

March 22, 1979

LB 94

Legislature, the first thing I would like to do is deal with a letter which was placed on your desk by Senator Reutzel this morning and I presume because it says at the top funeral homes but the letter was addressed to Senator Reutzel and I don't think funeral homes handed it out. So I am going to presume that since it is addressed to him he did hand it out, but it is from Rex Higley, Director of the Department of Health, and without dealing with any of the merits of the amendments, he tells the Legislature don't adopt them because there was some hearings on this bill relative to sunset legislation which deals with whether or not the Board of Embalmers and Funeral Directors ought to be merged and then maintained in existence. He mentions the FTC rules and regulations some of which I have incorporated into the amendments that I am offering, and before I think Mr. Higley just should come out and say because he has had some contact with funeral directors that these amendments ought not be considered by the Legislature, we have a responsibility and a function to fulfill and I hope that you will consider the amendments on their merits. If they came from Mars and the people on Mars happened to have a more wholesome attitude towards funerals and disposition of human dead bodies, then the amendments from Mars should be accepted. Now when he said that if the FTC enacts rules and regulations they will preempt any state law, those rules and regulations of any regulatory agency at the federal level where the agency is given authority to declare the federal law by means of a rule or regulation, those declared rules do become the law of the land. By virtue of the supremacy clause in the U. S. Constitution, every state law where there is a conflict would have to give place to those rules. However, there are aspects of this society which are covered by federal rules and regulations, some which are being considered for that purpose, and others which may or may not be considered for that purpose. Nevertheless that consideration alone has never been a basis for the state failing to assume its responsibility and fill various gaps and voids by enacting appropriate legislation. There is not much substance to what Mr. Higley said in his letter because he was just trying to, I think, express opposition. When he says in the paragraph second from the bottom, "Therefore the Department of Health supports the current draft of LB 94 as written since it represents the work of three legislative committees and hearings", that is not a basis for rejecting these amendments. There are numerous activities that have been participated in by legislative committees for study but that has not been a basis for us not taking appropriate action. One other comment I would like to