

DAILY ROLL CALL

BUSINESS & LABOR

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 16, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN			✓
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 16, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 16, 1987, at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Cohen who had been excused.

HOUSE BILL NO. 122 - Changing State Banking Board Meeting Dates and Bank Examination Frequency sponsored by Rep. Ray Peck. Rep. Peck provided the amendments which change the meeting times of the State Banking Board from a specified time to allow them the freedom on dates and times of meetings; change the required annual examination of banks to every 30 months; and a new section which provides for the extension of existing authority of the Board and Department to make rules. He said the bill puts into statute what has been actual practice for some time.

PROPOSERS

Steve Huntington, representing the Director's Office in the Department of Commerce, stated that the main purpose of the bill is to change the examination requirements for state charter financial institutions from the current 12 months to a period of 30 months. Mr. Huntington said that this would reflect the reality of what the Department can actually do with the resources that are available to it right now, since the Department has not met the 12-month examination scheduled for all institutions in the state since 1983. He stated the reasons for that are the amount of assets are growing and that there is a growing number of problem institutions which basically requires more time for the institutions they do see, especially those that are having problems. He said the Department would like to get into the problem institutions at least every 12 months, and not be forced to see an institution that is in a stable condition more often than 30 months; and that the 30-month requirement is basically in line with what the FDIC does on the federal level. Mr. Huntington also noted that in the interim, "call reports" are published that allow them to track the condition of the stable banks, so that if there is a significant downward occurrence, they can notice it and get an examiner and an examination team in the bank before the 30 month period actually lapses. Mr. Huntington also referred to the second provision of the bill which deals with the

State Banking Board; the current statute requires that the Board meet quarterly, but the Board has rather limited powers with chartering financial institutions and location changes, and is more effective if it meets on call.

OPPONENTS - None

QUESTIONS

Rep. Simon asked if there are other examinations performed on these banks in addition to the state. Mr. Huntington responded that the Federal Reserve and the FDIC do examinations on state banks, and some federal agencies stagger the examinations so that the state's are in one year and the federal examinations in another year.

Rep. Simon asked what would happen if the state did not examine banks at all and left it to the FDIC to examine them. Mr. Chris Olson, from the Department of Commerce, responded that the state would not be able to fulfill its responsibility as the primary supervisor of the bank because the State is the chartering agency which gives the banks the authority to operate and is responsible for assuring that they operate in a prudent, safe and sound manner. Also, Mr. Olson said it would remove the state from contracts with the banks and would not have the close contact that is required.

Rep. Simon asked if the state of Montana did not do any examining of the banks, and asked if it was not going to examine banks any more, and left up to the Federal Deposit Insurance Corporation instead, would FDIC come in and perform the necessary examinations even if they had to increase their schedules. Mr. Olson responded he didn't think they could; that the Federal Reserve currently has a staggered examination program with the State and are doing as much as they can. He said the FDIC has 40 banks in the state that they have authority to examine.

CLOSING

Rep. Peck made no further comments.

HOUSE BILL NO. 130 - Clarifying Insurers' Liability Under Subsequent Injury Fund sponsored by Rep. Jerry L. Driscoll. Rep. Driscoll stated that HB 130 defines the liability of the employer and employer's insurance when a person has been certified vocationally handicapped and returns to work for an employer. He stated that if a person has suffered a disabling injury on a prior job and applies to the Department for a card which shows that he is vocationally handicapped and gets hired, his employer's liability is limited to 104 weeks of medical and lost time benefits. Rep.

Driscoll said he is trying to state in the bill that the 104 weeks is of actual benefits paid to the injured worker and is cumulative.

PROPOSERS

Hiram Shaw, Division of Workers' Compensation, Department of Labor and Industry discussed the amendments proposed by the Department of Labor. He stated the statute now reads a subsequent injury can be an injury to any body part totally unrelated to the injury for which the employee is certified; is a blanket coverage for the injured worker; new language clarifies the intent to cover handicapped employees for their handicap and injuries when the handicap directly causes another injury. He said as it stands now, the injured worker may continue to work after the date of injury so the employer or insurer is only liable for wage loss and medical 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. He said the principal reason for this is the fund has become very popular with a 100% increase in certifications since the end of fiscal year 1986. He stated an actuarial study at the end of fiscal year 1986 confirmed the fund's stability. See Exhibit 1.

OPPOSERS

George Wood, Executive Secretary of the Montana Self Insurance Association objected to the amendments that were offered by the Department of Labor. He said he had no objections to the provisions in the original bill which clarify the payment of 104 weeks of compensation. He said the intent of the Governor's Advisory Committee, that recommended the bill, was to provide that the employer would pay 104 weeks of compensation and subsequent interpretation has indicated that the compensation benefits were limited, as the medical benefits, and when the 104 weeks from the date of the injury lapsed, the compensation ceased also. He stated what often happens is when someone who is injured is off work and there is a period of time when he works, there may be additional compensation due for impairment or wage loss, and the 104 weeks may end before the 104 weeks of benefits have been paid. He said the intent of the act originally was to state the handicapped worker could be hired because the liability was limited and the employer knows there are 104 weeks of benefit for subsequent injury both for compensation and medical. Also, he said if the liability of the employer and the liability of the fund is definite and litigation is not necessary, the amendments would only add litigation to the act.

QUESTIONS

Rep. Glaser asked whether the fund is in fact solvent, and what is the projected liability of this fund in proportion to the assets which are \$2.8 million. Mr. Shaw responded that the projected liability at the end of June, 1986 is \$2,120,400 and the actuary concluded there was sufficient funds to cover liabilities up to the end of fiscal year 1987. He stated that the Division should look at a possible assessment during fiscal year 1988.

Rep. Glaser asked what was the source of the amendment he proposed. Mr. Shaw responded that it was the conclusion by the Division of Workers' Compensation that the statute was not clear as to who is liable for the injury from the date of injury, and whether or not the entire injured body part is covered. He said their proposed amendments are basically what they feel the intent of the act is.

Rep. Glaser stated his impression of the amendment is that it will take a marginal fund and expand it and make it insolvent unless additional revenues are received. Mr. Shaw stated they felt this would tighten rather than expand the benefits the fund would pay on behalf of the insurers. Mr. Shaw noted that the fund is not in critical shape at this time and have not assessed for the fund for several years. They do not anticipate any problems for the fund and these

Rep. Brandewie asked if Mr. Wood felt that if the amendment is added, if it would be an impediment to future employment for somebody who has suffered an injury and is subsequently trying to gain further employment and might be denied employment because of the question of liability for him. Mr. Wood responded that the law is clear now. He said they have not assessed against the fund for several years; the funds are solvent and the employer knows when someone is put to work with a subsequent injury, their liability would be limited to 104 weeks. He said if an amendment is added it would make an employer question what the liability would be after a subsequent injury, and possibly he would not hire the person because he would not know what to expect.

Rep. Pavlovich asked if Rep. Driscoll agreed with the amendment and Rep. Driscoll said he did not.

Rep. Simon asked, appearing from the graph which Mr. Shaw had distributed, there had been two events in recent years, showing a sudden jump in the number of claims and certifications for one year. He asked if Mr. Shaw could explain if there was an event that triggered the sudden jumps. Mr. Shaw said he could not explain the jump other than the

awareness by large employers of the fund, the economy, or the desire of the insurers to protect their liability more.

Rep. Simon asked Mr. Wood why there was such a sudden jump. Mr. Wood responded more people have been certified and the employers, because of the known liability, have hired these people with handicaps whom they had not hired before. He said these people have been injured after they were working and this is an indication that the law is doing what it was intended to do.

Rep. Swysgood asked Mr. Shaw if he believed the amendment would tighten up the bill and would keep the funds solvent. Mr. Wood said this would open it to litigation. Mr. Shaw stated they do not agree with Mr. Wood in that this amendment would result in large amounts of litigation. He said the majority of litigation around the workers' compensation program is a dispute over benefits between a claimant and an insurer and any disputes because of the amendment would be between the insurers and the fund.

CLOSING

Rep. Driscoll stated his intent in the bill was to get the people whom had already been hurt on a job, or other people that were certified vocationally handicapped, a mechanism so they could return to work. He said he does not agree with the amendment because there would be a lot of litigation. Until the rules are clarified regarding injuries, he does not want the amendment on the bill. He stated the reason there are 154 people certified is that more people know about the subsequent injury fund and get certified as do a large number of employers. He said the intent of the bill is to employ these people and the Division and employers know exactly when the 104 weeks start and when they end.

HOUSE BILL NO. 129 - Certification for Subsequent Injury Fund sponsored by Rep. Jerry Driscoll. Rep. Driscoll stated that the bill provided application for one of the vocational certifications to be done on the form that the Department provides and clarifies that the Division has the form requesting the needed information.

PROPONENTS

Hiram Shaw, Division of Workers' Compensation, Department of Labor and Industry stated the Department is in support of the bill which requires a person wanting to be certified under the fund as vocationally handicapped, use the application furnished by the Division. See Exhibit No. 2.

OPPONENTS - None

CLOSING

Rep. Driscoll made no further comments.

EXECUTIVE ACTION - January 16, 1987 - 8:50 a.m.

ACTION ON HOUSE BILL NO. 68

Rep. Glaser moved the House Bill No. 68 DO PASS.

Rep. Glaser moved the amendments to House Bill No. 68. The motion carried with Rep. Pavlovich opposed.

Rep. Nisbet moved to amend page 20, lines 21 and 22 to restore original language. The motion carried unanimously.

Rep. Brandewie moved House Bill No. 68 DO PASS AS AMENDED. The motion carried with Rep. Pavlovich opposed.

ACTION ON HOUSE BILL NO. 31

Rep. Glaser moved House Bill No. 31 DO PASS. Rep. Glaser moved the amendments. The motion carried unanimously.

Rep. Glaser stated the Board is now a balanced and a quasi-judicial board as required by law and both the law enforcement people and the private security people were satisfied with the amendments.

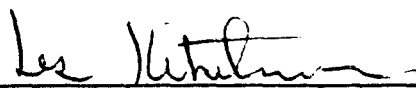
Rep. Brandewie moved House Bill No. 31 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 122

Rep. Brandewie moved DO PASS. The motion carried unanimously.

ADJOURNMENT

There being no further business to come before this committee, the hearing was adjourned at 9:15 a.m.



REP. LES KITSELMAN, Chairman

STANDING COMMITTEE REPORT

JANUARY 16

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 68

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in | <input checked="" type="checkbox"/> as amended |
| <input type="checkbox"/> do not pass | <input type="checkbox"/> be not concurred in | <input type="checkbox"/> statement of intent attached |

REP. LES KITSELMAN

Chairman

REVISING SECURITY PATROLMEN AND INVESTIGATORS LAW

AMENDMENTS AS FOLLOWS:

- 1) Title, line 10
Following: "37-60-405"
Strike: ", "
Insert: "THROUGH"
- 2) Title, line 11
Following: "37-60-305"
Strike: ", "
Insert: "AND"
Following: "37-60-305,"
Strike: "AND 37-60-405"
- 3) Page 2, line 9
Following: "years,"
Strike: "or"
Insert: ", "
- 4) Page 2, line 10
Following: "to"
Insert: ", possesses, or has access to"
Following: "a"
Strike: "concealed"
- 5) Page 9, line 12
Following: line 11
Insert: "(8) requiring licensees to file such insurance policy or proof of financial responsibility as the board considers necessary with the board;"
Remember: subsequent subsections


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JANUARY 16

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.....19.....

- 6) Page 20, line 17
 Following: line 16
 Insert: "Section 15. Section 37-60-406, MCA, is amended to read:
 "37-60-406. Peace officer's casual employment. A peace officer,
 as defined in 46-1-201, or a reserve officer, as defined in
 7-32-201, is not prohibited or restricted from accepting and
 engaging in employment as a security guard during his off-duty
 hours, provided that he does not advertise his services or
 solicit employment and further provided that the chief of his
 department previously approves the off-duty employment. A peace
 officer or reserve officer so engaged in casual employment is
 exempt from the provisions of this chapter only if the casual
 employment is authorized in writing by his sheriff or chief of
 police."
 Renumber: subsequent sections
- 7) Page 20, line 21
 Following: "carry,"
 Insert: ", carry,"
- 8) Page 20, line 22
 Following: "a"
 Strike: "metal"
- 9) Page 22, line 20
 Following: "37-60-305"
 Strike: ", "
 Insert: "and"
 Following: "37-60-305"
 Strike: "and 37-60-406,"

STANDING COMMITTEE REPORT

JANUARY 16

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 31

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. LES FITZELMAN

Chairman

CHANGING COMPOSITION OF PRIVATE SECURITY PATROLMEN AND INVESTIGATORS BOARD

AMENDMENTS AS FOLLOWS.

- 1) Title, lines 6 and 7
Following: "BOARD:" on line 6
Strike: the remainder of line 6 and line 7 through "BOARD;"
- 2) Page 1, lines 19, 20, 21 and 22
Following: "that" on line 19
Strike: remainder of line 19, lines 20 and 21 in their entirety, and line 22 through "(b)"
- 3) Page 2, line 1
Following: "represent"
Strike: "include"
Insert: "represent"
- 4) Page 2, line 2
Following: "one"
Strike: "two representatives of"
Insert: "one"
- 5) Page 2, line 3
Following: "company"
Strike: "companies"
Insert: "company"
Following: "37-60-101"
Strike: the remainder of line 3, line 4 in its entirety, and line 5 through "business"
- 6) Page 2, line 6
Following: "one"
Strike: "representative of a"
- 7) Page 2, lines 7, 8, and 9
Following: "37-6-101" on line 7
Strike: the remainder of line 7, line 8 in its entirety, and line 9 through "business"

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- 6) Page 2, lines 10 and 11
Strike: lines 10 and 11 in their entirety
Reinsert: subsequent subsections
- 9) Page 2, line 12
Following: "one"
Strike: "representative of a"
- 10) Page 2, line 13
Strike: "and"
- 11) Page 2, line 14
Following: "one"
Strike: "representative of a"
- 12) Page 2, line 15
Following: "department"
Strike: ".
Insert: ";
- 13) Page 2, line 20
Following: line 19
Insert: "(e) one member of the public;
(f) one member of the peace officers' standards
and training advisory council; and
(g) a licensed private investigator."
- 14) Page 2, line 23
Following: "(4)"
Strike: "(5)"
- 15) Page 2, line 24
Following: "years"
Strike: the remainder of line 24
- 16) Page 2, line 25
Following: "staggered"
Strike: the remainder of line 25

STANDING COMMITTEE REPORT

JANUARY 16

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report ~~HOUSE~~ BILL NO. 122

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. LES KITSELMAN

Chairman

**CHANGING STATE BANKING BOARD MEETING DATES AND BANK EXAMINATION
FREQUENCY**

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EXHIBIT 1
DATE 1/16/87
HB 130

FACT SHEET -- SUBSEQUENT INJURY FUND

NUMBER CERTIFIED 309
CLAIMS PAID OUT 11
TURN AROUND TIME

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

FINANCIAL CONDITION

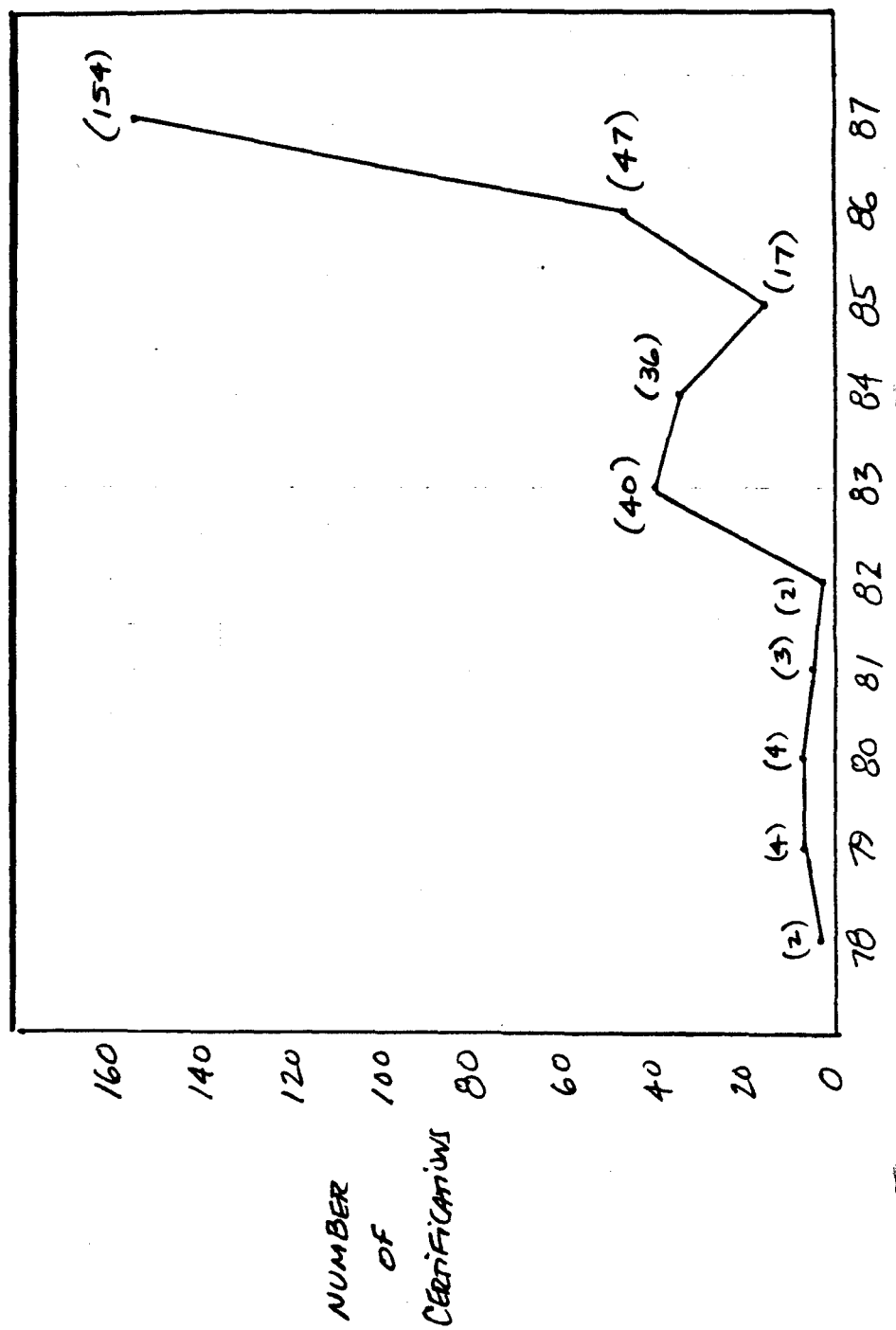
Fund balance end of June, 1986 \$2,804,861

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.

SUBSEQUENT INJURY FUND
CERTIFICATIONS FY 78-87



FISCAL YEAR

DEPARTMENT OF LABOR & INDUSTRY
DIVISION OF WORKERS' COMPENSATION

TED SCHWINDEN, GOVERNOR

MARGARET "PEG" CONDON BLDG.
5 SO. LAST CHANCE GULCH



STATE OF MONTANA

HELENA, MONTANA 59601

Subsequent Injury Fund

Legislation establishing the present Subsequent Injury Fund was passed in 1973. The intent is to make it possible for physically handicapped persons to obtain employment by reducing the liability of the employer for workers' compensation claims. Any worker, regardless of the source of the disability, who has a physical impairment may apply for certification under the Subsequent Injury Fund. The statute requires that a worker must be certified prior to employment. In addition, a worker must be recertified for every new employer. In the event of an industrial injury after certification, the employer is liable for the first 104 weeks of compensation and medical benefits. After this time period, the employer or the insurance carrier continues to pay benefits due; however, the employer, or insurance carrier can apply to the Subsequent Injury Fund for a refund of benefits after 104 weeks.

1. An application must be submitted by the physically handicapped person.
2. Sufficient medical information must be attached to document permanent physical impairment.

Montana Law defines a vocationally handicapped person as one who has medically certifiable, permanent physical impairment that is a substantial obstacle to obtaining employment. Rehabilitative Services Division must concur in writing that the applicant is vocationally handicapped.

If the application is approved, the applicant is sent a card stating he or she is certified under the Subsequent Injury Fund. The card bearer then has proof of a medically certified physical impairment for which the employer's liability is limited in the event of a subsequent injury to the specific body part certified. The card further states that to complete the certification process and gain the protection of the law, the employer must file a certificate of employment with the Division of Workers' Compensation within 60 days after the first day of the vocationally handicapped person's employment.

If the vocationally handicapped person is not fully certified prior to an injury, the provisions of the Subsequent Injury Fund will not apply.

1-15-87

Administration
406-444-6518

Division Telephones:
Insurance Compliance
406-444-6530

Safety
406-444-6401

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

EXHIBIT 1
DATE 1/16/87
HB 129

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

VISITORS' REGISTER

BUSINESS AND LABOR COMMITTEE

BILL NO. HOUSE BILL NO. 130 DATE JANUARY 16, 1987

SPONSOR REP. JERRY DRISCOLL

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Hiram Snow</i>	<i>Work. Comp.</i>	<i>X</i>	
<i>Mary LaFont</i>	<i>OBPP</i>		
<i>Steven Skopczak</i>	<i>Work. Comp.</i>	<i>X</i>	
<i>Stephen Piggott</i>	<i>Int. Church of Christ</i>		
<i>Clayton</i>	<i>Int. of Jesus Christ</i>	<i>X</i>	<i>Amended</i>
<i>Bob Kline</i>	<i>WC/Diver</i>	<i>X</i>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. 122

DATE JANUARY 16, 1987

SPONSOR Rep. Ray Peck

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Steve Huntington	Dept of Commerce	x	
Chris Olson	Commerce	x	
STEVE SEIFERT	CFAC		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. HOUSE BILL No. 129

DATE JANUARY 16, 1987

SPONSOR REP. JERRY DRISCOLL

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
HILAM SHAW	Work. Comp.	X	
MIKE WASH	Work. Comp.	X	
ST. J. D. [unclear]	not a member of committee		
[unclear]	W. P. D.	X	
[unclear]	W. P. D.		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.