

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on January 26, 1993,
at 9:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chair (R)
Rep. Sonny Hanson, Vice Chair (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (R)
Rep. Doug Wagner (R)

Members Excused: All Present

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing: SB 45, SB 83 & HB 191
Executive Action: HB 191, SB 83, SB 45

HEARING ON HB 191

Opening Statement by Sponsor:

REP. BILL STRIZICH, House District 41, Great Falls, said HB 191
revises the section of the gaming statutes relevant to amusement
games. It is important to distinguish between amusement games

and gambling, which is the basis of this bill. He said even though amusement games are dealt with in gambling statutes, they are not gambling per se. This bill addresses a variety of amusement games, i.e., billiards, skee ball, whac-a-mole, etc. He said this bill was brought about by a business called the Fun Factory in Great Falls which centers around amusement games. The business found itself restrained from staying current with state of the art amusement games because of changes in modern technology. When the entertainment machines were dealt with in the original law, it was to simplify and limit it so the department could deal with them more easily. He said it had a reverse effect of limiting what a legitimate business operator can do in the area of amusement games. The Gaming Advisory Council felt the problem was clearly described in the discussion of two similar amusement games: 1) cracky crab; and 2) whac-a-mole, that use rubber mallets to knock down the moles or crabs, but whac-a-mole is legal, and cracky crab is not. He said in order to allow for the statute to be flexible for legitimate businesses based around amusement games and the changing technology. The council worked with industry representatives and developed the language found in section 3, subsection 14, which opens the law to allow games that are not specifically found in the laundry list. The provision in this area was to allow operators of businesses centered on the amusement games to be responsive to market. He said another issue the council dealt with was the extent to which the Department of Justice and the gaming regulators should or should not be involved in the administration of the law. It was felt that as long as they were dealing with the broad definition included in the bill, and the games that are being dealt with are amusement games, the department has little if any interest in regulation of this area. He encouraged the support of HB 191.

Proponents' Testimony:

Joe McKinney, Owner/Operator of the Fun Factory Center, Great Falls, said his business specializes in redemption equipment. The problem he ran into was the redemption of tickets for prizes. This bill will allow for games of skill to be operated and game tickets awarded to be redeemed for prizes. He said this bill will take care of his problems, and urged the committee to support HB 191.

Janet Jessup, Administrator of Gaming Control Division, said they are pleased to be before the committee with HB 191. She said the Gaming Advisory Council wanted to address this area, because it is an area of some concern. HB 191 will allow for specific games to be played statutorily. The industry cannot keep up with the games because of changes made every two years. The language included in the bill will allow for more flexibility over the types of games allowed. She said they are very pleased with the language on the last page which clearly defines that these are games of skill and not games of chance. She said there is still concern of some areas that are still a little gray, but the

council felt this will make the Legislature's intent clear for every single game that comes along. Another concern was the enforcement of the games, and not being out there to look at every single game. She said with the concerns of some of the grey areas, this bill is closer to defining amusement machines. **Ms. Jessup** said this is an area where they do not have any enforcement capabilities without adding more staff.

Larry Akey, representing Montana Coin Machine Operators Association, said the association supports HB 191. With the decisions made by the Gaming Advisory Council, they were concerned it would open up the area of amusement games, and did not want to be placed in a position like they were in the late 1970s and early 1980s, where there were a lot of amusement devices that were used as gambling devices. He is convinced after a field trip to Mr. McKinney's operation that the committee need not worry about cracky crab turning into a gambling device in Montana. The language contained in the amendment to the existing statute is the key to the bill. On the last couple pages of the bill it defines games of skill, and payouts that can be made are such that it will be clear to the people involved in the business what is and what is not allowed. For these reasons he asked the committee to give HB 191 a do pass recommendation.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

Rep. Pavlovich asked **Rick Ask, Gaming Division,** if this bill will take care of the circus' concerns when they are in Montana, and the problems they have had in the past? **Mr. Ask** said he did not know and deferred the question to **Janet Jessup.** **Ms. Jessup** said there is another bill sponsored by **Rep. DeBruycker** that has the same language this bill addresses to give the Department of Justice the flexibility to adopt rules to allow games that meet these requirements. **Ms. Jessup** said the bill sponsored by **Rep. DeBruycker** bill was at the request of some carnival operators.

Rep. Brandewie asked **Rep. Strizich** about page 15, line 16, where it describes the game of shuffleboard, and asked if the shuffleboard games on cruise ships is legal? **Rep. Strizich** said under current law it probably isn't legal, but under this bill it would be.

Rep. Brandewie asked **Rep. Strizich** if he thought this bill would encourage a kid to gamble? **Rep. Strizich** said he would encourage the committee members to visit one of these centers to see there operation. The entertainment machines have been around preceding

the legalization of gambling.

Rep. Knox asked **Janet Jessup** on page 2, line 23, it states one of the definitions of prizes is tangible personal property, and asked her to enlighten the committee on how it has been used and how it will be used in the future? **Ms. Jessup** said as she understands gifts are given in these areas. She didn't think the intent was to exclude that kind of activity for tangible products.

Rep. Knox asked the same question of **Joe McKinney**. **Mr. McKinney** said his tickets have a value of 1¢ to 6¢, and average about six tickets per play. These tickets can be redeemed immediately or save 4,000 to 6,000 tickets to use towards a small black and white TV or bicycle, etc. He said this bill will allow the businesses to go beyond the \$50 limit with the tickets. If this bill passes as is, they will be able to give VCRs and other items of more value.

Rep. Ellis asked **Janet Jessup** who makes the determination if these are games of skill? **Ms. Jessup** said it is the determination and responsibility of the counties to make the decisions, and her department is there to give advice. She said the department does not actively enforce the laws, but respond to complaints as requested.

Closing by Sponsor:

Rep. Strizich closed stating there is confusion with gambling issues, but informed the committee to remember these are games of amusement. He said there isn't any payout with the amusement machines, just the potential of receiving a reward based on the level of skill. He encouraged the committee's favorable passage of HB 191.

EXECUTIVE ACTION ON HB 191

Motion: REP. PAVLOVICH MOVED HB 191 DO PASS.

Discussion: **Rep. Brandewie** offered an amendment on page 1, to strike line 16. He spoke to his motion stating there is a lot of difference between a bowling game played by adults and these games played by kids. If a person receives tickets to be exchanged for merchandise, it is a payoff. He said this is an inducement to continue to play the games whether they have the money or not. These games are in the community 365 days of the year, and felt it was an encouragement to play the machines. **Rep. Brandewie** withdrew the motion for his amendment.

Rep. Pavlovich said these are games are for amusement only.

Rep. Ellis said our young people are limited to what they can do with their excess time in any community, the smaller the

community the more limitations there are.

Motion: Rep. Knox moved to amend on page 2, line 23, and page 3, line 2, to re-insert the language that was stricken.

Rep. Simon said if he wanted to do that he would need to strike the language on page 4, lines 8 and 9.

Rep. Knox said it is his intent to make to the bill comply with the \$50 limitation.

Rep. Daily said if Rep. Knox doesn't feel comfortable with the \$50 limitation he should make the amendment to read \$100. Rep. Knox said it is his personal preference to keep it at the \$50 limitation.

Rep. Dowell said the way the committee heard and saw the bill today, they did not hear anything from opponents that this was an expansion of gambling. He said Gloria Hermanson who represents "Don't Gamble with the Future" is in the back of the room, and did not get up to testify. He has not received any mail from any cracky crabaholics, and didn't think there was a problem here. He spoke against the amendment, and urged the other members to pass the bill the way it is.

Motion/Vote: Rep. Knox called the question on the amendment. Voice vote was taken. Motion **FAILED** 13 - 5 with Reps. Knox, Barnett, Brandewie, Herron, Simon and Mills voting yes.

Motion: Rep. Simon moved to adopt an amendment to strike section 4, lines 10 and 11, regarding the immediate effective date. Rep. Simon said why have the immediate effective date when it has been in place for many years, and no one will know anything about it without the council having to go through a lot of paper work. He didn't think it would place any burden on anyone if it became effective on the regular date of October 1, 1993.

Rep. Cocchiarella said as a mother of children who plays these games, she has a conflict with the bill. She said these are days of modern technology where the machines are changing by the minute. She said the small businesses that operate these machines need this law immediately to operate legally.

Rep. Brandewie said he is against the bill. The people voting on this today are thinking of the local people and not the carnivals.

Motion/Vote: The question was called on the amendment to strike effective date upon passage of HB 191. Roll call vote was taken. Motion **CARRIED** 10 - 8. EXHIBIT 1

Motion/Vote: REP. DAILY MOVED HB 191 DO PASS AS AMENDED. Voice vote was taken. Motion **CARRIED** with Reps. Knox, Barnett, Wagner, Herron and Brandewie voting no. EXHIBIT 5

Vote: HB 191 DO PASS AS AMENDED. Motion CARRIED 13 - 5.

HEARING ON SB 45

Opening Statement by Sponsor:

Rep. Pavlovich opened for SEN. THOMAS KEATING, Senate District 44, Billings, stating that HB 45 is at the request of the Board of Morticians to create licensing and regulation of crematoriums. Rep. Pavlovich was on the audit committee, and said they had placed a sunrise on the crematorium bill. The committee heard all the evidence in a two-month period. This bill is a result of the hearings in the audit committee with unanimous approval of all eight members. SEE EXHIBIT 6

Proponents' Testimony:

John Michelotti, Board of Morticians, Billings, said there are many considerations that must be taken into account when crematoriums are entrusted with the disposition of human remains. The identification of the deceased, the holding of remains for cremation, the after cremation process, and the processing, packing, and disposition of the cremator remains are items of concern not only to the crematory, but also to the consuming public. He said high standards must be employed during all phases of the cremation process. Disposition by cremation in the state of Montana is now close to 50%. People are considering this choice of disposition as much as ground burial. He said with the growing industry, the funeral director and crematory operators need these guidelines to protect the public. The reason for this proposed legislation is to create regulation and enforcement of proper cremation procedures, and protect the public health, safety and welfare. He said uniform procedures should be developed in order to maintain the professionalism and public trust expected from those involved in this vital service. Mr. Michelotti said it is the objective of the board to ensure that all the procedures reflect the high standards and serve as guidance to the professionals charged with the sacred trust of the disposition of the human body by cremation within the realm of law and dignity. He urged the committee for a do pass recommendation on SB 43.

Bonnie Tippy, Montana Funeral Director's Association, urged the committee for passage of SB 45. She said this bill is good consumer legislation, and good public policy. She addressed the bill. Page 3, new section 2, will authorize a board of funeral services. In the past, cremation and crematories have not been regulated with any rules. Funeral directors and crematory operators have done the best they can while maintaining a high standard of practice. SB 45 will make it easier for both consumers and crematory operators by giving them guidelines who the authorization agent can be, and what they can do. On page 7,

new section 4, talks about licensure when licensing crematory operators, are due after June 30th of each year. She said there is very important information on page 10, new section 7, sub 2, it states that human remains may not be cremated within 24 hours after the time of death. **Ms. Tippy** said previously there has not been such a law, and someone could be cremated within 30 minutes of death. She said it is a good idea to wait the 24 hour mandatory period no matter what the family wants.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

Rep. Simon asked on page 10, section 6, sub 2, why a crematory may not accept unidentified human remains. **Carol Grell** said under the authorizing agent section there are circumstances when they have persons that are unidentified, and the crematory needs an appropriate authorizing agent to let them know they are not cremating the wrong person.

Rep. Bachini asked for an example on page 16, line 9, regarding unresolved dispute, does it mean release or not wanting to cremate? **John Michelotti** gave an example; a son of the deceased knew his father wanted to be cremated, and the mother and daughter decide they do not want to do this is called "unresolved". He said crematory operators would hold back until that dispute is handled.

Rep. Tuss asked **John Michelotti** about page 3, line 21, where it states "a majority of adult children" are needed as an authorizing agent, how can this be applied if the children are scattered from here to Australia? **Mr. Michelotti** said the majority of the children are needed for liability issues. He said it is stressed that the crematory receive a consensus of the family. **Mr. Michelotti** asked if **Bonnie Tippy** could answer the question. **Ms. Tippy** said the crematories and funeral directors practicing in Montana contact all adult children or as many as possible. **Ms. Tippy** said because of the liability situation, the funeral directors have been forced to have all the adult children consent to one disposition or another.

Chairman Benedict asked **Bonnie Tippy** if a person can order their own cremation? **Ms. Tippy** said they may not. The authorizing agent takes precedence over any pre-need agreement when it comes to cremation or burial. She said people lose their power of attorney and their rights when they die. On the funeral service side, the process of bereavement is for the living not the dead,

therefore, the reason for the authorizing agent.

Rep. Bachini said to follow **Chairman Benedict's** direction, if a person has made their wishes known in a will, does it mean the will not be carried out? **Bonnie Tippy** said that is correct. If there is a conflict with the authorizing agent or next of kin.

Rep. Pavlovich said his older brother wants to be cremated when he dies. Does this mean if the younger brother doesn't want the older brother to be cremated, that the other brother's wishes will not be carried out? **Bonnie Tippy** said that is correct. **John Michlotti** said it is the same on the ground burial side. If someone wants their family member to have a ground burial, and another family members wants that person cremated, the burial will not take place until the dispute is settled. **Mr. Micholotti** said a will is the worst place to put your desires, because they are not usually read until a week to ten days after the death.

Rep. Bachini asked how can a person put their wishes into place if they cannot do it through a will? **John Micholotti** said the people need to make sure their family members know or sign a pre-need authorization. **Bonnie Tippy** said on page 16, new section 10, it states pre-need authorization will hold above everything else.

Rep. Herron asked **Bonnie Tippy** if the 24 hour waiting period still holds by law? **Ms. Tippy** said it does.

Closing by Sponsor:

Rep. Keating closed.

HEARING ON SB 83

Opening Statement by Sponsor:

SEN. JOHN HARP, Senate District 4, Kalispell, said SB 83 is at the request of the Department of Commerce. He said that Rick Kopel from the building codes department was here to explain the bill. SB 83 would prohibit organizations from referring persons for employment to perform the work of a licensed electrician contractor or electrician, unless a person that is being referred has the appropriate license. The state electrical board has received major complaints that organizations are referring persons without a Montana electrical license for work performed which requires a license in Montana. **Sen. Harp** distributed written testimony from James F. Brown, P.E., Chief, Building Codes Bureau, explaining the need for this legislative change.

EXHIBIT 2

Proponents' Testimony:

Cal Sweet, Chairman, State Electrical Board, distributed written testimony of the proposed statute revisions, and how it would enhance the board's ability to reduce administrative costs. He said the electrical board supported this bill unanimously. The makeup of the board includes Kenny Olson, International representative of the IBEW, who serves 5 local unions in Montana. He said Richard Lybrand from the independent sector is also in favor of SB 83. EXHIBIT 3

John Allen, owner of Allen Electric, said this is a simple bill that requires licensing. He is in favor of the bill and the three year licensing renewal.

Kent Pellegraino, Manager of Montana Chapter National Electrical Contractors Association (NECA), said his association is in favor of this bill and requested the committee's support.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

Rep. Stella Jean Hansen asked Sen. Harp if the licensure is moved to every three years, does that mean a person that has taken the exam have to wait until the next licensure period to be licensed when they finish their exam? Sen. Harp said when a person finishes their exam, they will be issued a license for a period of time the board determines to get everyone on the three-year renewal cycle.

Rep. Ellis asked Rick Kopel why the three-year term was chosen instead of four or five. Mr. Kopel said the board decided from the administrative standpoint that three years would be an appropriate period of time.

Rep. Simon asked Sen. Harp about the amendment that was put into the bill on page 2, sub 3, stating that each original license expires on a July 15, but not more than 3 years subsequent to the date of issuance at the discretion of the board. Mr. Kopel said there were two amendments placed in the bill that are relevant to the three-year limit. He said the first amendment deals with electrical contractors license, and the other amendment is for master journeymen and residential electricians' license. Mr. Kopel said the reason for the language is so the board can determine by rule the period of time for the initial license so everyone will be on the same three year renewal cycle.

Closing by Sponsor:

Sen. Harp closed asking Rep. Wagner to carry his bill on the floor of the House.

EXECUTIVE ACTION ON SB 83

Motion: REP. BRANDEWIE MOVED SB 83 BE CONCURRED IN.

Discussion: None

Motion/Vote: Rep. Cocchiarella called the question. Voice vote was taken. Motion CARRIED unanimously.

Vote: SB 83 BE CONCURRED IN. Motion CARRIED 18 - 0.

EXECUTIVE ACTION ON SB 45

Motion: REP. PAVLOVICH MOVED SB 45 BE CONCURRED IN.

Discussion: Rep. Pavlovich said there is a problem on page 3, line 19, regarding the list of authorizing agents. Paul Verdon said if the committee strikes "in order of preference" the bill will be left open to all those people who want input. This gives the spouse the first option, whatever he/she decides will take precedence over the rest of the people. He said if you strike "in order of preference" everyone will be in the discussion.

Rep. Simon said that "written request from the deceased" should be placed at the top of the list. When someone knows how they want the disposition of their remains, it should be done.

Rep. Dowell said the committee is talking about something that is beyond the scope of this bill. The committee is looking at the right's of a person when they are dead. He said it becomes a question of the survivors and how the law reads.

Paul Verdon said Bonnie Tippy mentioned a person cannot specify their own disposal. He said that may be true under the existing law, but the amendment on page 16, new section 10, states a crematory operator or funeral director shall comply with the terms of pre-need authorization in releasing the disposed cremated remains. He said maybe an amendment should be inserted in that area to read "authorizing, releasing, or disposing".

Carol Grell was asked to reply. She said on page 16, new section 10, deals with the disposition of the remains only. A person's pre-need authorization would dictate how the remains would be disposed of. She asked the committee to take note that the Senate amended out lines 22 and 23, unless additional conflicting

instructions are received the designated authorizing agent, or the pre-need, would take precedence. In regards to a person being cremated, this section deals with pre-need authorization. It could be amended in this area to deal with the actual cremation if that is the committee's desire to do so. She offered an alternative suggestion on page 3, line 19, under authorizing agent giving the order of preference, the committee could place pre-need authorization at the top of the list. Ms. Grell said the bill should not be amended like this, it is a question that is not resolved. The board has a position that pre-need should be controlling, and it is the industry's opinion that the rights of the living take precedence, because the funeral is for them, not the dead.

Rep. Ellis said it is his opinion that this law is very unclear even with other states. He said the reason the funeral and crematory operators are coming forward with this bill is to serve the living, not the deceased.

Rep. Daily said he agrees with Rep. Simon. He offered a specific amendment on line 20, page 3, to read after "in order of preference" the first one would be (a) a written notarized request by the deceased. Paul Verdon said he would write the amendment that a written request prior to death would be pre-need authorization of a person's wish.

Rep. Larson suggested this bill be placed in a subcommittee.

Rep. Sonny Hanson asked if the committee wanted to take a vote on the preference of the deceased.

Rep. Pavlovich said this doesn't need to be placed into a subcommittee. He said to let Paul Verdon coordinate section 3 and section 10, and pass the bill out of the committee.

Rep. Sonny Hanson closed the discussion on SB 45 stating the committee can vote on it tomorrow, January 27, 1993.

Motion/Vote:

None

Vote:

None

EXECUTIVE ACTION ON SB 83

Motion: REP. COCCHIARELLA MOVED SB 83 BE CONCURRED IN.

Discussion: None

Motion/Vote: Rep. Knox called the question. Voice vote was taken. Motion CARRIED unanimously.

Vote: SB 83 BE CONCURRED IN. Motion CARRIED 18 - 0.

EXECUTIVE ACTION ON HB 190

Motion: REP. BRANDEWIE MOVED HB 190 DO NOT PASS.

Discussion: Rep. Brandewie said this is another licensing bill that will cost the public a lot more money for the services offered. He said it is not in the public's interest to pass this bill.

Rep. Stella Jean Hansen said this is a good bill. The social workers need these tools.

Rep. Tuss said she is in favor of HB 190. This bill addresses the master's procured social workers and is asking for a title change. The title change allows billing agencies, i.e. hospitals and nursing homes, and the social clinical workers themselves in private practice, to recover charges from third party payers. She said it doesn't demean or diminish in any way the counseling efforts of the social workers.

Motion/Vote: REP. TUSS MADE A SUBSTITUTE MOTION THAT HB 190 DO PASS.

Motion/Vote: Rep. Simon moved to adopt amendments that were drafted by Paul Verdon. The question was called. Voice Vote was taken. Motion CARRIED unanimously 18 - 0. EXHIBIT 4

Motion/Vote: Rep. Brandewie moved to adopt an amendment on pages 10 - 14, new sections 7 & 8, to strike any reference to inactive status. He said these people should not be allowed to go on inactive status for seven years with only 20 hours of continuing education.

Rep. Cocchiarella spoke against the amendment on inactive status. She said when they declare they are inactive they are not allowed to work.

Rep. Tuss suggested the committee insert three years in place of the seven years of inactive status.

Vote: None

Rep. Sonny Hanson postponed the hearing until tomorrow, January 27, 1992, due to other meetings the committee members had to attend.

ADJOURNMENT

Adjournment: 11:20



STEVE BENEDICT, Chair



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE STANDING COMMITTEE REPORT

January 26, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 83 (third reading copy -- blue) be concurred in .

Signed: _____
Steve Benedict, Chair

Carried by: Rep. Wagner

HOUSE STANDING COMMITTEE REPORT

January 26, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 191 (first reading copy -- white) do pass as amended .

Signed: _____
Steve Benedict, Chair

And, that such amendments read:

1. Title, line 12.

Following: ";"

Insert: "AND"

2. Title, lines 13 and 14.

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 17, lines 11 and 12.

Strike: section 4 in its entirety

EXHIBIT 1
 DATE 1-26-93
 HB 191

HOUSE OF REPRESENTATIVES
 53RD LEGISLATURE - 1993
 BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
 ROLL CALL VOTE

DATE 1-26-93 BILL NO. HB191 NUMBER _____

MOTION: Motion to strike immediate effective date.

Motion Carried 10-8

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX	✓	
REP. NORM MILLS	✓	
REP. JOE BARNETT	✓	
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON	✓	
REP. TIM DOWELL		✓
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN		✓
REP. BOB PAVLOVICH		✓
REP. VICKI COCCHIARELLA		✓
REP. FRITZ DAILY		✓
REP. BOB BACHINI		✓
REP. DON LARSON	✓	
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN		✓
REP. STEVE BENEDICT, CHAIRMAN		✓
	✓	
	10	8

DEPARTMENT OF COMMERCE
BUILDING CODES BUREAU

EXHIBIT 2
DATE 1-26-93
HB SB 83



STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-3933
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HELENA, MONTANA 59620

January 6, 1993

Representative Steve Benedict
House Business and Economic Development Committee
Room 104, Capitol
Capitol Station
Helena, MT 59620

RE: Dept. of Commerce Explanation of Need - Senate Bill No. 83

Dear Representative Benedict:

This letter provides an explanation of need for the legislative changes contained within Senate Bill No. 83. The Department of Commerce has requested this legislation as the result of a request from the State Electrical Board.

Section 1. Adds subsection 37-68-301(2), MCA, to provide that a private or public employment agency or labor union, or an employee thereof, who refers persons for employment by others may not refer a person for employment by others to perform the work of a licensed electrical contractor or electrician unless the person being referred has received the appropriate license. The addition of subsection 37-68-301(2), MCA, is needed to prohibit organizations from referring persons for employment to perform the work of a licensed electrical contractor or electrician unless the person being referred has the appropriate license. The State Electrical Board has received many complaints that organizations are referring persons without a Montana electrical license for work to be performed in Montana which requires a license.

Sections 2, 3 and 5.

The State Electrical Board has proposed that licenses be renewed for a period of three years rather than the current annual renewal. This change will result in administrative cost savings in the renewal process. Original licenses would be issued for such period as would allow all renewals to be placed on the same three year cycle to maximize administrative cost savings.

Section 4.

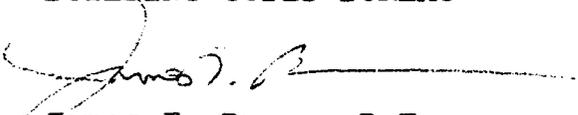
The amendment to subsection 37-68-311(1), MCA, is needed to clarify that master electricians must be licensed as such whether or not

they are also electrical contractors. The law is currently being administered on this basis. Any person can be an electrical contractor, whether or not a master, journeyman or residential license is also held. Under other legal provisions an electrical contractor cannot perform the work of a master electrician without also holding that license. This change will provide consistency in the various provisions of the law.

Section 6. Adding subsection 37-68-322(3), MCA, to provide that any violation of the electrical licensure law is a continuing violation which would toll the statute of limitations until the violation ceases. Also provides that the county attorney shall, upon request of the State Electrical Board, prosecute any violation of the licensing requirements of this chapter. The amendment is needed to allow enforcement of the electrical licensure law. Under existing law the statute of limitations starts to run on the first day an individual violates the electrical licensure law and expires one year from that date. This change will stop the statute of limitation from running until a person ceases to violate the law. The change will also require a county attorney to prosecute violations of the licensing requirements upon the request of the State Electrical Board. The Department has had great difficulty in obtaining cooperation from some county attorneys in an effort to start prosecution for violations. In a recent case, a period of almost two years elapsed from the initial request by the Department prior to action by the county attorney. Another county attorney recently advised that he will no longer prosecute any license violations.

Sincerely,

BUILDING CODES BUREAU



James F. Brown, P.E.
Chief, Building Codes Bureau

JFB:kjs

cc: Senator John Harp

DEPARTMENT OF COMMERCE
BUILDING CODES BUREAU

EXHIBIT 3

DATE 1-26-93

HB SB 83



STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-3933
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HELENA, MONTANA 59620

January 6, 1993

Representative Steve Benedict
House Business and Economic Development Committee
Room 104, Capitol
Capitol Station
Helena, MT 59620

RE: Senate Bill 83

Dear Representative Benedict:

The State Electrical Board supports Senate Bill 83 introduced by Senator Harp. The proposed statute revisions would significantly enhance the Board's ability to bring about fulfillment of the purposes of Title 37, Chapter 68 and would reduce administrative costs.

The revision of 37-68-301 is to end the practice of referring persons for employment by others as electrical construction workers without regard as to whether those persons are licensed or not. By and large, this is the practice of organizations in the business of providing such referrals. This revision would reduce the Department's cost of monitoring for unlicensed persons and would better fulfill the Board's requirement under 37-68-101(4) to "assure the public that persons making electrical installations are qualified".

The revisions of 37-68-307, 37-68-310, 37-68-311 and 37-68-312 are to provide for renewal of electrical licenses every three years instead of annually. There is no compelling reason for annual renewal whereas it is logical to coincide license renewal with the every-three-year continuing education verification process. With these revisions, staffing requirements for license renewal processing would be reduced by two-thirds.

The revision of 37-68-322 is to allow a more orderly investigation and disposal of alleged violations of the provisions of Chapter 68. Currently in some matters, the statute of limitation occurs before action by the Board can be completed.

Very Truly Yours,

Handwritten signature of Charles T. Sweet in cursive.

Charles T. Sweet, Chairman
State Electrical Board

CTS:kjs

cc: Senator John Harp

Amendments to House Bill No. 190
First Reading Copy

EXHIBIT 4
DATE 1-26-93
HB 190

For the Committee on Business and Economic Development

Prepared by Paul Verdon
January 25, 1993

1. Title, line 6.
Following: "LICENSURE"
Insert: "OF LICENSED SOCIAL WORKERS AND"
2. Title, line 13.
Strike: "EFFECTIVE DATES"
Insert: "AN APPLICABILITY DATE"
3. Page 5, line 1.
Following: "of"
Insert: "or under a contract with"
4. Page 5, line 2.
Following: "agency"
Insert: ", "
Strike: "or"
5. Page 5, line 3.
Following: "institution"
Insert: ", or a health care facility licensed under the
provisions of Title 50, chapter 5,"
6. Page 6, lines 3 through 8.
Strike: subsection (4) in its entirety
7. Page 11, line 4.
Strike: "1993"
Insert: "1994"
8. Page 11, lines 5 and 6.
Strike: section 11 in its entirety

Amendments to House Bill No. 191
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
January 26, 1993

1. Title, line 12.
Following: ";"
Insert: "AND"

2. Title, lines 13 and 14.
Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 17, lines 11 and 12.
Strike: section 4 in its entirety

Legislative Audit Committee

State of Montana

Report to the Legislature

December 1992

Sunrise Report -- 1993 Biennium

Summary of Sunrise Proposals for the Licensure of:

- ▶ Crematoriums and Crematory Technicians
- ▶ Clinical Laboratory Science Practitioners
- ▶ Property Managers
- ▶ Denturists

Direct comments/inquiries to:
Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

Legislative Audit Committee

Montana State Legislature

Room 135, State Capitol
Helena, MT 59620
(406) 444-3122

SENATE MEMBERS

Senator Greg Jergeson, Chair
Senator Eve Franklin
Senator Lorents Grosfield
Senator Tom Keating

HOUSE MEMBERS

Representative John Cobb, Vice-Chair
Representative Larry Grinde
Representative Mike Kadas
Representative Robert Pavlovich

December 1992

The 53rd Montana State Legislature:

This report is in response to the Sunrise law which requires the Legislative Audit Committee to evaluate qualifying proposals to establish new professional or occupational licensing programs. The Committee must also review proposals to transfer licensing programs between existing licensing boards. During the 1993 Biennium, the Committee evaluated proposals to establish licensing programs for crematoriums and crematory technicians, clinical laboratory science practitioners, and property managers. The Committee also evaluated a proposal to transfer the regulation of denturists from the Board of Dentistry to the Alternative Health Care Board.

Section 2-8-203, MCA, requires the Committee to report to the legislature on its recommendations as to whether each of the professions or occupations should be licensed by the state. The Committee is to include in the report its estimates of the costs of each licensing program and a schedule of fees to recover these costs. The Committee's recommendations are shown on page 2. The Committee's estimates for costs and fees are shown on page 3.

Respectively submitted,



Senator Greg Jergeson, Chairman
Legislative Audit Committee



Representative John Cobb, Vice Chairman
Legislative Audit Committee

Legislative Audit Committee
SUNRISE -- 1993 BIENNIUM

Introduction

The intent of the Sunrise Law (Chapter 266, Laws of Montana 1987) was to improve the legislature's ability to evaluate the need for new professional and occupational licensing programs. Under this law, the Legislative Audit Committee is required to evaluate any qualifying proposal to: 1) establish a new licensing board; 2) add another occupation or profession to an existing board; 3) consolidate any existing licensing boards; or 4) transfer a licensing program between existing licensing boards.

In order for a proposal to qualify for review, the applicant must submit the proposal in the form of a report to the Legislative Audit Committee at least 180 days before the start of the legislative session. The report must provide information to the Committee related to the need for licensure and how the proposed board will operate. For consolidation or transfer proposals the report must describe the benefits of the proposal. Each proposal must include an application fee.

After the Legislative Audit Committee receives the completed report and application fee, the Committee will hold a public meeting to consider the report. The Committee hears testimony from the applicant and any other interested parties. The Committee considers information presented in the applicant's report and testimony given at the public hearing to make its recommendation as to whether the profession or occupation should be licensed. For consolidation or transfer proposals the Committee can recommend the legislature adopt the proposal or adopt some modification of the proposal. Section 2-8-203, MCA, requires the Committee to make its recommendation in a report to the legislature for its next regular session. The report must also include an estimate of the cost to the state for each of the licensing programs along with a proposed schedule of fees that will recover the costs of each program.

Public Hearings

On October 19, 1992, the Legislative Audit Committee heard testimony concerning proposals to license crematoriums and crematory technicians and clinical laboratory science practitioners. On November 20, 1992, the Committee heard testimony concerning a proposal to license property managers and a proposal to transfer regulation of denturists to the Alternative Health Care Board. The Committee voted on its recommendations for the first two proposals at its November meeting. Final Committee action related to Sunrise was taken at the Committee's meeting on December 21, 1992.

The following is a summary of Committee action and recommendations for the four professions which went through the Sunrise process

during the 1993 biennium. Also presented are the Committee's estimates on projected costs for each of the licensing proposals and the estimated fees to cover those costs.

Clinical Laboratory Science Practitioners

A motion was made by Senator Svrcek to recommend licensure for clinical laboratory science practitioners. The motion carried with a unanimous vote.

Crematoriums and Crematory Technicians

A motion was made by Representative Pavlovich to recommend licensure for crematoriums and crematory technicians. The motion carried with a 7 - 0 vote and one abstention.

Denturists

A motion was made by Representative Pavlovich to not recommend the transfer of regulation of denturists from the Board of Dentistry to the Alternative Health Care Board. The motion carried with a unanimous vote.

Committee discussion after this motion indicated the applicant may bring other alternatives before the 1993 Legislature.

Property Managers

A motion was made by Representative Kadas to recommend licensure for property managers. The motion carried with a unanimous vote.

Licensing Program Costs and Fees

The Committee and the Department of Commerce reviewed the cost information provided by the applicants. The Committee believes the final figures are reasonable estimates of the yearly costs for the new licensing programs. To cover the costs of these new programs, the applicants and department staff estimated the necessary licensing fees. The Committee believes the fees presented in the following chart are reasonable and will comply with section 37-1-134, MCA, which requires fees to be commensurate with costs.

SUNRISE PROPOSALS -- PROJECTED EXPENDITURES AND REVENUES

Profession	-----Expenditures-----		-----Revenues-----					
	1st Year	2nd Year	Fee Types	Fee Amounts	No of 1st yr	Amount 1st yr	No of 2nd Yr	Amount 2nd Yr
Clinical Laboratory Practitioners	\$27,615	\$25,700	Application	\$35	900	\$31,500	10	\$350
			License	\$10	900	\$9,000	10	\$100
			Temp. Permit	\$100	10	\$1,000	10	\$1,000
			Renewal	\$30	0	\$0	900	\$27,000
			Late Renewal	\$30	0	\$0	50	\$1,500
					Total	\$41,500		\$29,950
Crematoriums	\$1,932 *	\$1,632 *	Crematory App	\$100	13	\$1,300	0	\$0
			Crematory Renew	\$100	0	\$0	13	\$1,300
			Technician App	\$60	5	\$300	0	\$0
			Technician Renew	\$60	0	\$0	5	\$300
					Total	\$1,600		\$1,600
Property Managers	\$19,958 *	\$7,293 *	Applic & Exam	\$40	250	\$10,000	30	\$1,200
			License	\$40	250	\$10,000	30	\$1,200
			Renewal	\$20	0	\$0	250	\$5,000
					Total	\$20,000		\$7,400

* Additional costs for licensing a new profession under an existing board

Note: Denturists are not shown since the Legislative Audit Committee did not recommend a change in the regulation of denturists.

EXHIBIT 6
 DATE 1/26/93
 SB 45

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Elec

COMMITTEE

BILL NO. SB 83

DATE 1-26-93 SPONSOR(S)

Sen. Harp

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Rick KOPEL. CAPITOL STATION, BUILDING CODES	DEPARTMENT OF COMMERCE HELENA	✓	
JOHN ALLEN ALLEN ELECTRIC	SELF	✓	
DAN SWEET 315 LAKE BLAINE ROAD KAUSPELL MT	CHAIRMAN STATE ELECTRICAL BOARD	✓	
Kent Pellegrino P.O. Box 1249 Helena 59624	Manager MT Chapter NECA	✓	
Jim Brown Capitol Station	Bldg. Code Bureau	Institution	
Tom McNab	Mt. Technical Council	✓	

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HOUSE OF REPRESENTATIVES
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COMMITTEE

BILL NO. HB 191

DATE 1-26-93 SPONSOR(S)

Rep. Bill Strick

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Joe McKenney 2109 Vaughn Rd North Central Gaming G.F.	North Central Gaming	✓	
LARRY AKEY	MONTANA COIN MACHINE OPERATORS ASSOC	✓	
Dennis Akey	Gaming Industry Assoc	✓	
Biff Roper	Self		
Gloria Sherman	Role of the Future	✓	

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