

**2017 HOUSE HUMAN SERVICES**

**HB 1338**

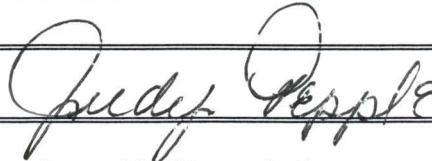
# 2017 HOUSE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Fort Union Room, State Capitol

HB 1338  
1/24/2017  
27303

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to indigent burial

## Minutes:

1, 2, 3

Chairman Weisz: called the committee to order.

Opened the hearing on HB 1338

Chairman Weisz: Is there testimony in support of HB 1338

Rep. J. Siebel  
(Attachment 1)

This concludes my testimony and I hope the committee will give HB 1338 a do pass recommendation.

Chairman Weisz: So what happens if you don't get permission?

Representative Seibel: You can get a variance from the state health department to delay the burial. Embalming would have to take place within 48 hours unless there is refrigeration and then you can go 72 hours. You would embalm the body and then you would wait that month. The family would wait. Or you could go ahead and bury them hoping that you will get paid someday.

Chairman Weisz: Where did you come up with the 10days?

Representative Seibel: That would give them 2 working weeks. I don't think that is asking too much, but you would still have to get a variance.

Chairman Weisz: Questions from the committee?

Representative Devlin: Is there a definition somewhere for nominal. It says the county can't decrease the payment due to a nominal amount.

Representative Seibel: I don't believe there is. That is something we may want to look at. Amending what nominal amount would be.

Chairman Weisz: It does reference though on line 28 page 4 that funds adequate for burial are considered nominal under this section. That is a partial definition.

Chairman Weisz: Further questions from the committee? Seeing none.

Chairman Weisz: Further testimony in support of HB 1338

Rep. Nathe:

I support HB 1338. The time limit of 10 working days comes in great for us. We deal with a county that is very busy. In fact, Burleigh County doesn't even answer their phones and they won't call us back. They put on their phones that they are gone. When we are dealing with indigent burial most of the time we are dealing families that have a lot of issues going on. We deal with these families and we are trying to get this done in a timely manner. The families want to get it done. Sometimes it can go a month. The family has to wait and therefore they can't decide what they can do because the money is of utmost importance. So I think having the 10 working days on there helps the family and helps to get things moved along. The second part of the bill that allows for the family to pay over and above what the county approves is really the main reason why I am here. We have a problem here. Burleigh County pays \$2100 toward an indigent burial. A lot of families want to be buried. Sometimes they will choose cremation. If you want to be buried in Bismarck or any cemetery in Bismarck, The cemetery costs alone are \$2000, \$1000 to open and close the grave, plus you need a vault that the cemetery requires. I know what they are doing. We have been through this before. They say no, it is \$2100 and that is it, because they want to push people into cremation. Now, some people want cremation, some people feel it is against their religion, and some people are just not comfortable being cremated. My issue with this is we have families that will come in and say that their relatives didn't have anything and he didn't want to be cremated. We want him to at least have a dignified burial. In Burleigh County \$2100 doesn't even come close to covering the expenses. Funeral homes do these things at cost and sometimes we do them at a loss. For the longest time in Burleigh we were able to let families do that, but the counties changed their position on that 2 summers ago. We asked them to sit down with us and look at the numbers, but they said they would get back to us. They got back to us a week later and sent a letter that said no. People that suffer the most are the family members. They are not getting what they want and they are stressing about how to do it. They are then being pushed into a service they do not wish to have. They are not walking in with another \$8000 and saying to let the county pay the first \$2100. They want to just get to that level of a dignified funeral at that point. It does not cost the county any more money. They can still do \$2100, but the family can add over and above that. I think at the time, Burleigh County budgeted for 25 indigent burials a year and they were tracking along those lines. I don't think there is a big spike in those numbers, but I would imagine it is up a bit. I am in support of this bill for two reasons. For the 10 working days and then for allowing these families to go ahead and contribute so they can get the service that they like.

Chairman Weisz: So how hard is it to get a variance? Is that just a phone call or what.

Rep. Nathe: Yes, it is just a matter of reaching out.



Representative P. Anderson: We see so many go fund me accounts to help with funeral expenses and burial. Can that help?

Rep. Nathe: I haven't seen any of that, but if they had a go fund me account and the county was going to pay the first \$2100, they can't use this money. So they would have to turn down the county assistance and then use the go fund me account to do it. I am sure there are some funeral homes that are taking some money on the side to help them get what they want, but we want to be in compliance with the law. This is Burleigh County and some counties are different all across the state. Some allow them to add on top and others don't. We want to keep it even all the way across.

Chairman Weisz: Further support of HB 1338?  
Is there any opposition to HB 1338?

10:22  
Kim Jacobson, Director of Trail County Social Services  
(Attachment 2,)  
18:15

Chairman Weisz: Are there any questions for Kim?

Representative Porter: Specifically related to the payment issue of what the family wants to pay over and above the amount, why do you care if they add to it? If the individual that the county is providing for qualifies for a set amount, no matter what that amount is. If they have a family member Texas won, the lottery. They felt that old Joe wanted to go out in style and the county pays the \$2000 or whatever that is, but this family member adds \$8000 on top of it to give Joe what he wanted. Why do you care? I don't see how you think you can go into the private portion of this, when the person qualifies for your program.

K. Jacobson: Because the county is the payer of last resort. So if the family does have the resources to pay for the funeral then they shouldn't be applying for indigent burial in the first place.

Representative Porter: That is not how it reads though. The county is the last resort for that individual, not for that family. That family has no obligation to that person's indigent status. If they are willing to say they will put more in, that is not of the county's business, because that indigent person qualifies.

K. Jacobson: County policy does indicate that certain degree of relation are responsible for the burial costs of the individual. So if my father passed away and he qualified income wise for the indigent burial we would look at the surviving members according to policy to determine his continued eligibility for the program. If the family has that ability to pay that expense, it would be the family's responsibility to pay the costs of the burial. It might be his adult children, so it could be that I would be responsible. I would have to fill out an application and if my income exceeded what was allowed by the county they would not pay that indigent burial benefit.

Chairman Weisz: If a neighbor wanted to pay would you allow that?



K. Jacobson: We haven't had that happen in our county. In my county we only look at people considered kin or responsible party. I believe that a clarification that should be made is that when we talk about indigent burial it is talking about the care of the dead. It is not necessarily defining that we need to provide a funeral. The responsibility of the county is the final care and disposition of the body. I can't speak for other counties, because they are all different across the state and vary greatly.

Chairman Weisz: I know of a case at home where that actually happened and people kicked in. You are right when you said you are worried about the disposition of the body, so why should you care if someone wants to have a nice service over and above the disposition of the body, but now that is going to come out of the disposition of the body payment. That is why we are struggling here, because why should you care if some 2<sup>nd</sup> cousin decides to help. What do they have to do with his financial situation?

K. Jacobson: If an outside source provided the money and it wasn't the family, my county would not have an issue with that.

Chairman Weisz: So under your policy do you have a definition of family and how far it goes.

K. Jacobson: Yes, we do. We consider family to be surviving spouse, child and or grandparent if the child is living with their grandparent, but beyond that we don't go into brothers, sisters, aunts, uncles, etc. Some counties do.

Representative McWilliams: If the family is estranged and have not spoken to each other in years do you still try to get that person to pay?

K. Jacobson: Yes we would try to do that.

Representative McWilliams: You are talking about an application for the family. What if you have a situation where there is an estranged family and the son or daughter has not spoken to their father in years, doesn't want to talk to him and doesn't want to show up for the funeral. Is there any situation where a family member that didn't want to pay would be sent a bill?

K. Jacobson: We do make an attempt to try to contact them. That is why sometimes the approval for indigent burial takes a longer time. If it is a son or even a spouse that is estranged, we have to put forth good faith effort to try to contact them in order to uphold our policy. So that good faith effort is defined differently county to county. It is common that we make effort in writing, by telephone and then at some time we will just consider that individual was unavailable to present an application.

Representative McWilliams: Say there is not a problem getting a hold of him, then what?

K. Jacobson: In Trail County the Trail County Social Service Board has given me the authority to do presumptive eligibility based on the recommendation from the economic assistance worker who has reviewed the application, myself receiving that and then we go ahead and give that approval. We then present it to the board for final payment.

Representative McWilliams: I guess what I am trying to ask is if there is a situation where a family member does not want to pay or contribute to the cost of final disposition that they would receive a bill from social services or the funeral home?

K. Jacobson: In Trail County we would just put refusal of application and we would continue to go on with our determination process.

Representative P. Anderson: So in Trail County you could have a go fund me account?

K. Jacobson: Yes. We had a case where there was an accident and so there was a large number of household members and we anticipated an application in that case, but the go fund me was able to cover all of the expenses for the burial so they didn't have to seek out county assistance.

Written testimony from Kim Osadchuk, Director of Burleigh County Social Service  
She couldn't be present.  
(Attachment 3)

Is there any more testimony in opposition to HB 1338? Seeing none.  
Closed hearing on HB 1338

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Fort Union Room, State Capitol

HB 1338

27303

"Click here to type recording job number"

1/24/17

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

Relating to indigent burial

### Minutes:

Chairman Weisz: Open for discussion on HB 1338

Representative Seibel: To have to wait a month to decide what to do with the body is wrong for the family and it is not fair to the funeral home.

Chairman Weisz: Then what?

Representative Seibel: Then we eat it.

Representative P. Anderson: Can we bury people in a pine box within 48 hours.

Representative Seibel: Say someone died at 2 am you ask the family if you can embalm. They say yes. You do it and then the family comes and says they don't have any money. They say that they are going to apply to the county.

Representative McWilliams: Does this bill change that?

Representative Seibel: No.

Representative Westlind: Within that 8 days you would bury them regardless if you are going to get paid?

Representative Seibel: Yes or apply for a variance

Representative Kiefert: I thought you couldn't

Representative Seibel: Some religions don't

Chairman Weisz: Do you pay upfront for the plot, the digging, the vault, etc.



Representative Seibel: Yes, all of that is up front. Sometimes you never even get the minimum amount, but they are going to do it anyway.

Representative P. Anderson: The county can just decide what they are going to do? Ten days sounds reasonable. Is it going to cost the taxpayer more?

Representative Seibel: I think if they are already doing it, it shouldn't cost more to do the same thing a little quicker.

Representative Skroch: What if they approved it and then later found someone with money could they take it back from you?

Representative Seibel: Yes, it could happen. Most funeral homes do it at a loss, but they would like to recoup some of their money.

Representative P. Anderson: It is hard on the family. Should the county say you can't move on until we say so.

Representative Devlin: I think that is true, but some counties may need more than 10 days.

Representative Seibel: Only 2 counties opposed this bill

Chairman Weisz: move on to the second part of this bill. The fact that people can't add to what the county gave. Change the definition of kin.

Representative Skroch: Maybe we need to put a cap on the amount the family could add, but outside the family should not be told they can't do it.

Chairman Weisz: Should the counties be able to disallow the funding because of

Representative McWilliams: Is nominal defined anywhere?

Chairman Weisz: On line 29 only. If there is a go fund me the

Representative McWilliams: Did we discuss what the things are so that they can qualify? No because each county can change the rules.

Representative P. Anderson: I don't think we should get involved with the rules of the county. They can do that. I am infavor of the 10 days though.

Chairman Weisz: Ok we have had good discussion. If someone wants to bring an amendment, bring it forward. I would like to take this up tomorrow.

Representative Kiefert: Do this allow them to just go after who they want to?

Chairman Weisz: That is only for the funeral home to be able to embalm or whatever. It doesn't involve the idea of whether or not they qualify for funding through the county.

Representative Kiefert: If you agree to something aren't you taking on the cost as well.

Representative Seibel: There will be a contract.

Representative Kiefert: So if I give them permission to do something does that make me financially responsible too?

Chairman Weisz: No you are just agreeing to whatever the funeral home is supposed to do. Not the financial part of it. It is whether they can embalm or cremate or whatever.

Representative Devlin: Sometimes when you have a holiday like Thanksgiving you would only be given 8 days.

Chairman Weisz: Bring up amendments if you have one.

Recessed until 2:30

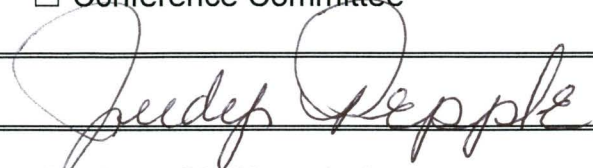
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

HB 1338  
1/25/2017  
27356

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to indigent burial.

## Minutes:

Chairman Weisz: called the committee to order.  
Let's take up HB 1338

Representative Devlin: I make a motion we amend HB 1338 page 4 that we change 5, 8, 11  
We change 10 days to 15 days.

Representative Seibel: Second that.

Chairman Weisz: Discussion? On the amendment only. Not the bill

Representative Skroch: When there is a holiday are they considered work days as well?

Representative Devlin: I think the intent was that they wanted to have 10 days when they are  
actually in the office. In those kind of cases they have a paid holiday.

Chairman Weisz: Is there further questions or discussion on the amendment? Seeing none  
we will do a voice vote.

Chairman Weisz: Voice vote to adopt the amendment on H 1338

Voice vote carried. Amendment adopted.  
Are there any further amendments?

Representative D. Anderson: There was some question on a nominal amount. What the  
definition was of that. Someone brought that up.

Representative Seibel: I believe the last sentence in that defines what a nominal amount  
would be. That is how we intended it and that's how I look at it. It says what we want it to  
say, so that is ok.



Chairman Weisz: Representative D. Anderson does that answer your question?

Representative D. Anderson: That's fine. I just thought there was a question.

Chairman Weisz: There was, so now we know. Any further amendments or discussion?

Representative Seibel: I move for a do pass on HB 1338 as amended.

Representative B. Anderson: I second that motion.

Chairman Weisz: We have a motion for a do pass as amended. Is there any discussion?  
Seeing none, we will have a roll call vote on do pass as amended on HB 1338

Roll call vote taken. Yes 11 no 0 absent 3 Motion carried

Chairman Weisz. Do I have a volunteer to carry this bill?

Representative Porter: I will.

Closed the hearing on HB 1338

1/25/17 DA

17.0643.02001  
Title.03000

Adopted by the Human Services Committee

January 25, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1338

Page 4, line 5, replace "ten" with "fifteen"

Page 4, line 8, replace "ten" with "fifteen"

Page 4, line 11, replace "ten" with "fifteen"

Renumber accordingly

Date: 1-25-17  
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1338

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 17.0643.02001

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Devlin Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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



Date: 1-25-17  
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1338

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Seibel Seconded By Rep. B. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	ab.	
Vice Chairman Rohr	ab.		Rep. Schneider	✓	
Rep. B. Anderson	✓				
Rep. D. Anderson	✓				
Rep. Damschen	ab.				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	✓				
Rep. Seibel	✓				
Rep. Skroch	✓				
Rep. Westlind	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Porter

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

**REPORT OF STANDING COMMITTEE**

**HB 1338: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1338 was placed on the Sixth order on the calendar.

Page 4, line 5, replace "ten" with "fifteen"

Page 4, line 8, replace "ten" with "fifteen"

Page 4, line 11, replace "ten" with "fifteen"

Renumber accordingly

**2017 SENATE HUMAN SERVICES**

**HB 1338**



# 2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee  
Red River Room, State Capitol

HB 1338  
3/14/2017  
Job Number 29153

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A bill relating to indigent burial.

## Minutes:

3 attachments

**V-Chair Larsen:** brought the hearing to order, Chair J. Lee was absent for a time.

**Representative Jay Seibel (0:30-2:35) introduced the bill, please see attachment #1.**

**Senator Anderson:** In your experience does 15 days give the counties enough time to access relatives?

**Rep. Seibel:** I would think so, some counties already do it, they allow the director to make the decision and they approve it later.

**Senator Heckaman:** On page 4, it talks about the social service board may not decrease the county payment due to a nominal amount. What's considered nominal?

**Rep. Seibel:** The last sentence in that line, funds adequate to allow for burial instead of cremation are considered nominal under this section. Our intent is, some counties will only pay a General Assistance (GA) for cremation. If a family would like to upgrade that to a burial, there's a bit of additional cost. That's our feeling of what nominal would mean.

**Steve Reiser, past president, ND Association of Counties (5:00-8:05) testified in opposition, please see attachment #2. Offered amendment.**

**Senator Anderson:** Do you think you can work with the 15 day criteria?

**Mr. Reiser:** Yes, there are counties that do that, some counties will have to change their policy, to say that they are going to allow the county director to be the designee to make that determination rather than the full board itself. If the county can't get the financials information from next of kin within 15 days we will have to decline.

**Senator Anderson:** We don't quite understand this nominal language, what does it mean to you?

**Mr. Reiser:** It's vague and confusing to me too; if I'm a county I say we have one rate to charge for cremation, and a 2<sup>nd</sup> rate for burial, the difference between the two rates is the nominal amount. If I'm a county has no difference, then my interpretation is there is no nominal rate.

**Senator Anderson:** Most counties would pay for either a cremation or a burial based on the family's choice?

**Mr. Reiser:** It is all up to what the county has for their policy, some counties have a strong recommendation that cremation is what has to be done, many counties have one rate, it's a family choice all the way, the county commissioners have negotiated the same price for a cremation or a burial.

**Senator Piepkorn:** What does a burial consist of?

**Mr. Reiser:** This particular statute is in the health code, when we're looking at what is covered to take care of the body in a healthy manner, take care of burial or cremation.

**Senator Piepkorn:** You pay for a backhoe and a casket?

**Mr. Reiser:** Again that is negotiated between the funeral home directors and county commissioners. From experience, I have 3 counties whose policy is the funeral home gets paid x amount of dollars, it is their responsibility to hire the person with the backhoe, I have another county that is more specific. All negotiated county commissioners and the funeral home directors.

**Kim Osadchuk Director, Burleigh County Social Services (13:55-16:00) testified in opposition, please see attachment #3.**

**Senator Anderson:** Are you comfortable with the amendments?

**Ms. Osadchuk:** I haven't seen them.

**Mr. Reiser:** What we did changed them so that it would be up to county to determine next of kin and the county would determine nominal amount.

**Ms. Osadchuk:** Then we'd be in support.

**V-Chair Larsen:** Where are the cremations?

**Ms. Osadchuk:** I believe it's with the funeral homes.

**Senator Kreun:** Some funeral homes have them, some funeral homes conglomerate

**V-Chair Larsen:** leave hearing open

**V-Chair Larsen:** reconvened hearing.



**Representative Mike Nathe, District 30 (18:30-22:30) testified in favor.** Owns a funeral home, has worked with many indigent families. On page 4, lines 25-29, what we're asking I, right now, when I receive a qualified family, Burleigh County pays \$2100 for cremation or burial, a family used to be able to give additional money to have a burial. We cannot bury a person for \$2100 in Bismarck. Funeral homes look to break even. Burial in Bismarck costs way more than \$2100; vault, digging, casket etc. Most people aren't having the county pay \$2100 and coming up with \$10,000, they want to have a very basic honorable service for their loved one. Typically, we have graveside services right there. Some counties are pushing people from a casket to cremation because of cost. Some people are opposed to cremation, some have no problem, right now about 50% funerals are cremations in this country. The policies we have now are inconsistent, it differs from county to county. This nominal amount won't cost the county anything extra.

**V-Chair Larsen:** We heard a bill earlier about certificate for fetal death, do you do still-born death funerals?

**Rep. Nathe:** Unfortunately, yes, quite often.

**V-Chair Larsen:** This is before the 20-week period?

**Rep. Nathe:** Yes, depends on the parents.

**Senator Anderson:** What we're hearing from counties they feel like the county cost should be covered first, they're not interested in \$2100 for every funeral, and then the family paying another \$2100. They think if the family has that \$2100, it should go to allay the county's cost. If the family wants to buy flowers, the county says then we should be reduced to \$2000, instead of \$2100.

**Rep. Nathe:** The problem is; the family has no money. The reality is the dollar amount the counties are setting doesn't cover the cost that we incur today, we've gone back and forth with counties for a long time. I get what they're saying, they do a financial background, you have to be penniless before the county will step up and pay for it.

**Senator Anderson:** Where does this additional nominal money come from, if they don't have any money?

**Rep. Nathe:** They pass the hat around. We try to do what we can.

**Senator Anderson:** Is there a way we can write this, we already have an amendment 1<sup>st</sup> degree of relation, the rest of the people can contribute as much as they want to, if they pass the hat to the non-relatives, nobody wants to pay if somebody else will pay. Is there a way to write that?

(27:15-33:00) The committee discussed wording of amendment; and county reimbursement if families chip in extra money.

**Chair J. Lee:** Would you take a look at those amendments?



**Rep. Nathe:** I took a look; it doesn't seem to change it too much.

**Chair J. Lee:** It makes sense to talk about the counties GA policy but we're still looking at them varying from county to county.

**Rep. Nathe:** I don't have a problem with 6a, but 6b seems more of the same.

**Senator Clemens:** You mentioned budget were tight, if things were standardized across counties, that might be a bigger burden for some counties than others?

**Rep. Nathe:** It doesn't affect them. It doesn't cost them any more money to have a family give extra. They're still giving that \$2100 to the funeral home. The dollar amount they set they'll pay no more than what they're paying now.

**Senator Clemens:** There are different rates for different counties?

**Rep. Nathe:** Burleigh is \$2100; Morton is a little less than that. That's the way it goes. I'm not asking for one straight fee across the board, I'm asking for a consistent policy.

**Chair J. Lee:** Do you know how many there are in Burleigh County?

**Rep. Nathe:** From two years ago, they were tracking 24-25 indigent burials in Burleigh.

**Chair J. Lee:** If you decide there's something to recommended on this, we're interested in hearing it.

**Senator Piepkorn:** Ms. Osadchuk gave us that number, it was 16.

**Chair J. Lee:** In 2015 it was 14 and in 2016 it was 11.

**Chair J. Lee closed the public hearing.**

# 2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee  
Red River Room, State Capitol

HB 1338  
3/15/2017  
Job Number 29268

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A bill relating to indigent burial.

## Minutes:

1 attachment

**V-Chair Larsen:** This is a mirror of the one we just passed, right?

**Senator Anderson:** No. It's different.

**Mike Krumwiede, North Dakota Funeral Directors Association:** It does differ. The other one has to do with final disposition, who's in charge. This deals more with the payment from the county for someone who is an indigent burial, the family can apply to county, they have no money to bury this person.

**Senator Anderson:** What we heard from the counties was that they feel like any money from friends should be applied against what the county is paying before they pay the rest of the expenses. They're not interested in paying the \$2100, then the family coming up with money from somewhere, the counties suggested amendments which clears up the nominal language, which was confusing.

**Mr. Krumweide:** In the other bill the first amendment, how far they go to look for money is established by the county, the nominal part is not the most perfect language, gives the definition of nominal after it, funds adequate to allow for burial rather than cremation. Right now, if a friend came and said they'd like to pay the extra for a burial instead of a cremation, the funeral home has to give that money back to the county, then the funeral director is on the line.

**Senator Anderson:** Is there a way we could say the parents, siblings or children have to give the money to the county, others could be in addition to? If other people come up with the money then, they wouldn't be first degree relatives, is there a way to say that?

**Mr. Krumweide:** That would be great, but the county decides how far down the line, and it differs from county to county. We're trying to find a middle ground where all counties would



allow some sort of amount above and beyond what a cremation costs; that's why we thought nominal, and then defining based on the counties.

**Senator Heckaman:** I can see next of kin moving money to farther down kin and getting around this.

**Mr. Krumweide:** We had some ideas, it's a matter of tying a county to a certain amount. By leaving it at nominal, at least there's an amount there. If that county decides it's \$0 because that's how the amendment reads.

**V-Chair Larsen** Gave a biking club example, where the county pays for the burial even though the friends generate a large amount of money.

**Senator Anderson:** If we look at the suggested county amendment (**please see attachment #1, page 2**), it kind of says what I just said, County Social Services may not decrease the county payment due to a nominal amount contributed by any other party not otherwise financially responsible. I like that myself, that means that first degree of kin, it's not them coming up with the money, it's the biker group.

**Mr. Krumweide:** The main point is the first part of the amendment says it's up to the county how far they go down that line. The second part states they can set whatever amount they wanted to. That's the issue we wanted it to be fair across the counties, there would be some nominal amount that's allowable.

**Senator Anderson:** It sounds like the only ones who have a disagreement is Burleigh County and the funeral directors in Burleigh County. They don't have to take this business if they don't want to.

**V-Chair Larsen:** Where's the body going to go?

**Mr. Krumweide:** I understand with Morton and Burleigh Counties, there are many people that could take that on. It's hard to turn someone away once their family is sitting across from you. The other part of that goes to the fact that all across the state, some of those funeral directors aren't here speaking about it, their county has negotiated rates that cover all of this. I know Jamestown is \$4300; other counties that have indigent burials way above what Burleigh County has, just because they're poorer counties. That funeral director is taking it on as a service to the community, they don't want to make money on this, they want to cover costs. They don't want to say to people who bring \$500, that doesn't get you anything else.

**Senator Anderson:** But outside of setting the fee at the state level as long as it's a negotiation between the county and the local funeral directors, sounds like Burleigh County feels like it doesn't have negotiating power. Sometimes the only way to get negotiating power is to say they won't pay for that.

**Senator Piepkorn:** Where are we then?

**V-Chair Larsen:** I think there's some favorability to the amendment that the county brought forward.

**Senator Clemens:** I made a note, Rep. Nathe was ok, with that amendment, wasn't he?

**Senator Anderson:** He wasn't happy with part d.

**V-Chair Larsen:** The way I read part d, that opens it up for when money comes filing in, they can get that.

**Senator Anderson:** Right now the amendment says that if it comes in from your biker's group, the county doesn't get it. Sounds like most of the counties go with the first degree, this clearly says money can come from anybody else, other than kin.

**V-Chair Larsen:** If any other party has funds, the funeral parlor can ask those guys for the funding.

**Senator Anderson:** The funeral can, but the county can't say that has to be used to offset our expenses. The County Social Services Board may not decrease the county payment due to a nominal amount contributed by any other party not identified as having financial responsibility in the County's General Assistance Policy. They can't reduce the \$2100 or whatever it is because the biker group contributed money. As long as the biker group isn't first degree relatives.

**V-Chair Larsen:** I'm not sure I agree with that either though. If you get \$7,000 coming in I don't think the county should be picking up the cost.

**Senator Anderson:** Those people aren't financially responsible for this funeral.

**Senator Piepkorn:** What's the main beef? I don't see it?

**Mr. Krumweide:** You know basically, the fact that we thought it was going to be set by the county to be \$0 again, there would be no amount, they were looking for way to set a nominal amount between cremation and burial. We didn't think it was in this definition of part d.

**Senator Anderson:** The difference might be; some counties are setting a fixed amount for either a cremation or a burial; and you say that's only enough for a cremation. So what you would like is either a cremation or the burial, which is more expensive. I think that's where the contention is, that some counties aren't allowing you to bury them even if the family wants that or they're not willing to pay those additional funds. That's really where the rub is.

**Senator Piepkorn:** I don't think your problem, about the amounts, is addressed in the bill or amendment, we're just not addressing that.

**Senator Clemens:** To me this is very confusing to sort this out, come up with a simpler amendment. I don't know where I'm at on this, there are so many different things here.

**Senator Anderson:** Without saying specifically that the county has to have an amount negotiated for a cremation and burial, I don't know how to resolve this issue. The funeral directors would like to take that amount the county has set; this is enough to cremate the



guy. If the family wants a burial, they would like a way to fund the burial, which costs more. If the county doesn't allow that, they're stuck, right now. I don't know how to solve that unless we change the law and say they have to revise the way the county approaches it.

**Senator Piepkorn:** I don't think the funeral home should be obligated to pay for a burial, here's what we can provide, a cremation. If you want a burial, you'll have to come up with money other than from the county. I don't know why they can't do that.

**Senator Anderson:** The problem is right now the counties are saying if the 1<sup>st</sup> degree of kin comes up with that money, then that goes to the county, to cover the \$2100. They're not willing to go to \$4300 to pay for the burial, the county wants to fix that; if the family has more money they should be paying the county, that's what the counties are saying.

**Senator Piepkorn:** The county social service board may not decrease the county payment due to a nominal amount.

**(19:30- 25:50)** The committee discussed nominal amount and non-kin contributed funds. If first degree relatives contribute to the final disposition, the money reverts to the county; if non-kin contribute, the money can be used for upgrades.

**V-Chair Larsen:** That's why we don't like the part d if I'm a funeral guy.

**Senator Piepkorn:** Then that money shouldn't have to go back to the county, use that money to pay for extra.

**Senator Kreun:** If they want extra, they give it to the funeral director.

**Senator Piepkorn:** And the county cannot recoup that money.

**Senator Kreun:** Because the county's not incurring any extra cost.

**Senator Anderson:** What the county's concerned about is, I'm going to get \$2100 to bury my relatives, then I get the \$2100 then I go for the burial and the funeral, and I pay it all myself. The county doesn't want to pay if I have the money to bury them, county's concerned that they're cost is going to go up because more and more people are going to say they don't have the money. That what the counties want to avoid. The counties say if you have the money you should pay the costs.

**Chair J. Lee:** Do you want the county reimbursed for funds raised by non-family or not?

**V-Chair Larsen:** I want the county reimbursed.

**Senator Anderson:** I want the county reimbursed. If those first degree of kin have the money.

Senator Clemens and Senator Kreun want the counties reimbursed.

**Chair J. Lee:** They can take the \$2100 and have a cremation, or they can take the \$2100 and collect from the biker club for an additional burial.

**Senator Anderson:** I move the Reiser amendments.

**V-Chair Larsen:** Second.

**Senator Clemens:** For the funeral homes, you're getting the \$2100 from the county, if any more comes in from the kin it would go back to the county, but if it comes from the biker club so you're going to get the \$2100, that would pay for a cremation or burial, no, just cremation?

**Mr. Krumweide:** The way it was originally written, before it was amended, the nominal amount was the difference between a cremation and a burial. That amount, however much the county's kicking in, In Burleigh it's \$2100, in another county it might be \$3000. It still may be \$3500 to bury someone, there's a \$500 difference. The way the law used to be, the way the counties negotiated with the funeral directors, that's how it worked. If they decided that that person did not have enough money, they got the \$2100. That does not get them buried. The county would negotiate with the family, if they could come up with extra money, then they could get their burial. When they changed it, the county said, if you get that extra money, we want that money back, then the funeral director still has \$2100, there's no way to get them the right amount of money for a burial. They eat the cost, that's not fair.

**Chair J. Lee:** That's not fair.

**Senator Piepkorn:** They negotiate, the funeral home?

**Mr. Krumweide:** I can't quote exactly, the fact that in Burleigh County, its \$900 for a spot, \$700 to dig, \$800 for a vault. The funeral directors aren't trying to make money; they're trying to cover their costs.

**Senator Clemens:** I know the county does quite an extensive search, theoretically there shouldn't be more money coming in from the family, if they want to upgrade to a burial they need an outside source of money. With this amendment the family would have to be sure that money came from an outside source to satisfy this.

**Mr. Krumweide:** The original intent from the funeral directors was they want to be above board on this. They want to know it's ok to accept money for flowers.

**Senator Clemens:** The county has done as much as they can do to receive money from next of kin, if they don't get it all, then so be it; what more are you going to do?

**Senator Kreun:** Is there a statute that you have to take indigents?

**Mr. Krumweide:** I don't know if it's statute, this come up a lot; someone comes in, they've already started the embalming process that has to happen pretty quickly, then the person say I have no money. It's now my responsibility, I have 8 days to get the body in the ground. Even in this bill it requires that the county do its research in 15 days.



**(36:35-40:10) the committee discussed negotiation.**

**Senator Kreun:** Wouldn't it behoove the funeral director at the time you pick up the body to make contact with the hospital to see if there's payment available?

**Chair J. Lee:** They don't always know.

**Senator Kreun:** You're not obligated to take that body.

**Chair J. Lee:** I think our funeral directors are a little more responsible than that.

**Senator Heckaman:** Can we move this along?

**Chair J. Lee:** I will not support the motion that includes the part that sticks it to the funeral directors and preserves the county.

**Senator Heckaman:** I call the question.

**A roll call vote was taken.**

**Motion fails 3-4-0.**

**Senator Heckaman:** I move to adopt 6a, top portion amendment.

**V-Chair Larsen:** Second.

**A roll call vote was taken.**

**Motion passes 5-2-0.**

**Senator Heckaman:** I move Do Pass as Amended.

**Senator Piepkorn:** Second.

**A roll call vote was taken.**

**Motion passes 4-3-0.**

**Chair J. Lee will carry.**

PROPOSED AMENDMENT FOR ENGROSSED HOUSE BILL No. 1338

Page 4, line 3, after "subsection 1" insert: "and identified for financial responsibility within the county's general assistance policy"

Page 4, line 27, overstrike "~~left by the deceased~~"

Page 4, line 27, remove the first "or" and overstrike "kin or"

Page 4, line 27, after "party" insert "not identified as having financial responsibility in the county's general assistance policy"

Page 4, line 28, remove "adequate to allow for burial instead of"

Page 4, line 29, remove "cremation are" and after "section" insert "will be consistent with the county's general assistance policy"

Renumber accordingly

**Requested changes to HB1338 in red**

- ~~3-6.~~ a. If the deceased is not survived by an individual described by subsection 1 and identified for financial responsibility within the county's general assistance policy and did not leave sufficient means to ~~defray funeral pay for expenses of final disposition~~, including the cost of a casket, within fifteen days of application for services the county social service board of the county in which the deceased had residence for county general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the county social service board of the county in which the death occurs shall employ some a person to arrange for and supervise the ~~burial or cremation~~ final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the burial or cremation.
- b. Each board of county commissioners may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.
- c. The county social services board may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
- d. The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, ~~less any~~. The county social service board may not decrease the county payment due to a nominal amount left by the deceased or contributed by kin or any other party not identified as having financial responsibility in the county's general assistance policy to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section will be consistent with the county's general assistance policy.



March 15, 2017

3/15-2017  
1 of 1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1338

Page 4, line 3, overstrike "is not survived by an individual described by subsection 1 and"

Page 4, line 5, after the second comma insert "and is not survived by an individual described by subsection 1 and identified for financial responsibility within the county's general assistance policy."

Renumber accordingly

Date: 3/15 2017Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. 1338Senate Human Services Committee☐ SubcommitteeAmendment LC# or Description: Revises Amendment

Recommendation: ☒ Adopt Amendment  
☐ Do Pass    ☐ Do Not Pass    ☐ Without Committee Recommendation  
☐ As Amended    ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_Motion Made By Sen. Anderson Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)		X	Senator Joan Heckaman		X
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn		X
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun		X			

Total (Yes) 3 No 4Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 3/15 2017Roll Call Vote #: 22017 SENATE STANDING COMMITTEE  
ROLL CALL VOTESBILL/RESOLUTION NO. 1338Senate Human Services Committee☐ SubcommitteeAmendment LC# or Description: 17.0643.03001

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
 Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Heckaman Seconded By Sen Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.		X			
Senator David A. Clemens		X			
Senator Curt Kreun	X				

Total (Yes) 5 No 2Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 3/15 2017

Roll Call Vote #: 3

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1338

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Heckaman Seconded By Sen. Piepkorn

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	<u>X</u>		Senator Joan Heckaman	<u>X</u>	
Senator Oley Larsen (Vice-Chair)		<u>X</u>	Senator Merrill Piepkorn	<u>X</u>	
Senator Howard C. Anderson, Jr.		<u>X</u>			
Senator David A. Clemens		<u>X</u>			
Senator Curt Kreun	<u>X</u>				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Sen. Lee

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



**REPORT OF STANDING COMMITTEE**

**HB 1338, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1338  
was placed on the Sixth order on the calendar.

Page 4, line 3, overstrike "is not survived by an individual described by subsection 1 and"

Page 4, line 5, after the second comma insert "and is not survived by an individual described  
by subsection 1 and identified for financial responsibility within the county's general  
assistance policy."

Renumber accordingly

**2017 TESTIMONY**

**HB 1338**

HB 1338

HB 1338  
A.H. 1  
1-24-17

Chairman Weisz and fellow members of the House Human Services Committee. For the record I am Rep. Jay Seibel of District 33. I stand before you today to introduce HB 1338 which relates to indigent or general assistance burials. Pages 1 - 3 mirror HB 1294, which you just heard and would make the same updates.

The first change in this bill can be found on page 4, lines 5, 8 and 11. Currently, there is nothing in the century code that directs County Social Service Boards to act upon applications in a timely manner. This change would give them 10 days to act. Currently in law, final disposition must happen within 8 days of death, without the funeral home receiving a variance from the Department of Health. As was the case when we owned our funeral homes in Beulah and Hazen, if someone died the day after the board met and the person or family member in charge of final disposition was going to apply for assistance, we would not get the approval or denial until the county social service board met again, which may be a month away. Some counties may act sooner, but we are asking for uniformity and that this be done a timelier manner.

The next change can be found on page 4, lines 25 through 29. This is already being done in some counties, but not allowed in others. Here again, we are asking for uniformity.

As many of you know, we sold our funeral homes 7 years ago, therefore I have no personal stake in this, but hope to help the families and funeral homes in the state that are faced with these issues.

This concludes my testimony and I hope this committee will give HB 1338 a DO PASS recommendation. Thank you for your time and service!



AH. 2  
HB 1338  
1-24-17

**Testimony**  
**House Bill 1338 – Indigent Burials**  
**Human Services Committee**  
**January 24, 2017**

Chairman Weisz, and members of the House Human Service Committee, I am Kim Jacobson, Director of Traill County Social Services, and member of the North Dakota County Director's Association. Within the context of the current funding formula for indigent burials, I must oppose the House Bill 1338 as proposed.

Various sections of North Dakota Century Code outline the responsibility, authority and duty of County Social Service Boards and County Commissions regarding General Assistance Programs which include indigent burials. NDCC 23-06-03 (3) outlines that County Social Service Boards must adopt policy for the administration of an indigent burial program. In that same section, NDCC outlines the duty of the County Commission to negotiate burial rates and directs County Social Service Boards to pay the rate established by the County Commission for indigent burials. Furthermore, NDCC 50-01-02 outlines that County Social Service Boards have exclusive jurisdiction and control over General Assistance Programs and also provides authority for counties to impose upon those receiving General Assistance including indigent burials to transfer property in exchange for the provided assistance.

Each County Social Service Board in North Dakota has adopted their own General Assistance policy including indigent burials based on the directive provided in NDCC. Each County Commission has negotiated a rate for indigent burials and this rate applies to the specific County Social Service Board under their authority. Policies have been developed to meet the specific need of each county. Of importance, it is County Funds (property tax) that are used to pay 100% of General Assistance Program including indigent burials. There is no state or federal reimbursement available for these expenses.

There are multiple areas of concern with House Bill 1338. Beginning with Section 1 item 1, a definition of responsible party is outlined. I understand that this may be very helpful to

funeral directors or morticians in their role. However, counties have also defined responsible party definition in their General Assistance and Indigent Burial policies. County policy definition will vary from county to county. For example, one county may describe "responsible party" or kin as a specific degree of relationship. Another county may limit the responsible party definition to immediate family only. If the definition of responsible party as defined House Bill 1338 was applicable to counties, this would likely change the scope of service, overall fiscal burden of the program as well as the time needed to determine eligibility.

Section 1, item 6 (a) places a ten day determination period requirement upon counties when considering indigent burial applications. Again, this would impact many county policies. Obtaining information to determine the income eligibility of surviving family members can be at times a tedious and time consuming process. A requirement of ten days could place undue administrative burden and costs upon counties for administering this mandatory county program.

Section 1, item 6 (b) prohibits the county social service board from decreasing the county payment if the deceased or family member/other individual had the ability or willingness to provide funds to help defray the cost of the indigent burial. This is contrary to many county policies and again places further financial burden upon county property tax dollars to administer this program.

House Bill 1338 appears to conflict with county authority to implement policy and have authority over the mandatory County General Assistance programs. In addition, provisions of House Bill 1338 would increase the overall cost of administering indigent burial programs resulting in an increase in property tax.

I urge you to render a "Do Not Pass" vote on House Bill 1338 as it lessens the authority of counties for a program exclusively required for counties to administer and fund resulting in increased costs to property tax payers.

As a potential solution the legislative body may opt to consider assuming the costs of the indigent burial program. If the program was funded with state, versus county funds, the

2

state could adopt a universal indigent burial policy. This would bring desired uniformity and changes desired by the bill sponsors. As the designee of the Department of Human Services, counties could still administer this program locally if such changes were enacted.

Of further consideration, Senate Bill 2206 - the social service funding bill, would transfer specific costs from county responsibility to the state. It should be noted that indigent burial costs are included in the base expenditures of the cost formula proposed in Senate Bill 2206. If the indigent burial caseload was added to reimbursement formula, then there would be a mechanism to transfer this program from the county to the state. Then, state policy for indigent burials may be very appropriate.

This concludes my testimony on House Bill 1338. I would be happy to answer any questions.



AH. 3  
HB 1338  
1-24-17

Testimony  
Indigent Burial  
House Bill 1338  
Committee: House Human Services  
January 24, 2017

Chairman Weisz, members of the House Human Services Committee, I am Kim Osadchuk, Director of Burleigh County Social Services and member of the North Dakota County Director's Association. I speak in opposition to House Bill 1338.

Current Century Code Chapter 23-06-03. Duty of Burial #3. At the very end states "The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, less any amount left by the deceased to defray the expenses." In Burleigh County we have always been the payer of last resort for indigent burials. House Bill 1338 would change that philosophy.

Section 3D of this bill states the county social service board may not decrease the county payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Who would then receive this nominal amount of resources of the deceased? Also who would determine the deceased has resources available?

In 2015, Burleigh County had 14 burials that were county funded for a total cost of \$21,665. In 2016, Burleigh County had 11 burials that were county funded for a total cost of \$20,180. Burleigh County pays a maximum of \$2100 per county burial minus any resources deemed available for final disposition. Burleigh County receives a large number of burial assistance applications for county payment and many of those are denied due to the deceased resources or family contributions for the final costs. This Bill 1338 would not allow us to deny those applications based on resources available. The dollar amount expended for county burials could go up drastically and fall on the county tax payer when there are funds available by the deceased and/or family members to meet these costs.

I urge you to "Do Not Pass" House Bill 1338.

This concludes my testimony on House Bill 1338.

Kim Osadchuk,  
Burleigh County Social Service Director

HB 1338  
#1  
3/14

HB 1338

Good morning Madam Chair Lee and members of the Senate Human Services Committee. For the record, I am Rep. Jay Seibel of District 33. I stand before you today to introduce HB 1338 which relates to indigent or general assistance burials. Pages 1 - 3 mirror HB 1294, which you just heard and would make the same updates.

The first change in this bill can be found on page 4, lines 5, 8 and 11. Currently, there is nothing in the century code that directs County Social Service Boards to act upon applications in a timely manner. This change would give them 15 days to act. Currently in law, final disposition must happen within 8 days of death, without the funeral home receiving a variance from the Department of Health. As was the case when we owned our funeral homes in Beulah and Hazen, if someone died the day after the social service board met and the person or family member in charge of final disposition was going to apply for assistance, we would not get the approval or denial until the county social service board met again, which may be a month away. Some counties may act sooner, but we are asking for uniformity and that this be done in a timelier manner.

The next change can be found on page 4, lines 25 through 29. This is already being done in some counties, but not allowed in others. Here again, we are asking for uniformity.

As many of you know, we sold our funeral homes 7 years ago, therefore I have no personal stake in this, but hope to help the families and funeral homes in the state that are faced with these issues.

This concludes my testimony and I hope this committee will give HB 1338 a DO PASS recommendation. Thank you for your time and service!

Testimony To The  
**SENATE HUMAN SERVICES COMMITTEE**

Prepared March 14, 2017 by  
Steve Reiser, Past President  
North Dakota Association of Counties

**REGARDING ENGROSSED HOUSE BILL No. 1338**

Thank you Chair Lee and committee members for the opportunity to testify regarding this bill. While the county interest in HB1338 stems from the same reason as the previous bill, our concerns are considerably greater. As the only differences in this bill will have a negative financial impact to counties, without changes we ask for a Do Not Pass recommendation.

First, we are seeking the same amendment as in the previous bill, to clarify that the degree of kinship to be examined for financial responsibility must be consistent with county GA policies. In this bill, this is even more important as a 15-day time limit for determination is required. If everyone on the long list of individuals are to be examined, few if any persons would be found indigent in that timeframe.

Of greater concern, is the new and somewhat vague language added on page 4 lines 25-29. This allows for the addition of funds "of a nominal amount" from any family member (whether they have financial responsibility or not) without impacting the determination of indigency. This appears to county officials to open the door for more, and more "fully county-paid", dispositions.

We recognize the desire to allow non-financially responsible relatives to provide flowers or other additions to the "funeral". In fact, some counties allow that already. However, counties are responsible for "burial or cremation" not a funeral, and those financially responsible must be asked to contribute first, before the county taxpayers.

For this reason, we ask that you consider an amendment incorporating into the section the language on the back page of this testimony. This will place the determination as to what is "nominal" with the agency that is charged with paying the bill. With this change, we can support the bill. Without it, we urge a Do Not Pass recommendation.



1338  
#2  
3/14  
Pg.2

PROPOSED AMENDMENT FOR ENGROSSED HOUSE BILL No. 1338

Page 4, line 3, after "subsection 1" insert: "and identified for financial responsibility within the county's general assistance policy"

Page 4, line 27, overstrike "~~left by the deceased~~"

Page 4, line 27, remove the first "or" and overstrike "kin or"

Page 4, line 27, after "party" insert "not identified as having financial responsibility in the county's general assistance policy"

Page 4, line 28, remove "adequate to allow for burial instead of"

Page 4, line 29, remove "cremation are" and after "section" insert "will be consistent with the county's general assistance policy"

Renumber accordingly

**Requested changes to HB1338 in red**

- 3-6. a. If the deceased is not survived by an individual described by subsection 1 and identified for financial responsibility within the county's general assistance policy and did not leave sufficient means to defray funeral pay for expenses of final disposition, including the cost of a casket, within fifteen days of application for services the county social service board of the county in which the deceased had residence for county general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the county social service board of the county in which the death occurs shall employ some a person to arrange for and supervise the ~~burial or cremation~~ final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the burial or cremation.
- b. Each board of county commissioners may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.
- c. The county social services board may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
- d. The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, ~~less any~~. The county social service board may not decrease the county payment due to a nominal amount ~~left by the deceased or~~ contributed by ~~kin or~~ any other party not identified as having financial responsibility in the county's general assistance policy to defray the expenses of burial or cremation. Funds ~~adequate to allow for burial instead of cremation are~~ considered nominal under this section will be consistent with the county's general assistance policy.

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#3  
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Testimony  
Indigent Burial  
House Bill 1338  
Committee: Senate Human Services  
March 14, 2017

Chairman Lee, members of the House Human Services Committee, I am Kim Osadchuk, Director of Burleigh County Social Services and member of the North Dakota County Director's Association. I speak in opposition to House Bill 1338.

Current Century Code Chapter 23-06-03. Duty of Burial #3. At the very end states "The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, less any amount left by the deceased to defray the expenses." In Burleigh County we have always been the payer of last resort for indigent burials. House Bill 1338 would change that philosophy.

Section 3D of this bill states the county social service board may not decrease the county payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Who would then receive this nominal amount of resources of the deceased? Also who would determine the deceased has resources available?

In 2015, Burleigh County had 14 burials that were county funded for a total cost of \$21,665. In 2016, Burleigh County had 11 burials that were county funded for a total cost of \$20,180. Burleigh County pays a maximum of \$2100 per county burial minus any resources deemed available for final disposition. Burleigh County receives a large number of burial assistance applications for county payment and many of those are denied due to the deceased resources or family contributions for the final costs. This Bill 1338 would not allow us to deny those applications based on resources available. The dollar amount expended for county burials could go up drastically and fall on the county tax payer when there are funds available by the deceased and/or family members to meet these costs.

I urge you to "Do Not Pass" House Bill 1338.

This concludes my testimony on House Bill 1338.

Kim Osadchuk,  
Burleigh County Social Service Director

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Testimony To The  
**SENATE HUMAN SERVICES COMMITTEE**

Prepared March 14, 2017 by  
Steve Reiser, Past President  
North Dakota Association of Counties

**REGARDING ENGROSSED HOUSE BILL No. 1338**

Thank you Chair Lee and committee members for the opportunity to testify regarding this bill. While the county interest in HB1338 stems from the same reason as the previous bill, our concerns are considerably greater. As the only differences in this bill will have a negative financial impact to counties, without changes we ask for a Do Not Pass recommendation.

First, we are seeking the same amendment as in the previous bill, to clarify that the degree of kinship to be examined for financial responsibility must be consistent with county GA policies. In this bill, this is even more important as a 15-day time limit for determination is required. If everyone on the long list of individuals are to be examined, few if any persons would be found indigent in that timeframe.

Of greater concern, is the new and somewhat vague language added on page 4 lines 25-29. This allows for the addition of funds "of a nominal amount" from any family member (whether they have financial responsibility or not) without impacting the determination of indigency. This appears to county officials to open the door for more, and more "fully county-paid", dispositions.

We recognize the desire to allow non-financially responsible relatives to provide flowers or other additions to the "funeral". In fact, some counties allow that already. However, counties are responsible for "burial or cremation" not a funeral, and those financially responsible must be asked to contribute first, before the county taxpayers.

For this reason, we ask that you consider an amendment incorporating into the section the language on the back page of this testimony. This will place the determination as to what is "nominal" with the agency that is charged with paying the bill. With this change, we can support the bill. Without it, we urge a Do Not Pass recommendation.



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PROPOSED AMENDMENT FOR ENGROSSED HOUSE BILL No. 1338

Page 4, line 3, after "subsection 1" insert: "and identified for financial responsibility within the county's general assistance policy"

Page 4, line 27, overstrike "~~left by the deceased~~"

Page 4, line 27, remove the first "or" and overstrike "kin or"

Page 4, line 27, after "party" insert "not identified as having financial responsibility in the county's general assistance policy"

Page 4, line 28, remove "adequate to allow for burial instead of"

Page 4, line 29, remove "cremation are" and after "section" insert "will be consistent with the county's general assistance policy"

Renumber accordingly

**Requested changes to HB1338 in red**

- 3-6. a. If the deceased is not survived by an individual described by subsection 1 and identified for financial responsibility within the county's general assistance policy and did not leave sufficient means to defray funeral pay for expenses of final disposition, including the cost of a casket, within fifteen days of application for services the county social service board of the county in which the deceased had residence for county general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the county social service board of the county in which the death occurs shall employ some a person to arrange for and supervise the ~~burial or cremation~~ final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the burial or cremation.
- b. Each board of county commissioners may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.
- c. The county social services board may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
- d. The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, ~~less any~~. The county social service board may not decrease the county payment due to a nominal amount left by the deceased or contributed by kin or any other party not identified as having financial responsibility in the county's general assistance policy to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section will be consistent with the county's general assistance policy.