

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 12, 1985

The Meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich, on February 12, 1985 at 7:30 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

ACTION ON HOUSE BILL 568: Representative Les Kitselman made a motion that House Bill 568 DO PASS. Representative Norm Wallin made a substitute motion that House Bill DO NOT PASS. Representative William Glaser seconded the motion, House Bill 568 DO NOT PASS with all but Representatives Brandewie, Kitselman and Pavlovich voting yes.

ACTION ON HOUSE BILL 573: Representative Wallin moved House Bill 573 DO PASS. Representative Glaser suggested that records be maintained for 5 or 6 years, not 10 as provided in the bill. Representative Glaser moved that on page 6, line 18, 6 years be inserted replacing 10 years. The amendment did pass with all but Representative McCormick voting yes. Representative Wallin moved that on page 6, lines 23 and 24 be stricken. Representative Brandewie offered a substitute motion to amend the requirement to one year. Representative Brandewie withdrew his motion. Representative Wallin's amendment DO PASS, with Representative Bachini, Driscoll, Hart and Pavlovich voting no. Representative Nisbet moved that the new section 3 be deleted. The amendment did pass by a unanimous vote. Representative Wallin's motion that House Bill 573 DO PASS AS AMENDED, received a unanimous vote.

ACTION ON HOUSE BILL 574: Representative Thomas made a motion that House Bill 574 DO PASS. Representative Kitselman moved the amendments as proposed by John Alke, representing Montana/Dakota Utilities. Representative Driscoll stated that this would cause the consumer to hire an attorney and thus lose every time. Representative Kitselman explained the amendments and moved that the 6 month provision be changed to 18 months. Representative Driscoll stated that the bill should be left as is. The amendment failed by unanimous vote. Representative Kadas moved the statement of intent which did pass with Representative Kitselman and Brandewie voting no. House Bill 574 DO PASS WITH STATEMENT OF INTENT, by unanimous vote.

HOUSE BILL 475: Hearing commenced on House Bill 475. Representative Rex Manuel, District #11, sponsor of the bill, stated that this bill revises laws on credit unions by requiring the director of the Department of Commerce to allow any activity that promotes competitive equality with federal credit unions or prevents adverse effects of members of state chartered credit unions. A loan to a member society, partnership, or corporation is limited to 5% of the credit union's shares and retained earnings, and the total of such loans may

not exceed 15% of the credit union's shares and retained earnings. The bill allows a credit union to act as custodian or trustee of individual retirement accounts or pension funds and as fiscal agent for government entities. The bill requires supervisory committee members, if any, to be elected for one year terms. Among other changes, the bill allows the credit union the option of insuring its share accounts through a share guarantor or insurance plan approved by the commissioner of insurance as well as under the mechanism provided by Federal Credit Union Act.

Proponent Jeffry M. Kirkland, Vice-President, Governmental Relations Montana Credit Union League, supplied written testimony which is attached hereto as Exhibit 1. Mr. Kirkland offered the proposed amendments as shown on Exhibit 2, attached hereto.

There being no further discussion by proponents or opponents all were excused by the chairman and the hearing on House Bill 475 was closed.

HOUSE BILL 487: Hearing commenced on House Bill 487. Representative Norm Wallin, District #78, sponsor of the bill, stated that this bill increases the authority of the Montana Health Facility Authority to borrow money from \$50 million to \$150 million in a biennium. The authority was established in 1983 and reduces the cost of health care facilities and equipment by offering bonds and notes. Due to the high activity in the 1st year, \$150 million is needed and workable, explained Representative Wallin.

Proponent Mary D. Muenger, representing the Montana Health Facility Authority, stated that this will help to control health care costs by having the bonds available at a lower rate of interest. The authority was appointed in August of 1983 and had their first bond closing October, 1984, added Ms. Muenger.

Proponent Ty Robinson, representing the Montana Health Facility Authority, explained that the authority was appointed by the Governor and offered his support of the bill.

Proponent Jack Nielson, stated that the two year period created problems in the authority's ability to pursue the legislative mandate in an aggressive manner.

Proponent Don Allen representing the Montana Hospital Association, explained that this is a valuable tool in keeping health care costs down and a valuable portion of the total health care facilities in Montana.

Proponent Sister Elizabeth Henry, representing WestMont Home Health, stated that they have received three loans from the authority, two for construction and one for equipment at 8.75% interest.

Representative Schultz asked Representative Wallin if the authority has to compete subject to the state's industrial revenue bond limit. Representative Wallin referred the question to Pat Boren, financial advisor, who explained that they do not, these are private activity bonds.

Representative Kadas asked Mr. Nielson how the \$43 million loaned has been distributed. Mr. Nielson explained that \$1.2 million provided interim financing, \$23.5 million was loaned to 20 hospitals and \$18 million to Billings Deaconess Hospital for improvements. Mr. Nielson added that a \$500,000 commitment for construction has been extended to Westmont.

There being no further discussion by proponents and no opponents present, all were excused by the chairman and the hearing on House Bill 487 was closed.

HOUSE BILL 485: Hearing commenced on House Bill 485. Representative Jerry Driscoll, District #92, sponsor of the bill, stated that this bill prohibits the Department of Administration from adjusting classification specifications or criteria during the term of a collective bargaining agreement without the prior approval of the bargaining unit's representative. The classification can not be changed after negotiations are settled, added Representative Driscoll.

Proponent Gene Fenderson, representing Laborers' Local #254, explained that wage surveys, job responsibility and mental fatigue are all used for classifying. Presently, they do not have the right to negotiate with the state for an individual's grade. The criteria for grade should be locked in until such time as the contract expires, stated Mr. Fenderson.

Proponent Nadiean Jensen, representing AFSCME, offered her support.

Opponent Dennis Taylor, Administrator, State Personnel Division, Department of Administration, submitted written testimony, which is attached hereto as Exhibit 3.

Opponent Sue Romby, Director, Personnel and Labor Relations, University System, explained that the lack of adequate documentation is a problem. Exhibit 4 was distributed to committee members by Ms. Romby. Unions do get notified of changes on the class Specification Forms and receive the opportunity to comment. The university system does not have veto power over the classification system. The unions are concerned with the number of employees who are affected, added Ms. Romby.

In closing, Representative Driscoll explained that he is not asking for veto power, but for negotiations and for the department to change classification determination process. The bargaining unit can not change after the contract is signed, added Representative Driscoll.

Representative Driscoll asked Mr. Bob Jensen, Administrator, Board of Appeals, how often the requirements for classifications are changed. Mr. Jensen explained that they are changed frequently.

Representative McCormick asked Mr. Taylor if the difference between 1979 and present is that the department has the say so, rather than the union. Mr. Taylor explained that an individual is up-graded according to the general schedule.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 485 was closed.

HOUSE BILL 718: Hearing commenced on House Bill 718. Representative Kelly Addy, District #94, sponsor of the bill stated that this bill will create a uniform grievance process for certain state employees, and discontinue the merit system. The university system will be excluded from this act. A grievance procedure for all state employees whose rights are prejudiced will be established. The administration procedure can lead to the board of personnel procedures and allow for retaliation. Employees want a hearing before a neutral arbitrator, added Representative Addy.

Proponent Dave Wanzenried, Commissioner, Department of Labor and Industry, offered proposed amendments to the bill, which are attached hereto as Exhibit 5. The cost of administering this act would be approximately \$25,000 per year.

Proponent Barry Hjort, representing Montana Public Employees Association, stated that all employees want a neutral body to determine grievances.

Proponent Alan Josulyn, Chairman, Personnel and Labor Appeals Board, explained that this would create no problems for the board.

Opponent Mike Dahlem, representing the Montana Federation of Teachers, stated that the board is currently understaffed and the additional hearing process will not create a better or quicker decision. Mr. Dahlem is concerned with the fiscal impact and with the collective bargaining procedures. There is a long term, hidden financial impact. We should use the state's process and taxpayer's money. The passage of House Bill 718 will require more staff time and affect the ability to organize workers. If the act is limited to those who are not involved in collective bargaining organizations, Mr. Dahlem does not see any problems.

In closing, Representative Addy, stated that this is a fair procedure and should be afforded all state employees. Without House Bill 718, we are encouraging employee grievances to be taken to district court, added Representative Addy.

Representative Driscoll asked Representative Addy who pays for the review of the boards decision and if it should end up in court, does the taxpayer or the department pay. Representative Addy explained that the taxpayer pays for reviews and the prevailing party would pay in a court case.

Representative Hansen asked Mr. Jensen how many cases are filed each year. Mr. Jensen explained that the executive branch services minus the university system has approximately thirty cases per year. There is approximately 1 case per every 175 employees.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 718 was closed.

HOUSE BILL 474: Hearing commenced on House Bill 474. Representative Bob Pavlvoich, District #70, sponsor of the bill, by request of the Board of Morticians, stated that this bill revises the morticians's licensing law by setting a minimum age of 18 and requiring two full years of study at an accredited college or university as well as graduation from an accredited college of mortuary science. The bill also allows a person who fails the mortician's license examination to retake it. A one year internship is required after passing the examination. The bill allows refusal, suspension or revocation of a license for unprofessional conduct and carries an immediate effective date, added Representative Pavlovich.

Proponents Dennis Dolan, President, State Board of Morticians and Roland D. Pratt, Executive Director, Montana Funeral Directors' Association, offered their support of the bill.

Opponent Tom Twichel, Owner, Retz Funeral Home in Helena and a licensed mortician for 25 years, stated that the board should have the option of considering experience in lieu of the 2 year education requirement. With the cost of education increasing, the two year requirement may not afford all who wish the opportunity to enter the field, added Mr. Twichel.

Opponent Lloyd Linden, Owner, Herrmann and Company Funeral Home in Helena, stated that the two year requirement for college does not specify the course structure to be studied.

Representative Simon asked Mr. Dolan the present requirement for being accepted into mortician school. Mr. Dolan explained that a high school diploma is needed.

Representative Brandewie asked Mr. Dolan if two years liberal arts education would satisfy the two year education requirement. Mr. Dolan stated that yes it would, there is no subject matter specified.

Representative Schultz asked Mr. Dolan why lines 10 and 11 had been stricken on page 3 of the bill. Mr. Dolan explained that this may be discriminatory to other states.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 474 was closed.

HOUSE BILL 593:

Hearing commenced on House Bill 593. Representative Bob Pavlovich, District #70, introduced the bill for Representative Red Menahan. House Bill 593 is at the request of the Board of Morticians and requires refrigeration or embalming of human remains within 24 hours. Cremation of more than one body at a time is prohibited, stated Representative Pavlovich.

Proponent Dennis Dolan, President, State Board of Morticians, stated that some mortuaries do not have refrigeration units.

Proponent Roland D. Pratt Executive Director, Montana Funeral Directors' Association, explained that the act would give the board the authority to adopt regulations.

Opponent Lloyd Linden, Herrmann and Company Funeral Home in Helena, distributed to committee members Exhibit 6, which is attached hereto. Mr Linden explained that there are present statutes calling for embalming and refrigeration and this would be a duplication of present statute.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 593 was closed.

HOUSE BILL 477: Hearing commenced on House bill 477. Representative Bob Pavlovich, District #70, introduced the bill for Representative Red Menahan. House Bill 477 is presented at the request of the Board of Morticians and brings cremation under the definition of "funeral directing".

Representative Pavlovich distributed to committee members, Exhibit 7, which is attached hereto.

Proponent Dennis Dolan, President, State Board of Morticians, distributed to committee members Exhibit 8. Mr. Dolan explained that the board protects the consumer and that there have been no problems with crematoriums. The intent of House Bill 477 is to

register and license crematoriums separately from morticians.

Proponent Roland D. Pratt, Executive Director, Montana Funeral Directors' Association, explained that we should learn from our neighboring states and take preventitive measures now.

Opponent Barry Hjort, presenting Hillcrest Lawn Mosoleum, explained that there are 6 crematoriums in Montana, two of which are free standing. Mr. Hjort does not see the need for this legislation.

Representative Schultz asked Mr. Dolan how many times the examination can be taken. Mr. Dolan explained that it can be taken as many times as an individual wishes.

Representative Ellerd asked Mr. Dolan if a body can be buried and/or cremated without being embalmed. Mr. Dolan explained that if a body is buried within 48 hours there is no need for embalming and a body can be cremated without embalming.

Representative Hart asked Mr. Dolan if the bill was drawn without the crematoriums being notified or included. Mr. Dolan explained that it had, due to lack of communication and that they have nothing against crematoriums, but are trying to group all together.

Representative Simon asked Mr. Dolan what the current law is on a dead body. Mr. Dolan stated that it is entirely up to the next of kin who have 48 hours to decide. After 48 hours, a body must be embalmed.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 477 was closed.

ACTION ON HOUSE BILL 338: Representative Jones moved that the committee reconsider their action of House Bill 338. Representative Jones explained the proposed amendments that would strike the title plant requirement from the bill. Representative Ellerd asked if these amendments, satisfy all the concerned parties, to which the answer was yes. Representative Brandewie stated that something must be done to see that competent individuals are searching title. Question being called, a roll call vote resulted in 8 members voting yes and 11 members voting no to Representative Jones' motion to reconsider.

Representative Bachini explained to the committee that he had constituents concerned with the funding of Amtrak who wish the funding to continue as it presently exists. Due to the deadline with the introduction of bills, Representative Bachini was requesting the committee to draft a resolution. All agreed with the exception of Representative Ellerd.

ACTION ON HOUSE BILL 387: Commissioner Dave Wanzenried explained the process of setting the prevailing wage rate and stated that the public will have participation in doing so. House Bill 387 is simply to clarify the method to be used by the department.

Representative Kadas asked Mr. Wanzenried how the prevailing wage rate is set presently. Mr. Wanzenried explained that it is a combination of the federal prevailing wage base. Collective bargaining and from materials within the department.

Questions were raised by Representatives Schultz, Thomas, and Brandewie regarding the establishment of jurisdictional districts. Representative Kitselman moved that House Bill 378 be placed in a subcommittee. The motion received a 10 to 10 vote. Representative Kitselman then moved that House Bill 387 be TABLED, which received a 10 to 10 vote. Representative Glaser explained that this will get wages too high, exclude workers from working and effect the northeastern corner of the state. Representative Ellerd moved DO NOT PASS. Representative Driscoll explained that the arguments are over the STATEMENT OF INTENT and are erroneous. Representative Bachini asked Mr. Wanzenried if the bill would effect the northeastern corner of the state. Mr. Wanzenried explained that House Bill 387 has no effect on the jurisdiction. The bill does not address jurisdiction and a new bill would be needed to change this. Representative Ellerd withdrew his DO NOT PASS motion and made a substitute motion that House Bill 387 be reconsidered and placed in a subcommittee. The motion carried unanimously. Representative Driscoll will chair the subcommittee with Representatives McCormick, Kitselman and Schultz serving.

ACTION ON HOUSE BILL 475: Representative Kadas moved DO PASS on House Bill 475. Representative Kadas then moved the amendments, as proposed by Jeffrey M. Kirkland. The amendments DO PASS by unanimous vote. House Bill 475 DO PASS AS AMENDED unanimously.

ACTION ON HOUSE BILL 487: Representative Wallin moved DO PASS on House Bill 487. Representative Glaser stated that the two hospitals in Billings run at a 30% occupancy rate. Representative Wallin added that the federal government inspects and makes requirements to receive assistance patients and 40% of all patients receive assistance. Question being called, House Bill 487 DO PASS with Representatives Kadas, Glaser and Jones voting no.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 11:00 a.m.


Representative Bob Pavlovich
Chairman

DAILY ROLL CALL
 BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 12, 1985

| NAME | PRESENT | ABSENT | EXCUSED |
|--------------------|---------|--------|---------|
| Bob Pavlovich | ✓ | | |
| Les Kitselman | ✓ | | |
| Bob Bachini | ✓ | | |
| Ray Brandewie | ✓ | | |
| Jan Brown | ✓ | | |
| Jerry Driscoll | ✓ | | |
| Robert Ellerd | ✓ | | |
| William Glaser | ✓ | | |
| Stella Jean Hansen | ✓ | | |
| Marjorie Hart | ✓ | | |
| Ramona Howe | ✓ | | |
| Tom Jones | ✓ | | |
| Mike Kadas | ✓ | | |
| Vernon Keller | ✓ | | |
| Lloyd McCormich | ✓ | | |
| Jerry Nisbet | ✓ | | |
| James Schultz | ✓ | | |
| Bruce Simon | ✓ | | |
| Fred Thomas | ✓ | | |
| Norm Wallin | ✓ | | |
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STANDING COMMITTEE REPORT

February 12 19 65

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 475

FIRST reading copy (WHITE)
color

REVISION OF LAW REGULATING CREDIT UNIONS

Respectfully report as follows: That HOUSE Bill No. 475

BE AMENDED AS FOLLOWS:

- 1) Page 5, line 4
Following: "services"
Strike: the remainder of line 4 and line 5 through "services"
- 2) Page 6, line 16
Following: "for"
Strike: "1-year terms"
Insert: "such terms as the bylaws provide"

AND AS AMENDED,

DO PASS

STANDING COMMITTEE REPORT

February 12

85

..... 19.....

MR. SPEAKER.....

We, your committee on BUSINESS AND LABOR.....

having had under consideration HOUSE..... Bill No. 487

FIRST reading copy (WHITE)
color

INCREASE BONDING LIMIT OF HEALTH FACILITY AUTHORITY

Respectfully report as follows: That..... HOUSE..... Bill No. 487

DO PASS

STANDING COMMITTEE REPORT

February 12 19 65
page 1 of 2

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 574

FIRST reading copy (WHITE)
color

**LETS PUBLIC UTILITIES CORRECT CUSTOMER BILLING ERRORS BY
BACKBILLING 6 MOS.**

Respectfully report as follows: That HOUSE Bill No. 574

DO PASS
STATEMENT OF INTENT ATTACHED

STATEMENT OF INTENT

A statement of intent is required by this bill because it grants the public service commission the authority to promulgate rules to implement this section if necessary. The utility service billing errors described in subsections (2) (a) and (2) (b) may take many forms, as each type of utility service provided is billed in a manner peculiar to the particular service, e.g., telephone versus electrical billing. Given this utility billing diversity, the legislature finds it necessary to allow the public service commission rulesmaking authority to allow the commission to address unanticipated billing error problems.

STANDING COMMITTEE REPORT

February 12 19 65

page 1 of 2

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 573

FIRST reading copy (WHITE)
color

ODOMETER DISCLOSURE UPON TRANSFER OF VEHICLES OWNERSHIP; FUNCTIONING ODOM.

Respectfully report as follows: That HOUSE Bill No. 573

BE AMENDED AS FOLLOWS:

- 1) Title, line 6
Following: line 7
Strike: "REQUIRING FUNCTIONING ODOMETERS;"
- 2) Page 6, line 18
Following: "is"
Strike: "10"
Insert: "5"
- 3) Page 6, line 23
Strike: Lines 23 through 25 on page 6 and lines 1 through 6
on page 7 in their entirety
Renumber: subsequent sections

~~XXXXXXXXXXXXXXXXXXXX~~

DQ PASS:

- 4) Page 7, line 10
Strike: "required under (section 3) to be operable"
- 5) Page 8, line 7
Strike: "(1)"
Strike: "4"
Insert: "3"
- 6) Page 8, line 9
Strike: "4"
Insert: "3"
- 7) Page 8, lines 10 through 12
Strike: subsection (2) in its entirety

AND AS AMENDED,
DO PASS

STANDING COMMITTEE REPORT

February 12

85

..... 19.....

MR. SPEAKER.....

We, your committee on BUSINESS AND LABOR.....

having had under consideration HOUSE..... Bill No. 568

FIRST reading copy (WHITE)
color

7-DAY CREDIT LIMIT ON TOBACCO SALES

Respectfully report as follows: That..... HOUSE..... Bill No. 568

~~DO PASS~~
DO NOT PASS

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2-12-85 BILL NO. 338 TIME _____

| NAME | AYE | NAY |
|--------------------|-----|-----|
| Bob Pavlovich | ✓ | |
| Les Kitselman | ✓ | |
| Bob Bachini | ✓ | |
| Ray Brandewie | ✓ | |
| Jan Brown | ✓ | |
| Jerry Driscoll | | ✓ |
| Robert Ellerd | | ✓ |
| William Glaser | ✓ | |
| Stella Jean Hansen | | ✓ |
| Marjorie Hart | | ✓ |
| Ramona Howe | | ✓ |
| Tom Jones | ✓ | |
| Mike Kadas | | ✓ |
| Vernon Keller | ✓ | |
| Lloyd McCormick | | ✓ |
| Jerry Nisbet | | ✓ |
| James Schultz | | ✓ |
| Bruce Simon | | ✓ |
| Fred Thomas | | |
| Norm Wallin | | ✓ |
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Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: 8-11 Re-consider

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2-12-85 BILL NO. 387 TIME _____

| NAME | AYE | NAY |
|--------------------|-----|-----|
| Bob Pavlovich | | |
| Les Kitselman | ✓ | ✓ |
| Bob Bachini | | ✓ |
| Ray Brandewie | ✓ | |
| Jan Brown | | ✓ |
| Jerry Driscoll | | ✓ |
| Robert Ellerd | ✓ | |
| William Glaser | ✓ | |
| Stella Jean Hansen | | ✓ |
| Marjorie Hart | | ✓ |
| Ramona Howe | | ✓ |
| Tom Jones | ✓ | |
| Mike Kadas | | ✓ |
| Vernon Keller | ✓ | |
| Lloyd McCormick | | ✓ |
| Jerry Nisbet | | ✓ |
| James Schultz | ✓ | |
| Bruce Simon | ✓ | |
| Fred Thomas | ✓ | |
| Norm Wallin | ✓ | |
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Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: 10-10 per in subcommittee

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2-12-85 BILL NO. 387 TIME _____

| NAME | AYE | NAY |
|--------------------|-----|-----|
| Bob Pavlovich | | ✓ |
| Les Kitselman | ✓ | |
| Bob Bachini | | ✓ |
| Ray Brandewie | ✓ | |
| Jan Brown | | |
| Jerry Driscoll | | ✓ |
| Robert Ellerd | ✓ | |
| William Glaser | ✓ | |
| Stella Jean Hansen | | ✓ |
| Marjorie Hart | | ✓ |
| Ramona Howe | | ✓ |
| Tom Jones | ✓ | |
| Mike Kadas | | ✓ |
| Vernon Keller | ✓ | |
| Lloyd McCormick | | ✓ |
| Jerry Nisbet | | ✓ |
| James Schultz | ✓ | |
| Bruce Simon | ✓ | |
| Fred Thomas | ✓ | |
| Norm Wallin | ✓ | |
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Secretary Debbie Aqui

Chairman Bob Pavlovich

Motion: 10-10 TABLED

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2-12-85 BILL NO. 574 TIME _____

| NAME | AYE | NAY |
|--------------------|-----|-----|
| Bob Pavlovich | ✓ | |
| Les Kitseiman | ✓ | |
| Bob Bachini | ✓ | |
| Ray Brandewie | ✓ | |
| Jan Brown | ✓ | |
| Jerry Driscoll | ✓ | |
| Robert Ellerd | ✓ | |
| William Glaser | ✓ | |
| Stella Jean Hansen | ✓ | |
| Marjorie Hart | ✓ | |
| Ramona Howe | ✓ | |
| Tom Jones | ✓ | |
| Mike Kadas | ✓ | |
| Vernon Keller | ✓ | |
| Lloyd McCormick | ✓ | |
| Jerry Nisbet | ✓ | |
| James Schultz | ✓ | |
| Bruce Simon | ✓ | |
| Fred Thomas | ✓ | |
| Norm Wallin | ✓ | |
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Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: DO PASS WITH STATEMENT OF INTENT

HOUSE BILL 475

TESTIMONY OF JEFFRY M. KIRKLAND
VICE PRESIDENT-GOVERNMENTAL RELATIONS
MONTANA CREDIT UNIONS LEAGUE

BEFORE THE HOUSE BUSINESS & LABOR COMMITTEE
ON TUESDAY, 12 FEBRUARY 1985

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, FOR THE RECORD I AM JEFF KIRKLAND, VICE PRESIDENT-GOVERNMENTAL RELATIONS FOR THE MONTANA CREDIT UNIONS LEAGUE. OUR LEAGUE IS A TRADE ASSOCIATION REPRESENTING 111 OF THE 114 CREDIT UNIONS IN MONTANA. EIGHTY-SEVEN OF THEM ARE FEDERALLY-CHARTERED, AND 24 ARE STATE-CHARTERED.

THE PROVISIONS OF HOUSE BILL 475 WILL DIRECTLY AFFECT ONLY THE 24 STATE-CHARTERED CREDIT UNIONS. STATE CREDIT UNION LAW HAS NO EFFECT ON FEDERAL CREDIT UNIONS, SINCE THEY ARE ENTITIES OF THE FEDERAL GOVERNMENT AND CONTROLLED BY FEDERAL LAW. HOWEVER, THE ENTIRE MEMBERSHIP OF THE LEAGUE IS ON RECORD AS SUPPORTING HB 475.

MOST OF THE PROVISIONS OF THE BILL AMEND CURRENT LAW TO GIVE STATE-CHARTERED CREDIT UNIONS SIMILAR POWERS TO THOSE FEDERAL CREDIT UNIONS ALREADY HAVE. THREE PROVISIONS GIVE THEM OPTIONS BEYOND THOSE OF FEDERAL CREDIT UNIONS. I'LL INDICATE WHICH OF THE TWO EACH SECTION OF HB 475 ACCOMPLISHES IN MY TESTIMONY.

SINCE STATE AND FEDERAL CREDIT UNIONS OFTEN EXIST SIDE BY SIDE IN THE SAME COMMUNITY AND MEMBERS OF ONE MAY ALSO BE

ELIGIBLE FOR MEMBERSHIP IN ANOTHER, IT IS IMPORTANT THAT STATE CREDIT UNIONS HAVE AVAILABLE COMPARABLE POWERS TO THOSE OF FEDERAL CREDIT UNIONS.

THE PROVISIONS OF HB 475 ARE THE PRODUCT OF OVER A YEAR OF WORK BY THE LEGISLATIVE COMMITTEE OF THE MONTANA CREDIT UNIONS LEAGUE. THE COMMITTEE STUDIED BOTH THE FEDERAL CREDIT UNION ACT AND MONTANA CREDIT UNION STATUTES TO DETERMINE IF CURRENT MONTANA LAW NEEDED TO BE CHANGED TO RESPOND TO TODAY'S RAPIDLY-CHANGING FINANCIAL MARKETPLACE AND IF SO, HOW.

THE EIGHT MAJOR PROVISIONS OF THE BILL I'LL REVIEW WITH YOU ARE OUR LEGISLATIVE COMMITTEE'S RECOMMENDATIONS TO ADDRESS A CHANGING MARKETPLACE IN WHICH DEREGULATION, HIGH TECHNOLOGY, HEIGHTENED CONSUMER AWARENESS, AND THE CONSUMER'S DESIRE FOR CONVENIENCE HAVE CAUSED CREDIT UNIONS TO HAVE TO MODIFY SOME OF THEIR TRADITIONAL SERVICES OR SERVICE DELIVERY SYSTEMS SIMPLY TO RESPOND TO THE NEEDS OF THEIR MEMBERS.

SECTION 1: SECTION 1 OF THE BILL (PAGE 1, LINES 22-25 AND PAGE 2, LINES 1-25) AMENDS THE SECTION OF LAW CONTROLLING THE AUTHORIZED ACTIVITIES OF STATE-CHARTERED CREDIT UNIONS. AS AMENDED, THE SECTION WOULD ALLOW A STATE-CHARTERED CREDIT UNION, UPON APPLICATION TO THE DIRECTOR OF THE DEPARTMENT OF COMMERCE (WHO REGULATES STATE-CHARTERED CREDIT UNIONS), TO ENAGAGE IN ANY ACTIVITY A FEDERAL CREDIT UNION MAY ENGAGE IN IF (1) THE ACTIVITY FOSTERS COMPETITIVE EQUITY AMONG STATE-

CHARTERED AND FEDERAL CREDIT UNIONS AND (2) IT PREVENTS ADVERSE EFFECTS ON MEMBERS OF STATE-CHARTERED CREDIT UNIONS.

THIS TYPE OF STATUTE IS NECESSARY--NOT ONLY FOR CREDIT UNIONS BUT ALSO FOR OTHER FINANCIAL INSTITUTIONS--SINCE THE LEGISLATURE, WHICH CONTROLS THE AUTHORIZED ACTIVITIES OF CREDIT UNIONS, MEETS ONLY EVERY OTHER YEAR. WITH TECHNOLOGY AND TYPES OF SERVICES CHANGING SO RAPIDLY, A STATE-CHARTERED CREDIT UNION MAY BE UNABLE TO WAIT FOR TWO YEARS TO IMPLEMENT SERVICES COMPARABLE TO SERVICES FEDERAL CREDIT UNIONS CAN OFFER-- PARTICULARLY IN A COMPETITIVE ENVIRONMENT. WE FIND THAT IF MEMBERS CAN'T GET THE SERVICES THEY NEED AT THE CREDIT UNION, THEY'LL SIMPLY GO TO ANOTHER FINANCIAL INSTITUTION WHERE THE SERVICES ARE AVAILABLE.

THE PROBLEM WITH THE CURRENT STATUTE IS THAT IT IS WRITTEN IN SUCH A WAY THAT THERE IS NO CLEAR-CUT PROCEDURE FOR APPLYING TO THE STATE REGULATOR AND NO GUIDELINES FOR THE REGULATOR'S DECISION-MAKING. THE CURRENT LAW REQUIRES THE REGULATOR TO MAKE HIS DECISION BASED ON TWO JUDGMENT CALLS: (1) IS THE NEW POWER "REASONABLY REQUIRED TO PRESERVE AND PROTECT THE WELFARE" OF THE CREDIT UNION AND (2) WILL IT "PROMOTE THE GENERAL ECONOMY" OF THE STATE.

WITHOUT CLEAR-CUT GUIDELINES AND PROCEDURES FOR BOTH CREDIT UNIONS AND THE DEPARTMENT TO FOLLOW, THE CURRENT STATUTE CAN LEAD TO PROBLEMS BETWEEN THE PETITIONER AND THE REGULATOR. THE "REASONABLY REQUIRED" LANGUAGE ALLOWS FOR POSSIBLE ARBITRARY DECISIONS WHERE QUESTIONS OF PHILOSOPHY MAY CONTROL

DECISIONS RATHER THAN CLEAR-CUT REGULATORY GUIDELINES. AND ANYONE WOULD BE HARD-PRESSED TO FIND THAT A NEW SERVICE SOUGHT BY A CREDIT UNION IN, SAY, LIBBY WOULD IN ANY CONCEIVABLE WAY PROMOTE THE GENERAL ECONOMY OF THE STATE.

STATE-CHARTERED BANKS ALSO HAVE A SIMILAR SECTION IN THEIR BANKING STATUTES. I DRAW YOUR ATTENTION TO THAT SECTION OF LAW, LABELED "EXHIBIT 1," IN THE APPENDIX TO THIS TESTIMONY. YOU CAN SEE THAT STATE BANKS DON'T HAVE THOSE TWO HOOPS TO JUMP THROUGH BEFORE THE DEPARTMENT MAKES A RULING.

UNDER SECTION 1 OF HB 475, A STATE-CHARTERED CREDIT UNION WOULD MAKE WRITTEN APPLICATION TO THE DIRECTOR OF THE DEPARTMENT OF COMMERCE TO ENGAGE IN SOME ACTIVITY A FEDERAL CREDIT UNION CAN ENGAGE IN (PAGE 1, LINES 23-25). THE DIRECTOR SHALL APPROVE THE ACTIVITY BASED ON TWO CRITERIA: IF (1) HE FINDS IT FOSTERS COMPETITIVE EQUITY BETWEEN THE STATE-CHARTERED AND A FEDERAL CREDIT UNION AND (2) THE NEW ACTIVITY PREVENTS ADVERSE EFFECTS ON MEMBERS OF STATE-CHARTERED CREDIT UNIONS. SECTION 1 ALSO PROVIDES CREDIT UNIONS RECOURSE UNDER THE STATE'S ADMINISTRATIVE PROCEDURES ACT SHOULD THEY FEEL THAT THE REGULATOR RULED UNFAIRLY (PAGE 2, LINES 17-25).

FINALLY, ON PAGE 2, LINES 10-12, WE'VE DELETED LANGUAGE THAT IS NO LONGER NECESSARY BECAUSE OF LEGISLATION PASSED IN 1981. THE DELETED LANGUAGE IN LINES 10-12 REFER TO A PRE-1981 PROHIBITION FOR THE STATE TO CHARTER A COMMUNITY CREDIT UNION. HOWEVER, IN 1981 THE LEGISLATURE AMENDED SECTION 32-3-304 TO

ALLOW THE STATE TO CHARTER COMMUNITY CREDIT UNIONS. (SEE "EXHIBIT 2" OF THE APPENDIX.)

SECTION 2: SECTION 2 WOULD PROVIDE STATE-CHARTERED CREDIT UNIONS THE AUTHORITY TO MAKE LIMITED COMMERCIAL-TYPE LOANS TO MEMBER "SOCIETIES, PARTNERSHIPS, OR CORPORATIONS." THIS IS IMPORTANT FROM THE STANDPOINT OF A STATE-CHARTERED CREDIT UNION BEING ABLE TO MAKE A "BUILD MONTANA" LOAN TO A NON-NATURAL PERSON MEMBER. UNDER THE CURRENT STATUTE, A STATE CREDIT UNION MAY HAVE "SOCIETIES, PARTNERSHIPS, OR CORPORATIONS" AS MEMBERS IF THEY MEET STRINGENT MEMBERSHIP REQUIREMENTS. (SEE "EXHIBIT 3" OF THE APPENDIX.) HOWEVER, THE CREDIT UNION CANNOT LOAN THOSE NON-NATURAL PERSON MEMBERS MORE THAN THOSE MEMBERS HAVE IN SAVINGS IN THE CREDIT UNION.

ALTHOUGH CREDIT UNIONS NORMALLY DON'T HAVE MANY NON-NATURAL PERSON MEMBERS, THE ONES THEY HAVE TEND TO BE SMALL FAMILY-HELD BUSINESSES AND FARMING OR RANCHING OPERATIONS WHERE THERE IS A SMALL-ENOUGH NUMBER OF PEOPLE INVOLVED TO MEET THE NON-NATURAL PERSON MEMBERSHIP REQUIREMENTS--TYPICALLY THE TYPES OF BUSINESSES OR PERSONS WHO MIGHT WANT TO TAKE ADVANTAGE OF THE "BUILD MONTANA" LOAN PROGRAM THROUGH THEIR CREDIT UNION. HOWEVER, NOW CREDIT UNIONS HAVE TO TURN THEM DOWN.

THIS AMENDMENT WOULD GIVE STATE-CHARTERED CREDIT UNIONS LIMITED POWER TO MAKE A COMMERCIAL-TYPE LOAN--AN AMOUNT OF NO MORE THAN 5% OF THE CREDIT UNION'S SHARES AND RETAINED EARNINGS

TO ANY ONE NON-NATURAL PERSON MEMBER. THE TOTAL OF SUCH LOANS COULD NOT EXCEED 15% OF THE CREDIT UNION'S SHARES AND RETAINED EARNINGS. THIS WILL ALLOW A STATE CREDIT UNION TO MAKE A "BUILD MONTANA" LOAN TO A NON-NATURAL PERSON MEMBER, SELL 80% OF IT TO THE STATE, AND KEEP THE REMAINDER IN ITS LOAN PORTFOLIO.

THE LIMITS BUILT INTO THE AMENDMENT SHOW THAT CREDIT UNIONS DO NOT WANT TO GET INTO THE COMMERCIAL LENDING BUSINESS. HOWEVER, THEY DO WANT TO SERVE THEIR NON-NATURAL PERSON MEMBERS THROUGH THE "BUILD MONTANA" PROGRAM. IT'S STRANGE THAT CREDIT UNIONS WERE THE ONLY FINANCIAL INSTITUTIONS THAT ACTIVELY SUPPORTED THE "BUILD MONTANA" CONCEPT AND LEGISLATION THROUGH THEIR TRADE ASSOCIATION LAST SESSION BUT WHOSE STATUTES DON'T ALLOW THEM TO PARTICIPATE IN THE PROGRAM.

SECTION 3: BEFORE GETTING INTO SECTION 3, WE HAVE AN AMENDMENT TO OFFER THAT REMEDIES A DRAFTING AND PROOFREADING ERROR MADE BY LEGISLATIVE COUNCIL. THE AMENDMENT REFERS TO **PAGE 5, LINES 4 AND 5**, AND STRIKES THE COMMA AFTER "SERVICES" ON LINE 4 AND INSERTS A PERIOD. THEN THE WORDS "BUT NOT INCLUDING CHECKING ACCOUNT SERVICES" IS STRICKEN. ACCORDING TO GREG PETESCH OF LEGISLATIVE COUNCIL, THE LANGUAGE SHOULD HAVE BEEN STRICKEN BUT WASN'T DUE TO AN OVERSIGHT. HOWEVER, THE TITLE OF THE BILL (**PAGE 1, LINES 7 AND 8**) DOES REFER TO THE LANGUAGE BEING STRICKEN.

WITH THE AMENDMENT, SECTION 3 OF HB 475 AMENDS THE "GENERAL POWERS" SECTION OF STATE CREDIT UNION LAW TO DO THREE THINGS. FIRST, IT REMOVES THE PROHIBITION OF STATE-CHARTERED CREDIT UNIONS OFFERING TRANSACTION ACCOUNTS--WE CALL THEM "SHARE DRAFTS" RATHER THAN CHECKS.

SECOND, IT PROVIDES STATE CREDIT UNIONS THE SAME STATUTORY AUTHORITY AS FEDERAL CREDIT UNIONS HAVE TO SERVE AS CUSTODIANS OR TRUSTEES FOR INDIVIDUAL RETIREMENT ACCOUNTS AND PENSION FUNDS OF SELF-EMPLOYED INDIVIDUALS OR OF THE SPONSOR OF THE CREDIT UNION. AND THIRD, IT GIVES STATE-CHARTERED CREDIT UNIONS THE SAME AUTHORITY FEDERAL CREDIT UNIONS HAVE TO "ACT AS FISCAL AGENTS FOR AND RECEIVE DEPOSITS FROM THE FEDERAL GOVERNMENT, THIS STATE, OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF."

ALTHOUGH STATE CREDIT UNION LAW PROHIBITS STATE CREDIT UNIONS FROM OFFERING CHECKING ACCOUNT SERVICES, MANY ARE CURRENTLY OFFERING CHECKING-TYPE SERVICES CALLED "SHARE DRAFTS," WHICH FUNCTION ALMOST EXACTLY AS CHECKS. HOW CAN THEY DO SO WITH THE STATUTORY PROHIBITION? THROUGH A FEDERAL PRE-EMPTION OF STATE LAW ENACTED IN 1980 BY THE U.S. CONGRESS THAT ALLOWS ALL FINANCIAL INSTITUTIONS IN THE NATION TO OFFER CHECK-LIKE TRANSACTION ACCOUNTS (SHARE DRAFTS AND NOW ACCOUNTS). THE AMENDMENT STRIKING THE LANGUAGE ON PAGE 5, LINES 4 AND 5, MERELY REMOVES USELESS LANGUAGE AND A MEANINGLESS PROHIBITION FROM STATE LAW TO REFLECT THE CURRENT STATE OF CREDIT UNION SERVICES AND THE FINANCIAL MARKETPLACE.

THE NEW LANGUAGE ON PAGE 5, LINES 20-25 WOULD ALLOW STATE CREDIT UNIONS TO SERVE AS CUSTODIANS OR TRUSTEES OF INDIVIDUAL RETIREMENT ACCOUNTS (IRAs), PENSION PLANS OF SELF-EMPLOYED INDIVIDUALS OR OF THE SPONSOR OF THE CREDIT UNION, OR OF ANY OTHER PENSION OR PROFIT-SHARING PLAN ESTABLISHED BY CREDIT UNION MEMBERS. FEDERAL CREDIT UNIONS ALREADY HAVE THIS AUTHORITY.

ALTHOUGH STATE-CHARTERED CREDIT UNIONS CURRENTLY OFFER IRA ACCOUNTS, THIS NEW LANGUAGE IS NECESSARY BECAUSE THEIR ONLY AUTHORITY TO DO SO COMES FROM A LETTER FROM MONTANA'S PREVIOUS COMMISSIONER OF FINANCIAL INSTITUTIONS. THERE IS NO STATUTORY NOR REGULATORY AUTHORIZATION. THE FIDUCIARY NATURE OF SUCH ACCOUNTS, WE BELIEVE, REQUIRES SPECIFIC STATUTORY AUTHORITY.

IN TERMS OF THIS AMENDMENT, THE TERM "TRUSTEE" MAY BE MISLEADING. CREDIT UNIONS DO NOT HAVE GENERAL TRUST POWERS TO OFFER TRUE TRUST SERVICES OFFERED BY BANK-AFFILIATED TRUST COMPANIES. HOWEVER, CREDIT UNIONS DO HAVE LIMITED TRUST POWERS. (SEE "EXHIBIT 4" OF THE APPENDIX.) THIS AMENDMENT WOULD REINFORCE THAT LIMITATION BY REQUIRING THAT THE FUNDS IN SUCH ACCOUNTS BE INVESTED SOLELY IN A SHARE ACCOUNT (SAVINGS-TYPE ACCOUNT) IN THE CREDIT UNION--EXACTLY AS IS THE CASE NOW.

FINALLY, THE NEW LANGUAGE ON PAGE 6, LINES 1-3, WOULD GIVE STATE-CHARTERED CREDIT UNIONS THE SAME AUTHORITY FEDERAL CREDIT UNIONS HAVE TO "ACT AS FISCAL AGENTS FOR AND RECEIVE DEPOSITS FROM THE FEDERAL GOVERNMENT, THIS STATE, OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF." IN PLAIN ENGLISH, TO SERVE

AS DEPOSITORIES FOR PUBLIC FUNDS--JUST AS FEDERAL CREDIT UNIONS CAN.

THAT AUTHORITY IS IMPORTANT TO ALLOW CREDIT UNIONS TO PARTICIPATE IN THE "BUILD MONTANA" LOAN PROGRAMS WHERE THE MONTANA ECONOMIC DEVELOPMENT BOARD, RATHER THAN PURCHASING A "BUILD MONTANA" LOAN FROM THE CREDIT UNION, CHOOSES TO HELP FUND THE LOAN BY PLACING FUNDS IN THE CREDIT UNION. DURING THE PREVIOUS LEGISLATIVE SESSION, THE LEGISLATURE AMENDED THE PUBLIC FUNDS STATUTE TO ALLOW FOR THAT. (SEE "EXHIBIT 5" OF THE APPENDIX.) HOWEVER, THE CREDIT UNION STATUTE AUTHORIZING THE CREDIT UNION TO ACCEPT THOSE FUNDS WAS NOT AMENDED TO ALLOW FOR ACCEPTING DEPOSITS OF STATE FUNDS.

SECTION 4: SECTION 4 OF HB 475 WOULD GIVE STATE CREDIT UNIONS THE OPTION OF HAVING EITHER A SUPERVISORY COMMITTEE APPOINTED BY THE BOARD OF DIRECTORS, ELECTED BY THE MEMBERS, OR NO SUPERVISORY COMMITTEE AT ALL. WHAT IS A SUPERVISORY COMMITTEE? IT IS A COMMITTEE OF CREDIT UNION MEMBERS THAT MAKES OR CAUSES TO BE MADE "A COMPREHENSIVE ANNUAL AUDIT OF THE BOOKS AND AFFAIRS OF THE CREDIT UNION."

CURRENT STATE LAW REQUIRES THE CREDIT UNION'S BOARD OF DIRECTORS TO APPOINT THE MEMBERS OF THE SUPERVISORY COMMITTEE. HOWEVER, THERE ARE SOME CREDIT UNIONS WHOSE MEMBERS WANT TO ELECT THEIR SUPERVISORY COMMITTEE--AND DO SO IN SPITE OF THE LAW. THEY ELECT THE MEMBERS OF THE SUPERVISORY COMMITTEE, AND

THEN THE BOARD APPOINTS THOSE ELECTED COMMITTEE MEMBERS AFTER THE FACT.

FINALLY, THERE ARE CREDIT UNIONS THAT ARE UNABLE TO RECRUIT MEMBERS TO SERVE ON THE SUPERVISORY COMMITTEE BECAUSE THE NATURE OF CREDIT UNION ACCOUNTING AND DATA PROCESSING HAS GROWN SO COMPLEX THAT MANY MEMBERS JUST DON'T FEEL KNOWLEDGEABLE ENOUGH TO DO A COMPETENT JOB. AND EVEN IF MEMBERS ARE PERSUADED TO SERVE ON THE SUPERVISORY COMMITTEE, OFTEN THE COMMITTEE HIRES SOMEONE ELSE TO UNDERTAKE MOST, IF NOT ALL, OF THE SUPERVISORY COMMITTEE'S DUTIES.

THIS PROVISION (PAGE 6, LINES 14-22) WOULD GIVE EACH STATE-CHARTERED CREDIT UNION THE OPPORTUNITY TO DECIDE WHETHER IT WANTS TO ELECT OR APPOINT MEMBERS TO THE SUPERVISORY COMMITTEE OR WHETHER IT WANTS A SUPERVISORY COMMITTEE AT ALL. IF THE CREDIT UNION OPTS FOR NO SUPERVISORY COMMITTEE, THE SUPERVISORY COMMITTEE'S STATUTORY DUTIES AND RESPONSIBILITIES WOULD FALL DIRECTLY ON THE BOARD OF DIRECTORS. THERE WOULD BE NO CHANGE IN THE SUPERVISORY COMMITTEE'S DUTIES AND RESPONSIBILITIES--MERELY THE OPTION FOR A CHANGE IN WHO CARRIES THEM OUT.

AGAIN, BECAUSE OF A DRAFTING ERROR IN LEGISLATIVE COUNCIL, WE HAVE TO OFFER AN AMENDMENT TO THIS PROVISION. WE WOULD ASK THAT YOU STRIKE THE WORDS "1-YEAR TERMS" ON PAGE 6, LINE 16, AND ADD THE WORDS "SUCH TERMS AS THE BYLAWS PROVIDE." THAT'S BECAUSE THE TERMS OF SUPERVISORY COMMITTEE MEMBERS ARE

CONTROLLED BY THE CREDIT UNION'S STANDARD BYLAWS--NO LESS THAN ONE YEAR AND NO MORE THAN THREE YEARS.

SECTION 6: WE SKIP TO SECTION 6 OF THE BILL (PAGE 9, LINES 8 AND 9 AND LINE 19) BECAUSE IT APPLIES DIRECTLY TO SECTION 4. THE AMENDED LANGUAGE IN SECTION 6 MERELY INSERTS THE PHRASE "BOARD OF DIRECTORS" INTO THE STATUTE CONTAINING THE DUTIES OF THE SUPERVISORY COMMITTEE. THIS AMENDED LANGUAGE IS NECESSARY SHOULD THE CREDIT UNION OPT TO HAVE NO SUPERVISORY COMMITTEE, SINCE THOSE DUTIES AND RESPONSIBILITIES WOULD THEN TRANSFER TO THE BOARD OF DIRECTORS.

SECTION 5: THE NATIONAL CREDIT UNION ADMINISTRATION (NCUA), WHICH IS THE REGULATOR OF FEDERAL CREDIT UNIONS, RECENTLY RELAXED ITS REQUIREMENTS FOR "FAITHFUL PERFORMANCE OF TRUST" COVERAGE UNDER THE DISCOVERY BOND FOR FEDERAL CREDIT UNIONS. NOW THE FEDERAL CREDIT UNION HAS THE OPTION OF PROVIDING FAITHFUL PERFORMANCE COVERAGE FOR ALL EMPLOYEES AND COMMITTEE MEMBERS OF THE CREDIT UNION OR FOR ONLY THE "CHIEF FINANCIAL OFFICER." THERE IS A 10% INCREASE IN THE BOND PREMIUM FOR FAITHFUL PERFORMANCE COVERAGE IF THE FEDERAL CREDIT UNION CHOOSES TO COVER ALL EMPLOYEES AND COMMITTEE MEMBERS.

CURRENTLY, STATE-CHARTERED CREDIT UNIONS DON'T HAVE THE OPTION OF COVERING ONLY THE "CHIEF FINANCIAL OFFICER." STATE CREDIT UNION LAW REQUIRES THAT THEY COVER EVERYONE. THIS PROVISION (PAGE 7, LINES 17-19) WOULD GIVE STATE CREDIT UNIONS THE SAME OPTION FEDERAL CREDIT UNIONS CURRENTLY HAVE.

CREDIT UNIONS--BOTH STATE AND FEDERAL--ARE THE ONLY FINANCIAL INSTITUTIONS THAT HAVE TO PROVIDE FAITHFUL PERFORMANCE COVERAGE AT ALL. BANKS AND S&LS DON'T. THE NCUA IS COMMITTED TO REMOVING FROM THE FEDERAL CREDIT UNION ACT ANY REQUIREMENT AT ALL FOR FAITHFUL PERFORMANCE COVERAGE AND HOPES FOR CONGRESSIONAL ACTION TO THAT EFFECT THIS YEAR.

SECTION 7: SECTION 7 OF THE BILL (PAGE 9, LINES 23-25 AND PAGE 10, LINES 1-23) WOULD GIVE A STATE-CHARTERED CREDIT UNION THE OPTION OF MAINTAINING SHARE INSURANCE (DEPOSIT INSURANCE) EITHER THROUGH THE NATIONAL CREDIT UNION SHARE INSURANCE FUND, ADMINISTERED BY THE NATIONAL CREDIT UNION ADMINISTRATION (NCUA), OR THROUGH A "LEGALLY CONSTITUTED SHARE GUARANTOR OR INSURANCE PLAN" THAT WOULD HAVE TO BE FIRST APPROVED BY BOTH MONTANA'S COMMISSIONER OF INSURANCE AND THE DIRECTOR OF THE DEPARTMENT OF COMMERCE.

CURRENTLY, 31 STATES ALLOW THEIR STATE-CHARTERED CREDIT UNIONS THE OPTION OF HAVING FEDERAL OR PRIVATE SHARE INSURANCE. ONLY 11 STATES REQUIRE THEIR CREDIT UNIONS TO USE ONLY THE NCUA SHARE INSURANCE FUND. MONTANA IS ONE OF THOSE.

RIGHT NOW THERE ARE SIX PRIVATE SHARE GUARANTORS OR INSURANCE PLANS THAT COULD, WITH THE PROPER APPROVALS FROM THE INSURANCE COMMISSIONER AND THE DEPARTMENT, INSURE THE SHARES OF MONTANA'S STATE CREDIT UNIONS. (SEE "EXHIBIT 6" OF THE APPENDIX.)

WHY WOULD A STATE-CHARTERED CREDIT UNION CHOOSE PRIVATE SHARE INSURANCE? FOR TWO REASONS. FIRST, MANY OF THE PRIVATE INSURERS "RISK RATE" CREDIT UNIONS APPLYING FOR INSURANCE. RISK RATING ALLOWS PRIVATE INSURERS TO CHOOSE THE CREDIT UNIONS THEY WANT TO INSURE. IF A CREDIT UNION IS EXCEPTIONALLY WELL-MANAGED AND WELL-CAPITALIZED, IT MIGHT PAY LESS IN PREMIUMS FOR THE SAME COVERAGE IT CURRENTLY HAS FROM THE NCUA. ON THE OTHER HAND, IF A CREDIT UNION DOESN'T MEET THE PRIVATE INSURER'S STANDARDS, THE INSURER CAN REFUSE TO INSURE THE CREDIT UNION. THAT CREDIT UNION WOULD HAVE NO CHOICE THEN BUT TO MAINTAIN ITS INSURANCE WITH THE NCUA SHARE INSURANCE FUND.

SECOND, SEVERAL OF THE PRIVATE SHARE GUARANTORS AND INSURANCE PLANS OFFER SHARE INSURANCE IN EXCESS OF THE \$100,000 AVAILABLE FROM THE FEDERAL DEPOSIT INSURERS.

THIS AMENDMENT DOES NOT CHANGE THE REQUIREMENT THAT A STATE-CHARTERED CREDIT UNION MUST HAVE SHARE INSURANCE IN ORDER TO OPERATE. THERE WOULD MERELY BE THE OPTION OF FEDERAL OR PRIVATE INSURANCE.

SECTION 8: SECTION 8 OF HB 475 (PAGE 10, LINES 24 AND 25 AND PAGE 11, LINES 1 AND 2) IS A NEW SECTION OF LAW. SECTION 8 CREATES THE AUTHORITY FOR THE BOARD OF DIRECTORS OF THE CREDIT UNION TO ESTABLISH PROCEDURES FOR WITHDRAWAL OF SHARES FOR PAYMENT TO THE MEMBER OR TO THIRD PARTIES. THIS AUTHORITY IS NECESSARY FOR STATE-CHARTERED CREDIT UNIONS TO

PARTICIPATE IN SHARE DRAFT, CREDIT CARD, AND DEBIT CARD PROGRAMS.

THIS NEW SECTION MERELY GIVES STATE-CHARTERED CREDIT UNIONS THE SAME TYPE OF AUTHORITY FEDERAL CREDIT UNIONS CURRENTLY HAVE.

HOUSE BILL 475 GIVES STATE-CHARTERED CREDIT UNIONS SOME EXPANDED AUTHORITIES TO BRING THEIR SERVICES IN LINE WITH THOSE CURRENTLY AVAILABLE AT FEDERAL CREDIT UNIONS. IN SOME CASES IT CREATES NEW AUTHORITY, IN OTHERS IT MERELY CODIFIES IN STATUTE CURRENT PRACTICES OF STATE-CHARTERED CREDIT UNIONS.

THE MEMBERS OF THE MONTANA CREDIT UNIONS LEAGUE SUPPORT HOUSE BILL 475, INCLUDING THE TWO AMENDMENTS WE OFFERED AS A RESULT OF DRAFTING AND PROOFREADING ERROR. WE URGE THAT, UPON CONSIDERATION OF THE MERITS OF THE BILL, THE COMMITTEE RECOMMEND THAT HOUSE BILL 475, AS AMENDED, DO PASS.

(3) If, at the time and place specified in the notice of the special meeting or at the annual meeting of the stockholders, stockholders representing two-thirds of all the shares of stock of the corporation appear in person or by proxy and vote in favor of the amendment, a certificate of the proceedings showing a compliance of the provisions of this chapter and the amendment relative to the number of directors shall be prepared, certified, and sworn to and filed with the department. The department shall, within 30 days after the receipt of the certificate, either approve or reject the amendment. The action of the department on the amendment is final. If it approves the amendment, it shall notify the bank, whereupon the certificate with the department's approval attached to it shall be filed in the office of the county clerk and recorder of the county in which the bank is situated and a certified copy of it shall be filed in the office of the secretary of state. Upon the filing of the certified copy with the secretary of state, the amendment becomes effective.

History: En. Sec. 19, Ch. 89, L. 1927; and, Sec. 1, Ch. 145, L. 1931; re-en. Sec. 601423, R.C.M. 1935; and, Sec. 1, Ch. 131, L. 1937; and, Sec. 2, Ch. 7, L. 1965; and, Sec. 9, Ch. 431, L. 1975; R.C.M. 1947, 5-217.

Cross-References

Business corporations — procedure to amend organization of subsidiary trust companies, articles of incorporation, 35-1-207.
Business corporations — number, election, and term of directors, 35-1-402.

32-1-357 through 32-1-360 reserved.

32-1-361. Change from state to national bank. Any bank may become a corporation for the purpose of carrying on the business of banking in this state, under the act of congress "to provide a national currency secured by a pledge of United States bonds and to provide for the circulation and redemption thereof", approved June 3, 1864, and under Title 52 of the Revised Statutes of the United States, when stockholders owning two-thirds of the stock of the bank have voted to become such corporation or have executed a written consent authorizing its directors to make the certificate required therefor by the laws of the United States or when a majority of the directors of the bank, having been authorized in their discretion to make the change, shall, by a vote of the majority, decide to become such corporation. The cashier of the bank shall publish notice thereof for 30 days in the newspaper which the directors select and send a like printed notice by mail or otherwise to all nonvoting or dissenting stockholders and notify the department that the bank has decided to become a corporation under the laws of the United States.

History: En. Sec. 75, Ch. 89, L. 1927; re-en. Sec. 601456, R.C.M. 1935; and, Sec. 32, Ch. 431, L. 1975; and, Sec. 17, Ch. 71, L. 1977; R.C.M. 1947, 5-1002.

32-1-362. National bank powers extended to state banks. (1) With the consent of the department, every bank organized under the laws of the state shall have power to and may engage in any activity or business in which such bank could engage if it were operating as a national bank. The department may prescribe, amend, and repeal regulations affecting and controlling the exercise of the powers granted by this section, provided that, subject to subsection (2), such regulations and powers shall not apply to

activities which are expressly prohibited or limited by the statutes of the state.

(2) If the United States congress allows national banks to establish branches without regard to state prohibitions, a bank organized under the laws of Montana may, with the consent of the department, establish a branch under the same conditions allowed national banks, despite the restrictions imposed by 32-1-372.

History: En. Sec. 1, Ch. 119, L. 1973; R.C.M. 1947, 5-10021; and, Sec. 1, Ch. 163, L. 1981.

Compiler's Comments

1967 Amendment: Inserted "subject to subsection (2)" before "such regulations and powers shall not apply" in (1); added subsection (2).

32-1-363. Surrender of charter by state bank. (1) Any bank which will become a corporation for carrying on the business of banking under the laws of the United States shall cease to be a corporation under the laws of this state, except that for the term of 3 years thereafter its corporate existence shall be deemed to continue for the purposes of prosecuting and defending suits by and against it and of enabling it to close its concerns and to dispose of and convey its property.

(2) The members of the board of directors last in office, when such corporation shall have become a corporation under the laws of the United States, shall continue to be the board of directors of the corporation, with power to take all necessary measures to carry out and perfect such organization by signing the articles of association and the organization certificate and adopting such regulations as may be just and proper and not inconsistent with the acts of congress in relation thereto.

(3) Such change from a state to a national bank corporation shall not release any such bank from its obligations to pay and discharge all the liabilities created by law or incurred by it before becoming a national bank corporation or any tax imposed by the laws of this state up to the date of its becoming such national bank corporation, in proportion to the time which has elapsed since the next preceding payment thereof.

History: En. Sec. 76, Ch. 89, L. 1927; re-en. Sec. 601487, R.C.M. 1935; R.C.M. 1947, 5-1003.

Cross-References

Business corporations — survival of remedy after dissolution — continuance of corporate existence for certain purposes, 35-1-930.

32-1-364. Increase or reduction of capital stock. The directors of such new corporation may reduce the capital stock of the bank to its par value by dividing the surplus among its stockholders or may retain such portion of such surplus as they may deem necessary. In case of an increase of the capital stock under the provisions of the acts of congress, the director may charge the shares of such increased capital stock with a like amount to place the whole of such capital stock on an equality and may award such new stock, or such proportion or fractional parts thereof, to such persons as they shall determine are entitled thereto and as are provided in their articles of association and the acts of congress. New directors may be chosen at such time and in the manner provided in the articles of association and the acts of congress.

History: En. Sec. 77, Ch. 89, L. 1927; re-en. Sec. 601488, R.C.M. 1935; R.C.M. 1947, 5-1004.



of state who, upon payment of the filing fees therefor, shall issue a certificate of incorporation.

(6) The subscribers for a credit union charter shall not transact any business until formal approval of the charter has been received.

History: En. 14-603 by Sec. 3, Ch. 38, L. 1975; R.C.M. 1947, 14-603; *amd.* Sec. 2, Ch. 274, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "department of commerce" for "department of business regulation" in (4) and (5).

Cross-References

Adult rights, Art. II, sec. 14, Mont. Const.
Formation of banks and trust companies, Title 32, ch. 1, part 3.

Organization of building and loan association, Title 32, ch. 2, part 2.
Election or appointment of officials, 32-3-403.
Business corporations — articles of incorporation, 35-1-202.

Business corporations — articles of incorporation — filing — issuance of certificate of incorporation, 35-1-203.

32-3-302. Form of articles and bylaws. In order to simplify the organization of credit unions, the director of the department of commerce shall cause to be prepared a form of articles of incorporation and a form of bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance. Such articles of incorporation and bylaws shall be available without charge to persons desiring to organize a credit union.

History: En. 14-604 by Sec. 4, Ch. 38, L. 1975; R.C.M. 1947, 14-604; *amd.* Sec. 2, Ch. 274, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "department of commerce" for "department of business regulation".

Cross-References

Banks and trust companies — bylaws, 32-1-308.
Building and loan associations — bylaws, 32-2-204.
Business corporations — bylaws — power in directors — contents, 35-1-214.

32-3-303. Amendments. (1) The articles of incorporation or the bylaws may be amended as provided in the bylaws. Amendments to the articles of incorporation or bylaws shall be submitted to the director of the department of commerce who shall approve or disapprove the amendments within 60 days.

(2) Amendments shall become effective upon:

(a) approval in writing by the director, for which no fee may be charged;

(b) in the case of articles of incorporation, filing with the secretary of state.

History: En. 14-605 by Sec. 5, Ch. 38, L. 1975; *amd.* Sec. 32, Ch. 71, L. 1977; R.C.M. 1947, 14-605; *amd.* Sec. 2, Ch. 274, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "department of commerce" for "department of business regulation" in (1).

Cross-References

Business corporations — power to amend articles of incorporation, 35-1-206.
Business corporations — procedure to amend articles of incorporation, 35-1-207.

32-3-304. Membership defined. (1) The membership of a credit union shall be limited to and consist of the subscribers to the articles of incorporation and such other persons within the common bond set forth in the bylaws as have been duly admitted members, have paid the required

entrance fee or membership fee, or both, have subscribed for one or more shares and have paid the initial installment thereon, and have complied with such other requirements as the articles of incorporation or bylaws specify.

(2) Credit union membership may include groups having a common bond of similar occupation, association, or interests or groups within a well-defined neighborhood, community, or rural district or employees of a common employer and members of the immediate family of such persons.

History: En. 14-615 by Sec. 15, Ch. 38, L. 1975; R.C.M. 1947, 14-615; *amd.* Sec. 1, Ch. 107, 1981.

Compiler's Comments

1981 Amendment: Inserted "or groups within a well-defined neighborhood, community, or rural district" in the middle of (2); deleted "provided that mere residence in a community may

not establish a common bond of association interest" at the end of (2).
Cross-References
Authorized activities of credit union, 32-3-206.

32-3-305. Societies — associations. Societies and partnerships composed primarily of individuals who are eligible for membership and corporations whose stockholders are composed primarily of such individuals may be admitted to membership in the same manner and under the same conditions as individuals but may not borrow in excess of their shareholdings.

History: En. 14-616 by Sec. 16, Ch. 38, L. 1975; R.C.M. 1947, 14-616.

32-3-306. Other credit unions. Any credit union organized under this chapter may permit membership of any other credit union organized under this chapter or other laws.

History: En. 14-617 by Sec. 17, Ch. 38, L. 1975; R.C.M. 1947, 14-617.

Cross-References

Central credit unions, Title 32, ch. 3, part 8.

32-3-307. Limited-income persons. Existing credit unions may include within their field of membership limited-income persons, as defined by the director of the department of commerce, for whom credit union services are otherwise unavailable.

History: En. 14-618 by Sec. 18, Ch. 38, L. 1975; R.C.M. 1947, 14-618; *amd.* Sec. 2, Ch. 274, 1981.

Compiler's Comments

1981 Amendment: Substituted "department of commerce" for "department of business regulation".

Cross-References
Director of the Department of Commerce, 32-3-201.

32-3-308. Members who leave field. Members who leave the field of membership may be permitted to retain their membership in the credit union as a matter of general policy of the board of directors.

History: En. 14-619 by Sec. 19, Ch. 38, L. 1975; R.C.M. 1947, 14-619.

Cross-References

Duties of directors, 32-3-412.

32-3-309. Liability of members. The members of the credit union shall not be personally or individually liable for the payment of its debts.

History: En. 14-620 by Sec. 20, Ch. 38, L. 1975; R.C.M. 1947, 14-620.

Cross-References

Banks and trust companies — stockholders' liability, 32-1-333.
Building and loan associations — shares subject to attachment, 32-2-264.
Business corporations — liability of subscribers and shareholders, 35-1-510.



REQUESTED AMENDMENTS TO HOUSE BILL 475

1. On page 5, lines 4 and 5, strike the comma after "services" on line 4 and insert a period. Strike "but not including checking account services;" on lines 4 and 5.

"...charge a reasonable fee for such services, ~~but not including checking account services;~~"

2. On page 6, line 16, strike "1-year term" and insert "such terms as the bylaws provide".

"...supervisory committee members are elected for ~~1-year terms~~ SUCH TERMS AS THE BYLAWS PROVIDE by the members of the credit union...."

DEPARTMENT OF ADMINISTRATION
STATE PERSONNEL DIVISION



TED SCHWINDEN, GOVERNOR

ROOM 130, MITCHELL BUILDING

STATE OF MONTANA

(406) 444-3871

HELENA, MONTANA 59620

February 12, 1985

TESTIMONY OF DENNIS M. TAYLOR, ADMINISTRATOR,
STATE PERSONNEL DIVISION, DEPARTMENT OF ADMINISTRATION,
PRESENTED TO THE HOUSE JUDICIARY COMMITTEE ON
BUSINESS AND LABOR IN OPPOSITION TO HB 485

Mr. Chairman, Committee members, my name is Dennis Taylor. I am the Administrator of the State Personnel Division in the Department of Administration. I appear before you today in opposition to HB 485, Representative Driscoll's bill to give each bargaining agent of state employee unions an absolute veto over the department's ability to manage and maintain a uniform and statewide classification system. Classification, based on systematic job evaluation, is a managerial and administrative tool used by Montana state government to facilitate and ensure a fair and equitable pay schedules based on the concept of equal pay for equal work. The equal pay concept, and position classification in general, was first systematically introduced into state government personnel management practices approximately twelve years ago. Before the passage, in 1973, of the Statewide Classification and Pay Act, positions all across Montana state government with similar duties and responsibilities working under the same working conditions were often compensated at different rates of pay. A clerical worker in the Department of Natural Resources and Conservation would receive one rate of pay and another clerical worker with nearly the same duties and responsibilities in the Department of Institutions would receive another rate of pay. The compensation system in Montana state government prior to 1973 was a fragmented non-system of unequal pay for similar work that was neither equitable nor fair. HB 485 would have us revert to a non-standard classification system with its resulting problems.

From the outset of the statewide classification system, union involvement in the state classification process has been permitted and encouraged. At the time the statewide classification system was implemented in 1975, the legislature included a provision that required that anything relevant to the determination of classification was a mandatory subject of negotiations. For four years the State Personnel Division negotiated classification with the various unions representing state employees. These negotiations resulted in some fragmentation of the statewide classification plan and the establishment of the blue collar plan, the liquor store clerk plan and the teachers plan and the resulting pay schedules for each of these negotiated classification schemes. In addition, during the same time frame (1975-1979), the grade levels of various classes in the statewide schedule were negotiated upward, examples include Highway Patrol Officer,

Comparison of Share Insurance Plans

(Continued)

| As of 12/31/83] | Maryland Credit Union Insurance Corporation | Massachusetts Credit Union Share Insurance Corporation | National Deposit Guaranty Corporation (Ohio) | Rhode Island Share & Deposit Indemnity Corporation | State Credit Union Share Insurance Corp. (Tennessee) |
|--|---|---|--|---|---|
| Incorporated: | 1975 | 1961 | 1974 | 1969 | 1974 |
| Membership Deposit: | 1% of shares and deposits, adjusted annually | 1% of shares and deposits, adjusted annually | 1% of shares and deposits, adjusted annually | 1% of insurable deposits, adjusted semi-annually | 1% of savings capital, adjusted annually |
| Annual Premium: | None | 1/12 of 1% of shares and deposits | 1/12 of 1% of shares - not collected for 1982, 1983 | 1/12 of 1% of shares and deposits | 1/12 of 1% of shares and deposits |
| Maximum Coverage: | \$250,000 | To full account limit | Full amount | \$100,000 | \$100,000 |
| Number of Insured Credit Unions: | 28 | 227 | 434 in 9 states (excess coverage for 23 other CUs) | 54 (also 13 other institutions) | 422 in 3 states |
| Number of Credit Union Members: | 198,421 | Not available | 4,731,127 | 317,372 | Not available |
| Total Assets/ Insured CUs: | \$538.0 million | \$2,511.1 million | \$2,317.7 million | \$659.8 million (CUs) \$806.5 million (Others) | \$1,090.5 million |
| Aggregate Amount of Savings: | \$502.8 million | \$2,267.1 million | \$2,207.9 million | \$611.2 million (CUs) \$748.6 million (Others) | \$983.4 million |
| Total Assets-- Corporation: | \$5.38 million | \$30.24 million (9/30/83) | \$25.13 million | \$19.58 million | \$14.5 million |
| Reinsurance: | None | None | \$10 million | None | None |
| Gross Claims Paid in 1983: | None | \$2.7 million | \$435,621 | \$169,671 | \$171,627 |
| Supervised by: | State Banking Commissioner | Banking Department | Department of Commerce | Department of Business Regulation | Banking Commissioner |
| Insurance Mandatory: | MCUIC Only 7/1/76 | MCUSIC or NCUA 10/73 | NDGC or NCUA by 12/31/78 | RISDIC or NCUA by 1982 | SCUSIC or NCUA by 1/1/79 |

*E: Insured corporate credit unions not included in data

*Gross Claims = Sums expended in liquidations, mergers, loan purchases, and stabilizing guarantees during 1983

Comparison of Share Insurance Plans

(Continued)

| [As of 12/31/83] | Texas Share Guaranty Credit Union | Utah Credit Union Guaranty Corporation | Virginia Credit Union Share Insurance Corporation | Washington Credit Union Share Guaranty Association | Wisconsin Credit Union Savings Insurance Corporation |
|--|---|---|--|--|---|
| Incorporated: | 1975 | 1973 | 1974 | 1975 | 1970 |
| Membership Deposit: | 1% of insured savings, adjusted annually | 1/2 of 1% assets, adjusted annually | 1% of shares, adjusted annually | \$25 plus CU- held contingency reserve of 1/2 of 1% of guar- anteed shares | 1/2 of 1% of savings capital |
| Annual Premium: | Up to 1/10 of insured savings; actual 1/20 | 1/20 of 1% of shares and deposits | 1/12 of 1% of shares | None - contingency reserve annually adjusted to 1/2 of 1% | Up to 0.1% of 1% of savings capital |
| Maximum Coverage: | \$100,00 | Full amount | \$100,000 | \$100,000 | \$100,000 |
| Number of Insured Credit Unions: | 378 | 164 | 115 | 150 | 569 |
| Number of Credit Union Members: | 954,180 | 239,210 | 210,646 | 476,150 | 1,288,572 |
| Total Assets/ Insured CUs: | \$1,892.9 million | \$366.7 million | \$275.7 million | \$1,020.5 million | \$2,484.0 million |
| Aggregate Amount of Savings: | \$1,726.7 million | \$336.2 million | \$242.4 million | \$997.4 million | \$2,021.9 million |
| Total Assets-- Corporation: | \$19.96 million | \$3.04 million | \$3.8 million | \$4.9 million | \$21.1 million |
| Reinsurance: | None | None | None | None | None |
| *Gross Claims Paid in 1983: | \$1,119,000 | \$94,500 | \$4,626 | \$140,971 | \$150,314 |
| Supervised by: | Texas Credit Union Department | Insurance Commission or Financial Institutions Department | Bureau of Financial Institutions | Supervisor, Division of Savings & Loan Associations | Commissioner of Credit Unions |
| Insurance Mandatory: | TSGCU or NCUA by 7/1/76 | UCUGC, NCUA or other by 9/1/81 | VCUSIC or NCUA by 7/1/76 | WCUSGA or NCUA by 12/28/75 | WCUSIC Only |

of state who, upon payment of the filing fees therefor, shall issue a certificate of incorporation.

(6) The subscribers for a credit union charter shall not transact any business until formal approval of the charter has been received.
History: En. 14-603 by Sec. 3, Ch. 38, L. 1975; R.C.M. 1947, 14-603; *amd.* Sec. 2, Ch. 774, L. 1981.

Compiler's Comments
1981 Amendment: Substituted "department of commerce" for "department of business regulation" in (4) and (5).

Cross-References
Adult rights, Art. II, sec. 14, Mont. Const.
Formation of banks and trust companies, Title 32, ch. 1, part 3.
Organization of building and loan association, Title 32, ch. 2, part 2.
Election or appointment of officials, 32-3-403.
Business corporations — articles of incorporation, 35-1-202.
Business corporations — articles of incorporation — filing — issuance of certificate of incorporation, 35-1-203.

32-3-302. Form of articles and bylaws. In order to simplify the organization of credit unions, the director of the department of commerce shall cause to be prepared a form of articles of incorporation and a form of bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance. Such articles of incorporation and bylaws shall be available without charge to persons desiring to organize a credit union.
History: En. 14-604 by Sec. 4, Ch. 38, L. 1975; R.C.M. 1947, 14-604; *amd.* Sec. 2, Ch. 774, L. 1981.

Compiler's Comments
1981 Amendment: Substituted "department of commerce" for "department of business regulation".

Cross-References
Banks and trust companies — bylaws, 32-1-308.
Building and loan associations — bylaws, 32-2-204.
Business corporations — bylaws — power in directors — contents, 35-1-214.

32-3-303. Amendments. (1) The articles of incorporation or the bylaws may be amended as provided in the bylaws. Amendments to the articles of incorporation or bylaws shall be submitted to the director of the department of commerce who shall approve or disapprove the amendments within 60 days.
(2) Amendments shall become effective upon:

(a) approval in writing by the director, for which no fee may be charged; and

(b) in the case of articles of incorporation, filing with the secretary of state.
History: En. 14-605 by Sec. 5, Ch. 38, L. 1975; *amd.* Sec. 32, Ch. 71, L. 1977; R.C.M. 1947, 14-605; *amd.* Sec. 2, Ch. 774, L. 1981.

Compiler's Comments
1981 Amendment: Substituted "department of commerce" for "department of business regulation" in (1).

Cross-References
Business corporations — power to amend articles of incorporation, 35-1-206.
Business corporations — procedure to amend articles of incorporation, 35-1-207.

32-3-304. Membership defined. (1) The membership of a credit union shall be limited to and consist of the subscribers to the articles of incorporation and such other persons within the common bond set forth in the bylaws as have been duly admitted members, have paid the required

entrance fee or membership fee, or both, have subscribed for one or more shares and have paid the initial installment thereon, and have complied with such other requirements as the articles of incorporation or bylaws specify.

(2) Credit union membership may include groups having a common bond of similar occupation, association, or interests or groups within a well-defined neighborhood, community, or rural district or employees of a common employer and members of the immediate family of such persons.
History: En. 14-615 by Sec. 15, Ch. 38, L. 1975; R.C.M. 1947, 14-615; *amd.* Sec. 1, Ch. 107 1981.

Compiler's Comments
1981 Amendment: Inserted "or groups within a well-defined neighborhood, community, or rural district" in the middle of (2); deleted "provided that mere residence in a community may not establish a common bond of association" at the end of (2).

Cross-References
Authorized activities of credit union, 32-3-206.

32-3-305. Societies — associations. Societies and partnerships composed primarily of individuals who are eligible for membership and corporations whose stockholders are composed primarily of such individuals may be admitted to membership in the same manner and under the same conditions as individuals but may not borrow in excess of their shareholdings.
History: En. 14-616 by Sec. 16, Ch. 38, L. 1975; R.C.M. 1947, 14-616.

32-3-306. Other credit unions. Any credit union organized under this chapter may permit membership of any other credit union organized under this chapter or other laws.
History: En. 14-617 by Sec. 17, Ch. 38, L. 1975; R.C.M. 1947, 14-617.

Cross-References
Central credit unions, Title 32, ch. 3, part 8.

32-3-307. Limited-income persons. Existing credit unions include within their field of membership limited-income persons, as defined by the director of the department of commerce, for whom credit union services are otherwise unavailable.
History: En. 14-618 by Sec. 18, Ch. 38, L. 1975; R.C.M. 1947, 14-618; *amd.* Sec. 2, Ch. 7 1981.

Compiler's Comments
1981 Amendment: Substituted "department of commerce" for "department of business regulation".

Cross-References
Director of the Department of Commerce, 32-3-201.

32-3-308. Members who leave field. Members who leave the field of membership may be permitted to retain their membership in the credit union as a matter of general policy of the board of directors.
History: En. 14-619 by Sec. 19, Ch. 38, L. 1975; R.C.M. 1947, 14-619.

Cross-References
Duties of directors, 32-3-412.

32-3-309. Liability of members. The members of the credit union shall not be personally or individually liable for the payment of its debts.
History: En. 14-620 by Sec. 20, Ch. 38, L. 1975; R.C.M. 1947, 14-620.

Cross-References
Banks and trust companies — stockholders' liability, 32-1-333.
Building and loan associations — share stock subject to attachment, 32-2-264.
Business corporations — liability of subscribers and shareholders, 35-1-510.



32-3-506. Trust accounts. (1) Shares may be issued in the name of a member in trust for a beneficiary, including a minor; but no beneficiary, unless a member in his own right, shall be permitted to vote, obtain loans, hold office or be required to pay an entrance or membership fee.

(2) Payment of part or all of such shares to such member shall, to the extent of such payment, discharge the liability of the credit union to the member and the beneficiary; and the credit union shall be under no obligation to see the application of such payment.

(3) In the event of the death of the member, and if shares are so issued or held and the credit union has been given no other written notice of the existence or terms of any trust, such shares and any dividends or interest thereon shall be paid to the beneficiary.

History: En. 14-644 by Sec. 44, Ch. 38, L. 1975; R.C.M. 1947, 14-644.

Cross-References

Banks and trust companies — trust deposits — payment, 32-1-443.
Trusts for benefit of third persons, Title 72, Building and loan associations — trust — Uniform Principal and Income Act, Title 72, payment, 32-2-417.
Trusts in general, Title 72, ch. 20.

32-3-507. Liens. The credit union shall have a lien on the shares and accumulated dividends or interest of a member in his individual, joint, or trust account for any sum past due the credit union from said member or for any loan endorsed by him.

History: En. 14-645 by Sec. 45, Ch. 38, L. 1975; R.C.M. 1947, 14-645.

Cross-References

Liens, Title 71, ch. 3.

32-3-508. Dormant accounts. (1) If a credit union is unable to contact a member, beneficiary, or other person via first-class mail at the last address shown on the records of the credit union and if such inability continues for a period of more than 5 years, all shares, accounts, dividends, interest, and other sums due or standing in the name of such member, beneficiary, or other person may, by action of the board of directors, be segregated and thereafter no dividends or interest will accrue thereto.

(2) The member may reclaim any such sums by proper administrative or judicial proceedings or in accordance with the Uniform Disposition of Unclaimed Property Act.

(3) This section does not apply to shares, accounts, dividends, interest, and other sums due to or standing in the name of two or more persons unless the credit union is unable to contact any such persons in the manner and during the period specified in subsection (1).

History: En. 14-646 by Sec. 46, Ch. 38, L. 1975; R.C.M. 1947, 14-646.

Cross-References

Uniform Disposition of Unclaimed Property Act, Title 70, ch. 9, parts 1 through 3.

32-3-509. Reduction in shares. (1) Whenever the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and reserve fund so that the estimated value of its assets is less than the total amount due the shareholders,

the credit union may by a majority vote of the entire membership order reduction in the shares of each of its shareholders to divide the loss proportionately among the members.

(2) If the credit union thereafter realizes from such assets a great amount than was fixed by the order of reduction, such excess shall be divided proportionately among the shareholders whose assets were reduced but only to the extent of such reduction.

History: En. 14-647 by Sec. 47, Ch. 38, L. 1975; R.C.M. 1947, 14-647.

Cross-References

Building and loan associations — funds for contingent losses, 32-2-410.

Meetings of members, 32-3-310.

Part 6

Loans and Insurance

32-3-601. Loans — purposes, terms. A credit union may loan to members for such purpose and upon such security and terms as the credit committee, credit manager, or loan officer approves.

History: En. 14-648 by Sec. 48, Ch. 38, L. 1975; R.C.M. 1947, 14-648; and, Sec. 6, Ch. 275, 1981; and, Sec. 1, Ch. 9, L. 1983.

Compiler's Comments

1983 Amendment: Made 1981 amendment permanent. (Amendment was to terminate July 1, 1983—sec. 8, Ch. 275, L. 1981.)

1991 Amendment: Deleted "at rates of interest not exceeding 1 1/4% per month on the

unpaid monthly balances" after "approves" the end of the section.

Cross-References

Loans of money — what constitute 31-1-101.

Legal interest, 31-1-106.
Interest rate allowed by agreement, 31-1-107.

32-3-602. Loan application. Every application for a loan shall be made in writing upon a form which the credit committee, credit manager, or loan officer prescribes. The application shall state the purpose for which the loan is desired and the security, if any, offered. Each loan shall be evidence by a written document.

History: En. 14-649 by Sec. 49, Ch. 38, L. 1975; R.C.M. 1947, 14-649.

Cross-References

Authority of credit committee, 32-3-413.

32-3-603. Loan limit. No loan shall be made to any member in a aggregate amount in excess of 10% of the credit union's total assets.

History: En. 14-650 by Sec. 50, Ch. 38, L. 1975; R.C.M. 1947, 14-650.

Cross-References

Banks and trust companies — limitations on loans, 32-1-432.

Building and loan associations — limitations on loans, 32-2-415.
Duties of directors, 32-3-412.

32-3-604. Security. In addition to generally accepted types of security, the endorsement of a note by a surety, comaker, or guarantor, or assignment of shares of wages, in a manner consistent with the laws of this state, shall be deemed security within the meaning of this chapter. The adequacy of any security shall be determined by the credit committee, credit manager, or loan officer, subject to this chapter and the bylaws.

History: En. 14-651 by Sec. 51, Ch. 38, L. 1975; R.C.M. 1947, 14-651.

17-6-211

STATE FINANCE

802

are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its treasurer to remit such funds to the state treasurer for investment under the direction of the board of investments as part of the pooled investment fund.

(2) A separate account, designated by name and number for each such participant in the fund, shall be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report shall be furnished to each participant having a beneficial interest in the pooled investment fund, showing the changes in investments made during the preceding month. Details of any investment transaction shall be furnished to any participant upon request.

(3) The principal and accrued income, and any part thereof, of each and every account maintained for a participant in the pooled investment fund shall be subject to payment at any time from the fund upon request. Accumulated income shall be remitted to each participant at least annually.

(4) No order or warrant shall be issued upon any account for a larger amount than the principal and accrued income of the account to which it applies, and if any such order or warrant is issued, the participant receiving it shall reimburse the excess amount to the fund from any funds not otherwise appropriated, and the state treasurer shall be liable under his official bond for any amount not so reimbursed.

History: En. Sec. 8, Ch. 298, L. 1973; R.C.M. 1947, 79-311.

Cross-References

Maintenance of fund and account records and interfund loans, 17-2-105.

Accurate accounting records and interaccount loans, 17-2-107.

17-6-205 through 17-6-210 reserved.

17-6-211. Permissible investments. (1) The following securities are permissible investments for all investment funds referred to in 17-6-203, except as indicated:

(a) any securities authorized to be pledged to secure deposits of public funds under 17-6-103;

(b) bonds, notes, debentures, equipment obligations, or any other kind of absolute obligation of any corporation organized and operating in any state of the United States or in Canada, if the obligations purchased are payable in United States dollars, or of any corporation in which the United States government is a voting shareholder by act of congress; provided that all investments under this subsection (1)(b) must be rated by one nationally recognized rating agency among the top third of their quality categories, not applicable to defaulted bonds;

(c) commercial paper of highest quality, as defined by one nationally recognized rating agency, issued by any corporation organized and operating in any state of the United States, provided that:

(i) such securities mature in 270 days or less;

(ii) the issuing corporation or the parent company of a finance subsidiary issuing commercial paper, at the time of the last financial reporting period, had received net income averaging \$1 million or more annually for the preceding 5 years; and

803

DEPOSITS AND INVESTMENTS

17-6-211

(iii) no investment may be made at any time under this subsection (1)(c) which would cause the book value of such investments in any investment fund to exceed 10% of the book value of such fund or would cause the commercial paper of any one corporation to exceed 2% of the book value of such fund;

(d) bankers' acceptances guaranteed by any bank having its principal office in any state of the United States and having deposits in excess of \$500 million;

(e) interest-bearing deposits in banks, building and loan associations, savings and loan associations, and credit unions located in Montana; provided, however, that the board of investments shall require pledged securities as specified in 17-6-102 (interest on said deposits shall not be less than the prevailing rate of interest being paid on deposits of private funds);

(f) unencumbered real property, first mortgages, and participations in first mortgages on unencumbered real property as provided in this subsection (1)(f) and subsection (5), provided that:

(i) no such mortgage or mortgage participation may be purchased unless: (A) the principal amount of the loan secured by the mortgage or mortgage participation is 80% or less of the appraised value of the property;

(B) the principal amount of the loan secured by the mortgage or mortgage participation exceeds 80% of the appraised value of the property but the amount of the loan in excess of 80%, determined at the time the loan was made, is guaranteed or insured by a mortgage insurance company which the board of investments has determined to be a qualified private insurer;

(C) 25% or more of the loan or participation therein secured is guaranteed or insured in the event of default by the United States of America or an agency thereof; or

(D) the mortgagor has leased the mortgaged property to a person, firm, or corporation whose rental payments under the lease are guaranteed for the full term of the loan or participation therein by an agency of the United States; and

(ii) no investment shall be made at any time under subsection (1)(f) which would cause the book value of such investments in any investment fund to exceed 50% of the book value of such fund; and

(f) any other investment in any business activity in the state, including activities that continue existing jobs or create new jobs in Montana, provided that investments which do not meet the requirements of subsections (1)(a) through (1)(f) may not, in the aggregate, exceed 10% of the fund from which each such investment is made.

(2) Investments from the pooled investment fund shall be restricted to fixed income securities described in subsections (1)(a) to (1)(e) above.

(3) Retirement funds and the fund provided for in 17-6-203, subsection (4) may be invested in preferred and common stocks of any corporation organized and operating in any state of the United States, provided that:

(a) the corporation has assets of a value not less than \$10 million;

(b) if the investment is preferred stock, the corporation's aggregate earnings available for payment of interest and preferred dividends, for a period of 5 consecutive years immediately before the date of investment, have been at least 1 1/2 times the aggregate of interest and preferred dividends required to be paid during this period;

Comparison of Share Insurance Plans

| [As of 12/31/83] | National Credit Union Share Insurance Fund | * California Credit Union Share Guaranty Corporation | Financial Institutions Assurance Corporation (North Carolina) | * Florida Credit Union Guaranty Corporation | Georgia Credit Union Deposit Insurance Corporation |
|--|--|--|---|---|--|
| Incorporated: | 1970 | 1981 | 1967 | 1975 | 1974 |
| Membership Deposit: | None | 1/2 of 1% of share capital, adjusted annually | 1.25% of insured savings, adjusted semi-annually | 1/2 of 1% of net amount guaranteed, adjusted annually | 1% of 1st \$1 mil. of shares, deposits, + dividends, + 1/2% of next \$4 mil. + 1/4% of all over \$5 mil., adjusted annually |
| Annual Premium: | 1/12 of 1% of all member accounts; plus special assessment 1/12 of 1% | 1/12 of 1% of shares | 1/12 of 1% of insured savings - not collected currently | 1/20 of 1% of funds guaranteed | 1/12 of 1% of shares, deposits |
| Maximum Coverage: | \$100,000 | \$150,000 | \$100,000 | \$100,000 and more if Board approves | \$100,000 |
| Number of Insured Credit Unions: | 15,877 | 14 | 25 (also 34 S&Ls, 5 industrial thrift and loans | 182 | 128 (also 3 S&Ls) |
| Number of Credit Union Members: | 41.07 million (Accounts) | 182,499 | Not available | 453,243 | 270,000 |
| Total Assets/ Insured CUs: | \$82.0 billion | \$698.7 million | \$1,003.8 million (CUs) \$2,256.1 million (Others) | \$762.2 million | \$744.9 million |
| Aggregate Amount of Savings: | \$74.7 billion | \$614.9 million | \$945.8 million (CUs) \$1,909.6 million (Others) | \$709.7 million | \$700.2 million (CUs) \$40.8 million (S&L) |
| Total Assets-- Corporation: | \$318.9 million | \$3.9 million | \$37.8 million | \$4.39 million | \$4.85 million |
| Reinsurance: | None - \$100 million line of credit - U.S. Treasury | None | \$30 million | None | None |
| *Gross Claims Paid in 1983: | \$55.1 million (FY '83) | None | None | None | \$10,071 |
| Supervised by: | National Credit Union Board | Department of Corporations/ CU Division | Department of Commerce | Office of State Comptroller | Department of Banking and Finance |
| Insurance Mandatory: | For Federal Credit Unions by 12/71 | CCUSGC, NCUA, or other by 3/31/81 | FLAC or NCUA by 7/1/75 | FCUGC or NCUA by 3/31/77 | GCUDIC or NCUA by 4/1/78 |

Fish and Game Wardens, and Gross Vehicle Weight Officers. This experience with mandatory bargaining of classifications created major conflicts in the Department of Administration's ability to operate and maintain the classification system consistently and fairly between bargaining units, between unionized and non-unionized employees and between agencies.

In 1979, the Legislature changed the law to eliminate the state's obligation to collectively bargain all things relevant to the determination of classification. In its place, the 1979 Legislature put in the current language that requires the department to consult with bargaining units prior to implementing adjustments in class specifications and in classification criteria. This existing consultation process works. When unions make comments about class specifications their comments have often been incorporated into the specifications. In some cases the classification staff has worked closely with bargaining unit employees when reviewing and changing the specifications. The class specifications for word processing operators, social workers, correctional officers and educational consultants class series, to name just a few, were developed, reviewed and improved by the "meet and confer" requirements that currently insure union involvement in the classification process.

House Bill 485 would be a reversal of the change made in 1979 and would, in fact, go considerably beyond the requirement to bargain classifications as a mandatory subject of bargaining by giving bargaining agents veto power over changes in the classification system. HB 485 would create a situation where "the tail could wag the dog."

The classification system is a complex management system that requires a staff of professionals to operate and maintain. Labor unions can not be expected to have the expertise that it takes to decide if a systems change is appropriate. The union's decision to approve or disapprove a change would probably be based on the transitory interests of their particular unit - a relatively small group of employees - and would most likely ignore the technical and legal requirements of consistency, fairness, efficient management, equal pay for equal work, equal pay for work of comparable value which affect all state employees across bargaining unit and union lines.

Please keep in mind that currently there are over 13,000 positions grouped into 1,400 classes, that is 1,400 separate occupations, in the state classified system. Approximately 50% of the state executive branch workforce is organized into 72 bargaining units represented by 20 different bargaining agents. There are 17 units in the university system.

Very often job classifications cross bargaining unit and labor union boundaries. Changes in these job classifications would require the approval of more than one bargaining agent or union. As an example, the department may find it necessary to change the specifications for secretaries. Currently secretaries are found in more than 15 separate bargaining units. A bargaining unit containing two secretaries could block a change that would affect over 550 positions classified as secretary. If unions can't agree on changes to class specifications and criteria, no changes could be made. The department would have to come to the legislature each session to get classification changes made, which would put the legislature into the administrative process, or the department would be forced to negotiate a separate classification system for many bargaining units.

HB 485 may also be in conflict with employees' rights to appeal their classification as provided in 2-18-203, M.C.A. What would happen under HB 485 if a union representative approved a change by the department and then an employee in the bargaining unit decided to appeal that change? Would the union's approval supercede the right of the employee to file the appeal? What if a union representative did not approve a department change and an employee in the unit decided to appeal and was successful in their appeal? HB 485 threatens to create problems in administering an already very cumbersome appeals process.

HB 485 would even permit a situation where an organized employee with the same duties and responsibilities and the same union but different bargaining units in the same agency could conceivably receive a different classification based on the exercise of the bargaining agent's absolute veto prerogative in one instance and not in the other. In order for the state's classification system to be operated on a consistent and fair basis, there must be a single administrative agency (presently the Department of Administration) responsible for maintaining the integrity of a uniform classification system, together with a timely classification appeals process such as the one permitted under current law to the Board of Personnel Appeals in the Department of Labor and Industry.

HB 485 would create further fragmentation of the state's classification and pay environment in state government at a time when we are attempting to insure greater equity and more consistent and uniform practices.

Thank you for the opportunity to present my views on HB 485. I urge you to give this measure a "DO NOT PASS" recommendation.

| | | | |
|---|--|--|------------------------|
|  | STATE OF MONTANA DEPARTMENT OF ADMINISTRATION PERSONNEL DIVISION | <h1 style="margin: 0;">CLASS SPECIFICATIONS</h1> | CLASS CODE 249001 |
| | | | GRADE 5 |
| | | | LAST UPDATED 7-1-74 |

| | |
|--------------------|------------------------------------|
| OCCUPATIONAL GROUP | Miscellaneous Clerical Occupations |
|--------------------|------------------------------------|

| | |
|------------------------------|-----------------|
| MONTANA CLASSIFICATION TITLE | License Clerk I |
|------------------------------|-----------------|

DESCRIPTION OF WORK

GENERAL DUTIES: Performs routine clerical work in processing licenses.
SUPERVISION RECEIVED: Works under close supervision of an administrative superior.
SUPERVISION EXERCISED: None

EXAMPLE OF DUTIES

Reviews applications, issues licenses, types, files, uses copy machine, calculator, mails receipts, deposits checks, and sends information; performs related work as required.

MINIMUM QUALIFICATIONS

KNOWLEDGES: Some knowledge of office procedures and handling of money.
SKILLS: Skill in the operation of a typewriter.
ABILITIES: Ability to follow written and verbal instructions; to maintain effective working relationships with employees and the public.
EDUCATION: High school graduation.
EXPERIENCE: None.

OR

Any equivalent combination of education and experience.

| | | | | | |
|---------------|------|-----|---|----------------|------------------------------|
| USER AGENCIES | | All | * | As Noted Below | All Except Those Noted Below |
| | 6409 | | | | |



STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION

CLASS SPECIFICATIONS

| | |
|--------------|--------|
| CLASS CODE | 249002 |
| GRADE | 7 |
| LAST UPDATED | 7-1-74 |

OCCUPATIONAL GROUP: Miscellaneous Clerical Occupations

MONTANA CLASSIFICATION TITLE: License Clerk II

DESCRIPTION OF WORK

GENERAL DUTIES: Performs routine clerical work in processing licenses.
 SUPERVISION RECEIVED: Works under general supervision of an administrative superior.
 SUPERVISION EXERCISED: None.

EXAMPLE OF DUTIES

Review applications, issue licenses, obtain missing information, types, files and maintains records; use copy machine, dictaphone, calculator; mails receipts, deposits checks; sorts forms; may take shorthand; performs related work as required.

MINIMUM QUALIFICATIONS

KNOWLEDGES: Working knowledge of office procedures; procedure for issuing licenses.
 SKILLS: Skill in the operation of the typewriter; may need skill in shorthand.
 ABILITIES: Ability to establish and maintain effective working relationships with employees, other agencies and the public.
 EDUCATION: High school graduation.
 EXPERIENCE: One year of clerical experience working with the issuance of licenses.

OR

Any equivalent combination of education and experience.

| | | | |
|----------|---------------------|------------------|------------------------------|
| AGENCIES | All | * As Noted Below | All Except Those Noted Below |
| | 5106 5301 5603 5801 | | |

NOTE: Duties described above are not necessarily all inclusive for this class.



STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION

CLASS SPECIFICATION

CLASS CODE: 249005

UPDATED: 10/82

LIBRARY CLERK SERIES DISCUSSION

Library Clerk I 249005

Library Clerk II 249006

Library Clerk work is clerical in nature and performed in accordance with established library methods and procedures. Positions excluded from this series are:

1. Positions where typing, stenographic, filing, or other similar clerical work governs the grade level.
2. Positions which require a full professional knowledge of the theories, principles, and techniques of librarianship.

DISTINGUISHING CHARACTERISTICS:

LIBRARY CLERK I -

1. Personal Contacts
 - A. this level is concerned with giving or receiving information, which is routine and recurrent, simple and clear-cut. Contacts are primarily within immediate work unit.
2. Scope and Effect
 - A. this level applies specific instructions. There is little responsibility beyond accuracy, production, and reasonable safety procedures to protect library materials from loss or damage.
3. Supervision Received
 - A. work is performed under immediate (initially) to close (full functioning) supervision. Because work at this level is highly repetitive and is governed by strict application to rules and procedures, assignments are spot checked for accuracy and neatness.

LIBRARY CLERK II -

1. Personal Contacts
 - A. contacts have expanded to other library employee, the general public or others using the library. Public contacts are of a relatively routine factually-centered nature. This level gives some explanation of the governing clerical procedures and/or answer a variety of inquiries. More difficult questions are referred to a supervisor.
2. Scope and Effect
 - A. this level of decisions is routine in applying established library policies, rules, and instructions. There is some room for discretion, e.g. some choice may be required in correctly applying procedures under varying circumstances such as difficult situations that arise at a registration or circulation desk; and in recognizing and referring to the supervisor or personnel in higher grades such matters as deviations from established procedures, matters not covered in procedures or instructions, or instances in which normal



STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION

CLASS SPECIFICATION

CLASS CODE: 249005

UPDATED: 10/82

Library Clerk Series Discussion - continued

or usual methods can not be used.

3. Supervision Received

A. work is performed under general supervision of a librarian or library technician. Routine work is spot checked.



STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION

CLASS SPECIFICATION

CLASS CODE: 249005

UPDATED: 9/82

LIBRARY CLERK I

SUMMARY OF WORK:

Under immediate (initially) to close supervision performs repetitive and easily learned library oriented clerical work; full performance is expected after a few days training or on-the-job practice; tasks require repetitive application of a few specific instructions; guidelines are clearly applicable and adherence to governing instructions is required.

Positions excluded from this series:

1. Positions where typing, stenographic, filing, or other similar clerical duties are predominate over library duties.
2. Positions which require a full professional knowledge of the theories, principles, and techniques of librarianship.

ILLUSTRATIVE EXAMPLES OF WORK:

Shelving books or magazines as directed in accordance with a simple predetermined and clearly designated alphabetical, numerical, or other arrangement; loading and arranging books on trucks, replacing material on shelves, maintaining orderliness and neatness of shelves, shifting book collection within the library stacks; counting duplicate copies in a shipment for comparison with invoices. Other duties of a simple, repetitive nature, such as assembling and stapling simple notations (e.g. color designations).

REQUIREMENTS:

KNOWLEDGES: Some knowledge of general library policies, procedures and functions.

ABILITIES: Ability to follow verbal and written instructions.

The above knowledges and abilities are typically acquired through a combination of education and experience equivalent to graduation from high school or an eighth grade education and two years of related experience.



STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION

CLASS SPECIFICATION

CLASS CODE: 249006

UPDATED: 9/82

LIBRARY CLERK II

SUMMARY OF WORK:

Under general supervision performs library oriented clerical work; assignments are related to a functional area of library activity, are covered by a variety of well established procedures and instruction, and require the exercise of some discretion or choice in the application of pertinent guidelines to the situation at hand.

ILLUSTRATIVE EXAMPLES OF WORK:

Searching, shelving, shifting, shelf reading, and sorting library publications; locates required publication primarily based upon call number; checks to make sure it includes the article requested.

Basic circulation and/or registration duties by explaining to borrowers:

- the library's rules and regulations, registers borrowers, files applications, enters and clears records of overdue books or fine changes, records change of names or addresses.

- the circulation procedures, charges publication to users (assuring borrowers address and identity, if questionable), discharges library materials on return, inspects books for damage, reserving books at request of borrower and making checks to see that requests for specific items are filled.

- maintains records of materials loaned to other libraries.

Processes a variety of library materials such as: books, pamphlets, music recordings, films, microfilms, and magnetic tape.

REQUIREMENTS:

KNOWLEDGES: Working knowledge of library functions or policies and procedures relating to the specific function(s) or activity(ies) involved.

ABILITIES: Ability to establish effective working relationships with employees, other agencies and the public; to communicate effectively verbally and in writing.

The above knowledges and abilities are typically acquired through a combination of education and experience equivalent to graduation from high school and one year of related experience.

PROPOSED AMENDMENTS TO HB 718

Amend House Bill 718, Introduced Copy as follows:

1. Page 1, Line 15

Following: An
Strike: "Unless otherwise provided by law, an"
Insert: "An"

2. Page 2, Following Line 14

Insert: "(5) A complaint pursuant to 2-18-1001 through
2-18-1003 must be filed with the board within 180
days after the grievance arises."

3. Page 3, Line 6

Following: "requiring"
Strike: "such action of the department agency as will resolve the
employee's grievance"

Insert: "partial or full back pay, with benefits, reinstatement
in the same or in a similar position, removal of disputed
material from the employee's personnel file or any such
action of the department as will resolve the employee's
grievance"

4. Page 3, Following Line 13

Insert: "(4) The board shall issue a final order within 5 months
after any hearing held pursuant to this section."

5. Page 3, Line 18

Following: "order"
Strike: Remainder of Section
Insert: "pursuant to Title 2, Ch. 4, Part 7"

6. Page 4, Line 17

Following: "other."
Insert: "These two procedures shall be an employee's sole
and exclusive remedy for those personnel actions listed
in 2-18-1002."

7. Page 5, Following Line 3

Strike: Remainder of Section

BURIAL TRANSIT PERMIT

MONTANA
BURIAL - TRANSIT PERMIT

Submitted by: Lloyd Linden

LOCAL FILE NUMBER

| | | | | | | |
|--|-----------------------------|---|-----------------------------|--|-----|-------------------------------|
| DECEDENT - NAME FIRST | | MIDDLE | LAST | | SEX | DATE OF DEATH (Mo., Day, Yr.) |
| 1. | | | | 2. | | 3. |
| RACE - White, Black, American Indian, etc. (Specify) | AGE - Last Birthday (Years) | UNDER 1 YEAR Mos. Days | UNDER 1 DAY Hours Min. | DATE OF BIRTH (Mo., Day, Yr.) | | COUNTY OF DEATH |
| 4. | | 5a. | 5b. | 5c. | 6. | |
| CITY, TOWN, OR LOCATION OF DEATH | | HOSPITAL OR OTHER INSTITUTION - Name (if not in either, give street and number) | | | | 7a. |
| 7b. | | 7c. | | IF HOSP. OR INST. Indicate DOA, CP/Emer. Rm., or patient | | 7d. |
| STATE OF BIRTH (if not in U.S.A. name country) | CITIZEN OF WHAT COUNTRY | MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify) | | SURVIVING SPOUSE (if wife, give maiden name) | | |
| 8. | 9. | 10. | | 11. | | |

THIS PERMIT MUST ACCOMPANY REMAINS TO DESTINATION

| | | | |
|---|--------------------------------------|--------------|----------------|
| CEMETERY OR CREMATORY - NAME | LOCATION | CITY OR TOWN | STATE |
| 18a. | 18b. | | |
| BURIAL, CREMATION, REMOVAL, OTHER (Specify) | MORTUARY OR OTHER - NAME AND ADDRESS | | |
| 19c. | 20. | | License Number |
| DATE OF DISPOSITION (Month, Day, Year) | PERSON IN CHARGE OF DISPOSITION | | |
| 21. | 22. (Signature) >- | | |

A CERTIFICATE OF DEATH HAVING BEEN FILED AS REQUIRED BY THE LAWS OF THE STATE OF MONTANA, PERMISSION IS HEREBY GIVEN TO DISPOSE OF THE BODY AS STATED BELOW.

| | |
|-----------------------------------|--|
| LOCAL REGISTRAR (Signature) >- | DATE SIGNED BY REGISTRAR (Month, Day, Year) |
| LOCAL REGISTRAR - ADDRESS | |

IF CAUSE OF DEATH A COMMUNICABLE DISEASE SPECIFY THE DISEASE:

CEMETERY OR CREMATORY AUTHORITY
SHALL FILL OUT SPACE BELOW

| | | |
|---------------------------------------|-------------------------------------|--|
| BODY WAS BURIED OR CREMATED - Specify | DATE OF DISPOSITION (Mo., Day, Yr.) | CEMETERY OR CREMATORY - NAME |
| PLACE OF DISPOSITION - CITY | COUNTY | STATE |
| | | SEXTON OR PERSON IN CHARGE (Signature) >- |

THIS PERMIT MUST BE ENDORSED BY THE SEXTON (OR BY THE PERSON IN CHARGE OF DISPOSITION WHEN THERE IS NO SEXTON) AND RETURNED WITHIN 10 DAYS TO THE LOCAL REGISTRAR OF THE DISTRICT IN WHICH THE CEMETERY OR CREMATORY IS LOCATED.

- SEE OTHER SIDE -

Bureau of Records and Statistics, 1978 Revision

LOCAL REGISTRAR: This burial-transit permit may be issued only upon receipt of a properly completed death certificate or notice of delay as required by Section 50-15-405 M.C.A.

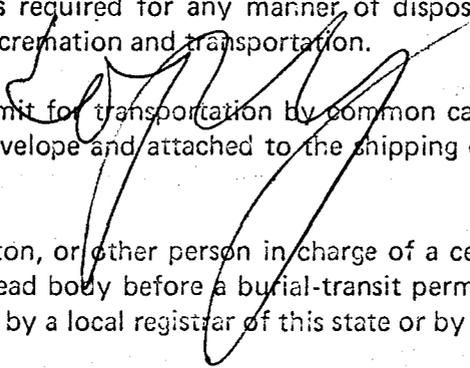
PERSON IN CHARGE OF DISPOSITION: This is the person or mortuary initially taking charge of the remains and to whom the burial-transit permit is issued.

The burial-transit permit is required for any manner of disposition of a dead body including interment, storage, cremation and transportation.

When used as a transit permit for transportation by common carrier, this permit should be enclosed in a strong envelope and attached to the shipping case. No separate transit permit is required.

SEXTON: It is unlawful for any sexton, or other person in charge of a cemetery, to permit burial or other disposition of a dead body before a burial-transit permit is deposited with him. (Such permits may be issued by a local registrar of this state or by the District of Columbia or by any other state.)

All permits must be endorsed, recorded in your sexton's register and forwarded within ten (10) days to the local registrar for your district.

A large, stylized handwritten signature in black ink, possibly reading 'L. M. J.', is written over the middle section of the document.

CHAPTER 29

DEAD HUMAN BODIES

Sub-Chapter 1

Embalming and Transportation

- Rule 16.29.101 Definitions
- 16.29.102 Death from a Specified Communicable Disease
- 16.29.103 Transportation of Dead Human Bodies
- 16.28.104 Prohibitions
- 16.29.105 Duty of Local Registrar
- 16.29.106 Exceptions

Sub-Chapter 1

Embalming and Transportation

16.29.101 DEFINITIONS For the purpose of this chapter, the following definitions apply:

- (1) "Common carrier" means a person or legal entity transporting a dead human body for compensation, including railroads, airlines, or other public transportation.
- (2) "Department" means the department of health and environmental sciences.
- (3) "Destination" means a cemetery, or a crematorium, or other place of ultimate disposition.
- (4) "Local health officer" means a county, city, city-county, or district health officer appointed by a local board of health.
- (5) "Private conveyer" means one who transports a dead human body, including but not limited to, a mortuary or ambulance service.
- (6) "Specified communicable disease" means one of the following diseases:
 - (a) smallpox
 - (b) cholera
 - (c) pneumonic plague
 - (d) lassa fever, ebola fever, Marburg virus disease, and any other undiagnosable febrile disease occurring shortly after returning from international travel;
 - (e) communicable pulmonary tuberculosis, as determined by a local health officer.

ADMINISTRATIVE RULES OF MONTANA 7/1/80 16-1301

(7) "Transport" means to carry a dead human body from one location to another. (History: Sec. 50-1-202 MCA; IMP, Sec. 50-1-202 MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80.)

16.29.102 DEATH FROM A SPECIFIED COMMUNICABLE DISEASE

- (1) When a person dies or is suspected of dying of a specified communicable disease, the attending physician must notify a local health officer and the department of the death. The local health officer or the department must determine whether or not further examination of the body is necessary to establish the cause of death within reasonable medical certainty.
- (2) As soon as reasonably possible following death or further examination required by a local health officer or the department, a human body dead of specified communicable disease must be embalmed. If embalming cannot be performed at the place of death, a local health officer or the department must be contacted for instructions on precautions to be observed in transporting the body to the place of embalming. (History: Sec. 50-1-202 MCA; IMP, Sec. 50-1-202 MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80.)

16.29.103 TRANSPORTATION OF DEAD HUMAN BODIES (1) No embalmed human body dead of a specified communicable disease may be transported unless enclosed in a casket or equivalent suitable container.

(2) A human body dead of a cause other than a specified communicable disease, being transported by common carrier, must be placed in a casket or equivalent suitable container. If such body is en route more than 8 hours, or if the termination of common carrier transport occurs more than 36 hours after the time of death, the body must be embalmed, refrigerated at 35 degrees F. or colder, or otherwise treated prior to transport so as to prevent or substantially retard decomposition and the resultant effluents and odors.

(3) When a human body dead of a cause other than a specified communicable disease is being transported by a private conveyer and the body will not reach its destination within 48 hours, the body must be embalmed, refrigerated at 35 degrees F. or colder, or otherwise treated so as to prevent or substantially retard decomposition and the resultant effluents and odors.

(a) Minimum requirements for transport under subsection (3) of this rule shall be a transporting cot or stretcher and a proper covering. (History: Sec. 50-1-202 MCA; IMP, Sec. 50-1-202 MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80.)

16-1302

7/1/80

ADMINISTRATIVE RULES OF MONTANA

16.29.104 PROHIBITIONS (1) A dead human body may not be transported unless it is accompanied by a burial-transit permit. The permit must be enclosed in a strong envelope and attached to the shipping container containing the body.

(2) A disinterred human body may not be accepted for transportation unless the remains are enclosed in an airtight container. (History: Sec. 50-1-202 MCA; IMP, Sec. 50-1-202 MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80.)

16.29.105 DUTY OF LOCAL REGISTRAR (1) A local registrar may not issue a burial-transit permit for transport of a dead human body unless the rules of this chapter have been satisfied. (History: Sec. 50-1-202 MCA; IMP, Sec. 50-1-202 MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80.)

16.29.106 EXCEPTIONS An exception to the provisions of 16.29.103(2), 16.29.103(3), or 16.29.104(1) may be granted by the department or a local health officer if such exception is requested prior to transportation of the dead human body and if such exception does not constitute a hazard to public health, create a public nuisance, or violate the provisions of Title 50, Chapter 15, Part 4 of the Montana Code Annotated. (History: Sec. 50-1-202 MCA; IMP, Sec. 50-1-202 MCA; NEW, 1980 MAR p. 1587, Eff. 6/13/80.)

ADMINISTRATIVE RULES OF MONTANA

7/1/80

16-1303

Exhibit 7
February 12, 1985
HB 477

Submitted by: Rep.
LC 1400^{Pavlovic}

49th Legislature

STATEMENT OF INTENT

HOUSE BILL NO. 477

This bill clarifies that the jurisdiction of the board of morticians extends to regulation crematoriums and the cremation of dead bodies.

It is the intent of the legislature that the board be delegated authority to adopt rules regarding the licensing of crematoriums and standards for operating crematoriums.

It is further the intent of the legislature that the board not require that only licensed morticians be permitted to operate crematoriums.

It is the intent of the legislature that the board promogate separate rules and regulations that expressly affect crematoriums and are not an extension of the mortuary rules.

Officials urge more laws for funeral industry

By BILL MORLIN
Staff writer

Washington needs tougher laws governing the funeral industry, political leaders and consumer representatives say.

Multiple cremations and storing unembalmed bodies without refrigeration aren't explicitly prohibited by law in Washington or Idaho.

No states require immediate refrigeration or embalming, according to Howard Raether of Milwaukee, a consultant and former executive director of the National Funeral Directors Association. In fact, new Federal Trade Commission regulations and Washington law require that embalming be done only with family permission.

Oregon and Montana, however, have laws that say bodies must be refrigerated or embalmed if they are not buried or cremated within 24 hours after death. Fifteen other states have similar laws.

California is the only state explicitly prohibiting multiple cremations or mingling of human ashes without written permission. That state's law became effective last January after multimillion dollar lawsuits were filed over multiple cremations at an Orange County funeral home.

Former employees of Hazen & Jaeger Funeral Home, N1306 Monroe, Spokane, say unembalmed bodies were stored for two weeks to a month in an unrefrigerated room. They also allege that double cremations were conducted at the funeral home.

It and two other funeral homes in Spokane are among approximately 300 funeral homes in the United States owned by Houston-based Service Corp. International, the nation's largest funeral home chain.

The allegations point out apparent shortcomings in state laws and regulations in Washington. Four state agencies and boards oversee health and workplace regulations, funeral homes and cemeteries. The funeral board in Washington has only one consumer representative; the other four members represent the industry.

"It sounds like there is a need for a lot of laws in this area, or at least better enforcement by the state," Larry Haight, executive director of the Spokane Memorial Association, said when he learned of the allegations.

That non-profit association, which has 3,600 members, supports cremations or low-cost burials. The association has a contract through

Smith accused

June 1987 with Service Corp. International, which owns two Hazen & Jaeger Funeral homes and Thornhill Valley Funeral Home, all in Spokane.

Haight said the memorial association will discuss the allegations and how they might relate to the association's contract at the organization's quarterly meeting Monday evening.

"I think there should be a law that states if cremation or immediate burial doesn't occur within 24 hours then the body must be refrigerated or embalmed," Haight said.

"I personally think there shouldn't be multiple cremations unless you have the written consent of the survivors," Haight said, "and

there should be a (state) law to back that up."

"It's outrageous to let bodies rot in a room and to cremate more than one at a time," said Lyle Mercer, executive director of People's Memorial Association, a Seattle-based cremation society with 75,000 members.

Those "major consumer concerns" should be considered by the Legislature, Mercer said.

"The whole (funeral) industry is trying to cut corners on cost, but they don't have to cut them, that consumer protection lawsuits and close," said Allen Potter, Seattle, the only consumer representative on the State Board of Funeral Directors and Embalmers.

Potter said refrigeration requirements might be a hardship on funeral industry, he said, "We don't

have the correct tools — the tools we should have."

State Rep. Mike Padden, R-Spokane, said allegations of unrefrigerated storage of bodies suggest the need for a law to prevent possible health hazards. Such legislation "would have an excellent chance in my opinion, because it's something any decent person would support," he added.

State Sen. Phil Talmadge, D-Seattle, said the "ghostly" allegations being investigated in Spokane "certainly question the adequacy of the state inspection process and the actions of the (state) Board of Funeral Directors and Embalmers."

"Certainly the law gives the board the authority to adopt rules prohibiting double cremations or

the improper handling of human remains," Talmadge said. "If they don't exercise that authority then the Legislature should take action."

Talmadge, chairman of the Senate Judiciary Committee and attorney general candidate, represents the Seattle legislative district where a funeral home owned by Service Corp. International was cited for multiple cremations in a 1978 consumer protection lawsuit.

In Sacramento, Roger Duerksen, executive director of the California Funeral Directors Association, said the industry in that state supported the legislation outlawing multiple cremations.

Such practices, he said, "seem to dishonor the expectations of the family, to say the very least."



ENTER TALLEMERS

Exhibit 8
February 12, 1985
HB 477
Submitted by: Dennis Dolan

State investigating funeral home's policies

By BILL MORLIN
Staff writer

Allegations that a Spokane funeral home has conducted double cremations and stored unembalmed bodies in an unrefrigerated room for two weeks and more are being investigated by the state Department of Licensing.

Also under investigation at Hazen & Jaeger Funeral Home, 11306 Monroe, are charges that unlicensed employees have embalmed or handled bodies.

The state began its investigation earlier this month when the allegations by former Hazen & Jaeger employees were brought to the attention of the licensing department, which had previously given the funeral home above-average ratings in inspections.

The funeral home is one of three

in Spokane owned by Service Corp. International, the nation's largest funeral home chain.

Service Corp. was fined \$10,000 and agreed in a 1978 King County court order to halt multiple cremations anywhere in the state. The corporation had been named a defendant in a consumer protection suit brought against its Seattle funeral home. Each subsequent violation of the court order could bring a \$25,000 fine.

The storage of bodies as alleged — a practice termed "shocking" and "repugnant" by funeral industry spokesmen — may violate state regulations which require "reverential" handling of the dead.

"I've never seen anything like this anywhere in the state," said former state funeral home inspector Ken Eros when shown photographs provided to The Spokesman-

Review.

The photos show approximately a dozen plastic-wrapped bodies stored in what the ex-employees referred to as the "rot room" at Hazen & Jaeger.

"If I would have heard of it when Hazen & Jaeger was given 'average or above-average' ratings by the Department of Licensing following Eros' annual inspections, I would have last another month or longer," Service Corp. executives Bill Bailey and Dwayne Harmon confirmed the existence of the unrefrigerated storage room when shown the photographs. They denied, however, that bodies were kept in the

room for longer than four days. They also denied knowledge of double cremations. They said their records show that has never occurred in their firm's Spokane funeral homes.

Hazen & Jaeger was given "average or above-average" ratings by the Department of Licensing following Eros' annual inspections. Terry Patton and James R. Jackson made unannounced inspections of Service Corp.'s three Spokane funeral homes on Wednesday.

No irregularities were found at that time, according to the investigators, who said they will serve a subpoena this week in an attempt

Tougher funeral home laws needed? — page 3

to obtain copies of funeral home records.

Patton confirmed that the state is investigating allegations about the holding room, multiple cremations, reuse of disposable items and embalming and aspiration (removal of body gases) by unlicensed persons.

Some of the former employees' names are not listed in official state records of persons who were legally licensed to work at the facility. Under state law, personnel who embalm or handle bodies and make funeral arrangements must be licensed.

The investigative findings are expected to be turned over to the state Board of Funeral Directors and Embalmers and the Consumer and Business Fair Practices Division of the state attorney general's office.

The funeral board could bring administrative charges for violations of funeral home regulations and laws that could result in fines or revocation of licenses. The attorney general's office could seek enforcement and fines stemming from the 1978 court order prohibiting multiple cremations.

Former employee Jack Swartz said he had personally cremated more than one body at a time.

"They were doing double cremations when I was hired" in January 1981, Swartz said. No one specifically instructed him to continue or discontinue the practice, he said.

The funeral home's management was definitely aware of it (double cremations) and didn't stop us from doing it," Swartz said. "Particularly when you had a baby or a young

(Continued on page 2)

Spokane/regional

THE SPOKESMAN-REVIEW
Sunday, June 24, 1984

Former foes quietly plot park's future



By RICK BONINO
Staff writer

One year ago, Riverfront Park was a battlefield.

Spokane's City Council had just agreed to a public vote regarding its plan for an amusement center in the downtown park. A heated campaign split the city.

Today, people who were on all sides of that issue are sitting together, trying to chart the park's future, in an effort unlike anything seen before in the city.

The work is proceeding more painfully than some had expected, and heading in some diverse directions. But most of those involved say they think it will prove useful in the long run.

"I don't know who's going to be there at the final vote, but I really believe we can help it. We're all together and produce something we're all proud of," says

Funeral

(Continued from page 1)

child they would cremate (those bodies) with an adult. I would probably say (it was) very, very seldom that we would ever cremate a baby by itself."

But Bailey said: "We have always been in compliance with state laws, rules and regulations." Bailey is the corporation's former Spokane manager and now a regional executive in Los Angeles. He returned to Spokane for a June 4 interview.

"I believe the allegations you have brought forth are from embittered employees," Bailey continued.

Two of five ex-employees making the allegations against Hazen & Jaeger were fired; two were laid off for economic reasons, and the fifth asked not to be identified.

As many as 12 to 24 bodies have been stored — and sometimes piled in pyramids of three to a table — in the approximately 15-foot by 20-foot "rot room," said the ex-employees, located and interviewed separately.

"I've walked in there and seen as many as four tables piled with bodies — stacked like cordwood," said the ex-employee who ask not to be identified.

Added former employee Mike Derogatis, "They left bodies that were unembalmed lie in the so-called 'rot room' for up to two weeks, at the extreme. The average was a week."

Once, he recalled, the room was so crowded "that it was impossible to open the door all the way . . . you had to put one body on top of another just to make room to slide in another table and body."

Derogatis, 31, is a German immigrant who learned the funeral business in his homeland. He was an apprentice at Hazen & Jaeger from August 1981 until last June, when he was dismissed for being late in removing a body from a nursing home.

The crowded conditions in the holding room were confirmed by former employees Swartz, 44, and Greg L. Johnson, 27, both of Spokane, and Jerry Fiskvik, 19, who now lives in Alaska.

They also described a stench in the room, and of blood and other body fluids seeping out of the stapled plastic wrappings onto the

floor.

"I've seen some (bodies in the holding room) that have lain around for at least 30 days," said Swartz, a retired Air Force veteran who picked up battlefield fatalities in Vietnam. He worked at the funeral home from January 1981 through last July, when he was laid off.

The ex-employees said the stored bodies were primarily those destined for cremation. But others, they said, were the bodies of indigents whose survivors had not come forward to pay for funeral expenses.

Swartz said the backlog of bodies occurred because he and another funeral home employee assigned to cremate bodies also had other duties.

"I've done as many as eight (cremations) a day, but because of the shortage of people working there sometimes we only did two a day and sometimes none," Swartz said. "Basically, we did cremations whenever we had time."

Service Corp.'s three Spokane funeral homes handle about 50 percent of the deaths in the area, or some 90 to 100 per month. Body preparations for the three homes — which include Hazen & Jaeger, Funeral Home, 51400 Pines — are centralized at the North Monroe facility.

Paperwork delays and the increased numbers of bodies being handled in the consolidated operation on North Monroe also were factors in the storage problem, the former employees said.

"I don't believe there's any reason to accumulate that number of bodies — I don't care how big you are," said Jim Egger, co-owner of Rippling Funeral Home, upon viewing the photos.

"Sometimes you do get behind, but stacking unembalmed bodies up — I've never heard of that," said Don Ball, president of Ball & Dood Funeral Home.

Storing numerous bodies in an unrefrigerated room for extended periods of time is "repugnant" and "not appropriate nor dignified treatment of the dead," said Ian Morrison, Seattle, chairman of the State Board of Funeral Directors and Embalmers.



"I've seen (bodies in holding room) that have lain around for at least 30 days," said ex-employee.

ees. "What makes them feel they're qualified to specify that it is an environmental health hazard?" Bailey responded.

Harmon added: "None of our employees have come down with hepatitis or any communicable diseases contracted by contact with these deceased persons."

Swartz said he complained to the county health department about conditions in the holding room, but got no response.

Jurisdiction over funeral homes resides not with local health districts, but with the state licensing department.

But Dr. Mary Luther, Spokane County health officer, said, "I am concerned for any potential for occupational health hazards for those employees working in the facility." Luther said she would seek more information from the state.

Helen Hazen Rymond, 75, a longtime civic and business leader, became a Service Corp. stockholder after her family sold the funeral home in 1972. The chain owns 300 funeral homes throughout the United States and Canada, including six in Washington.

Rymond had continued to work at Hazen & Jaeger under contract until her recent semi-retirement.

She called the ex-employees' allegations "vicious."

"What right does anyone have to take these pictures?" she asked, initially calling the photos "staged."

She later acknowledged, however, that the funeral home has stored "several bodies for several days" in the holding room.

Rymond denied the allegation of double cremations. "I am not accusing anyone of any untruth, but that is not true to my knowledge," she said.

Ex-employee Derogatis said he saw "quite a few" bodies of indigents placed in the holding room when survivors didn't come forward with cash or sign a contract for funeral services. Bailey, however, said that indigent cases are treated "the same as any other family." Only those to be cremated were put in the holding room, Bailey said.

Before cremation can occur, it must be authorized by an attending physician or coroner, and permission must be obtained from the next of kin.

Swartz complained about a "terrific odor" in the holding room. And, he said, "I definitely think it was a health hazard," an opinion shared by the other former employees.

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Membership



Hodel

(Continued from page 1)

ated concerns about his department's ability to follow through on

nicipal bond history when it admitted it could no longer pay the \$2.25

**FINAL EDITION
SATURDAY**

**Aug. 4, 1984
98th year/No. 273**

Funeral regulations criticized

By **BILL MORLIN**
Staff writer

OLYMPIA — Two Spokane legislators today criticized the state's Department of Licensing for not developing laws or regulations prohibiting certain practices allegedly uncovered at a Spokane funeral home.

The criticism from Rep. Lois Stratton, D-Spokane, and Rep. Jim West, R-Spokane, came at a House Social and Health Services Committee hearing on a proposed law that would prohibit multiple cremation and require funeral homes to embalm or refrigerate bodies within 24 hours.

Chris R. Rose, assistant administrator of the licensing department's Division of Professional Licensing, testified in favor of the proposed legislation, which was drafted at the request of Rep. Dennis Dellwo, D-Spokane.

"Our feeling at this point is that the legislation would improve the authority of the (state funeral) board to take actions in situations like this," Rose said.

He referred to statements from former employees of Hazen & Jaeger Funeral Home, who alleged in a published account that they had practiced multiple cremation, stored unembalmed bodies in what they called a "rot room" and that unlicensed personnel handled and embalmed bodies.

Those allegations are being investigated by the department, and the results are expected to be forwarded to the state Attorney General and the funeral board within the month.

"You might be a little late getting on top of this," Stratton told Rose as he sat at the witness stand.

The Spokane representative referred to news accounts of multiple cremations in California in 1982 and wondered aloud why the state funeral board and the department hadn't addressed the issue in Washington.

"I just kind of question the (funeral) board not being concerned about this."

Cynthia Jones, a department employee and executive secretary to the board, said the state has few laws covering cremation.

Service Corp. International, the Texas-based funeral-home chain that owns Hazen & Jaeger, also owns a Seattle area funeral home that was sued by the state attorney general in 1978 for conducting multiple cremations. In a court order settling that suit, Sevice Corp. agreed to cease that practice at its six funeral homes in the state.

West asked Rose why the department or the funeral board didn't write administrative regulations prohibiting multiple cremations after the 1978 case.

"Why did it take a newspaper story in Spokane to bring this to your attention?" West asked of Rose.

The department official responded that the state audit and inspection system for funeral homes is "a very thorough one".

"Had you inspected that one?" Stratton asked in reference to the Spokane funeral home.

Jones said the state inspections at the funeral home showed no irregularities.

Bill that would tighten regulation of funeral homes draws support

By BILL MORLIN
Staff writer

OLYMPIA — Even with oversight by two state boards, enforcement gaps and duplication exist in Washington laws dealing with the dead.

The state's House Social and Health Services Committee was given that assessment Saturday at a hearing into proposed tougher legislation regulating the funeral home industry.

The bill, proposed by Spokane Rep. Dennis Dellwo, would prohibit multiple cremation and require refrigeration or embalming of bodies held longer than 24 hours. It got support from the funeral industry, state regulators, and both political parties at Saturday's hearing.

Dellwo introduced the legislation after former employees of Hazen & Jaeger Funeral Home in Spokane alleged in a published news account that they had conducted double cremations and stored unembalmed bodies in an unrefrigerated room.

Those allegations are being investigated by the Department of Licensing, and the results are expected to be forwarded to the state Attorney General and the Board of Funeral Directors and Embalmers within the month.

Draft legislation before the committee said the Legislature "finds that certain practices in storing human remains and in performing cremations violate common notions of decency and generally held expectations."

"In enacting this legislation the Legislature is reaffirming that certain practices, which have never

been acceptable, violate principles of human dignity."

It became apparent at the hearing, however, that enforcement voids exist in laws administered by the state's cemetery board and funeral board.

Paul Elvig, the only state employee who works for the cemetery board, told the committee that while the state funeral board regu-

The funeral industry, state regulators, and both political parties supported the bill.

lates and inspects crematoriums at funeral homes, no state agency regulates or inspects those located at cemeteries.

Elvig suggested that the Legislature empower the cemetery board to inspect and regulate all crematoriums in the state, including those at funeral homes. About half the crematoriums are on cemetery grounds, he added.

Elvig and Gary Wright, president of the Washington State Funeral Directors Association, spoke in favor of the legislation.

Wright offered a suggestion to make the proposed legislation even tougher. He said the law should require funeral homes to refrigerate or embalm a body within 24 hours of death. In cases where families couldn't be contacted within that

period, or subsequently said they didn't want embalming, the funeral home would have to absorb those costs, Wright said.

"I'm really pleased the funeral industry is coming out in favor of this legislation," said Rep. Jim West, R-Spokane.

He and Rep. Lois Stratton, D-Spokane, both committee members, criticized the state's Department of Licensing for not developing laws or regulations prohibiting the practices that allegedly occurred at the Spokane funeral home.

Rep. Mike Padden, R-Spokane the fourth Spokane committee member, did not attend Saturday's hearing, but has said he favors such legislation.

Chris R. Rose, assistant administrator of the licensing department's Division of Professional Licensing, testified in favor of the proposed legislation.

"Our feeling at this point is that the legislation would improve the authority of the (state funeral) board to take actions in situations like this," Rose said.

"You might be a little late getting on top of this," Stratton told Rose.

The Spokane representative referred to news accounts of multiple cremations in California in 1982 and wondered aloud why the state funeral board and the department hadn't addressed the issue in Washington.

"I just kind of question the (funeral) board not being concerned about this," Stratton said.

Service Corp. International, the
(Continued on page 2)

B2 THE SPOKESMAN-REVIEW Sun., Aug. 5, 1984, Spokane, Wash.

Funeral homes — (Continued from page 1)

Texas-based funeral-home chain that owns Hazen & Jaeger, also owns a Seattle area funeral home that was sued by the state attorney general in 1978 for conducting multiple cremations. In a court order settling that suit, Service Corp. agreed to cease that practice at its six funeral homes in the state.

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Rose responded that the state au-

dit and inspection system for funeral homes is "a very thorough one."

"Had you inspected that one?" Stratton asked in reference to the Spokane funeral home.

Cynthia Jones, a department employee and executive secretary to the board, said the state inspections at the funeral home showed no irregularities, and, in fact the facility was given average and above-average inspection ratings by the state.

Rep. Mike Kreidler, D-Olympia, who chairs the committee, said state officials probably didn't expect there would be a repeat of the alleged irregularities following the

1978 case.

"It's difficult to imagine that something like this would ever happen," Kreidler said of the Spokane allegations.

Rep. Bob Williams, R-Longview, later admonished Rose and the department, which licenses professions in the state, for taking so long to adopt the Uniform Disciplinary Act passed by the last Legislature. That act will toughen enforcement regulations over the funeral industry as well as other state regulated professions ranging from barbers to nurses.

B. David Daly, chairman of the state's cemetery board, told the committee, "We support very much

Funeral home records subpoenaed for probe

By DAVID LEDFORD

Staff writer

The state Department of Licensing has subpoenaed 10,000 documents from Hazen & Jaeger Funeral Home to determine whether the business conducted double cremations and stored unembalmed bodies in an unrefrigerated room, as charged by former employees.

Ron Weaver, chief of the department's investigation and enforcement unit, said the funeral home "is being very cooperative" and will turn over the documents Monday.

Among documents subpoenaed are all embalming reports, cremation logs and death certificates for infants filed between Jan. 1, 1979, and July 12, 1984.

The state wants to analyze the documents and interview former and current employees of the funeral home by Aug. 27, Weaver said.

"It is our desire to get the investigation completed as quickly as possible," he said Thursday. "At the conclusion of the investigation, we will be consulting with the attorney general's office to make a determination if charges are appropriate."

Former employee Jack Swartz said he had cremated more than

one body at a time, and that it was rare to cremate an infant alone. Swartz contends funeral home managers were aware of the practice.

Other former employees, who asked not to be identified, said in a newspaper story June 24 that unembalmed bodies were placed in an unrefrigerated room for as long as two weeks, with the average length of time being one week.

Hazen & Jaeger, N1306 Monroe, is one of three funeral homes in Spokane owned by Service Corp. International, the nation's largest funeral home chain.

Service Corp. executives Bill Bailey and Dwayne Harmon denied that bodies were kept in the unrefrigerated room for more than four days. They also denied knowledge of double cremations.

Bailey said the company has always been in compliance with state law, and that the allegations were brought forward by "embittered employees."

Service Corp. was fined \$10,000 and agreed in a 1978 King County court order to halt multiple cremations anywhere in the state. The corporation had been a defendant in a consumer protection suit brought against its Seattle funeral home.

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Perth Herald Occasional 11/1/85

Sentencing unleashes facts, emotions

Story on Page One also
By DAVE HOGAN
of The Occasional staff

NEWPORT — Wednesday's sentencing of Dale P. Omsberg to 30 days in the Lincoln County jail unleashed a flurry of information and discussion about the case from persons who previously had said little because of the pending charges. The most prominent of the comments was the one from Omsberg himself. His attorney, Stephen Lovejoy, said the former Lincoln City mortician wrote the note of apology Wednesday morning.

"How does, one apologize for such a terrible thing that has happened, except to say that I am truly sorry," Omsberg wrote in the statement, which Lovejoy read to reporters after the hearing Wednesday. "I didn't want it to happen, and I make no excuses. I hope and pray that you will forgive me!"

Lovejoy linked the improper disposal of bodies handled by Omsberg's Pacific Mortuary in Lincoln City to "severe financial problems."

Lovejoy said Omsberg paid more for the mortuary "than it was worth or could generate income with which to pay his debt service" when he bought it in 1980. The lawyer said Omsberg provided services to whom ever needed them regardless of their ability to pay him. Omsberg's negligent management practices "resulted in many overdue accounts," he said.

After Wednesday's hearing, Don Peterson of

Lincoln City also blamed much of the problem on the financial generosity of his friend Omsberg. "It's torn him to pieces," Peterson said. "Two hundred families should be facing this instead of him. He gave too cheap a deal to too many people. I couldn't feel worse if I was his father."

Lovejoy said a psychiatrist had diagnosed Omsberg as having "dissociative behavior," meaning that he does everything except what he is sup-

"How does one apologize for such a terrible thing . . ."

posed to do. Lovejoy said Omsberg has had this behavior "for a very long period."

Lovejoy said he "first noticed something was wrong about two years ago" but added that he was aware at the time of bodies accumulating at the mortuary.

"In spite of his many mistakes, he is a very decent and caring individual who has suffered enough," Lovejoy said of Omsberg. "I, for one, am proud to call him my friend."

Lincoln County District Attorney Ulys Stapleton referred to the psychiatric evaluation during his comments in the courtroom and said it figured in

the negotiations with Lovejoy. The evaluation indicated "the defendant would probably commit suicide if he were sentenced to the penitentiary," Stapleton said.

Stapleton said he was satisfied with the plea that resulted from negotiations with Lovejoy, although all 60 counts were handled as misdemeanors and none were felonies. Stapleton said the negotiated settlement provided more information about the disposition of the bodies than would have been elicited in a trial, which he said could have taken more than a year.

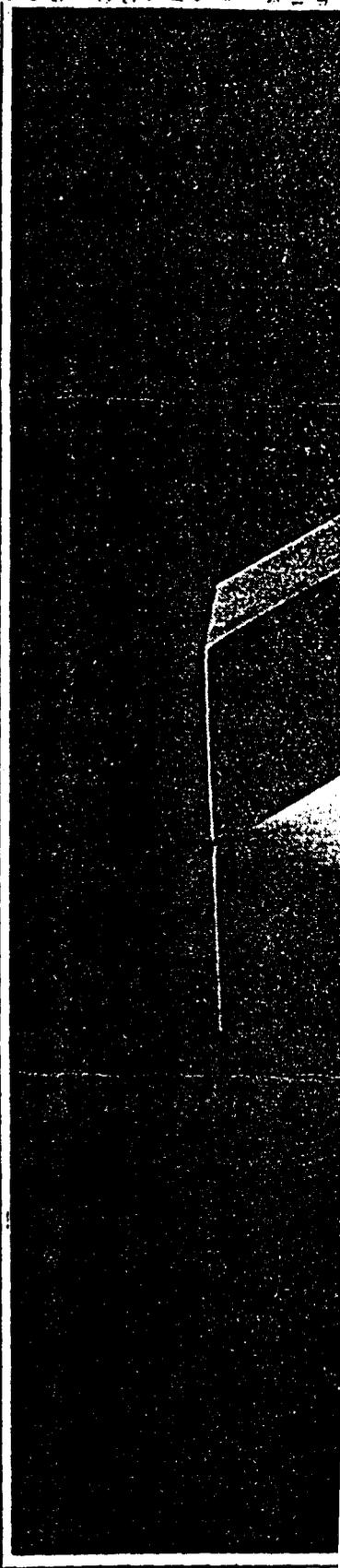
"I have tried not to be vindictive in this case," Stapleton said. "I hope that is not viewed as being too lenient. I think the settlement is the best of a bad situation."

Diane Bassett, whose husband was among the bodies found in October in the mortuary garage, said Wednesday's events in court represented "the beginning of the ending" of the case for the victims.

"It has been a terrible thing, and it isn't over," she said. "It won't be over until they find the other bodies."

She said she had heard Omsberg's wish that he be forgiven for his actions and that she had already done that.

"Personally, I've forgiven him," she said. "I don't have any bitterness toward him. I pray for him and that he'll be able to put his life back together again and that his wife and two little boys can do the same."



SCANDAL OF THE GHOULS RUNNING OUR CREMATORIUMS

SHOCKING practices in crematoriums are causing grieving Americans to be haunted by the knowledge that their loved ones were disposed of in a ghoulish manner.

The practices uncovered in a GLOBE investigation include:

- Multiple cremations, after which the survivors never know if they are getting their own loved one's ashes.
- The use of "rot rooms" in which unrefrigerated and unembalmed corpses are stacked like cord wood for weeks at a time.
- Mortuary employees who yank gold teeth from the heads of the dead and have even cut off fingers to steal gold rings.

Those who commit these atrocities take advantage of grief of surviving family members, charges Walter Goode, a private investigator in Orange County, California.

"Most people assume that when they order a cremation, the body is going to be burned alone and the ashes will be those of the body they have ordered taken in," he told GLOBE. "But in many cases, this just isn't so. They might as well have ashes from any fireplace for all the good it is doing them."

Goode adds that hundreds of witnesses have testified that bodies are often "handed by crematorium employees with the same macabre contempt seen in documentaries about Nazi death camps."

In one case, charges of multiple cremations and improper body storage were brought against the Hansen & Jaeger Funeral Home, in Spokane, Washington.

Jack Swartz, an ex-employee, describes the home's "rot room": "I have seen 20 and 30 bodies, stacked six and eight to a table, in that room with no refrigeration for 10 to 14 days. The stench was unbelievable."

Swartz adds that Hansen & Jaeger rarely disposed of baby bodies other than putting them in with adult bodies or burning.

Congressman Dennis Dellwo of Washington state has introduced legislation that would ban multiple

- Corpses rot for weeks before they are burned
- Up to five bodies are put into ovens built for 1
- Workers cut fingers off dead to steal gold rings

cremations without the written consent of surviving family members and the storage of corpses in unrefrigerated areas.

"I was shocked at what our investigators found," he told GLOBE. "If it is happening here, you can bet it is happening in other states around the country."

In another case, a crematorium in Costa Mesa, California, was accused by former employees of cramming five bodies into ovens built for one. The ex-employees also say that ashes were scooped indiscriminately into urns and labeled as belonging to a particular indi-

vidual. Now, some 300 customers have filed suit for more than \$3 million.

And a widow in Sun City, Florida, was recently awarded \$1.5 million in damages after she discovered dental bridge work in the ashes of her husband who never had such work done.

The survivors often suffer recurrent nightmares once they discover what happened to their loved one's remains, says Betty McMullen, an attorney in Tustin, California.

She cites these cases among her own clients:

- One woman whose husband's remains were mis-

handled still hears him clanking about the house at night in his telephone linesman's boots. She is undergoing psychiatric treatment.

• The parents of a murdered teenage boy were tortured by guilt when they discovered the ashes they brought home for burial were not his.

"The survivors' discovery of what has happened can lead to job loss, strokes and even death," McMullen told GLOBE. "They often feel haunted because they feel they have broken faith with their loved ones and there is no way to apologize."

— ROD GIBSON

Precautions you can take

YOU can try to ensure that the remains of your loved ones are treated with dignity by taking a few simple precautions, even though the law gives no protection.

Here are the questions that Walter Goode, Betty McMullen and Dennis Dellwo agree should be asked when arranging for cremation:

- How will the body be transported? By whom? Alone or with others?
- Where will the body be stored? In what type of container? Are the facilities refrigerated?
- How long will the body be stored there?
- If a cremation is arranged through a funeral home, will the cremation be done there? If not, where and by whom? Can a witness be present during cremation? How will the body be stored at the crematorium?
- Will the body be cremated alone? What will happen to any jewelry on the body?
- Can we be guaranteed in writing the remains we receive from the crematorium are the remains of only the body taken in and no others?
- If arrangements are made for the scattering of ashes, is this service subcontracted out? Will any other ashes be involved in the flight or boat trip? Have they been mixed with the ashes of others? What date will it be done? Exactly where?



MIKE HAMMER REINS SUPREME

STACY KEACH goes after a bad guy in this scene from an upcoming episode of his hit TV series, Mike Hammer.

Continued on Page 1



Associated Press

Thousands of cheering students that the he poor. Story on Page A6.

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Congress

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Mortuary case earns Omsberg 30-day jail term

By CARMEL FINLEY
Correspondent, The Oregonian

NEWPORT — Former Lincoln City mortician Dale P. Omsberg began serving a 30-day jail sentence Wednesday as authorities began planning to search for the remains of 31 bodies Omsberg was supposed to have cremated.

Imposition of the jail sentence climaxed an emotional, 70-minute court appearance Wednesday as Omsberg pleaded guilty to 60 charges of theft and corpse abuse arising from improperly disposing of bodies at Omsberg's Pacific Mortuary. The charges cover the period from January 1981 to Oct. 18, 1984, when authorities found the unembalmed remains of 16 bodies in a garage adjacent to the mortuary.

Thirty-one of the charges were filed Wednesday by District Attorney Ulys Stapleton in connection with bodies that have not been recovered. As Circuit Judge Charles P. Littlehales read each charge, Omsberg, who was trembling slightly, replied, "Guilty," in a low, hoarse voice.

As part of the plea negotiations, Omsberg's attorney, Stephen Lovejoy, gave Stapleton information about disposition of some of the bodies. The information included a map of Pacific View Memorial Gardens, the Lincoln City cemetery operated by Omsberg until October 1984.

Lovejoy said the information was received while Omsberg was under hypnosis and that his client "has no present memory of much of what happened during the past several years." Lovejoy also said bodies had accumulated at the mortuary on three previous occasions "due to (Omsberg's) inability to pay for cremations and a general overall deteriorating mental condition."

"Certain individuals were cremated together, and others were buried in the cemetery in several gravesites," Lovejoy added.

Stapleton said the information he received from Lovejoy indicated that missing bodies would be found in three gravesites at the cemetery. He said his office would contact the families of the victims and the state Medical Examiner's office to obtain data for identifying bodies buried there.

Stapleton added that the exhumation process could begin within a week. Under the conditions of the negotiated settlement, Omsberg is ordered to cooperate with authorities in their search for the missing bodies.

Lovejoy said Omsberg pleaded guilty to the charges but that he maintains he is innocent. "He had the intention of providing services at the time arrangements were made, but circumstances brought about a different result," Lovejoy said. Omsberg changed his plea because he wanted to put an end to the case, Lovejoy added.

Omsberg originally had been charged with 11 counts of felony theft, but those charges were downgraded to misdemeanors as part of the settlement. A report from Dr. Warner Swarnier, a Portland psychiatrist, said Omsberg probably would commit suicide if he were sentenced to prison.



The Oregonian/CARRIE ROBERTSON
DALE P. OMSBERG

Littlehales said Omsberg had committed an extreme breach of professional obligation and "the court does not feel the matter can be handled with an avoidance of a jail sentence." He instructed deputies at the Lincoln County Jail to work with officials from Lincoln County Mental Health in monitoring Omsberg while he is jailed.

Other terms of the sentence include five years probation and that during that time Omsberg not be associated with or be employed by any mortuary, crematorium, mausoleum or cemetery. Littlehales also required that Omsberg do 200 hours of community service by 1987.

Omsberg was ordered to pay \$18,400, which would give each of the 46 families involved a token payment of \$400 as "partial restitution for the emotional distress." He is to undertake psychiatric counseling at his own expense, and he must not be in or reside in Lincoln County without written consent of the court or his probation officer.

Additional details on Page B8.

FEB 07 1985

Funeral home charged with rule violations

By BILL MORLIN
Staff writer

Hazen & Jaeger Funeral Home in Spokane was charged Wednesday with multiple violations of state funeral industry regulations, including "undignified, disrespectful and irreverent" handling of bodies.

A four-page "statement of charges" alleged bodies destined for cremation were stored for extended periods in what employees called the "rot room."

The civil charges also alleged the funeral home had conducted double cremations, improperly reused disposable items, charged consumers for damaged and stained rental caskets and allowed unlicensed employees to conduct embalming.

The filing of formal charges capped an extensive investigation by the state Department of Licensing.

Evidence behind the state charges will be detailed at a hearing, expected within 50 days, before the State Board of Funeral Directors and Embalmers.

That board's five members, who are appointed by the governor, could order revocation or suspension of the state license issued to Hazen & Jaeger.

largest funeral home chain, owns Hazen & Jaeger funeral homes at N1306 Monroe and N1306 Pines and Thornhill Valley Funeral Home, S1400 Pines.

Cremations and embalming at the three funeral homes have been consolidated for the most part at the North Monroe facility, where the alleged violations occurred in the last two years.

Company officials will have 20 days to file a formal response to the charges and demand a hearing before the funeral board.

The statement of charges was signed Tuesday by James Terhar, Olympia, administrator of the state Department of Licensing. It was served on funeral home executives in Spokane at midday Wednesday.

Dwayne Harmon, district manager for Service Corp., was said to be out of town and unavailable when sought for comment Wednesday.

"I cannot make any comment," said Jack Rothwell, manager at the Hazen and Jaeger Funeral Home on North Monroe.

Spokane attorney Jim King, who represents the funeral home chain, declined specific comment on the details contained in the statement of charges.

King said Service Corp. had ordered an internal investigation following a June 24 news article that detailed allegations made by former employees. The funeral chain's own investigation has included the hiring of private investigator Les Dieckman, a former FBI agent.

"We want this resolved as expeditiously as possible," King said. "However, there are a number of charges, undoubtedly a number of witnesses and I know there are many, many documents."

"In order to assimilate and digest all of that information and prepare our defense, we are going to need some time."

King said he didn't know, therefore, if Service Corp. would be ready for a hearing before the state board within the 50-day period and may have to seek an extension. The statement of charges alleged the funeral home:

- Regularly employed unlicensed persons to perform acts of embalming.
- Many of these unlicensed acts were total embalming done without any direct or immediate supervision of licensed morticians.
- Failed to display "in a conspicuous place the names" of the unlicensed employees.

balmers who were engaged in rendering services.

- Regularly employed apprentice embalmers and funeral directors but "failed to register them (with the state) in a timely manner," as required by law.

- Offered and "regularly provided to the public" the use of rental caskets with damaged liners.

"The fact that these liners were used and/or damaged was not disclosed to the consumer nor was the consumer's specific consent given in writing" as required by law.

- Performed double cremations. "Through actions of its agents, on numerous occasions cremated an adult and an infant's remains together in the same crematorium," also in violation of state funeral regulations.

- Allowed or promoted numerous acts which resulted in the undignified, disrespectful and irreverent handling of human remains.

These acts, the charges allege, included the rental of caskets with previously used interior liners "stained with body fluids or blood."

Other bodies were wrapped "in used

plastic which had tears and holes in it. These remains were kept in an unrefrigerated area which allowed for an accelerated rate of decomposition."

Decomposition of bodies in the "rot room" was allowed "to reach unnessecary levels due to the unjustified delays in affecting the act of cremation."

"Spills of body fluids, frequently not cleaned up promptly, presence of strong odors leaking out of unsealable plastic wrap and the placement of two and three sets of human remains on one table simultaneously were all elements that added to the total atmosphere of undignified, disrespectful and irreverent handling" of bodies at Hazen & Jaeger.

The charges also alleged "cremations were frequently delayed with no apparent reason."

An exhibit attached to the statement of charges showed evidence, as the former employees had contended, that bodies had been held for two weeks and longer before cremation occurred.

"These unnecessary delays allowed remains to decompose unnecessarily and to a point well beyond the expectations of a reasonable consumer."

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page 8

Spokane/regional

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Tightened funeral home standards subject of hearing

By BILL MORLIN
Staff writer

Proposed legislation prohibiting multiple cremations and tightening standards for storage of human remains will be the subject of a public hearing Aug. 4 in Olympia.

The legislation was drafted at the request of Rep. Dennis Dellwo, D-Spokane. He is vice chairman of the House Social and Health Services Committee, which will hold the hearing.

Dellwo said Friday he ordered the proposed laws after he read a newspaper account detailing former employees' allegations of multiple cremations and storage of unembalmed bodies in a "rot room" at

Hazen & Jaegar Funeral Home in Spokane. Those allegations and reports that unlicensed employees have embalmed or handled bodies prompted an investigation by the state Department of Licensing.

That investigation should be completed next month, department investigators have said. Its findings are expected to be turned over to the state Attorney General's office and the state funeral board.

Department investigators and Jim Terhar, administrator of the department's professional licensing division, are expected to testify at Aug. 4 hearing, a committee staff member said.

One proposed change in state law would make it illegal to cremate more than one body at a time without authorization from

survivors, Dellwo said.

The other proposed law would require funeral homes in the state to refrigerate bodies if they are not embalmed and held for more than 24 hours.

Seventeen states, including Oregon and Montana, have similar refrigeration laws.

The proposed changes in the law are expected to receive backing from the Washington State Funeral Directors Association and the Washington Interment Association, spokesmen for those organizations said Friday.

Meanwhile, the state Board of Funeral Directors and Embalmers last Wednesday went on record favoring the proposed legislation, said executive secretary Cynthia Jones.

Dellwo said that, once the need for such legislation is explained to the committee, he envisions little or no trouble in obtaining support from both parties.

"It is not a partisan issue," the Spokane Democrat said.

Rep. Mike Padden, R-Spokane, another member of the Social and Health Services Committee, has said he also would support such legislation. He was vacationing and unavailable for comment Friday.

"It is an area the state needs to take a look at," said Paul Elvig, administrative assistant for the State Cemetery Board and a representative of the Washington Interment Association.

"I'm very happy that Rep. Dellwo is

looking at proposed changes, and I hope the whole Legislature will consider this and make it part of the law," Elvig said.

Gary Wright, an Auburn funeral home owner who is president of the Funeral Directors Association, expressed similar support.

"We would not be opposed to legislation that would prohibit multiple cremations," he said. "It's only common decency."

The refrigeration law also makes sense, Wright said.

Small funeral homes might feel a financial pinch if required to install refrigeration units for unembalmed bodies that must be stored for more than a day, he said. Despite that, Wright said, he would support such legislation.

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Montana Nurses' Association

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TESTIMONY HB 718

The Montana Nurses' Association would like to go on record opposing HB 718 for the following reasons:

1) We oppose Section 4., which refers to the grievance procedure and negotiated procedure as being mutually exclusive.... The MNA would suggest that employees who are under collective bargaining contracts be excluded from this law if it is passed. Each labor organization has the duty of fair representation of its members. Because of this duty, labor organizations negotiate a binding arbitration clause in each contract for which it is responsible fiscally. If HB 718 passes, a labor organization would be liable for court costs related to representing a member even though the labor organization and its members did not agree to the procedure through the collective bargaining process. MNA believes that a grievance procedure which culminates in binding arbitration is the best route for organized employees to settle their differences with employers.

2) MNA disapproves of state agencies having the ability to have the Board of Personnel Appeals reconsider an order. This provision seems to dilute the entire premise of the bill, that of providing a fair and neutral assessment and solution of an employee-employer conflict.

In summary, the MNA supports the concept of this bill for unorganized employees only. We would also suggest deletion of the last sentence of Section 2, subsection (2), lines 8-11, page 3., of the proposed bill.

I hope you will consider this testimony. Although I was at the hearing earlier today, until I heard the bill in total I was not prepared to offer formal testimony.

Respectfully submitted,
Eileen C. Robbins
February 12, 1985

