

SENATE BILL NO. 427

INTRODUCED BY RASMUSSEN, BENGTSON, RAPP-SVRCEK, KEATING

BY REQUEST OF SENATE STATE ADMINISTRATION COMMITTEE

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
FEBRUARY 28, 1989	FIRST READING.
MARCH 14, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 18, 1989	SECOND READING, CONCURRED IN.
MARCH 21, 1989	THIRD READING, CONCURRED IN. AYES, 90; NOES, 5.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 4, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

APRIL 5, 1989

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 6, 1989

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 12, 1989

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 13, 1989

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT REJECTED.

IN THE HOUSE

APRIL 13, 1989

FREE CONFERENCE  
COMMITTEE REPORT REJECTED.

IN THE SENATE

APRIL 19, 1989

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

ON MOTION, RULES SUSPENDED AND BILL  
PLACED ON THIRD READING THIS DAY.

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1989

FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senat* BILL NO. *427*  
 2 INTRODUCED BY *Rasmussen, Brighton Rapp-Sinich*  
 3 BY REQUEST OF SENATE STATE ADMINISTRATION COMMITTEE  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SUNRISE  
 6 PROVISIONS RELATING TO LICENSING OF PROFESSIONS AND PROPOSED  
 7 NEW BOARDS; AMENDING SECTIONS 2-8-203 THROUGH 2-8-205,  
 8 2-8-207, AND 2-8-208, MCA; AND REPEALING SECTION 2-8-206,  
 9 MCA."  
 10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 2-8-203, MCA, is amended to read:

13 "2-8-203. Committee review and report. (1) The Except  
 14 as provided in subsection (5), the committee shall review  
 15 and assess the merits of any proposal to:

16 (a) establish a new licensing board; or

17 ~~(b) initiate a legislative or executive department~~  
 18 ~~study of the need for a new licensing board; or~~

19 ~~(c)(b)~~ add to the duties of an existing licensing board  
 20 responsibility for licensing another occupation or  
 21 profession.

22 (2) Any proposal subject to review under subsection (1)  
 23 must be submitted, in the form of a legislative proposal  
 24 report, to the committee at least 180 days before the first  
 25 day of the next regular legislative session.

1 (3) The committee shall conduct the review required by  
 2 subsection (1) only if the proposal report includes:

3 ~~(a) a written request by a senator whose term will not~~  
 4 ~~expire before the next regular legislative session or by a~~  
 5 ~~senator or representative who is not opposed in the next~~  
 6 ~~general election;~~

7 ~~(b)(a)~~ the information required by 2-8-204~~(1)~~; and

8 ~~(c)(b)~~ a completed application as provided in 2-8-205.

9 ~~(4) Within 90 days after the proposal is received, the~~  
 10 The committee shall prepare a draft report to the  
 11 legislature for its next regular session. The report must  
 12 include but is not limited to:

13 ~~(a) the committee's findings with respect to each of~~  
 14 ~~the criteria in 2-8-204;~~

15 ~~(b) an(a)~~ the committee's estimate of the cost to the  
 16 state of licensing the occupation or profession and a  
 17 proposed schedule of fees that will recover the cost of the  
 18 licensing program as required by 37-1-134; and

19 ~~(c)(b)~~ the committee's recommendation as to whether the  
 20 profession or occupation should be licensed by the state.

21 ~~(5) If the volume of requests makes it impossible to~~  
 22 ~~prepare all the required reports within 90 days, the~~  
 23 ~~committee may extend the time for preparation of a report to~~  
 24 ~~a maximum of 120 days from the date a request is received~~  
 25 The provisions of this part do not apply to an agency,

1 profession, or occupation that is required to be licensed or  
2 regulated by federal law."

3 **Section 2.** Section 2-8-204, MCA, is amended to read:

4 "2-8-204. Criteria for committee assessment. (1) The  
5 applicant shall demonstrate to the committee and if  
6 necessary furnish additional information requested by the  
7 committee to show that:

8 (a) the unregulated practice of the occupation or  
9 profession creates a direct, immediate hazard to the public  
10 health, safety, or welfare;

11 (b) the scope of practice is readily identified and  
12 easily distinguished from the scope of practice of other  
13 professions and occupations;

14 (c) the occupational or professional group has an  
15 established code of ethics, a voluntary certification  
16 program, or other measures to ensure a minimum quality of  
17 service;

18 (d) practice of the occupation or profession requires  
19 specialized skill or training, and nationally recognized  
20 standards of education and training exist;

21 (e) the proposed qualifications for obtaining a license  
22 are justified;

23 (f) the public will benefit from the proposed  
24 regulation of the occupation or profession;

25 (g) public support for the proposed licensure exists;

1 (h) licensing will not significantly increase the cost  
2 of services to the public; and

3 (i) no other board licenses a similar or closely  
4 related occupation or profession.

5 (2) ~~in--assessing--the--merits--of--the--proposal--for--a--new~~  
6 ~~licensing--board--the--committee~~ The applicant shall evaluate  
7 ~~the--applicant's--information--for--each--of--the--factors--listed~~  
8 ~~in--subsection--(1)--and--in--addition~~ determine or estimate:

9 (a) the number of existing practitioners and the  
10 approximate number of people who would be licensed in the  
11 future;

12 (b) the number of people who are likely to use the  
13 services of the occupation or profession;

14 (c) the manner and degree of improved quality of  
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17 clients' access to reimbursement for government assistance  
18 programs;

19 (e) whether a substantial majority of the public has  
20 the knowledge or experience to evaluate the practitioner's  
21 competence;

22 (f) whether the public can effectively be protected by  
23 other means; and

24 (g) whether licensing will:

25 (i) significantly increase the cost of goods and

services provided by the occupation or profession;

(ii) adversely affect the scope of practice of other professions and occupations, whether regulated or not; or

(iii) exclude existing practitioners or otherwise reduce the number of practitioners in Montana.

(3) The committee shall consider in its assessment each of the factors in subsections (1) and (2) ~~and shall include in its final report specific findings with respect to each of those factors.~~"

**Section 3.** Section 2-8-205, MCA, is amended to read:

"2-8-205. Procedure. (1) The committee shall adopt an appropriate form for use by applicants, containing a copy of this part and requiring applicants to list:

(a) proposed qualifications of licensed practitioners;

(b) disciplinary procedures that would be applied to practitioners;

(c) proposed requirements for continuing education, if any; and

(d) the information required by 2-8-204.

(2) After the committee has initiated its review under 2-8-203, it may request any additional information it considers necessary to complete its assessment of the proposal.

(3) The committee ~~may in its discretion~~ shall hold at least one or more public hearings during which the

applicant and members of the public have an opportunity to testify.

~~(4) At least 21 days before its final report is presented to the legislature, the committee shall provide an opportunity for the applicant to review a preliminary draft of the report and prepare a response. The committee shall consider all responses in preparing its final report.~~

(5)(4) At least one copy of the final report must be kept on file with the legislative auditor and made available for public inspection."

**Section 4.** Section 2-8-207, MCA, is amended to read:

"2-8-207. Consolidation of existing boards. Any person or organization may propose consolidation of two or more existing boards. The provisions of 2-8-202 through 2-8-206 2-8-205 apply to such a proposal, except that:

(1) the committee shall designate a representative of each of the occupations or professions regulated by the licensing boards proposed for consolidation, and each representative must be treated as an applicant for purposes of 2-8-202 through 2-8-206 2-8-205; and

(2) the committee shall weigh the merits of the proposed consolidation against the merits of retaining a separate licensing board for each affected occupation or profession and in its final report recommend to the legislature:

- 1 (a) the proposed consolidation;
- 2 (b) continuation of the existing licensing boards; or
- 3 (c) a modification of the proposed consolidation."

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5 "2-8-208. Boards or licensing functions instituted by  
6 initiative. (1) If an initiative to establish a new  
7 licensing board or to add a new licensing responsibility to  
8 the duties of an existing licensing board is approved by the  
9 electorate, the committee shall:

10 (a) review the initiative to assess the degree to which  
11 it meets the criteria in 2-8-204(1);

12 (b) request that the petitioners provide sufficient  
13 information from practitioners or other persons to allow  
14 the committee to make the an assessment of the  
15 determinations or estimates as required by 2-8-204(2)(3);  
16 and

17 (c) evaluate the petitioners' initiative in terms of:

18 (i) clarity and conciseness;

19 (ii) conformity to existing statutes and principles of  
20 administrative law; and

21 (iii) specificity of the delegation of authority to  
22 promulgate rules and set fees.

23 (2) The committee shall prepare a report to the next  
24 session of the legislature. The report must include:

25 (a) the committee's findings with respect to each of

1 the criteria in 2-8-204;

2 (b) an estimate of the petitioners' cost to the state  
3 of licensing the occupation or profession and a proposed  
4 schedule of fees that will cover the cost of the licensing  
5 program as required by 37-1-134;

6 (c) the committee's recommendation as to whether the  
7 initiative should be amended; and

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9 proposal.

10 (3) Committee recommendations for amendments to the  
11 initiative must be incorporated in a bill introduced during  
12 the next session of the legislature by--request--of--the  
13 committee."

14 **NEW SECTION. Section 6. Repealer.** Section 2-8-206,  
15 MCA, is repealed.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB427, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

SB427 would revise the sunrise provisions relating to licensing of professions and proposed new boards.

ASSUMPTIONS:

1. The Department of Commerce will be required to prepare an analysis of the cost of a new board under the proposed law sunrise provisions or during the fiscal note process of the legislature.
2. Preparation of cost estimates will be done more thoroughly and with less pressure under the proposed law when the legislature is not in session.
3. The department's work activities will be less disrupted during the legislative session if this work were to be completed prior to the session.
4. Based on the above assumptions, there will be no fiscal impact on the department.

FISCAL IMPACT: None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Pre-review of new boards could save the department time and money in the future as a result of more thorough analysis and planning.

*Ray Shackelford*

DATE 2/20/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

*Tom Rasmussen*

DATE 2-20-89

TOM RASMUSSEN, PRIMARY SPONSOR

Fiscal Note for SB427, as introduced

**SB 427**

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

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**NEW SECTION. Section 6.** Repealer. Section 2-8-206, MCA, is repealed.

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OFFICE OF THE GOVERNOR  
BUDGET AND PROGRAM PLANNING



STAN STEPHENS, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

M E M O R A N D U M

TO: Senator Gene Thayer

FROM: Dave Lewis, Director *Dave Lewis*  
Office of Budget and Program Planning

RE: Fiscal Impact of amendments to SB428, third reading.

DATE: March 16, 1989

The amendments to SB428 will remove from section 12 consideration of the Premium Tax on Private Carriers, \$2,170,000 in FY90 and \$2,388,000 in FY91. This Premium Tax will remain in the State Auditor's Office and be reverted to the General Fund.

Assuming that the Assigned Risk Plan in Section 13 will be implemented January 1, 1990, the Premium Tax on the State Fund will be imposed. The Premium Tax on the State Fund will generate approximately \$2,987,000 in FY90 and \$3,435,000 in FY91, which will be reverted to the General Fund. This is contingent upon implementing the Assigned Risk Plan. Operating costs for the State Fund and the State Auditor's Office will remain unchanged. The revenue reflected in the fiscal note for SB428 will be reduced by the Premium Tax on Private Carriers of \$2,170,000 in FY90 and the \$2,388,000 in FY91.

The net impact of the amendments to the fiscal note will be to reduce the contribution to the unfunded liability by \$5,131,244 in FY90 and \$5,770,074 in FY91, and revert the Premium Tax on the State Fund collected to the General Fund by \$2,987,000 in FY90 and \$3,435,000 in FY91.

*Gene Thayer*

## SENATE BILL NO. 427

INTRODUCED BY RASMUSSEN, BENGTSON, RAPP-SVRCEK, KEATING

BY REQUEST OF SENATE STATE ADMINISTRATION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SUNRISE PROVISIONS RELATING TO LICENSING OF PROFESSIONS AND PROPOSED NEW BOARDS; AND AMENDING SECTIONS 2-8-203 THROUGH 2-8-205, 2-8-207, AND 2-8-208, MCA, AND ~~REPEALING SECTION 2-8-206, MCA.~~"

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~~(a) a written request by a senator whose term will not expire before the next regular legislative session or by a senator or representative who is not opposed in the next general election;~~

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(b) disciplinary procedures that would be applied to practitioners;

(c) proposed requirements for continuing education, if any; and

(d) the information required by 2-8-204.

(2) After the committee has initiated its review under 2-8-203, it may request any additional information it considers necessary to complete its assessment of the proposal.

(3) The committee ~~may in its discretion~~ shall hold at

least one or more public hearings hearing during which the applicant and members of the public have an opportunity to testify.

~~(4) At least 21 days before its final report is presented to the legislature, the committee shall provide an opportunity for the applicant to review a preliminary draft of the report and prepare a response. The committee shall consider all responses in preparing its final report.~~

~~(5)~~ (4) At least one copy of the final report must be kept on file with the legislative auditor and made available for public inspection."

**Section 4.** Section 2-8-207, MCA, is amended to read:

**"2-8-207. Consolidation of existing boards.** Any person or organization may propose consolidation of two or more existing boards. The provisions of 2-8-202 through ~~2-8-206~~ 2-8-205 apply to such a proposal, except that:

(1) the committee shall designate a representative of each of the occupations or professions regulated by the licensing boards proposed for consolidation, and each representative must be treated as an applicant for purposes of 2-8-202 through ~~2-8-206~~ 2-8-205; and

(2) the committee shall weigh the merits of the proposed consolidation against the merits of retaining a separate licensing board for each affected occupation or profession and in its final report recommend to the

1 legislature:

- 2 (a) the proposed consolidation;  
 3 (b) continuation of the existing licensing boards; or  
 4 (c) a modification of the proposed consolidation."

5 **Section 5.** Section 2-8-208, MCA, is amended to read:

6 "2-8-208. Boards or licensing functions instituted by  
 7 initiative. (1) If an initiative to establish a new  
 8 licensing board or to add a new licensing responsibility to  
 9 the duties of an existing licensing board is approved by the  
 10 electorate, the committee shall:

11 (a) review the initiative to assess the degree to  
 12 which it meets the criteria in 2-8-204(1);

13 (b) request that the petitioners provide sufficient  
 14 information from practitioners or other persons to allow  
 15 the committee to make the an assessment of the  
 16 determinations or estimates as required by 2-8-204(2)(3);  
 17 and

18 (c) evaluate the petitioners' initiative in terms of:

- 19 (i) clarity and conciseness;  
 20 (ii) conformity to existing statutes and principles of  
 21 administrative law; and  
 22 (iii) specificity of the delegation of authority to  
 23 promulgate rules and set fees.

24 (2) The committee shall prepare a report to the next  
 25 session of the legislature. The report must include:

1 (a) the committee's findings with respect to each of  
 2 the criteria in 2-8-204;

3 (b) an estimate of the petitioners' cost to the state  
 4 of licensing the occupation or profession and a proposed  
 5 schedule of fees that will cover the cost of the licensing  
 6 program as required by 37-1-134;

7 (c) the committee's recommendation as to whether the  
 8 initiative should be amended; and

9 (d) if amendments are recommended, a legislative  
 10 proposal.

11 (3) Committee recommendations for amendments to the  
 12 initiative must be incorporated in a bill introduced during  
 13 the next session of the legislature ~~by request of the~~  
 14 ~~committee.~~"

15 ~~NEW SECTION. Section 6. Repealer. Section 2-8-206,~~  
 16 ~~MCA, is repealed.~~

17 **SECTION 6.** SECTION 2-8-206, MCA, IS AMENDED TO READ:

18 "2-8-206. Application fee. An application for review  
 19 under 2-8-203 must include an application fee ~~established by~~  
 20 ~~the committee in an amount not to exceed \$6,500. The fee~~  
 21 ~~must be used by the committee to pay the cost of the review,~~  
 22 ~~and any unused portion must be refunded to the applicant, of~~  
 23 \$500."

-End-



STANDING COMMITTEE REPORT

March 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that SENATE BILL 427 (third reading copy -- blue) be concurred in as amended .

Signed: Jan Brown  
Jan Brown, Chairman

[REP. R. NELSON WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 7, lines 15 and 16.

Strike: "of" on line 15 through "estimates" on line 16

2. Page 8, line 3.

Strike: "petitioners'"

3. Page 8, line 23.

Strike: "\$500"

Insert: "\$2,000. The fee must be used by the committee to pay the cost of the review, and any unused portion must be refunded to the applicant"

**SB 427**  
**HOUSE**

SENATE BILL NO. 427

INTRODUCED BY RASMUSSEN, BENGTSON, RAPP-SVRCEK, KEATING

BY REQUEST OF SENATE STATE ADMINISTRATION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SUNRISE PROVISIONS RELATING TO LICENSING OF PROFESSIONS AND PROPOSED NEW BOARDS; AND AMENDING SECTIONS 2-8-203 THROUGH 2-8-205, 2-8-207, AND 2-8-208, MCA; AND REPEALING SECTION 2-8-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-8-203, MCA, is amended to read:

"2-8-203. Committee review and report. (1) The Except as provided in subsection (5), the committee shall review and assess the merits of any proposal to:

(a) establish a new licensing board; or

~~(b) initiate a legislative or executive department study of the need for a new licensing board; or~~

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

(2) Any proposal subject to review under subsection (1) must be submitted, in the form of a legislative proposal report, to the committee at least 180 days before the first day of the next regular legislative session.

(3) The committee shall conduct the review required by subsection (1) only if the proposal report includes:

~~(a) a written request by a senator whose term will not expire before the next regular legislative session or by a senator or representative who is not opposed in the next general election;~~

~~(b)(a)~~ the information required by 2-8-204~~(1)~~; and

~~(c)(b)~~ a completed application as provided in 2-8-205.

(4) ~~Within 90 days after the proposal is received, the~~ The committee shall prepare a draft report to the legislature for its next regular session. The report must include but is not limited to:

~~(a) the committee's findings with respect to each of the criteria in 2-8-204;~~

~~(b)~~ an(a) the committee's estimate of the cost to the state of licensing the occupation or profession and a proposed schedule of fees that will recover the cost of the licensing program as required by 37-1-134; and

~~(c)(b)~~ the committee's recommendation as to whether the profession or occupation should be licensed by the state.

(5) ~~if the volume of requests makes it impossible to prepare all the required reports within 90 days, the committee may extend the time for preparation of a report to a maximum of 120 days from the date a request is received~~

The provisions of this part do not apply to an agency, profession, or occupation that is required to be licensed or regulated by federal law."

**Section 2.** Section 2-8-204, MCA, is amended to read:

"2-8-204. Criteria for committee assessment. (1) The applicant shall demonstrate to the committee and if necessary furnish additional information requested by the committee to show that:

(a) the unregulated practice of the occupation or profession creates a direct, immediate hazard to the public health, safety, or welfare;

(b) the scope of practice is readily identified and easily distinguished from the scope of practice of other professions and occupations;

(c) the occupational or professional group has an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service;

(d) practice of the occupation or profession requires specialized skill or training, and nationally recognized standards of education and training exist;

(e) the proposed qualifications for obtaining a license are justified;

(f) the public will benefit from the proposed regulation of the occupation or profession;

(g) public support for the proposed licensure exists;

(h) licensing will not significantly increase the cost of services to the public; and

(i) no other board licenses a similar or closely related occupation or profession.

(2) ~~In--assessing-the-merits-of-the-proposal-for-a-new licensing-board,-the-committee~~ The applicant shall evaluate ~~the--applicant's--information-for-each-of-the-factors-listed in-subsection-(1)-and-in-addition~~ determine or estimate:

(a) the number of existing practitioners and the approximate number of people who would be licensed in the future;

(b) the number of people who are likely to use the services of the occupation or profession;

(c) the manner and degree of improved quality of service;

(d) the degree to which licensing will facilitate clients' access to reimbursement for government assistance programs;

(e) whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence;

(f) whether the public can effectively be protected by other means; and

(g) whether licensing will:

(i) significantly increase the cost of goods and services provided by the occupation or profession;

(ii) adversely affect the scope of practice of other professions and occupations, whether regulated or not; or

(iii) exclude existing practitioners or otherwise reduce the number of practitioners in Montana.

(3) The committee shall consider in its assessment each of the factors in subsections (1) and (2) and ~~shall include in its final report specific findings with respect to each of those factors.~~"

**Section 3.** Section 2-8-205, MCA, is amended to read:

"2-8-205. Procedure. (1) The committee shall adopt an appropriate form for use by applicants, containing a copy of this part and requiring applicants to list:

(a) proposed qualifications of licensed practitioners;

(b) disciplinary procedures that would be applied to practitioners;

(c) proposed requirements for continuing education, if any; and

(d) the information required by 2-8-204.

(2) After the committee has initiated its review under 2-8-203, it may request any additional information it considers necessary to complete its assessment of the proposal.

(3) The committee ~~may in its discretion~~ shall hold at

least one or more public hearings hearing during which the applicant and members of the public have an opportunity to testify.

~~(4) At least 21 days before its final report is presented to the legislature, the committee shall provide an opportunity for the applicant to review a preliminary draft of the report and prepare a response. The committee shall consider all responses in preparing its final report.~~

~~(5)~~ (4) At least one copy of the final report must be kept on file with the legislative auditor and made available for public inspection."

**Section 4.** Section 2-8-207, MCA, is amended to read:

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(1) the committee shall designate a representative of each of the occupations or professions regulated by the licensing boards proposed for consolidation, and each representative must be treated as an applicant for purposes of 2-8-202 through ~~2-8-206~~ 2-8-205; and

(2) the committee shall weigh the merits of the proposed consolidation against the merits of retaining a separate licensing board for each affected occupation or profession and in its final report recommend to the

1 legislature:

- 2 (a) the proposed consolidation;  
 3 (b) continuation of the existing licensing boards; or  
 4 (c) a modification of the proposed consolidation."

5 **Section 5.** Section 2-8-208, MCA, is amended to read:

6 "2-8-208. Boards or licensing functions instituted by  
 7 initiative. (1) If an initiative to establish a new  
 8 licensing board or to add a new licensing responsibility to  
 9 the duties of an existing licensing board is approved by the  
 10 electorate, the committee shall:

11 (a) review the initiative to assess the degree to  
 12 which it meets the criteria in 2-8-204(1);

13 (b) request that the petitioners provide sufficient  
 14 information from practitioners or other persons to allow the  
 15 committee to make the an assessment of the determinations or  
 16 estimates as required by 2-8-204(2)(3); and

17 (c) evaluate the petitioners' initiative in terms of:

- 18 (i) clarity and conciseness;  
 19 (ii) conformity to existing statutes and principles of  
 20 administrative law; and  
 21 (iii) specificity of the delegation of authority to  
 22 promulgate rules and set fees.

23 (2) The committee shall prepare a report to the next  
 24 session of the legislature. The report must include:

25 (a) the committee's findings with respect to each of

1 the criteria in 2-8-204;

2 (b) an estimate of the petitioners' cost to the state  
 3 of licensing the occupation or profession and a proposed  
 4 schedule of fees that will cover the cost of the licensing  
 5 program as required by 37-1-134;

6 (c) the committee's recommendation as to whether the  
 7 initiative should be amended; and

8 (d) if amendments are recommended, a legislative  
 9 proposal.

10 (3) Committee recommendations for amendments to the  
 11 initiative must be incorporated in a bill introduced during  
 12 the next session of the legislature ~~by--request--of--the~~  
 13 ~~committee."~~

14 ~~NEW-SECTION--Section 6--Repealer--Section--2-8-206,~~  
 15 ~~MCA,--is-repealed--~~

16 **SECTION 6.** SECTION 2-8-206, MCA, IS AMENDED TO READ:

17 "2-8-206. Application fee. An application for review  
 18 under 2-8-203 must include an application fee ~~established-by~~  
 19 ~~the-committee-in-an-amount-not-to-exceed--\$6,500--The--fee~~  
 20 ~~must-be-used-by-the-committee-to-pay-the-cost-of-the-review,~~  
 21 ~~and-any-unused-portion-must-be-refunded-to-the-applicant, of~~  
 22 \$500 \$2,000. THE FEE MUST BE USED BY THE COMMITTEE TO PAY  
 23 THE COST OF THE REVIEW, AND ANY UNUSED PORTION MUST BE  
 24 REFUNDED TO THE APPLICANT."

-End-

Free Conference Committee Report  
on SB 427  
Report No. 1, April 9, 1989  
page 1 of 2

FREE CONFERENCE COMMITTEE, SB 427  
April 9, 1989  
page 2 of 2

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 427 met and considered:

The House Committee on State Administration amendments to SB 427  
(third reading copy -- blue) dated March 14, 1989.

We recommend that:

House amendments Nos. 1 and 2 be accepted;

House amendment No. 3 be rejected; and

that SB 427 (reference copy -- salmon) be amended as follows:

1. Title, line 7.

Following: "SECTIONS"

Strike: "2-8-203"

Insert: "2-8-202"

2. Page 1, line 12.

Following, line 11

Insert: "Section 1. Section 2-8-202, MCA, is amended to read:

"2-8-202. Definitions. In this part, the following definitions apply:

(1) "Applicant" means the persons or organization proposing state licensing for an occupation or profession.

(2) "Committee" means the legislative audit committee.

(3) "License" means a permit, certificate, approval, registration, charter, or other form of permission required by law as a condition of practicing a profession or occupation.

(4) "Licensing" means a regulatory process that includes but is not limited to the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(5) "Licensing board" means an office, position, commission, or any other entity or instrumentality of the executive branch of state government that is responsible for licensing members of an occupation or profession.

(6) "Occupation" or "profession" means a trade in which a person or organization provides human health-related services."

Renumber; subsequent sections

3. Page 8, line 22.

Strike: "\$2,000"

Insert: "\$1,000"

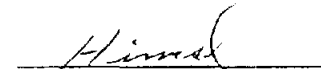
And that this Conference Committee Report be adopted.

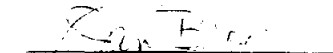
FOR THE SENATE

FOR THE HOUSE

  
Sen. Rasmussen, Chairman

  
Rep. Harper

  
Sen. Himsel

  
Rep. Jan Brown

  
Sen. Jacobson

  
Rep. Richard Nelson

ADOPT

REJECT

Free Conference Committee Report  
on SB 427  
Report No. 2, April 19, 1989

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 427 met and considered:

The House Committee on State Administration amendments to SB 427  
(third reading copy -- blue) dated March 14, 1989.

We recommend that SB 427 (reference copy -- salmon) be amended as follows:

1. Page 1, line 11.

Following: line 10

Insert: "

STATEMENT OF INTENT

Although this bill grants no authority to adopt rules, the legislature intends that the legislative audit committee, upon receiving a report from an applicant, only be required to hold a public hearing and make a determination of the need for a new board or the potential for public harm if the applicant remains unlicensed. The legislature also intends that the office of the legislative auditor may not perform an audit of the application."

2. Page 8, line 22.


Strike: "\$2,000"

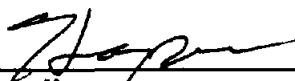
Insert: "\$1,000"

And that this Conference Committee Report be adopted.

FOR THE SENATE

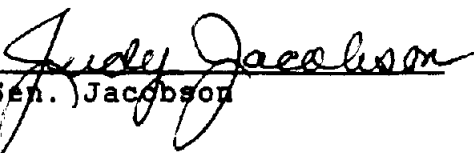
FOR THE HOUSE

  
Sen. Rasmussen, Chairman

  
Rep. Harper

  
Sen. Himsel

  
Rep. Jan Brown

  
Sen. Jacobson

  
Rep. Richard Nelson

ADOPT

REJECT

SB 427  
fccsb427.419

## SENATE BILL NO. 427

INTRODUCED BY RASMUSSEN, BENGTSON, RAPP-SVRCEK, KEATING

BY REQUEST OF SENATE STATE ADMINISTRATION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SUNRISE PROVISIONS RELATING TO LICENSING OF PROFESSIONS AND PROPOSED NEW BOARDS; AND AMENDING SECTIONS 2-8-203 THROUGH 2-8-205, 2-8-207, ~~AND~~ 2-8-208, MCA; ~~AND~~ ~~REPEALING~~ ~~SECTION~~ ~~2-8-206~~, MEA."

## STATEMENT OF INTENT

Although this bill grants no authority to adopt rules, the legislature intends that the legislative audit committee, upon receiving a report from an applicant, only be required to hold a public hearing and make a determination of the need for a new board or the potential for public harm if the applicant remains unlicensed. The legislature also intends that the office of the legislative auditor may not perform an audit of the application.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-8-203, MCA, is amended to read:

"2-8-203. Committee review and report. (1) The Except as provided in subsection (5), the committee shall review and assess the merits of any proposal to:

(a) establish a new licensing board; or

~~(b) initiate a legislative or executive department study of the need for a new licensing board; or~~

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

(2) Any proposal subject to review under subsection (1) must be submitted, in the form of a legislative proposal report, to the committee at least 180 days before the first day of the next regular legislative session.

(3) The committee shall conduct the review required by subsection (1) only if the proposal report includes:

~~(a) a written request by a senator whose term will not expire before the next regular legislative session or by a senator or representative who is not opposed in the next general election;~~

~~(b)~~ (a) the information required by 2-8-204~~(1)~~; and~~(c)~~ (b) a completed application as provided in 2-8-205.

(4) ~~Within 90 days after the proposal is received, the~~ The committee shall prepare a draft report to the legislature for its next regular session. The report must include but is not limited to:

~~(a) the committee's findings with respect to each of the criteria in 2-8-204;~~

~~(b)~~ an (a) the committee's estimate of the cost to the



1 state of licensing the occupation or profession and a  
2 proposed schedule of fees that will recover the cost of the  
3 licensing program as required by 37-1-134; and

4 ~~(c)~~(b) the committee's recommendation as to whether  
5 the profession or occupation should be licensed by the  
6 state.

7 (5) ~~If--the--volume-of-requests-makes-it-impossible-to~~  
8 ~~prepare--all--the--required--reports--within--90--days,--the~~  
9 ~~committee-may-extend-the-time-for-preparation-of-a-report-to~~  
10 ~~a--maximum--of--120-days-from-the-date-a-request-is-received~~  
11 The provisions of this part do not apply to an agency,  
12 profession, or occupation that is required to be licensed or  
13 regulated by federal law."

14 **Section 2.** Section 2-8-204, MCA, is amended to read:

15 "2-8-204. Criteria for committee assessment. (1) The  
16 applicant shall demonstrate to the committee and if  
17 necessary furnish additional information requested by the  
18 committee to show that:

19 (a) the unregulated practice of the occupation or  
20 profession creates a direct, immediate hazard to the public  
21 health, safety, or welfare;

22 (b) the scope of practice is readily identified and  
23 easily distinguished from the scope of practice of other  
24 professions and occupations;

25 (c) the occupational or professional group has an

1 established code of ethics, a voluntary certification  
2 program, or other measures to ensure a minimum quality of  
3 service;

4 (d) practice of the occupation or profession requires  
5 specialized skill or training, and nationally recognized  
6 standards of education and training exist;

7 (e) the proposed qualifications for obtaining a  
8 license are justified;

9 (f) the public will benefit from the proposed  
10 regulation of the occupation or profession;

11 (g) public support for the proposed licensure exists;

12 (h) licensing will not significantly increase the cost  
13 of services to the public; and

14 (i) no other board licenses a similar or closely  
15 related occupation or profession.

16 (2) ~~In-assessing-the-merits-of-the-proposal-for-a--new~~  
17 ~~licensing--board,--the-committee~~ The applicant shall evaluate  
18 ~~the-applicant's-information-for-each-of-the--factors--listed~~  
19 ~~in-subsection-(1)-and-in-addition~~ determine or estimate:

20 (a) the number of existing practitioners and the  
21 approximate number of people who would be licensed in the  
22 future;

23 (b) the number of people who are likely to use the  
24 services of the occupation or profession;

25 (c) the manner and degree of improved quality of

1 service;

2 (d) the degree to which licensing will facilitate  
3 clients' access to reimbursement for government assistance  
4 programs;

5 (e) whether a substantial majority of the public has  
6 the knowledge or experience to evaluate the practitioner's  
7 competence;

8 (f) whether the public can effectively be protected by  
9 other means; and

10 (g) whether licensing will:

11 (i) significantly increase the cost of goods and  
12 services provided by the occupation or profession;

13 (ii) adversely affect the scope of practice of other  
14 professions and occupations, whether regulated or not; or

15 (iii) exclude existing practitioners or otherwise  
16 reduce the number of practitioners in Montana.

17 (3) The committee shall consider in its assessment  
18 each of the factors in subsections (1) and (2) ~~and shall~~  
19 ~~include in its final report specific findings with respect~~  
20 ~~to each of these factors."~~

21 **Section 3.** Section 2-8-205, MCA, is amended to read:

22 **"2-8-205. Procedure.** (1) The committee shall adopt an  
23 appropriate form for use by applicants, containing a copy of  
24 this part and requiring applicants to list:

25 (a) proposed qualifications of licensed practitioners;

1 (b) disciplinary procedures that would be applied to  
2 practitioners;

3 (c) proposed requirements for continuing education, if  
4 any; and

5 (d) the information required by 2-8-204.

6 (2) After the committee has initiated its review under  
7 2-8-203, it may request any additional information it  
8 considers necessary to complete its assessment of the  
9 proposal.

10 (3) The committee ~~may in its discretion~~ shall hold at  
11 least one or more public hearings hearing during which the  
12 applicant and members of the public have an opportunity to  
13 testify.

14 ~~{4}--At--least--21--days--before--its--final--report--is~~  
15 ~~presented--to--the--legislature;--the--committee--shall--provide--an~~  
16 ~~opportunity--for--the--applicant--to--review--a--preliminary--draft~~  
17 ~~of--the--report--and--prepare--a--response--The--committee--shall~~  
18 ~~consider--all--responses--in--preparing--its--final--report--~~

19 ~~{5}{4}~~ (4) At least one copy of the ~~final~~ report must be  
20 kept on file with the legislative auditor and made available  
21 for public inspection."

22 **Section 4.** Section 2-8-207, MCA, is amended to read:

23 **"2-8-207. Consolidation of existing boards.** Any person  
24 or organization may propose consolidation of two or more  
25 existing boards. The provisions of 2-8-202 through ~~2-8-206~~

1 2-8-205 apply to such a proposal, except that:

2 (1) the committee shall designate a representative of  
3 each of the occupations or professions regulated by the  
4 licensing boards proposed for consolidation, and each  
5 representative must be treated as an applicant for purposes  
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7 (2) the committee shall weigh the merits of the  
8 proposed consolidation against the merits of retaining a  
9 separate licensing board for each affected occupation or  
10 profession and in its ~~final~~ report recommend to the  
11 legislature:

- 12 (a) the proposed consolidation;  
13 (b) continuation of the existing licensing boards; or  
14 (c) a modification of the proposed consolidation."

15 **Section 5.** Section 2-8-208, MCA, is amended to read:

16 "**2-8-208.** Boards or licensing functions instituted by  
17 initiative. (1) If an initiative to establish a new  
18 licensing board or to add a new licensing responsibility to  
19 the duties of an existing licensing board is approved by the  
20 electorate, the committee shall:

21 (a) review the initiative to assess the degree to  
22 which it meets the criteria in 2-8-204(1);

23 (b) request that the petitioners provide sufficient  
24 information from practitioners or other persons to allow the  
25 committee to make the an assessment of the determinations or

1 estimates as required by 2-8-204~~(2)~~(3); and

2 (c) evaluate the petitioners' initiative in terms of:

- 3 (i) clarity and conciseness;  
4 (ii) conformity to existing statutes and principles of  
5 administrative law; and  
6 (iii) specificity of the delegation of authority to  
7 promulgate rules and set fees.

8 (2) The committee shall prepare a report to the next  
9 session of the legislature. The report must include:

10 (a) the committee's findings with respect to each of  
11 the criteria in 2-8-204;

12 (b) an estimate of the petitioners' cost to the state  
13 of licensing the occupation or profession and a proposed  
14 schedule of fees that will cover the cost of the licensing  
15 program as required by 37-1-134;

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17 initiative should be amended; and

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19 proposal.

20 (3) Committee recommendations for amendments to the  
21 initiative must be incorporated in a bill introduced during  
22 the next session of the legislature ~~by--request-of-the~~  
23 committee."

24 ~~NEW SECTION.---Section 6.---Repealer.--- Section--2-8-206,~~  
25 ~~MCA,--is-repeated.~~

1        **SECTION 6. SECTION 2-8-206, MCA, IS AMENDED TO READ:**

2        "2-8-206. Application fee. An application for review  
3        under 2-8-203 must include an application fee ~~established by~~  
4        ~~the--committee--in--an--amount--not--to--exceed--\$6,500--The fee~~  
5        ~~must be used by the committee to pay the cost of the review,~~  
6        ~~and any unused portion must be refunded to the applicant. of~~  
7        \$500 \$2,000 \$1,000. THE FEE MUST BE USED BY THE COMMITTEE TO  
8        PAY THE COST OF THE REVIEW, AND ANY UNUSED PORTION MUST BE  
9        REFUNDED TO THE APPLICANT."

-End-