer"

2. Page 1, line 21.

Strike: "employer"

Insert: "insurer"

3. Page 2, line 1.

Strike: "EMPLOYER"

Insert: "insurer"

4. Page 2, line 10.

Strike: "carrier"

Insert: "insurer"

5. Page 2, lines 11 and 12.

Following: "the"

Strike: the remainder of line 11 through "fund" on line 12

Insert: "insurer"

DO PASS

(CONTINUED)

DO NOT PASS

Chairman.

March 5,

19⁸⁷

6. Page 2, line 16.

Strike: "carrier's"

Insert: "insurer's"

7. Page 2, line 18.

Strike: "carrier"

Insert: "insurer"

8. Page 2, lines 20 and 21.

Following: line 19

Strike: line 20 through "fund" on line 21

Insert: "insurer"

AND AS AMENDED,
BE CONCERRED IN

.....
Senator John "J.D." Lynch

AMENDMENT TO HB 143

1. Title, lines 6 through 8.

Following: ";"

Strike: remainder of lines 6 through "LIST" on line 8

Insert: "PROVIDING FOR REMOVAL OR SUSPENSION OF A
PERSON FROM THE STATE VENDOR LIST FOR FAILURE TO COMPLY
WITH THE UNEMPLOYMENT INSURANCE LAW OR THE WORKERS'
COMPENSATION ACT"