

**1999 HOUSE HUMAN SERVICES
HB 1384**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1384

House Human Services Committee

Conference Committee

Hearing Date January 25, 1999

Tape Number	Side A	Side B	Meter #
2	X		0.0 - 16.9
Committee Clerk Signature <i>Susann Lindsteigen</i>			

Minutes:

Rep. JIM POOLMAN, District 42, testified the bill was introduced on behalf of the ND Funeral Directors, on pre-need funeral service contracts and why it should be in statute. I ask for your support.

Rep. LOIS DELMORE, District 43, appeared but deferred to Bill Delmore who is a lawyer and better able to explain the bill.

BILL DELMORE, Funeral Directors Association, testified (Testimony attached). In 1987 the bill was amended to remove the words pre-need service contracts. The reason was to insure when anybody was advising public or private to somebody on what would not be eligible they would say pre-need contracts, prepayments or deposits with banks. Those were all available methods. Funeral directors association has no problem with that. But the effect of the removal has been opposite of what was intended. Many people advising privately, friends or bankers,

since the words funeral service contract were taken out, assume it is no longer one of the available methods that people can use for preplanning. This is clarification leaving in all the available methods.

Rep. CLARA SUE PRICE asked for an explanation on what options are available now for prepayment plan. BILL DELMORE stated pre-need contract is where you work out prepayment with a financial advisor, banker and work out deposit or prepayment and getting what you want. When the bill was originally written, the intent was to do all that but whoever drafted it used the word "pre-need funeral service contract." So then it was almost the opposite. A few years ago that was the only option available. Then in an effort to make sure there were other options, those words were taken out and now people think that its an option that's no longer available. This clarifies different potentials that you can do by going to your banker or going to a financial planner or go to your local funeral director. Rep. CLARA SUE PRICE asked if you go to your local funeral director and that funeral home goes out of business, what protections are there for the person living in ND who moves to California? BILL DELMORE stated statutes require that funeral directors follow through and are bound by the contract. The one concern they have is when its done at a bank, the funeral director may not know the responsibility. The advantage of going to the bank, they may choose someone in California as opposed to a local person. Rep. CLARA SUE PRICE asked what if a person dies in California and the family calls and says send a check? BILL DELMORE stated that to take the money back for the pre-need service contract is more difficult. It isn't as difficult if its with the banker.

MIKE NATHY, Owner, Bismarck Funeral Home, testified whether somebody prepays in a trust account or a funeral insurance account, its always in that persons name. They always own it, its

always their money. The funeral home is just the POD. So if the person goes to California, those funds have to go with them. Rep. CLARA SUE PRICE asked under this bill, do they actually give the money to the funeral director? MIKE NATHY responded exactly, its under the same but the funeral director can't make that decision. It can only come from the person. Rep. CLARA SUE PRICE asked under statute there is the obligation that give the funds out to family members. MIKE NATHY stated with the interest that has accrued in that account.

Rep. BRUCE ECKRE asked do funeral homes have a service charge? MIKE NATHY said no. Some states do, but not ND.

BILL DELMORE stated Blaine Nordwall of Human Services said this doesn't change anything that exists now in statute. It mentions "pre-need funeral contract." So many people reading it think its taken out which means I can no longer do it. The only impact is that its one of the available options along with deposit and prepayment. Rep. CLARA SUE PRICE asked do all states allow the \$3000? What happens if other states allow less, i.e., California only allows \$2000? BILL DELMORE stated many other states allow more.

ANDERS JACKSON, Funeral Director, Bismarck, Vice-president, ND Funeral Directors Association, testified in favor of the bill. ND is a 100% trust state which means all of the funds that somebody puts into their pre-need account are theirs always. If they want to cash in the account or get money out, basically, it is. Some different banks, depending on the form of vehicle used for the trust. We have the ability to just write a check on the spot. Some banks need the request in writing. You can have \$3000 set aside for funeral service. They also have \$3000 in cash assets. The problem is the families are not being told that those funds are available.

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House Human Services Committee

Bill/Resolution Number HB1384

Hearing Date January 25, 1999

NEUTRAL TESTIMONY

CURTIS VOLESKY, Program Administrator, Department of Human Services, testified

(Testimony attached).

Rep. RALPH METCALF asked was there any challenges of the law to precipitate this bill?

CURTIS VOLESKY said no.

Rep. SALLY SANDVIG discussed having \$3000 in prepaid funeral account and \$3000 in assets which equals \$6000, but in reality a lot of people can only have \$3000. CURTIS VOLESKY said that is correct. Rep. SALLY SANDVIG asked why there is such a difference between what we allow on a prepaid funeral account and what social security allows? CURTIS VOLESKY stated social security's SSI Program allows \$2000 to one person plus burial in addition to that; for a couple its \$4000 plus \$1500 for burial fund and other items that are prepaid like a casket or vault which may have no limit.

Rep. CLARA SUE PRICE asked will there be less flexibility for the recipient under this bill than under current law? CURTIS VOLESKY said no.

Hearing closed.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1384

House Human Services Committee

Conference Committee

Hearing Date February 1, 1999

Tape Number	Side A	Side B	Meter #
1	X		10.5 - 27.3
Committee Clerk Signature <i>Susann Lindteigen</i>			

Minutes:

Committee Discussion.

Rep. ROBIN WEISZ moved DO PASS

Rep. TODD PORTER second the motion.

Further Committee Discussion.

Rep. CLARA SUE PRICE read a letter from the Thomas Funeral Home, Minot

ROLL CALL VOTE #1: 13 yeas, 0 nays 2 absent

CARRIER: Rep. RALPH METCALF

FISCAL NOTE

(Return original and 14 copies)

Bill / Resolution No.: HB 1384

Amendment to: _____

Requested by Legislative Council

Date of Request: 01/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative: This bill requires the Department to not include any pre-need funeral service contracts, prepayments or deposits to a fund which total three thousand dollars or less as an available resource when determining medical assistance eligibility. The Department currently follows this practice and therefore this bill has no fiscal impact.

2. State fiscal effect in dollar amounts:

	1997-1999		1999-2001		2001-2003	
	<u>Biennium</u>		<u>Biennium</u>		<u>Biennium</u>	
	General	Special	General	Special	General	Special
	Fund	Funds	Fund	Funds	Fund	Funds
Revenues:						
Expenditures:	-0-		Unknown		Unknown	

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: -0-
- b. For the 1999-01 biennium: Unknown
- c. For the 2001-03 biennium: Unknown

4. County, City, and School District fiscal effect in dollar amounts:

	1997-1999			1999-2001			2001-2003		
	<u>Biennium</u>			<u>Biennium</u>			<u>Biennium</u>		
	Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
	-0-			-0-			-0-		

If additional space is needed, attach a supplemental sheet.

Signed

Brenda M. Weisz

Typed Name

Brenda M. Weisz

Date Prepared: January 22, 1999

Department

Human Services

Phone No.

328-2397

Date: 2-1-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1384

House Human Services Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Robin Weisz Seconded By Todd Porter

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre		
Robin Weisz - Vice Chairman	X		Ralph Metcalf	X	
William R. Devlin	X		Carol A. Niemeier	X	
Pat Galvin	X		Wanda Rose	X	
Dale L. Henegar	X		Sally M. Sandvig	X	
Roxanne Jensen	X				
Amy N. Kliniske	X				
Chet Pollert	X				
Todd Porter	X				
Blair Thoreson					

Total Yes 13 No 0
Absent 2

Floor Assignment Metcalf

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 1, 1999 11:53 a.m.

Module No: HR-20-1580
Carrier: Metcalf
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1384: Human Services Committee (Rep. Price, Chairman) recommends **DO PASS**
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1384 was placed on the
Eleventh order on the calendar.

1999 SENATE HUMAN SERVICES

HB 1384

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1384

Senate Human Services Committee

Conference Committee

Hearing Date MARCH 9, 1999

Tape Number	Side A	Side B	Meter #
1	X		3,120
Committee Clerk Signature <i>Paul Kolodejchuk</i>			

Minutes:

REPRESENTATIVE DELMORE, sponsor, introduced the bill and urged a DO PASS on this bill.

BILL DELMORE, ND Funeral Directors Association, further explained the bill in written testimony. SENATOR DEMERS stated that the Department already does this, why do we need this bill? MR. DELMORE answered that this codifies what is already done. SENATOR FISCHER asked about the second \$3,000. MR. DELMORE: You can set \$3,000 available for preplanning; there is another \$3,000 of discretionary funds that can be used for lots of different things. You can take a portion of that and also designate it to be used for your funeral.

SENATOR KILZER: Does this plan include the plot, burial site? MR. DELMORE: My understanding is some places the cost would be part and in others it would not.

AANDERS JACKSON, ND Funeral Director Assoc., explained that there is a \$6,000 limit.

There is \$3,000 plus the interest earmarked for funeral service; \$3,000 of discretionary funds.

The problem is that unless the social workers of nursing homes understand that those \$3,000 can be used toward funeral service costs; but they have to be earmarked and payable upon death.

Most people aren't being told that and they think they have \$6,000 to work with; they have \$3,000 put aside, but the second \$3,000, if they haven't done it quite right, they don't have access to that. What the bill is designed to do is that when they sit down with the nursing home social worker they can give them the statute and say here is where you can put your funds aside.

MARELLA KREIN, Dept of Human Services, opposes bill in written testimony. SENATOR LEE asked if cremation was among the choices. MS. KREIN stated that it was. MR.

DELMORE expressed concern was using the words prepay or deposit without the words funeral service contracts so it needs to be in the bill.

The hearing was closed on House Bill 1384.

SENATOR LEE moved a DO PASS. SENATOR KILZER seconded it. Discussion was held.

Roll call vote carried. SENATOR LEE will carry the bill.

REPORT OF STANDING COMMITTEE (410)
March 9, 1999 1:26 p.m.

Module No: SR-42-4342
Carrier: Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1384: Human Services Committee (Sen. Thane, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1384 was placed on the
Fourteenth order on the calendar.

1999 TESTIMONY

HB 1384

TESTIMONY ON HOUSE BILL 1384

By: Bill Delmore

Chairperson Price, Members of the House Human Services Committee, my name is Bill Delmore of the Kelsch Law Firm in Mandan and I am testifying on behalf of the North Dakota Funeral Directors Association (NDFDA).

Prior to a 1997 amendment, this section specifically referenced pre-need funeral service contracts. Apparently, this section was amended to ensure that pre-payments and deposits would also be considered by people planning in regard to their funeral and by both private and public advisors describing options available to people as they pre-plan. However, the actual affect has been just the opposite.

Many of those affected now believe that a pre-need funeral service contract is not available to them and, indeed, parties advising people planning for their funeral are confused by the removal of pre-need funeral service contracts from this section.

This amendment merely lists options available to someone planning for their funeral and clarifies what options are available that would not be considered in eligibility determination.

Additionally, it is important to list pre-need funeral service contracts as an option because it is one of the options that requires a binding commitment to the individual's choice by the involved parties.

Members of the Funeral Directors Association are also available if you have any questions.

On behalf of NDFDA I would urge a do pass on House Bill 1384.

TESTIMONY
BEFORE THE HOUSE HUMAN SERVICES COMMITTEE
REGARDING HOUSE BILL 1384
JANUARY 25, 1999

Chairman Price, members of the committee, my name is Curtis Volesky. I am a Program Administrator for the Department of Human Services, Medical Services Division. I appear before you today to provide comments on HB 1384.

The amendments to this bill do not alter the meaning of the law so the Department of Human Services does not foresee a change in how Medicaid eligibility is determined. Currently, funds designated for burial are excluded as assets for Medicaid regardless of whether they are in a pre-need funeral service contract or some other type of designated account.

Prior to August, 1995, the law only allowed pre-need service contracts to meet the Medicaid burial provision. Effective August 1, 1995, all references to pre-need funeral service contracts were removed, and new language added, to allow other types of accounts to be designated for burial. That change has been very positive for our recipients, for the county social service offices, and for the department.

This amendment would reinstate some of the pre-need funeral service language. The law does not identify other specific types of accounts that can be designated, therefore, the department does not feel it is necessary to add the pre-need terminology. While there is no change to the meaning of the law, there really is no need to make this change.

I would be happy to answer any questions you may have.

TESTIMONY
BEFORE THE SENATE HUMAN SERVICES COMMITTEE
REGARDING HOUSE BILL 1384
MARCH 9, 1999

Chairman Thane, members of the committee, my name is Marella Krein. I am a Program Administrator for the Department of Human Services, Medical Services Division. I appear before you today to provide comments on HB 1384.

The amendments to this bill do not alter the meaning of the law so the Department of Human Services does not foresee a change in how Medicaid eligibility is determined. Currently, funds designated for burial are excluded as assets for Medicaid regardless of whether they are in a pre-need funeral service contract or some other type of designated account.

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It is important to list pre-need funeral service contracts as an option because it is one of the options that requires clear commitment to the funeral planners choice by the involved parties.

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