

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on February 10, 1989, at 10:00 a.m., Room 331, Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: Senator Esther Bengtson

Members Absent: None

Staff Present: Eddy McClure

HEARING ON SB318

Presentation and Opening Statement by Sponsor:

Senator John Harp recommended that SB318 be placed on the table, and reported the industry that asked him to introduce the bill feels better about the potential raise on the bed tax, and feels they can work around that. He noted that, at some point, they may need an oversight committee to make sure that the money allocated in the last session stays for the purpose it was intended, but the group that asked him to introduce the bill has now requested it be put on the table.

DISPOSITION OF SB 318

Discussion:

Senator Rapp-Svrcek offered a motion that SB318 be tabled.

Recommendation and Vote:

Motion passed by the committee that SB318 be tabled.

HEARING ON SB 328

Presentation and Opening Statement by Sponsor:

Senator Harding reported that a mortician in Kalispell asked her to introduce SB328, which is a bill to allow an embalmer to hold practically the same position as a mortician. She noted the reason is that they have trouble getting educated people to come in to do all that needs to be done, and the morticians in Kalispell, Whitefish, Polson and Ronan recommend this bill. Senator Harding then turned the podium over to the proponents to explain the technical aspects of the bill.

List of Testifying Proponents and What Group they Represent:

Lorene Johnson, Mortician, Kalispell  
Paul Johnson, Johnson Mortuary, Kalispell

Testimony:

Ms. Johnson testified this bill does not, as Senator Harding stated, open a position of embalmer equal to mortician, but that it does open a position of embalmer to be licensed in the State of Montana. She stated she feels the mortician has worked hard to get the status he has today, and she thinks he needs the education required by the State of Montana as well with the continuing education that is also required.

Ms. Johnson indicated the field is changing a great deal, there is a great deal of turmoil, purchase by conglomerates, etc., and a greater need for the mortician to do more counseling, spending a lot of time with the families. She noted that establishing the position of embalmer is very much like establishing the position of nurse aide, or practical nurse, adding that the nurse aide or practical nurse position does not take away from the RN, and neither should the position of embalmer take away from that of the mortician. Ms. Johnson indicated this bill merely develops that position.

She stated that, having served on the Board of Morticians, she has been contacted by several morticians in the state complaining that they do not have relief, either for R & R, or to attend meetings, etc. She added 5 people have contacted her in the last 18 months who would like to go into the profession, but who can not financially manage to do it, so they go into something else. Ms. Johnson noted that a lot of the people in the field are coming from out of state, and indicated she feels we need to conserve the people in our

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state, make a position for them, and allow them to work in our state.

Ms. Johnson explained the educational requirements of the Board of Morticians, noting that a funeral director's license did not carry the same educational requirements of a mortician's license, adding that the funeral director's license is no longer in existence. She indicated that, under this bill, a student can go to mortician school for 12 months, take the national board examination, or an equivalent examination given by the state, and be licensed as an embalmer and work in a funeral home. She pointed out that person could not deal with the families, make arrangements, or manage; that he merely does the practical part of the work. Ms. Johnson indicated that, if he is allowed to do that, he will earn more money than if he were a box boy, or a bus boy, or other jobs he may have while going to school. She noted most of these individuals do not have the opportunity to get a job which can afford them the income they need to continue their education, and that most other positions are not open for the hours that they can work, whereas an embalmer's hours can be flexible.

Ms. Johnson indicated the board has already agreed to accept 5 years in lieu of education, as provided for in the bill. She indicated this is currently being accepted for people who come from out of state, who have attended an accepted school of mortuary science, passed the examination, and worked for 5 years. She pointed out these individuals are not guaranteed acceptance, which is at the discretion of the board, but that they have the opportunity to apply.

She noted that a small operator, in a small town, normally has one mortician, or may not have any, depending on the size of the business, and has to rely on neighboring people or call someone in to relieve him. She pointed out that, if he had an employee working for him, he could take the afternoon off, noting the embalmer could make the removal, do the preparation work, and set up a time for the mortician to make the arrangements. She noted this would give the mortician time to attend meetings, go fishing, or whatever.

Ms. Johnson indicated she did not feel this would be an avenue to "hire cheap help", and does not think the integrity of the people in the field would allow that. She added this position would be a supplement, a part-time maintenance man and part-time embalmer, and that it would enhance the mortician because it would give him more time to spend with the families, in research, or in further education.

Testimony:

Mr. Johnson suggested that farmers, who are born and raised on a farm, learn farming by doing it. He indicated that he has lived his entire life in a funeral home, and currently still resides there.

Mr. Johnson testified that, in the early 60's, he recalls people coming into the funeral home looking for work, noting that happened about once a week. He indicated that, in the 70's, it became once a month, but now, in the 80's, they have to search for their help, that people no longer walk in the front door. He noted that Montana has the highest, per-capita in the lower 48 states, percentage of people coming out of high school and college, and going directly into the military. He added that Montana has a decreasing population, and asked where this will put us in 1990.

Mr. Johnson encouraged the committee to vote in favor of the bill, indicating it will allow people to stay, work, and prosper in Montana, that it will hopefully be a lifelong venture for them, and that the state and their community will also prosper and benefit.

List of Testifying Opponents and What Group They Represent:

Guy Miser, Chairman, Board of Morticians  
Gene Becker, President, Montana Funeral Directors Association  
Bob Ross, Board of Morticians  
Michael McCollum, Montana Funeral Directors Association  
Garry Adams, Montana Funeral Directors Association  
Lloyd Linden, Herrmann and Company Funeral Home

Testimony:

Mr. Miser's written testimony is attached as Exhibit 1.  
Mr. Becker's written testimony is attached as Exhibit 3.

Testimony:

Mr. Ross asked the consideration of the committee in opposing SB328. He indicated he thinks his colleagues have expressed most of the points he wished to make. Mr. Ross distributed materials to the committee that are attached as Exhibits 4 and 5.

Testimony:

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Mr. McCollum indicated he is a funeral director and mortician from Sidney, Montana, and that he drove such a considerable distance because he has strong feelings about this bill, and what it could do to the profession. He noted he can understand the problems in the state with keeping young men here, and offering them good jobs, but he thinks we need to look at getting them educated, rather than allowing a job that would be substandard. He indicated that the majority of the funeral homes in the State of Montana are currently embalming 100 or less bodies in a total year, indicating the majority of Montana is rural, that the towns are small.

Mr. McCollum stated this bill will establish a position that would, except for those 100 times during the year, be a maintenance position, that the person would be washing cars, sweeping sidewalks, etc, the rest of the time. He indicated that creating this position is not doing the young men of Montana a favor. Mr. McCollum indicated the need to see to it that these young men have the opportunity, and the resources, to get the education that is required, and that the public and the consumer has demanded of funeral service over the last years. Mr. McCollum strongly recommended that the committee oppose SB328.

Testimony:

Mr. Adams asked the committee to do no pass.

Testimony:

Mr. Linden stated that he objects to SB328 based upon Section 3, item 6, line 18, page 4, the waiver of educational requirements, indicating it states all educational requirements may be waived. He added he thinks that is totally wrong, and would have to base that as his main objection. Mr. Linden indicated there is also the possibility of downgrading their standards to 1963 levels, and he does think they should allow a waiver by the board, even if they are our own people. He stated he would ask the committee to give a do not pass to SB328.

Questions From Committee Members:

- Q. Senator Rasmussen indicated this is a new licensure, and asked if this has gone through the sunrise act.
- A. Chairman Farrell referred the committee to a letter from the Legislative Auditor, attached as Exhibit 7, indicat-

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ing he asked them to review this bill with regard to the sunrise act.

- Q. Senator Rapp-Svrcek pointed out that the fiscal note indicates there will be one licensed embalmer, asking if this is state-wide.
- A. Senator Harding responded she does not understand what this means, indicating they may not have understood the bill.
- Q. Senator Rapp-Svrcek indicated there seems to be a lot of concern regarding waiver of the education requirements, noting that other professions have provisions for apprentices, and asked Mr. Becker if this would not allow something similar in the morticians profession, as well.
- A. Mr. Becker responded there is an apprenticeship program, or internship program, which is a step for qualifying for licensure. He added the Montana Board of Morticians currently requires a one-year internship prior to licensure.
- Q. Senator Rapp-Svrcek asked if that is following formal education.
- A. Mr. Becker responded that is correct.
- Q. Senator Rapp-Svrcek then indicated that, in other professions, the apprenticeship position is created through a combination of experience and education, and asked for Mr. Becker's comments.
- A. Mr. Becker responded they would oppose any other licensure than they have at this point.

Ms. Johnson indicated she would like to address this question, and stated the only reason that was put in the bill is because the licensure board will accept licenses from other states with that kind of experience. She indicated she does not think it is fair that this is not offered to the people here, since it is offered to the people from California, Wyoming, or wherever.

Mr. Miser indicated the reciprocity situation would be detrimental, and that they would not have reciprocity with other states if they digressed, adding that Montana does not have the same educational requirements they do. Mr. Miser stated that Montana does not have reciprocity

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with California; they are one of the states that does not have reciprocity with Montana, because of our standards.

Ms. Johnson conceded there is no reciprocity with California, but stated that, when she was on the board, the situation did arise whereby the number of years of practice was considered as education.

- Q. Chairman Farrell asked Ms. Johnson if there are reciprocity agreements with other states.
- A. Ms. Johnson responded there are, but that it would depend on the requirements, and that they have to meet Montana requirements.
- Q. Chairman Farrell asked if their educational programs have to meet Montana's requirements.
- A. Ms. Johnson indicated there is a statement "in lieu of education", but it has to be an individual application to the board, just as is stated.
- Q. Senator Vaughn indicated she has received considerable mail on this, and that one of the concerns is that their training would not be adequate for them to handle a lot of the diseases, etc., that they might deal with in the bodies that they handle.
- A. Ms. Johnson responded these people would have exactly the same training that the mortician has, because they would attend 12 months of mortician schooling. She added the 2 years of college is not the specialized training, that they can take anything they wish in college. Ms. Johnson noted they would not have their college education when they are licensed as an embalmer, that they would not be dealing with the people directly, and would only be doing the practical work.
- Q. Senator Vaughn indicated another concern was what training they would have in dealing with the people. She noted that, if the mortician was gone and this person was called to pick up the body, this person is the first contact the people would have with anyone from that funeral home, which certainly is contact with the family. Senator Vaughn added she is stating the concerns she is hearing that they would not have adequate training to be capable of handling this.

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- A. Ms. Johnson responded they should not be counseling at that point, adding that many people do removals that are not licensed morticians, and who have had no training whatsoever.
- Q. Senator Rasmussen asked Ms. Johnson if the only reason she supports this bill is because there are not enough people, and does she agree that 100 bodies per year is enough to keep them busy.
- A. Ms. Johnson responded she does not know, that this is an individual thing. She stated that she sees this as the situation in Montana, and that these problems have been presented to her. She added that she feels the field of mortuary science is becoming much more technical, that the mortician does need that training, he would not be degraded, and that he should be supplemented, and given all the time possible to do that kind of thing. Ms. Johnson indicated that, for example, in the field of medicine, it has become necessary to become more technical, that the public demands to be given the proper information, and it takes the proper person to talk with them. She noted this is where a well-educated mortician is needed. Ms. Johnson added the embalmer does not need to do that, but there is no reason why a young person who has had mortuary training, or knowledge from college for one year, could not be doing the practical part, while the properly licensed person deals with the people. Ms. Johnson pointed out the costs of a college education, noting that some of the students are also married with families, and indicated a job as embalmer could help defray some of these expenses.
- Q. Senator Rapp-Svrcek asked if any other states currently have licensed embalmers, or anything similar to what is envisioned here.
- A. Mr. Miser responded that Kansas does, and one or two other states also do. It was also noted that Colorado does, too.

Closing by Sponsor:

Senator Harding indicated she thinks this was a good hearing. She further indicated that there is a change in the professions, that this Legislature has seen a lot of turf battles, and she believes this is a viable part of our society today. She added she thinks this is a way for people to learn a profession, that they will not do the entire technical part



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of it because they have not had the education, but they can do the practical part and still make a living for their families. Senator Harding noted that this bill opens another position, such as an aide to the mortician, and that is also helps the mortuary be an integral part in helping people progress in their education toward a good profession. She noted she does not think it has anything to do with tearing down the mortuary, referring to page 4, line 18, which states the board may waive the education requirements, that it is at the discretion of the board. She indicated the board is only as good as the people who are on it, and they are the people that are in charge. Senator Harding stated that she thinks this is a reasonable bill, she would appreciate the committee looking at it, noting these people will have to be advised regarding the sunrise law.

Chairman Farrell announced the hearing on SB328 as closed.

HEARING ON SB 325

Presentation and Opening Statement by Sponsor:

Senator Bill Yellowtail testified that SB325 is an issue of fairness and compensation for services rendered. He reported that, for some time, the Montana Arts Council has served without compensation. He noted the council members receive travel expenses for their travel to meetings but, by law, have been denied the opportunity to receive compensation. He indicated that most, if not all, quasi-judicial boards around the state are entitled to compensation, and he would like to see the Arts Council receive fair treatment. Senator Yellowtail pointed out that, on page 2, lines 6 through 8, the original law expressly prohibited compensation, but that all the other boards receive compensation, under 2-15-124, sub (7), which is the compensation statute, of \$50 per day, while the boards are in meetings.

Senator Yellowtail stated the other changes in the bill are only clean-up language.

List of Testifying Proponents and What Group they Represent:

David Nelson, Executive Director, Montana Arts Council  
Gloria Hermanson, Montana Cultural Advocacy

Testimony:

Mr. Nelson indicated that, when the legislation was first drafted in 1968, it was modeled after boards such as the historical society and the library commission, who have since come before the Legislature for the same equal treatment. He noted that, as far as they know, they are the last remaining board not to be compensated. Mr. Nelson stated things have changed since 1968 and, since they want a good percentage of their council made up of artists, who are working people, that when they are away from their studios, it is a loss to them. He further indicated they have to deal with child care, etc., adding this bill is just clean-up, and fair treatment. Mr. Nelson noted that, fiscally, it would be about \$6,000 for the biennium, half of which would be covered by federal funds. He indicated that he did not know if this would be included in their appropriation, since they have to have the authority first. Mr. Nelson noted he thinks it is important that the council be treated like every other board.

Testimony:

Ms. Hermanson reported the Montana Cultural Advocacy stands in support of SB325.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Rasmussen asked Mr. Nelson if there are dues to any of the members that could generate these funds.
- A. Mr. Nelson responded no, that this is a state agency and their services are in the area of support for the arts. He added that the organizations they serve have memberships, but the council itself is like every other state agency.
- Q. Senator Anderson asked how often the council meets.
- A. Mr. Nelson responded they meet 4 times a year, adding this is 15 people appointed by the Governor.
- Q. Senator Anderson indicated he understands the council does receive travel expenses, and asked if they are merely asking to be paid for the time they serve at the board meetings.
- A. Mr. Nelson responded yes.

- Q. Senator Harding asked if this would be an additional line-item to their budget, or is their budget going to be able to take care of it.
- A. Mr. Nelson responded they will re-visit the committee about the issue but, if the committee is not able to act, the council understands that there may be a two-year period where they may not be able to find the appropriation and will have to "eat it", noting they are prepared to do that for one biennium, if that situation arises.
- Q. Senator Harding asked how much money are they talking about.
- A. Mr. Nelson responded it is a total of \$6,000; \$3,000 general fund, and \$3,000 federal.
- Q. Senator Harding asked if this is per year.
- A. Mr. Nelson responded this is biennium.
- Q. Chairman Farrell indicated that, when this council was formed, it was a council to make people aware of the arts, and asked Mr. Nelson if he was correct in that everybody was volunteering their time to get this information out.
- A. Mr. Nelson responded it was established like every other agency and, at that time, the provision in the law for the other agencies said they would serve without compensation.
- Q. Chairman Farrell asked what other agencies.
- A. Mr. Nelson responded the historical society and the library commission.
- Q. Chairman Farrell asked if they are paid salaries.
- A. Mr. Nelson responded yes.

Closing by Sponsor:

Senator Yellowtail reported the Arts Council is appointed by the Governor, serves under all of the laws and constraints as other quasi-judicial boards and, so, are just like the other boards that already receive compensation, noting this is the last one to come in. He indicated he is not a member of the

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Arts Council, but that he had the privilege of serving in the 70's, and it was one of the most enjoyable boards or committees that he has served on, noting he has served on quite a few. Senator Yellowtail stated that it is a burden for people, the classic "struggling artist" types, to come to the meetings. He noted the travel expenses help but, in general, they lose money, and he thinks this will permit them to not lose money as they serve.

Chairman Farrell announced the hearing on SB325 as closed.

OTHER BUSINESS

Discussion: SB 82

Chairman Farrell indicated that SB82, which was reported out of committee in January, has been referred back to the committee for further discussion. He added that the sponsor, Senator Nathe, has asked the committee to place SB82 on the table.

Senator Harding offered a motion that SB82 be placed on the table.

Recommendation and Vote:

Motion passed by the committee that SB82 be placed on the table.

Discussion: SB 286

Chairman Farrell asked Senator Rapp-Svrcek if the proposed amendments to SB286 are ready.

Senator Rapp-Svrcek responded the amendments are ready, and reported he talked, at length, with Mr. Dodge, the Secretary of State's office, and the staff attorney regarding the first sentence of sub (2), line 19, page 1. He noted that, as written, he thinks it would preclude any constitutional challenge prior to an election, which concerns him a great deal, adding Mr. Dodge saw that concern as well. He indicated the amendment would strike that sentence, making it clear that what is being limited in this bill are technical challenges, and that Mr. Dodge was comfortable with that, as is the chief sponsor of the bill, Senator Beck. Senator Rapp-Svrcek then informed the committee that what happens now is, unless something is blatantly unconstitutional on its face, or under absolutely extraordinary circumstances, the Supreme Court will

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say it may or may not be unconstitutional, but they will not rule on it until after it has been voted on. He indicated that, if this sentence is left in, even under those extraordinary circumstances, such as the example he gave of the white supremacists, the Supreme Court would not rule on that prior to the vote. He noted that, by striking the sentence, the ability of the Court to make a ruling, seeing these extraordinary circumstances, is maintained.

Chairman Farrell asked if it is possible for the Supreme Court to rule that something is blatantly unconstitutional, and still have it placed on the ballot, with this amendment. Ms. McClure responded that she and Senator Rapp-Svrcek discussed this, and that it could happen in unusual circumstances. She referred to subsection (1), which states "An initiative or referendum that qualifies for the ballot in Article 3 or Article 14", which is gathering of petitions, signatures, etc., "shall be submitted to the qualified voters, as provided, unless election is held pursuant to this section." She indicated, if the voters and petitioners have done everything correctly, and have all qualified names and signatures, the Supreme Court could indicate it is unconstitutional, but the statement that it "shall be submitted", could insure that it will still go on the ballot, if it qualifies under all the other procedures.

Senator Rapp-Svrcek asked Ms. McClure what if, on page 2, line 2, after "improperly conducted", something was put in about these extraordinary circumstances, where the Supreme Court makes a ruling that it is unconstitutional on its face. Ms. McClure responded that her concern is that subsection (2) states if it "qualifies", and it does say "shall be submitted". There was discussion between Senator Rapp-Svrcek and Ms. McClure on this issue, and Ms. McClure indicated that Senator Beck's concern was that he does not want the Supreme Court coming out, ahead of time, and biasing it one way or the other; he does not want the public to hear from the Supreme Court. She noted that is why the sentence, under subsection (2) was put in, and pointed out that, if it is taken out, it will revert back to what is being done now.

Chairman Farrell indicated this does not actually refer to the Supreme Court and asked, if the case was heard first in district court, and an opinion was issued which was deferred to the Supreme Court, would this not prejudice the voters. Ms. McClure responded that, under the initiative process, they go directly to the Supreme Court, with a 30 day challenge. She noted it can be challenged for improper signatures, constitutionality, etc. and, by taking out that sentence, the

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process would go back to what we have now, that the Court can step in inside 30 days, which has created havoc. Chairman Farrell indicated the original suit on CI-18 was filed in Butte, at a district court level, it was ruled on, and appealed in the Supreme Court.

Senator Rapp-Svrcek indicated he talked with Mr. Dodge about this issue, that he is comfortable with this, and their primary goal is to not allow a technical flaw to keep something from the ballot. Senator Rapp-Svrcek indicated Mr. Dodge shares his concerns regarding a lack of a challenge on substance of issue, that perhaps these amendments are not thorough enough, but he thinks it needs something like this before it passes. Ms. McClure indicated Mr. Dodge's main concern was technical, which is why the title was changed to insert "technical", and that it will do that. She noted it is possible that, by doing this, there could be a qualified ballot that has been ruled unconstitutional.

Senator Rasmussen asked Senator Rapp-Svrcek if he is comfortable with this. Senator Rapp-Svrcek responded he thinks the issue raised by the Chairman is legitimate, that it will continue to be raised somewhere in the process, and that it will be corrected, noting he is confident of that. He indicated the committee could hold the bill and work with it. Senator Rasmussen indicated he does not think it will be corrected on the floor.

Senator Rapp-Svrcek noted that Mr. Dodge is in agreement with the intent, that perhaps the committee should vote on the amendments, and the bill, and "watch-dog" it in the house, raising the issue there. Ms. McClure indicated, in that time, the committee may come up with a possible solution to deal with "shall be submitted", that something can not be put on the ballot that has been declared unconstitutional. Senator Rasmussen indicated he is not confident of everything working out, that it is important when it goes to the voters. He noted he does not see this bill getting hung up, and there is the opportunity to refine this language, if someone else can bring some thinking to this at this point. Senator Rapp-Svrcek indicated perhaps one of the Judiciary members could. Senator Rasmussen indicated to Chairman Farrell that he does not think we are quite at the crunch state yet and, if we could get this thing fixed up right, it would be better.

Chairman Farrell indicated that, by next Monday, the bills currently in the committee have to be reported out, or they will be caught in the crunch, and there are more bills still to be referred to this committee that must be heard and acted

on rapidly. He added bills have to be out of committee by the 40th day in order to make it through the process. Senator Rapp-Svrcek indicated he would withdraw the amendments, and stated he would work with Ms. McClure on them.

Discussion: SB 288

Chairman Farrell reported that the Legislative Auditor indicated SB288 appears to fall under Sunrise, that it adds to the duties of an existing licensing board. He reported he talked with the Department of Health, who indicate this does not license; it simply sets standards for these people to maintain before they can work in nursing homes. The Department of Health also states the Board of Nursing already has these programs in place, and the Department of Health has asked for additional money and additional personnel to run the program, if they have to. He noted they are in a neutral position, and that the Board of Nursing can run it now.

Senator Rasmussen indicated that one solution out of the dilemma of sunrise is to kill the bill. Chairman Farrell indicated that it is the Legislative Auditor's opinion to leave it in committee until the Rules Committee acts on licensure, noting the Rules Committee is scheduled to meet on Monday to look at a bill referred by Senator Jacobson. Senator Harding suggested leaving the bill in committee. Senator Rasmussen asked Chairman Farrell if he is suggesting tabling the bill, indicating he does not like the bill, that he would suggest killing the bill, and not worrying about it. Senator Rasmussen then offered a motion that SB288 do not pass. He stated it sounds to him like it would be better left with the Department of Health, which is already geared up to do it, the nursing homes would be more comfortable, and the job would get done, noting he thinks it is probably going as it should go, now, without these changes.

Senator Abrams indicated he received quite a few comments in the mail, and these people would be happy if the bill was killed. Senator Rapp-Svrcek indicated he has nothing to add to that.

Recommendation and Vote:

Motion passed by the committee that SB288 do not pass.

Discussion: SB 336

Chairman Farrell opened discussion regarding SB336. Senator Rasmussen indicated there was a suggested amendment, which

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seems reasonable to him, on page 3, line 15, to take "knowingly or with reckless disregard" out of the bill. Ms. McClure indicated that, according to the information she has, "knowingly and with reckless disregard" has to be in the bill. Senator Harding offered a motion that SB336 do not pass. Senator Rasmussen indicated he believes there is a problem, that a good-faith effort needs to be made to patch things up, and he would like to see the bill pass, perhaps with some amendments. Senator Anderson indicated he thinks there is a need, that there were more bad campaign practices this last election and people were really upset. He noted there should be some limitations so that people who use those tactics would be more careful.

Senator Vaughn noted that she agrees some corrections need to be made, but indicated she does not feel this is being done with this bill. Chairman Farrell indicated that the time frame for hearings would not have helped Senator Thayer's situation.

Recommendation and Vote:

Motion passed by the committee that SB336 do not pass, with Senators Rasmussen, Rapp-Svrcek and Anderson opposed.

ADJOURNMENT

Adjournment At: 11:30 a.m.

  
WILLIAM E. FARRELL, Chairman

WEF/mhu  
SB318.210





SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 288 (first reading copy -- white), respectfully report that SB 288 do not pass.

DO NOT PASS

Signed: William E. Farrell  
William E. Farrell, Chairman

W.E. Farrell  
2/10/89  
3:20 p.m.  
SCRSB288.210

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 336 (first reading copy -- white), respectfully report that SB 336 do not pass.

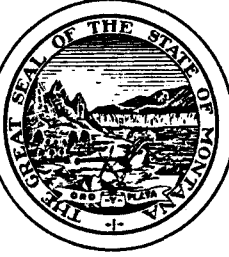
DO NOT PASS

Signed: William E. Farrell  
William E. Farrell, Chairman

W.E.  
2/10/89  
3:05  
p.m.

BOARD OF MORTICIANS  
DEPARTMENT OF COMMERCE

1424 9TH AVENUE



(406) 444-5433

STATE OF MONTANA

HELENA, MONTANA 59620-0407

## TESTIMONY

S.B. 328

Mr. Chairman, Committee members, my name is Guy Miser. I am the chairman of the Board of Morticians and a licensed mortician from Fort Benton.

The purpose of the Board of Morticians is to protect the the public's health, safety and welfare and to guarantee that those persons working in the field of mortuary science meet professional competency requirements through education and examination.

Montana was a forerunner in establishing higher standards for licensure through continuing education. The trend in the U.S is for higher standards for entering the field of mortuary science. Under the provisions of S.B. 328 which provides for a waiver of the educational requirements would be a step back 50 years.

It would allow future membership of the Board of Morticians to drop all standards of educational requirements opening the way for persons who have not completed mortuary science school, do not have the basics of social skills needed to meet with families during a time of emotional strain and do not have a background in sanitation or health sciences. If a future board granted a waiver it could open litigation against board members for favoritism.

The definition of "embalmer" allows the individual to only do embalming, it does not allow that person to even prepare the the body for burial or any other functions in the funeral home. The Board of Morticians is concerned that a funeral home would not be able to keep an "embalmer" busy 8 hours a day. Is the "embalmer" then going to engage in those things that are not allowed under the "embalmer" license and who is going to police "embalmer's" to make sure that all they are doing is embalming.

The Board of Morticians requests the committee give a DO NOT PASS to SB 328. Thank you.

SENATE STATE ADM.  
EXHIBIT NO. 2  
DATE 2/10/89  
BILL NO. SB 328

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Guy W. Miser DATE: 2-10-89

Address: 1201 FRONT ST.  
FORT BENTON, MONTANA 59442

Phone: 622-3621

Representing whom?  
BOARD OF MORTICIANS

Appearing on which proposal?  
SB 328

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
see Exhibit #1

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Mr. Chairman, Committee Members, I am Gene Becker, President of the Motnana Funeral Directors Association and a licensed mortician practicing in Bozeman.

The objectives of this association is to promote and elevate professional character and education of morticians throughout the state. Also to foster and maintain among them high professional ideals of public service.

Several years ago, mandatory continuing education of all licensees was placed into law. We as an association whole-heartedly endorsed this rule. We feel it is imperative that ongoing education of all morticians be sustained.

The average level of education of all professions has constantly risen during the past decade. Indeed the average level of education of the client family we serve has constantly risen during the past decade.

We as professional people in our society must maintain the same level of education as the client-family we service. We cannot step back 50 years when no or little education was required of the funeral service provider. It is for this reason we oppose Senate Bill #328.

I will be happy to answer any questions from the committee.

In the interest of being brief and not taking to much time, would all other licensed morticians and individual present who oppose this bill please stand up.

EXHIBIT NO. 4

DATE 2/10/89

BILL NO. SB328

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Gene Becker

DATE: Feb. 10, 1989

Address: 113 S Willson

Bozeman

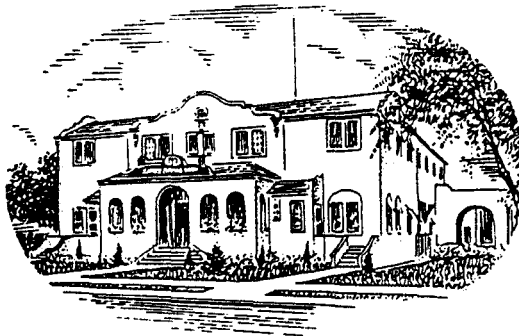
Phone: 587-3184

Representing whom?  
MT Funeral Directors Assoc.

Appearing on which proposal?  
SB 328

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
see exhibit #3



FEB 9 1989

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 2/10/89

BILL NO. SB 328 p21

## Graves Memorial Chapel

Directors: Marty Lawrenz, Everett & Jerry Bullis

Feb. 7, 1989

Senator William E. Farrell, Chairman  
State Administrative Committee  
Helena, Montana 59636

Re: Senate Bill # 328

Dear Senator Farrell and Fellow Committee Members;

Please accept the following correspondence as testimony in **OPPOSITION** to Senate bill # 328.

At this time it is not clear just what this bill is proposed to accomplish. The proposed amending of sections 37 19 101,301,302,304,305, and 311,MCA, appears to be contradicting in nature and eludes to the creation of another license. Most disstressing, is giving the Board the authority to waive educational requirements. I believe the reciprocity section of the present law is more germaine. A person applying for a license, must meet the educational requirements, before licensing or reciprocity can even be considered. If this bill is an attempt to structure an additional license within the Montana Funeral Industry, it would be contrary to all previous actions of the Legislature and Board of Morticians.

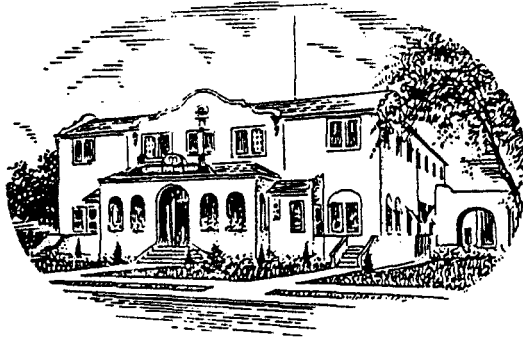
I feel is does an injustice to the Profesionalism of the Montana Morticians and it's related Funeral Industry. Hopefully you are aware that the Montana Funeral Directors have worked very diligently to incorporate high professional standards within it's structure. Many of us have accepted the tighter controls set by State and Federal Agencies as an agument to professionalism and comsumer protection.

The Board of Morticians and the Montana Funeral Directors has also endeavored to educate the public and it's consumers on what is to be expected of us when called upon to provided services.

The industry has initiated a continuing education program to enable it's members to stay current with industry changes. However, I see in Senate Bill 328, a move the could destroy all that has been accomplished throught the past several years.

Dual licensing was in existance 20 years ago and was done away with, it appears as if this bill would rejunivate Dual licensing as well as regress educational standards at the expense of all. We are professionals with professional education and ethics standards not unlike other professions.





SENATE STATE ADMIN.  
EXHIBIT NO. 4  
DATE 2/10/89  
BILL NO. SB328 pg 2

## *Graves Memorial Chapel*

*Directors: Marty Lawrenz, Everett & Terry Bullis*

Regression, brought on by passage of this bill would be detrimental to us and the consuming public. Single licensing allows for a more professional and well rounded approach to the needs of the consumer. Whereas Dual licensing allows for discontent, separation of duties and perhaps reduces the ability of the public as consumers, to obtain services from a well educated and trained professionals.

Your consideration of this statement is appreciated.

*Marty Lawrenz*  
Marty Lawrenz

Sec. of the Montana Funeral Director's Association



management  
services,  
ltd. fullerson  
funeral  
home

February 9, 1989

Senate Committee on Administration  
Montana Senate, 51st Legislature  
Helena, Montana

Honorable Ladies and Gentlemen:

This letter of concern is written in regards to LC 1594/01, Senate Bill # 328 that has apparently been introduced for your consideration.

The intent of this bill is very obscure, but the results very detrimental to the public and funeral service.

It ostensibly is to add an EMBALMER LICENSE, but apparently doesn't stop there, as it is restructuring the entire licensure qualifications for all mortician related licenses, and expands the embalmer license to direct funerals. Eliminating Section 3, par 6 from the proposal would still allow the embalmer license. Therefore it must be the actual intention of this bill to eliminate education for all funeral service licenses? What utter absurdity!

The consumer is protected best through licensure with strict educational requirements giving the practitioner the background to understand the needs of the consumer (purchaser). Funeral Service Practice is not just a business transaction! We deal with customs, traditions, different manners of expressing grief and dealing with the reality of death. The consumer is served well with quality funeral service, and this cannot be assured through licensure eliminating all educational requirements.

As Licensed morticians we are also charged with the public health responsibility of knowing what diseases may be contagious and how to protect the public and ourselves from the contraction of those diseases. Where does that informational background get to this person who applies to be an embalmer?

Funeral service is also charged with providing a meaningful service to the consumer (family of deceased), but he only has one time to get it done in a meaningful way for the family. There is no chance to do it over because something was not right!

Many of the Licensed morticians in this state have spent many years in preparatory schooling and then many years of experience and continuing education to offer the best type of funeral service experience for the family involved.

I have five years of formal college training, a BS degree, two years of internship, 30 years of experience, and have just completed another 10 years of continuing education and have been certified as a CERTIFIED FUNERAL SERVICE PRACTITIONER. I am still learning with formal education and now I find this bill has been proposed to eliminate all educational requirements when many of us are participating in a life-long professional career to try and provide adequate service to the clientele we serve. Funeral Service (and embalming) is an ART and SCIENCE and a PROFESSION! Not just a job you can come in off the street and try! It takes committment and training before licensure, continuing throughout the life of the licensee!

I respectfully suggest you kill this "farce of a bill" that is obviously the work of someone that doesn't know of what they talk or write and must be serving some individual, group, business or entity to the detriment of the people of Montana.

There is no law in Montana requiring people to go to a licensed mortician or mortuary, but they still do and pay for the services they receive. If you had the need, would you as individuals, call a funeral service firm that hired people without educational background, to provide an important service for you and your family?

If you were to allow the embalmer license as this bill is written, it would serve very few firms in this state, as most firms need a licensed mortician that can make arrangements and direct services, not just embalm. What firm is looking for some lesser paid help to serve the public in a specialized and technical manner at a time of critical importance to the family? Is this even serving the individual that was awarded that license? Or the firm that employs him? OR MORE IMPORTANTLY, THE PUBLIC BEING SERVED?

Give this bill a decent burial!

Sincerely yours,



G. E. Fulkerson jr. CFSP  
Montana Mortician License # 100  
President

# HERRMANN AND COMPANY

*Funeral Home*



314 N. RODNEY

HELENA, MONTANA 59601

SENATE STATE ADMIN. 4

EXHIBIT NO. 6

DATE 2/10/89

BILL NO. SB328

FEBRUARY 10, 1989

SENATOR BILL FARRELL CHAIRMAN  
STATE ADMINISTRATION

SENATOR AND COMMITTEE MEMBERS:

I OBJECT TO SENATE BILL #328 BASED  
UPON THE SECTION # 3 (6) LINE 18 page 4  
WAVER OF EDUCATION REQUIREMENTS, ALL  
EDUCATION REQUIREMENTS CAN BE WAVERED!  
ALSO THE POSSIBILITY OF DOWN GRADEING TO  
POST 1963 STANDARDS.

I WOULD ASK FOR A DO NOT PASS!

Wm. Lloyd Linden

*Wm. Lloyd Linden* MORTICIAN

314 N. RODNEY

HELENA, MONTANA

59601

PHONE 442-1234



STATE OF MONTANA  
Office of the Legislative Auditor

STATE CAPITOL  
HELENA, MONTANA 59620  
406/444-3122

SENATE STATE ADMIN.  
EXHIBIT NO. 7  
DATE 2/10/89  
BILL NO. 56328

LEGISLATIVE AUDITOR:  
SCOTT A. SEACAT

LEGAL COUNSEL:  
JOHN W. NORTHEY

DEPUTY LEGISLATIVE AUDITORS:

MARY BRYSON  
Operations and EDP Audit  
JAMES GILLET  
Financial-Compliance Audit  
JIM PELLEGRINI  
Performance Audit

DATE: February 8, 1989  
TO: Senator Bill Farrell  
FROM: John W. Northey  
RE: SB 328 as subject to Sunrise Law.

SB 328 is an act providing for the licensing of embalmers. Section 3 of the bill specifically adds the practice of embalming as subject to licensure by the Board of Morticians. Section 2-8-203, MCA, the Sunrise Law, states in part:

"(1) The committee shall review and assess the merits of any proposal to:

...

(c) add to the duties of an existing licensing board responsibility for licensing another occupation or profession."

As SB 328 adds the licensing of embalmers to the duties of the existing Board of Morticians, the bill is subject to the requirements of the Sunrise Law.

