

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1181

2005 HOUSE HUMAN SERVICES

HB 1181

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1181

House Human Services Committee

☐ Conference Committee

Hearing Date January 18, 2005

Tape Number

2

Side A

x

Side B

Meter #

3170-5503

Committee Clerk Signature



Minutes:

Chairman Price opened the hearing on HB 1181.

Rep. George Kaiser: Distr. 47. Support for HB 1181.

I am asking for indulgence from the committee. I am supposed to be next door chairing a meeting. If you have looked out in the hall, you have noticed that we are packed to the rafters.

Chairman Price has allowed me to present comments on the first 4 bills to you today.

I would like to present this as an overall perspective. No group better understands the Human Services budget, certainly the HS committees (House-Senate) knows better than any of us, what is happening in the area of human services. Number one, it is very complicated and Number 2, our population is aging, prices are increasing dramatically, that budget is growing at a rapid rate and the State has a challenge before it, as to how to manage and pay for it. These four bills actually fit together. Last session IBL were given a bill to address, probably because in the title was the word "annuity". We call this bill a "Donna Suka" bill. She and her husband came in and

testified. She is a senior, she and her husband have worked all their life, they have created a very modest estate, \$160,000.00. Her husband was admitted to a nursing home and according to the current policy requires her to spend down her resources until she hits the \$80,000 + car + house, etc.

We listened and looked at this in our committee. We think that is reasonable that when ND citizen's work so hard, that we provide reasonable opportunities to enjoy their golden years. We passed an annuity bill, which would allow them to add another ?? to their assets where they could establish an annuity and derive income from it, that would not exceed the federal guidelines for income that could be earned by a citizen prior to claiming their property back.

What did that do for Donna? It allowed her to stay in her house, as she spent her money down, she documented, she could not have paid her utilities/taxes and more important, could not have gone to see her grandchildren. We had a human service dept. representative at the hearing, and our committee was concerned that the dept. might have a problem with this, we asked the dept. representative, and they indicated they didn't have any problem with it. But there was a problem with it, we did not address, a claw back for any assets that would remain in the annuity, should that person not be institutionalized, stop. It became a big issue in administrative rules, the Dept. and the financial planners. I got involved in many discussions and have decided unfortunately, what we have created, from a policy stand point, is an adversarial position. We have attorneys/planners indicating that if you give your kids your money and then the state will pay for the parents to be in a nursing home. We are bringing back HB 1248, which goes back into the annuity bill, corrects the problem, puts the claw back, back into the legislation, so if an annuity is

established, it will provide for the state to recover any remaining assets and also protects the value of the annuity.

The first bill today, concerns the funeral home industry. It expands the allowable amount from \$3,000 to \$5,000. The funeral directors, estate planners, insurance companies found an interesting approach regarding the annuity and despersments of the assets, should there be any remaining. The directors will be testifying in support of the increase.

The next bill I would like to present is HB 1217. Rep. Weisz presented a similar bill during the last session. The only differences basically are percentages vs. solid dollars. It is a long term care bill. The federal government allowed 5 states to try and be innovative in addresses this situation. This bill is similar to the Indiana one that they have passed. From my prospective this is the greatest policy our state could have. Financial planners etc., could get people to acquire long term care insurance, and then help them with their estate planning. I feel that everyone needs to be responsible to make sure they do not depend on the state for long term care.

Hopefully, this would encourage younger people to purchase insurance when they are younger while the premiums are cheaper. I want to make sure that we are able to provide the best solution possible.

HB 1249, is the most difficult. to people to stomach. The bill that simply says if all these other things happen, there is no limits on claw back period. We can claw back all the way. You want to transfer your land, go ahead, but purchase long-term care insurance, and if you didn't buy long term care insurance, we will go after the estate. It is also considered a fraud bill, it identifies that if you sell your property for less than market value, just to escape having assets, to adjust your

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House Human Services Committee

Bill/Resolution Number HB 1181

Hearing Date January 18, 2005

estate, this would be considered fraud. It is a tough bill, it is a hard concept to deal with, but the only way it would work is if the previous bills are in place. We have had many discussions with financial people, attorneys to try and get everything in place. I personally want to thank the Human Services dept. and especially Melissa Hauer. They have bent over backwards to assist us with this bill. I want you to also understand all of these individuals did all of this work on non billable hours. They were incredible. I want to truly want to thank them.

(MR 5218)

Rep. Kaldor: We received an amendment concerning HB 1181. Would you explain that before you leave?

Rep. Kaiser: We took Melissa's draft that was agreed on by the funeral directors. It is just a technical change.

Jack McDonald, representing the ND Funeral Directors Assn.

See attached testimony.

Chairman Price close the hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1181

House Human Services Committee

☐ Conference Committee

Hearing Date January 19, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-6.0-19.0

Committee Clerk Signature



Minutes:

Chairman Price opened discussion on HB 1181.

Rep. Keiser: (Explained the amendment) Asking in this bill to increased to \$5500. The other one is the basic asset limit that counts not only toward the funeral expenses, if you want to use them for the funeral expenses, but for allot of other Medicaid or human service purposes. So there are actually two dollar amounts and they are both at this time \$3,000. That is where the confusion arose. The one that we wanted to change will go from \$3,000 to \$5,500. That is the funeral set aside. The other three thousand should remain because that is used as an asset test for other human services purposes. That is why that has to stay at \$3,000.

Rep. Weisz:(1.6) How did you arrive at the \$5500?

Rep. Kaldor: It seemed like a reason increase as you will hear. The amount had not been increase since 1981. We wanted to get close to what the average funeral cost in ND is. You will

hear testimony that is around \$8,000. So combining the \$3,000 with the \$5500, but we know people want to set aside \$3,000 for other things.

Mark Goehner: (See attached testimony #1) In favor of this bill.

Rep. Devlin: (4.7) You stated this does not deal with county payments for funerals. What do county funerals average now?

Mark Goehner: County burials are ranging from \$1900-\$2800? There is another \$1,000 difference there.

Robert Eastgate: Eastgate Bolter Funeral Home: The first question concerning the April 1, 2004 date. There is some language in trust law specified whether somebody can transfer assets to children or to others, when it is for in fact, their own benefit. In order to accommodate families wishes that wanted to put aside enough to pay for their own funeral many people were being advised and they were taking this approach of transferring funds to a child and putting the insurance policy in the child's name, but really the proceeds of the insurance policy were being used for the parents funeral. We did that as funeral directors underneath the guidelines that were currently in affect with the Department of Human Services because you are able to transfer a certain amount of money each month and still be eligible for nursing home care. But the State Department of Human Services could see that there were some abuses of that program. In ND currently about 90% of our population chooses to have a traditional type funeral. This cost where we have a burial is \$3,000-\$3,500 and services. Caskets range from \$895-\$3,000 or more. Have to have volts which start at \$800. at many locations and the fourth thing is a cash advance. That is when a family is coming in and making arrangements for a funeral. In doing this in advance we are doing away with the inappropriate transfer of funds when it is really intended for

the parent. I don't believe in set asides or spend downs. It makes no sense why a family would be able to go and spend down in order to qualify for medical assistance by buying a couch or TV or something they don't need. Then they don't have the money to use for their own funeral.

Makes no sense. So the money is being spent down anyway for qualify for medical assistance.

Rep. Kreidt:(10.1) Even in the passage of this bill it doesn't force the family to put \$5500 into a funeral contract, right? They could still do whatever they want with their money. This just gives them an option? If you have a family that wants to get out of it they still can do that.

Robert Eastgate: Yes, that is correct.

Celeste Kubasta:(10.8) We are in support. (See attached testimony #2)

David Zentner: Department of Medical Services for the Dept. of Human Services (12.1) I am here to support this bill and provide information. (See attached testimony #3)

Rep. Weisz:(16.4) What about that period between April 1, 2004 and when the bill is going to go into affect? Did you change policy on how you are treating them?

David Zentner: The April 1 due date just told them that they are at risk if they are going to carry this kind of practice out. Everyone was informed including the insurance companies.

Rep. Porter: With the clarification that the practice is not acceptable, any amount over the \$8500 then would be in a policy, where would that money go? Say the death benefit was \$16,000? There is \$8,000 left? What would that money be used for?

David Zentner:(17.4) What we would say in those cases is that the individual had assets over the limit and they would be ineligible. There would have to be some changes made in the policy to get them under the limit or there would be no longer eligible for the program.

Chairman Price: How would they do that?

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David Zentner: The principal here is that everyone here gets treated the same. Whether you are an applicant or precipitant we are not going to treat on different than the other. Under normal circumstances if you have a group, in this case the elderly and disabled, we can not treat one group different than the other.

Chairman Price: Any opposition to HB 1181? None

Closed hearing (19.0)

Motion Made By Rep. Uglem Seconded By Rep. Sandvig

DO PASS As Amended - Re-refer to appropriations

9 Yes 1 No 2 Absent Carrier: Rep. Kreidt

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1181

House Human Services Committee

☐ Conference Committee

Hearing Date January 19, 2005

Tape Number	Side A	Side B	Meter #
#1		x	#994- 1340

Committee Clerk Signature



Minutes:

Chairman Price opened discussion on HB 1181.

Rep. Kaldor: I move the amendments submitted by Rep. Keiser.

Rep. Weisz: Second

Chairman Price: In current law you are allowed to put \$3000.00 away in pre-need funeral and \$3,000.00 for whatever. You can use the whatever for your funeral is you wish, but what they did inadvertently raised both to \$5,500.00 when they really only intended to raise the pre need. So it will remain an assets for extra nursing home expenses.

Voice Vote: 9 yes 0 no 3 absent.

Rep. Uglem move Do Pass.

Rep. Sandvig: Second

Rep. Kaldor: I have never seen this before, a house bill appropriated in the Gov. budget.

Vote: 9-1-2 **Carrier:** Rep. Kreidt.

58094.0101
Title.0200

Prepared by the Legislative Council staff for
Representative Keiser
January 6, 2005

VR
1/19/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1181 ⁴⁵ 1-20-05

Page 1, line 15, remove the overstrike over "~~three~~", remove the first "five", and remove "five hundred"

Renumber accordingly

Date: 1/19/05

Roll Call Vote #: /

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1181

House

Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass an Amnd- Ref to Approp*

Motion Made By *Uglen* Seconded By *Sandvig*

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. Price	✓		Rep.L. Kaldor	✓	
V Chrm.G. Kreidt	✓		Rep.L. Potter	AB	
Rep. V. Pietsch	✓		Rep.S. Sandvig	✓	
Rep.J.O. Nelson	✓				
Rep.W.R. Devlin	✓				
Rep.T. Porter	AB				
Rep.G. Uglen	✓				
Rep C. Damschen	✓				
Rep.R. Weisz		✓			

Total *(yes) 9*

No *1*

Absent

2

Floor Assignment

Kreidt

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

REPORT OF STANDING COMMITTEE

HB 1181: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (9 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1181 was placed on the Sixth order on the calendar.

Page 1, line 15, remove the overstrike over "~~three~~", remove the first "five", and remove "five hundred"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1181

2005 HOUSE STANDING COMMITTEE MINUTES

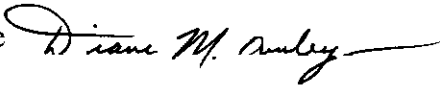
BILL/RESOLUTION NO. 1181

Funeral Set-aside Increase

House Appropriations Committee
Human Resources Division

Hearing Date: 2-4-05 Friday a.m.

Tape Number	Side A	Side B	Meter #
I	X		4.0 - 35.9

Committee Clerk Signature 

Minutes: **Chairman Delzer** called the meeting to order at 10:40. All members present for roll call except Rep. Kerzman who came in at 10:50.

Rep. Gary Kreidt, District 33: I have personal involvement with the funeral set-aside HB 1181. For my mother's unextravagant funeral four years ago, we spent \$7,000. This past September my father died and we did a similar conservative funeral that cost \$9,100. The bill's \$5,500 increase figures for folks on medical assistance. At least make some upward adjustment in the amount.

The original bill tried to change both funds.

Dave Zentner, Director of Medical Services for the Department of Human Services: That was an inadvertent error.

Chairman Delzer: Was there any discussion in standing committee to raise the \$3,000 fund and lower the other one?

Rep. Kreidt: No.

Chairman Delzer: Would there be a problem if that was discussed?

Rep. Kreidt: No.

Rep. James Kerzman: The bill would tighten up asset limits. Is there a way they could put money aside in a special fund for funerals for after they passed away, that you would not have access to? Could you tighten that up a bit?

Zentner: Correct. What this bill does is gets rid of the practice of high insurance policies that would cover the burial and then give heirs, say, the remaining \$15,000 on the policy. The section three waiver takes care of those pre-existing arrangements which would have to be modified or grandfathered in.

Chairman Delzer: How do we have the right to do that with standing legal contracts?

Zentner: The government says we have to have a uniform policy.

Chairman Delzer: How can we go back and break a \$5,000 insurance contract for individuals.

Zentner: That is why we put the waiver in.

Chairman Delzer: So you did not do a fiscal note then to cover the amounts if you did not get the waiver?

Zentner: The assumption was we would go back and modify their contracts. There are hundreds out there.

Chairman Delzer asked for the money figure to be figured in \$500 increments from \$3,500.

Rep. Ralph Metcalf: How do the two funds affect our appropriation funds?

Chairman Delzer: Rep. Metcalf and Allen (LC), if it is in the Governor's budget there is no reason for the appropriation.

Allen/LC: Correct.

Zentner: It is up to the individual if he wants to use the \$3,000 for the funeral. We try to estimate how many would come onto the program (i.e. full amount with pre-need funeral).

Chairman Delzer: If we lowered the amounts, everyone would not spend down to the \$3,500?

Zentner: I do not think it would make any difference.

Chairman Delzer: Accrued interest do not apply to these?

Zentner: Correct. We can check if plots and headstones are included in the assets or not.

Craig Olson, Licensed Funeral Director and on the **Board of Governors, ND Funeral Directors Association**, testified in favor of passing HB 1181 (see one-page handout).

Chairman Delzer: If Social Services comes in, are they going to demand a certain amount upfront?

Olson: No, not at all. Some folks from the department has allowed us to use \$3,000 of the personal asset fund. The people in Cass County have said we cannot use that full amount.

Chairman Delzer: You cannot pre-need it, but you can use it after the death.

Olson: Actually what happens is the undesignated money in that fund can be claimed by the local social service upon death.

Chairman Delzer: Not all the counties treat it that way. Sounds like a Cass County problem to me.

Olson: If people have a personal separate asset fund, the county can use that money instead of it going toward the funeral. From 1981 to 2005 we have lost money and our increase factors out to less than 1.5 % (see backside of handout).

Chairman Delzer: Mr. Olson, what does it cost for indigent funerals?

Olson: \$1,898.

Chairman Delzer: If we lowered this the \$5,000, are the funeral directors going to want to kill this bill?

Olson: It is likely.

Rep. Kerzman: Does this change the look-back period at all for that 36 months?

Zentner: The look-back is a different issue. This bill would not alter that.

Vice Chair Pollert: Mr. Olson, are the private payers paying the higher costs with funerals?

Olson: Yes.

Vice Chair Pollert: Are you going to lower the costs to these private payers if the \$5,500 comes in for indigents?

Olson: Our increase on a yearly basis would probably be less than typical. Prices will vary quite a bit, though, among different funeral homes.

Rep. Kerzman: \$5,500 seems to be the magical number. Will you be back next biennium for more money?

Olson: I could not say for sure, but probably it would not be for a few sessions. If we stay at \$8,500 for another 24 years, then we will be back.

Rep. Alon C. Wieland: Craig, what is the average of what people set aside?

Olson: In general, most people are putting away \$8,000-\$8,500 for funerals. I have told people to do no more than \$8,500.

Rep. Wieland: If someone does, say a \$9,000 funeral and so goes over the \$8,500 limit, what happens to the \$500?

Olson: The department will ask for the fund to be cashed out and taken.

Chairman Delzer: This bill says \$8,500 plus interest.

Rep. Wieland: Are there a lot of people who already have below \$8,500?

Olson: Four or 5% of business has more than \$8,500. The asset limitation that Medicaid requires and the fear of going on assistance are factors.

Chairman Delzer: There are two types of people going on assistance: someone who falls on hard times and whose lawyer directs them to medical assistance; and those who never have had money.

Jack McDonald, representing the North Dakota Funeral Directors Association, briefly commented (see one-page testimony; also see one-page handout from funeral director Bob Eastgate pertaining to the current funeral and asset exclusions with ability to qualify for Medical Assistance to cover nursing home costs).

Rep. Kerzman: This is not a cap. If a person wants to add to it, he can.

Chairman Delzer: This bill is mostly a money issue. We will discuss the \$5,500. We will have to take the appropriation out so an amendment will be needed. It is already appropriated in HB 1012. We will now close this hearing on the non-hearing of HB 1181.

2005 HOUSE STANDING COMMITTEE MINUTES

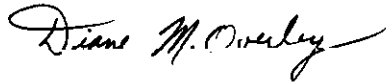
BILL/RESOLUTION NO. 1181

House Appropriations Committee
Human Resources Division

Hearing Date: 2-7-05 Monday

Tape Number	Side A	Side B	Meter #
I	X		44.7 - 53.1
I		X	Start: 43.7
II	X		End: approx. 10.0

Committee Clerk Signature



Minutes: **Chairman Delzer** opened discussion on HB 1181.

Rep. Wieland: Would it matter if we drop the funeral set-aside limits down by \$500 to the \$5,000 limit and add \$500 in to other funds an applicant can hold?

Chairman Delzer: It does not make a fiscal difference. It changes the pre-need amount. Funeral directors were concerned the department would try to collect some of that money.

Rep. Metcalf: Unless the individual specifies before the death, that will not happen. Otherwise the money will go for paying other things like Medicaid first. The funeral director has no hold on that money unless it is specified beforehand.

Chairman Delzer: The family has some rights. We will stand in recess on HB 1181 until this afternoon.

After reconvening, **Chairman Delzer** said HB 1181 would make some changes on the insurance side. There is an appropriation on this, so there is no fiscal note. The money is in the budget.

Chairman Delzer: We should make a motion to delete the section two of this bill.

Rep. Bellew: I make the motion to remove section two.

Rep. Metcalf: I second it.

Chairman Delzer: Allen (LC), if we change this we have to adjust this in the Human Services budget.

HB 1181 was amended by voice vote.

Chairman Delzer: We amended out the motion. I open discussion.

Rep. Kerzmen: I had some heartburn when I first saw this. I can support it, but not at this limit. But I do not want to jeopardize this bill.

Chairman Delzer: We would have to lower it quite a bit, I think. It is still higher than what they have.

Rep. Metcalf: What is the possibility of going back and forth between these two funds by lowering the pre-need and raising the other?

Chairman Delzer: I am not sure if there is much advantage in that. *(Tape II Side A starts)*

Rep. Metcalf: Are most nursing home recipients carried at the \$3,000 or \$1,000 level?

Chairman Delzer: On most Medicaid I would guess it is fairly low. Shelly, are most sitting there with the \$3,000 full up?

Shelly Peterson, President of the Long Term Care Association: Yes. The Medicaid individuals are well educated in nursing facilities and they try to keep the \$3,000 in personal and try to keep another \$3,000 for burial. People will try to keep that maximum and have it sitting there.

Rep. Kerzman: The other \$3,000 was put in in the early nineties because there was more spend-down going to nothing. The \$3,000 is adequate.

Chairman Delzer: My thought is \$5,000 plus \$3,000 for a total of \$8,000, which is a nice funeral. By personal experience this last fall, for \$6,800 we still had a nice funeral.

Rep. Wieland: If a recipient or applicant saved nothing, they are indigent. So the funeral director plans on what the county has awarded?

Chairman Delzer: It depends if there is family or power-of-attorney involved.

Vice Chair Pollert: I make a motion to amend lines 11 and 21 on Engrossed HB 1181 by striking over \$5,500 and amending it to \$4,500.

Rep. Bellew: I second it.

Rep. Metcalf: I think \$5,000 is better.

Rep. Bellew: This will provide at least \$7,000.

Chairman Delzer: It will be at least a 50% increase over what they have now.

Rep. Wieland: I have to vote against this. My neighbor is a funeral director. I would support a \$5,000 level.

Rep. Metcalf: There has not been a change since 1981. I would prefer to support a \$5,000 level.

Chairman Delzer: The bill has been in front of me every session since I have been here. The clerk will call the roll. Motion carries 4-2.

Rep. Bellew: I move Do Pass As Amended on HB 1181.

Rep. Kerzman: I second it.

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Human Resources Division

Bill/Resolution Number 1181

Hearing Date: 2-7-05

Chairman Delzer: The clerk will call the roll. We have a 5-1 pass. **Rep. Pollert** will carry the bill to full committee. Diane notify the chairperson of Human Services and the carrier of the bill.

Do it after it goes before full committee.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1181
Funeral Expenses Eligibility

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 9, 2005

Tape Number
1

Side A
X

Side B

X

Meter #
#48.2 - end
#0 - #24.0

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1181.

Rep. Chet Pollert explained that this bill deals with the set-aside funds for funeral expenses.

Right now there is a \$3000 set aside for this and the bill changed this amount to \$5500 and this amount was in the Governor's budget. What our committee did was amend this set-aside to be \$4500. The updated fiscal note on this is: at the \$5500 level the amount is \$1,262,500 total funds, general funds is \$445,915 and at the \$4500 level the total funds come to \$757,500 and the general fund portion of this is \$265,883. Also what our committee did with the bill was to amend out the language about the appropriations in section 2 because the appropriations are listed in budget bill HB1012.

Rep. Jeff Delzer commented that the set-aside amounts for pre-need funeral arrangements is \$3000. And you could also have the interest and a plot and a headstone without it counting against the \$3000. The average cost nationally is \$8000. This bill allows people to set-aside

\$5500 plus \$3000 plus any interest and the cost of the headstone and plot. That's why the committee made the change to \$4500 because when you add all this together you come up with enough money for a relatively decent funeral. You could have claims against the \$3000 but you could set it up to say that this amount should go to funeral costs. (meter Tape #1, side A, #49.3)

Rep. Ken Svedjan, Chairman commented that amendment 0202 changes the \$5500 to \$4500.

Rep. Chet Pollert made a motion to adopt amendment #0202 to HB1181.

Rep. Jeff Delzer seconded.

Rep. Tom Brusegaard asked whether people choosing to be cremated brought the amount of the average funeral down. (meter Tape #1, side A, #52.6)

Rep. Jeff Delzer answered that cremation is cheaper. But the amount of cremation is not that major of a number yet in North Dakota to effect the national average cost much.

Rep. Eliot Glassheim asked for clarification on the removal of the appropriation in the bill by the amendment.

Rep. James Kerzman answered that the \$5500 in the bill was already in the Governor's budget so it did not need to be appropriated in the bill.

Rep. Ken Svedjan, Chairman asked what that would mean then to change the amount through the amendment.

Rep. Jeff Delzer answered that the \$5500 is in the Governor's budget and this is the amount in the bill so we had to remove it or it would be a duplication.

Rep. Eliot Glassheim commented that an adjustment to the amount then need to be made because of the amendment.

Rep. Jeff Delzer answered that yes, this would need to be changed in HB1012 if this amendment is accepted here.

Rep. David Monson asked for clarification on what the committee changed.

Rep. Jeff Delzer answered that the \$3000 stayed the same but the committee changed that this \$3000 set-aside would have to be designated to be used for funeral expenses alone. The standing committee bill changed the set-aside amount to \$5500 and the subcommittee amended it to be \$4500.

Rep. Earl Rennerfeldt asked if the funeral directors gave any indication on what they were loosing on these cases when they go on Medicare and they have X number of dollars set-aside. In many cases it turns out on these that one certain one doesn't get all of it.

Rep. Jeff Delzer answered that the average cost was \$8000. This varies on every individual one. The ones that would be considered indigents, with no family to cover the expenses, the county would cover and they would pay about \$1500-\$2000, so they would loose some here maybe. A personal story is about an Aunt who died recently who lived very frugally but had this \$3000 set-aside and had a very nice funeral under that \$3000. Now in the future this might not be enough but she had started this program long enough ago that she had some considerable interest on it. As far as what they are loosing, it is relative to each individual case and you can't really put a number on that.

Rep. Ole Aarsvold commented that the \$3000 personal account is very tentative and he hears from people who have exhausted this quickly. The \$5500 is not out of line. (meter Tape #1, side B, #2.2)

Rep. Jeff Delzer responded by saying that this is the upper limit and not everybody automatically does this. This is a voluntary thing for anyone to put any money in this. The new language of the bill does reflect how the department views some of these two person insurance deals and it does set the upper limit on that. Probably not a first to die policy but a policy where you might have bought in the son's name for the dad or where they have the insurance policy that they are paying on monthly where its going to cover \$10,000 or \$15,000 for a funeral.

Rep. Mike Timm, Vice Chairman asked if there was a bill in the works that allows people to have an additional amount of money before they go into this program.

Rep. Jeff Delzer answered that he was not sure but he hadn't heard anything about this.

Rep. Ken Svedjan, Chairman commented that there was a bill for Eligibility in Medicaid in general where you can be eligible for Medicaid and still a car. This bill lets you set-aside \$3000 in a personal account and the pre-need funeral fund right now is set at \$3000. This bill changes the pre-need from \$3000 to \$4500 and keeps the personal set-aside at \$3000 plus personal earnings on the pre-need.

Rep. Francis J. Wald asked if the committee defeated the amendment #0202 we would then be back at the Governor's recommendation.

Rep. Ken Svedjan, Chairman answered that we would be back to the amended or engrossed bill as it came out of the House at \$5500.

Rep. Jeff Delzer read aloud that the general fund cost of raising this is the \$445,000 to the \$5500 level and \$354,000 to the \$5000 level and \$265,000 to the \$4500 level and \$177,000 to the \$4000 level.

Rep. Al Carlson explained his personal story regarding his own mother's plans and then said that it is the other side of the law might be wrong because that dollar figure is so low that the dollar amount we set aside will not cover her funeral entirely. It penalizes people the ways these levels are set up and actually if we don't raise this limit we'll be in a situation next year where they are saying we are cut off again because we have too much money in our accounts.

Rep. Ken Svedjan, Chairman clarifies that the average funeral is \$8000 and here you would be able to set aside \$4500 plus the \$3000 so it would put you close to the \$8000 needed. (meter Tape #1, side B, #7.4)

Rep. James Kerzman commented that this doesn't preclude any family or friends that can contribute on top of this.

Rep. Jeff Delzer commented that there is interest allowed on top of this amount too. There was some discussion about raising the \$3000 to \$3500 but the state is paying roughly \$144.00 a day for these people to be in the nursing homes as it is so what other costs do they have. The decision was to raise the funeral side.

Rep. Ralph Metcalf commented that the money set-aside had to be designated for funeral expenses or it would be used for other things first.

Rep. Ken Svedjan, Chairman summarizes that the amendment changes the pre-need to \$4500 and it removes the appropriation because that will be adjusted in the DHS budget.

Rep. Alon C. Wieland moved a substitute motion to adopt amendment #0203 to HB1181 as it changes the set-aside to \$5000 instead of \$4500.

Rep. Ralph Metcalf seconded

Rep. Alon C. Wieland commented that there has not been a raise of this for 25 years and the \$5000 and the \$3000 would get you closer to what you need for the average funeral.

Rep. Keith Kempenich commented that the burial of his grandmother cost a little under \$7000.

Rep. Mike Timm, Vice Chairman asked what the effect was on the general fund at this \$5000 level.

Rep. Ken Svedjan, Chairman answered \$354,510

Rep. Jeff Delzer explained that they reached this figure by estimating that a certain percentage of people will set-aside this much. Another aspect of this that has never been asked is the point of recipient liability for those folks who are receiving Medicaid or some kind of money already. Hopefully the Senate will deal with this part.

Rep. Ken Svedjan, Chairman called for a voice vote to adopt amendment #0203 to HB1181. Motion carried.

Rep. Bob Skarphol requested a roll call vote on amendment #0203. Motion carried with a vote of 13 yeas, 9 nays, and 1 absence.

Rep. Alon C. Wieland made a Do Pass As Amended motion on HB1181.

Rep. Ralph Metcalf seconded.

Rep. Keith Kempenich spoke in opposition to the bill by saying that the smaller amount was more than adequate for a funeral.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion on HB1181. Motion carried with a vote of 15 yeas, 7 nays, and 1 absence. Rep Wieland will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1181.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1181

Page 1, line 2, remove the second "to"

Page 1, line 3, remove "provide an appropriation;"

Page 1, line 11, replace the first "five" with "four"

Page 1, line 21, replace the first "five" with "four"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 6

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

The amendment allows a Medicaid recipient to set aside up to \$4,500 for funeral expenses rather than \$3,000 under current law and \$5,500 included in the engrossed bill and as recommended in the executive budget.

The appropriation section is removed because funding for this change is included in House Bill No. 1012, the Department of Human Services appropriations bill.

Date: 2/7/05
Roll Call Vote #: ①

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1181

House Appropriations - Human Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 58094.0202

Action Taken Do Pass on Amendment

Motion Made By Rep. Pollert Seconded By Rep. Bellew

Representatives	Yes	No	Representatives	Yes	No
Chairman Jeff Delzer	✓		Rep. James Kerzman	✓	
Vice Chairman Chet Pollert	✓		Rep. Ralph Metcalf		✓
Rep. Larry Bellew	✓				
Rep. Alon C. Wieland		✓			

Total (Yes) 4 No 2

Absent

Floor Assignment

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

Allows the Medicaid recipient to set aside up to \$4,500 for funeral expenses rather than \$3,000 under current law and \$5,500 included in the engrossed bill.

Date: 2/17/05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1181

House Appropriations - Human Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 58094.0202

Action Taken DO PASS AS AMENDED

Motion Made By Rep. Bellew

Seconded By Rep. Kerzman

Representatives	Yes	No	Representatives	Yes	No
Chairman Jeff Delzer	✓		Rep. James Kerzman	✓	
Vice Chairman Chet Pollert	✓		Rep. Ralph Metcalf		✓
Rep. Larry Bellew	✓				
Rep. Alon C. Wieland	✓				

Total (Yes) 5 No 1

Absent

Floor Assignment Rep. Pollert

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

Date: February 9, 2005
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1181

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 58094.0203

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Weiland** Seconded By **Rep Metcalf**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman		X	Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson		X
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard		X	Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert		X
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleason	X		Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich		X			
Rep. Blair Thoreson	AB				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **15** No **7**

Absent **1**

Floor Assignment **Rep Weiland**

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

Date: **February 9, 2005**
Roll Call Vote #: **2**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1181

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

58094.0203

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Weiland**

Seconded By **Rep Metcalf**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman		X	Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson		X
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard		X	Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert		X
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Guleson	X		Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich		X			
Rep. Blair Thoreson	AB				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **15** No **7**

Absent **1**

Floor Assignment **Rep Weiland**

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

REPORT OF STANDING COMMITTEE

HB 1181, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1181 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the second "to"

Page 1, line 3, remove "provide an appropriation;"

Page 1, line 11, remove "five hundred"

Page 1, line 21, remove "five hundred"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 6

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

The amendment allows a Medicaid recipient to set aside up to \$5,000 for funeral expenses rather than \$3,000 under current law and \$5,500 included in the engrossed bill and as recommended in the executive budget.

The appropriation section is removed because funding for this change is included in House Bill No. 1012, the Department of Human Services appropriations bill.

2005 SENATE HUMAN SERVICES

HB 1181

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1181

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 1, 2005

Tape Number	Side A	Side B	Meter #
1	x		4990-end
1		x	5005-5540

Committee Clerk Signature



Minutes:

Chairman Lee opened the public hearing on HB 1181. All members were present.

This bill relates to funds designated for funeral expenses and eligibility for medical assistance.

Testimony in favor of the bill

Jack McDonald, representing the North Dakota Funeral Directors Association. See written testimony (Attachment 1)

Chairman Lee: Did the policy committee or the appropriations committee amend out the \$500?

McDonald: The Appropriations committee.

Sen. Warner: I've never been a big fan of prepaid funeral accounts, but I do understand the importance of setting aside money in a bank account, but I'm just not familiar with the process of dedicating that money towards a funeral in a bank account. What kind of protections are built in to prevent the monies from being moved back and forth.

McDonald: Bob Eastgate could probably answer that more directly. You simply designate that account at the bank as you funeral account. You have to have that designated when you seek Medicaid eligibility. If you don't have that designated and dedicated then you cannot use that as a setaside, it will then count as an asset toward Medicaid eligibility.

Sen. Warner: So the incentive to leave it as funeral money.

McDonald: Yes, if you go to determine your Medicaid eligibility and you meet with the county worker or the state worker, they'll go over your assets and if that's not dedicated and left in there, then it becomes an asset.

David Zentner, Director of Medical Services for the Department of Human Services. See written testimony. (Attachment 2)

Chairman Lee asked Mr. Zentner to explain how the asset removal for the Medicaid limit fit into this.

Bob Eastgate, own and operate funeral homes in Bismarck and Steele, North Dakota. I am in support of this bill as it originally proposed. The primary folks affected by this bill are the elderly because these are people who are trying to apply for medical assistance once their own personal funds have run out while they've been in a nursing home. So when they reach that point, they or their family members come to us because they've been told by the eligibility workers that one of the things that they can do to become eligible is to set aside some money for a funeral. When we've done that, we've been limited by how the current law reads because funeral expenses are more than \$3000 plus. When I talk with a family, I explain the four components of what makes up the cost of a funeral, i.e., services (about \$3500 average), casket (about \$2500 average), vault (\$1000), cash advance (money we'd be paying on behalf of the

family to the pastor, musicians, to the ladies serving the lunch, to the cemetery for digging the grave (\$?) People in North Dakota like to pay our own way, so if a person has worked their whole life, they want to have the dignity to pay for their own funeral. The spend-down is just simply to use their own money for their funeral expense.

Chairman Lee: In the cash advances or one of the other cost factors, does that include the cost of the grave site itself? If not, what would be the average cost?

Eastgate: No. In Steele, it's \$50; in Bismarck it's \$450-\$800 for a single.

Sen. Dever: How do those prices compare to cremation?

Eastgate: The only things you eliminate with cremation is the vault and the grave place.

Sen. Dever: What happens when people don't have the money?

Eastgate: They would be able to apply for the county's assistance. The majority of funeral homes are willing to provide services to a family for no charge at all. County assistance in Burleigh is \$1800.

Sen. Warner: Do you allow preplanning without prepayment?

Eastgate: Definitely. We have many families who prefer to do that. They may prefer to invest their money elsewhere. Most funeral homes provide a guarantee.

Chairman Lee read an e-mail concerning having a funeral account that was higher than the amount allowed under Medicaid rules and the problems it might create.

Eastgate: That would be a serious thing because we were operating under the previous guidelines of the department of human services in which you could transfer assets to a child and then that child could, in fact, take out a policy on behalf of the parent. Now, under the proposed guidelines, whether you transferred it to a child or not, it would still apply for that parent in the

nursing home. Most funeral homes were being very fair about the amounts being transferred, there were some that were abusing the program. We were not one of those, but when you did transfer assets for say \$8500 under the previous guidelines, now, if this passes, we would have to go back to that family and spend down to meet the current guidelines of \$6000

Chairman Lee: Cash out the policy.

Eastgate: And that would be damaging to us because we were operating under what the documentation was of what the previous guidelines were. We also understand the department's viewpoint on this, but feel that there's not going to be the fiscal impact that even has been presented here.

Robert Mayer, North Dakota Association of Insurance and Financial Advisors. As we work with our clients in retirement planning, one of the big concerns is how they're going to be able to pay for their funeral. Most of our citizens want to do this on their own and they don't want to put that burden on to their children. This allows them to set aside funds to provide for a modest funeral. They can deposit funds into a CD at the bank, an annuity or in to a cash value life insurance contract.

Sen. Dever: Do you sell preneed policies and if so, what would be the value of the policy?

Mayer: No. They're called whole life policies and we have to make sure they don't exceed the maximum amount allowed by Medicaid so they would have to be cashed in.

There was no further testimony. Chairman Lee closed the public hearing.

Chairman Lee reopened discussion.

Senator Warner moved DO PASS to amend to restore the \$500, seconded by Senator Lyson.

Page 5

Senate Human Services Committee

Bill/Resolution Number HB 1181

Hearing Date March 1, 2005

Sen Dever: I think that it's a budget committee decision and the only way they'll consider it is to put it back in there.

VOTE: 5 yeas, 0 nays, 0 absent

Senator Brown moved DO PASS the amended bill and rerefer to Appropriations, seconded by Senator Dever.

VOTE: 5 yeas, 0 nays, 0 absent

Carrier: Senator Lyson

Date: 3-1-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1181

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass
Amendment

Motion Made By

Sen Warner

Seconded By

Sen Lyson

Senators	Yes	No
Sen. Judy Lee - Chairman	✓	
Sen. Dick Dever - Vice Chairman	✓	
Sen. Richard Brown	✓	
Sen. Stanley Lyson	✓	

Senators	Yes	No
Sen. John Warner	✓	

Senators	Yes	No
	✓	

Total (Yes)

5

No

0

Absent

0

Floor Assignment

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

VB put back 500

Date: 3-1-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1181

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass as amended

Motion Made By

Sen Brown

Seconded By

Sen Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes)

5

No

0

Absent

0

Floor Assignment

Sen. Lyson

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

re-re to approp.

REPORT OF STANDING COMMITTEE (410)
March 2, 2005 1:21 p.m.

Module No: SR-38-3978
Carrier: Lyson
Insert LC: 58094.0301 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1181, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS,
0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1181 was placed on the
Sixth order on the calendar.

Page 1, line 11, after "thousand" insert "five hundred"

Page 1, line 21, after "thousand" insert "five hundred"

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1181

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1181

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 11, 2005

Tape Number

1

Side A

a

Side B

Meter #

Committee Clerk Signature



Minutes:

Vice Chairman Bowman opened the hearing on HB 1181 with roll call.

Chairman Holmberg made announcements.

Jack McDonald, Representing the ND Funeral Directors Association, presented written testimony and testified in support of HB 1181 indicating that the Association worked with DHS in drafting HB 1181. He indicated the bill affects the amount an individual can set aside for funeral service so it does not count as an asset in applying for Medicaid eligibility. The bill raises the amount of \$3,000 to \$5,500 which was included in the Governor's Budget. The House cut \$500 and the Senate is being asked to restore the \$500.

Senator Lindaas indicated he understood the funeral directors were not unanimously supporting this bill. The response was the disagreement was over the federal decision, how to set aside the funds and DHS will very strictly enforce the set aside amounts. However, the majority of the funeral directors support the bill.

Senator Grindberg asked if this was an odd position for the funeral directors to be the response was yes 100 percent, that this was more of an insurance industry issue t the funds could be designated in any number of ways. This bill involves only those people involved in Medicaid eligibility issues.

Additional questions were asked about the final total of funeral set aside funds, the concerns about this applying only to Medicaid eligibility recipients.

Joe Braun, Licensed Funeral Director, testified in support of HB 1181. He indicated the importance of this bill is for those people selecting a traditional funeral. He then described a traditional funeral.

Several questions were asked about the set aside funds; what happens with the funds leftover after the funeral, the cost of a crematorium, length of time the set-aside funds are kept on the books, what happens to the set-aside money if the funeral home goes out of business, the requirements of vaults at cemeteries being state regulated or cemetery regulated, the record keeping of the fund, whether such funds are used for veterans, and the burial fees received from the veterans and social security.

David Zenter, Director, Medical Services, Department of Human Services, distributed written testimony and testified providing information and support of HB 1181. He indicated the current amount available for funeral off Medicaid eligible participants and what the approval of this bill would entitle the Medicaid eligible individual to have. He also discussed the enforceability of the set-aside funds.

Several questions were asked as to why, in the case of insurance policies, grandfather someone in who is currently misusing the process to hide funds, for an explanation as to how the general

Page 3

Senate Appropriations Committee

Bill/Resolution Number 1181

Hearing Date March 11, 2005

funds and other funds were calculated, the clarification that changing the threshold makes more people Medicaid eligible and that would account for the reduction in general funds, the clarification of set aside being held for 10-15 years, why not have that come off the top of the estate and estate would be that much less when they die.

Vice Chairman Bowman closed the hearing on HB 1181.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1181

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 23, 2005

Tape Number	Side A	Side B	Meter #
1	a		2,972

Committee Clerk Signature

Minutes:

Chairman Holmberg opened the discussion on HB 1181.

Senator Fisher moved a DO PASS, Senator Krauter seconded. Discussion followed regarding an amendment to reconsider \$5500 instead of \$5000, Senator Fischer indicated to leave it at \$5000. **A roll call vote was taken resulting in 14 yes, 0 no and 1 absent. The motion carried. The bill will be carried by Human Services Senator Lyson.**

Senator Mathern moved a reconsideration to further amend the bill to include \$5500. Senator Krauter seconded. A voice vote was taken and motion failed.

Chairman Holmberg closed the discussion on HB 1181.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1181

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 29, 2005

Tape Number	Side A	Side B	Meter #
1		b	2064 - 2681

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the discussion on HB 1181 indicating new information came to light and it was returned to Senate Appropriations. The bill indicated \$5500.

Senator Andrist moved to negate the previous actions on HB 1181, Senator Thane seconded. A voice vote was taken and the motion carried.

Senator Andrist moved to amend the reengrossed HB 1181 on lines 11 and 21 to read \$5,000, **Senator Fischer** seconded. A roll call vote was taken resulting in 12 yes and 3 no, 0 absent. The motion carried and Senator Andrist will carry the bill.

Senator Mathern indicated he felt the amount should stay at \$5500, no motion was made.

Chairman Holmberg closed the discussion on HB 1181.

Date 3/25/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1181

Senate **SENATE APPROPRIATIONS**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Fischer

Seconded By

Krauter

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes)

14

No

0

Absent

1

Floor Assignment

Hum Aero Lyson

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

REPORT OF STANDING COMMITTEE (410)
March 23, 2005 3:44 p.m.

Module No: SR-53-5953
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1181, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1181, as amended, was placed on the Fourteenth order on the calendar.

Date 3/24/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB ~~118~~ 1181

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Andrist
~~Andrist~~

Seconded By

Andrist Fischer

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	/
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	/
SENATOR ANDRIST	/		SENATOR ROBINSON	/	/
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes)

12

No

3

Absent

0

Floor Assignment

Andrist Fischer

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

DP as amend

REPORT OF STANDING COMMITTEE

HB 1181, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1181, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 700 of the Senate Journal, Reengrossed House Bill No. 1181 is amended as follows:

Page 1, line 16, overstrike "Interest" and insert immediately thereafter "Any interest"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the previous Senate amendment and sets the pre-need funeral allowance at \$5,000.

2005 HOUSE APPROPRIATIONS

CONFERENCE COMMITTEE

HB 1181

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1181

House Appropriations Committee
Human Resources Division

☒ Conference Committee

Hearing Date: 4-6-05 Wednesday

Tape Number	Side A	Side B	Meter #
I	X		11.5 - approx. 20.5

Committee Clerk Signature *Aimee M. Dooly*

Minutes: **Chairman Bellew** called the conference committee on HB 1181 to order at 3:00 p.m.

Representatives Bellew, Pollert, Kerzman and Senators Lyson, Brown, J. Warner present.

Chairman Bellew asked for the Senators to comment.

Sen. Brown: We raised the pre-funeral amount back to \$5,500.

Sen. Lyson: We restored it to the Governor's \$5,500. Why are we playing games with \$500?

This means an awful lot to someone burying a love one. This is a big thing to a family when they have to make funeral arrangements. Every funeral is \$7,000. They are still going to pay if they are not on State Health.

Chairman Bellew: Other comments?

Sen. Brown: We feel strongly about this.

Sen. Warner: This has been considered a long time by a lot of people and passed the muster in the Governor's office. We are simply restoring it to the level in the Governor's budget.

Rep. Kerzman: Did you put the money back in? I think the House removed the \$91,000.

Sen. Warner: I do not recall. We are policy-people, not appropriations.

Rep. Pollert: From our side, we checked funeral costs, and they are \$7,500-\$8,000. Originally it came out of this subsection at \$4,500. The full appropriation committee put in another \$500 to amend it to \$5,000. So that is an \$8,000 funeral.

Sen. Lyson: That \$3,000 is for other expenses, too, which they are probably going to spend before they croak. Everybody is not on State Aid. There are a lot of people making \$20,000-\$25,000 who are not on State Aid. When they have to pay that extra \$500, that is the last thing they need.

Chairman Bellew: This is just for Medicaid patients.

Sen. Lyson: Only for Medicaid patients who put the money away. Not for anyone else.

Rep. Kerzman: It makes them eligible sooner because they do not have to spend down as far. This leaves them more reserve. Rep. Bellew is saying they only have to spend down to \$8,000, then they qualify for Medicaid.

Sen. Lyson: That extra \$3,000 is for other needs.

Chairman Bellew: They can put that toward their funeral.

Sen. Lyson: They can, but how many will?

Rep. Kerzman: Indigent county funerals are \$1,700-\$2,000 by comparison.

Sen. Lyson: In a family with parents in Long Term Care. They come and put \$500 away, and they die, that \$500 means a heck of a lot more.

Rep. Kerzman: I can support the increase, but only if you can assure me the money is put back into the budget. I hate to see that budget be shorted \$100,000 or \$91,000.

Chairman Bellew: This costs the General Fund \$91,000 and \$161,000 in FMAP money, for roughly \$252,000 for a \$500 increase.

Sen. Lyson: I know. It all depends on who we want to help.

Chairman Bellew: Do not families have any responsibility at all? Is it all up to the State?

Sen. Lyson commented briefly on responsibilities _____ (*undistinguishable on tape*).

Rep. Pollert: As a family member, I should pay part of that funeral, and not everyone in the State as a whole.

Sen. Lyson: I agree. I make enough money, so I do not worry. But others make \$20,000-\$25,000 and \$500 is a heck of a lot of money to come out of your pocket. And they are not asking for State Aid.

Sen. Warner: Can we ask Allen (LC) to research if the Senate has restored the money?

Allen/LC: In 1012, the money was not restored for this item.

Sen. Warner: Mr. Zentner, do you know of any other place where the money has been restored?

Chairman Bellew: So basically, the money has been put back in the bill without any funding for it.

Rep. Pollert: If the conference committee agrees to the \$5,500, basically, we are saying the Department of Human Services has to come up with the \$91,000 if we do not appropriate it.

Chairman Bellew: Correct. Other comments? I do not think we will settle on anything today. We are set on \$5,000 right now.

Sen. Lyson: Then you are not going to settle anything with me.

Chairman Bellew: That is fine. We will adjourn and set up another scheduled meeting.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1181

House Appropriations Committee
Human Resources Division

☒ Conference Committee

Hearing Date: 4-12-05 Tuesday

Tape Number	Side A	Side B	Meter #
I	X		1.0 - 13.4

Committee Clerk Signature *Diane M. Ouley*

Minutes: **Chairman Bellew** called the second conference committee on HB 1181 to order at 9:00 a.m. Representatives Bellew, Pollert, Kerzman and Senators Lyson, Brown, J. Warner present.

Chairman Bellew thanked everyone for coming again, reviewed the situation and stated there is no money in any budget for it. He asked for comments.

Rep. Kerzman: HB 1012 will be held until adjustments are made, and funding could be added there.

Rep. Pollert: We really cannot say the money is not available. If the bill passes, it just means the Department of Human Services has to find the \$91,505 General funds from its own budget.

Unless we as a committee decide to throw it back in. I am not prepared to do that.

Sen. Brown: We would still like to see the \$5,500. And the \$91,000, I was under the impression it is still in the budget, which would fund the \$5,000. That is accurate, isn't it?

Chairman Bellew: The \$5,000 is in the budget. But the \$91,000 was removed from the Governor's original budget by the House. The Senate did not restore it.

Sen. Brown: That's right. Yet.

Sen. Lyson added comments about the figures.

Rep. Pollert: The \$500 increment for the \$91,000 has been since day one when we had HB 1012. They have always been basically \$91,000, based on figures from DHS.

Rep. Kerzman: That was an estimate. The department relayed to us that there might be some savings if we got an accurate handle on people who are eligible. Before, they could put some assets aside that were not counted. There might be some cost savings in the department. We can look at it both ways and give it a couple of years and see what it looks like. It is all guesstimates right now.

Chairman Bellew: Further comments?

Sen. Lyson: I am not sure we should be real petty here, discussing this. None of us are on appropriations and I wonder if we shouldn't dissolve this committee and bring back somebody from appropriations on both sides.

Chairman Bellew: I appreciate your comments, Senator Lyson. But the three House members on this committee are on Appropriations. We did work the Human Services budget, spending 4-5 weeks on it.

Rep. Pollert: The 1012 funeral set-aside is a minuscule part of the bill. It is still very important, but we have to remember there has been a FMAP change on 1012 for \$32 million. There is going to be another \$4 million increase where the reimbursement from the federal government is going to drop. We just got more information that Healthy Steps is going to cost us another \$428,000

General Fund dollars. So, where do we stop? We have got to stop somewhere. That is why I am going to stay firm where I am at. If I am correct, Legislative Council, this \$500 for the \$91,000 will come out of the Department of Human Services. The Senate appropriation will not put the money back into 1012. At least, that is my understanding. Maybe, Sen. Lyson, someone from your side should check with Senate Appropriations.

Chairman Bellew: What are your wishes? Would you like us to talk with the Senate Appropriations Committee? Or would you prefer to do that yourself?

Sen. Brown: As Sen. Lyson said, I think we should dissolve and a new conference committee be set up with appropriations members from both sides.

Chairman Bellew: And as I already stated earlier, Senator Brown, we three are members of the Appropriations Committee.

Sen. Brown: We are not.

Chairman Bellew: Then why are you on this committee?

Sen. Brown: Because we heard the bill.

Rep. Pollert: I am not going to say how the Senate side works, but in the House, anything over \$50,000 has to come down to Appropriations. So somewhere along the line, did HB 1181 end down in the Senate?

Sen. Lyson: It came out of the Senate Appropriations \$500 out. The full Senate voted to put this \$500 back in over the recommendation of the Appropriations Committee. I think that should have some weight.

Rep. Pollert: I understand that, Sen. Lyson, but without the amendments, basically the movement on the Senate side was to take the \$91,000 out of the Department of Human Services budget. If I am correct, if they do not have the \$91,000, it does not get funded.

Chairman Bellew: For point of information, the House passed this bill at the \$5,000 rate. That should carry weight, too. Further discussion?

Rep. Kerzman: Before we adjourn, I would like this to move forward. I think the policy should come first. It is our job as Appropriations to find money for that. Like capital expenditures, there are top priorities. I think the Department of Human Services should be able to prioritize and find the money if they think this is important enough. I do not know if we will gain ground by dissolving this committee. I think these figures are guesstimates at best and will not cost \$92,000. There will be cost savings through more efficiency. And as I said, 1012 is still in conference and we can try to get more funds in there. With the FMAP, our economy is doing good and it is why we are expected to pay a higher portion of the match. As a state, we have to step up to the plate.

Rep. Pollert: If I am correct, we are adding \$2,000 from where the set-aside was at. It was at \$3,000 and now it is \$5,000. We have increased it 60%. We have come a long ways. I wanted \$4,500. Some wanted \$4,200. In Full Committee, it went to \$5,000. But with the FMAP and everything else we are trying to do, we need to stop somewhere.

Rep. Kerzman: I was one of them that supported not raising it too high and I supported the \$5,000. It has been almost 30 years, or in the eighties, though, since there has been an adjustment. Expenses keep going up.

Rep. Pollert: It has been stated that policy should set the drive for what the appropriation is. I have a problem with that because we have seen in Appropriations where policy has been set, but

there have been overreaching effects. It has to be a work in progress, but I do not think policy should have any affect over what appropriations is.

Sen. Brown: Should we eliminate policy then?

Rep. Pollert: They have to work hand-in-hand, Senator.

Chairman Bellew: Let's keep this meeting in order. Sen. Warner, you look like you have something to say.

Sen. Warner: We are creating a moral hazard for many. The family's loved one's health is what decisions are made on, not money. We are creating a situation for money to be spent down or squirreled away, rather than allow straightforward declaration of what their assets are. The \$5,500 is reasonable. If we shortchange it, we are creating moral hazards. I understand Appropriations and the Department of Human Services have their hands full with the Medicaid situation, and dealing with under-funding. But I am going to stick to my guns. The \$5,500 is a reasonable cost of a modest funeral.

Chairman Bellew: Further comments? Hearing none, we will be adjourned until next time.

Thank you.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1181

House Appropriations Committee
Human Resources Division

☒ Conference Committee

Hearing Date: 4-14-05 Thursday

Tape Number	Side A	Side B	Meter #
I	X		End: 4.1

Committee Clerk Signature

Diane M. Overlay

Minutes: **Chairman Bellew** called the third conference committee on HB 1181 to order at 9:00 a.m. Representatives Bellew, Pollert, Kerzman and Senators Lyson, Brown, J. Warner present.

Chairman Bellew: I appreciate everyone showing up today. I will open the floor at this time for discussion.

Sen. Lyson: We have frustrations in the Senate, as policy-makers and not as appropriations members. You people are just on the other spectrum. This bill had a tremendous amount of people testifying on information and why it is necessary. When appropriations hear these things, they do not have the amount of people speaking to them as they do to us. We are so frustrated coming down here and talking about this small amount of money, compared to the overall umbrella of the State of North Dakota. I am also frustrated about the fiscal notes we received, and I have no basis to approve or disapprove them. I can understand what you guys are going through also, but we are very disappointed with the money-people thinking more about the

money than they do about people. With that, Mr. Chairman, I think Sen. Brown has something to say and we have a motion.

Sen. Brown: I would first like to hear from the House members.

Rep. Pollert: Sen. Lyson, I agree with you. I was on policy for three sessions before coming to appropriations, and you are absolutely correct. We do not see the people like you do. So I can understand where you are coming from. Having said that, I too, have a sense of frustration, because we do hear beyond the money. One example, the DD providers came in and that is very important, too. We have to try balance what we think is right and what is wrong, and we can get very passionate about that at times. I am trying to find money for DD providers, as well. It is good to be passionate about what we are doing.

Sen. Brown: I am very passionate about a bill we just voted on that the House would not compromise on and took out \$30,000. We are talking about a few more thousand here, and another study committee that the House is absolutely not going to budge on. Then, I pick up and read about the House willing to put \$150,000 into a private college. Where the hell are our priorities? But I am not willing to go on any longer. I will make a motion for the Senate to recede from its amendments and agree with you on this \$5,000. But I think, basically, we need to get together better on policy-driving dollars.

Chairman Bellew: I concur with you, Sen. Brown and Sen. Lyson. I thank you for your comments.

Sen. Brown: Well, get something done up there!

Sen. Warner: I second it.

Page 3

Human Resources Division

Bill/Resolution Number HB 1181

Hearing Date 4-14-05 Conference

Chairman Bellew: We have a second. Discussion? The clerk will call the roll.

Motion passed 6-0.

Chairman Bellew: I think we have settled our differences. I thank you.

Sen. Lyson: I do not think we have settled our differences!

Meeting adjourned.

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB 1181 (, as (re)engrossed):

Date:

4/14/05

9:00
THURS.
SAKAKAWEA

Your Conference Committee APPROPRIATIONS HUMAN RESOURCES

For the Senate:

YES / NO

For the House:

YES / NO

✓ SEN. LYSON

x

✓ REP. BELLEW

x

✓ SEN. BROWN

x

✓ REP. POLLERT

x

✓ SEN. J. WARNER

x

✓ REP. KERZMAN

x

recommends that the (SENATE) (HOUSE) (ACCEDE to) (RECEDE) from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1526 --

X, and place 1181 on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the
Seventh order:

_____, having been unable to agree, recommends that the committee be discharged
and a new committee be appointed.

((Re)Engrossed) 1181 was placed on the Seventh order of business on the calendar.

DATE:

4-14-05

CARRIER:

REP. BELLEW

LC NO.

of amendment

LC NO.

of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

MOTION MADE BY:

SECONDED BY:

VOTE COUNT ____ YES ____ NO ____ ABSENT

Revised 4/1/05

REPORT OF CONFERENCE COMMITTEE

HB 1181, as reengrossed: Your conference committee (Sens. Lyson, Brown, Warner and Reps. Bellew, Pollert, Kerzman) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1526 and place HB 1181 on the Seventh order.

Reengrossed HB 1181 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1181

January 19, 2005

HOUSE HUMAN SERVICES COMMITTEE
HB 1181

CHAIRMAN PRICE AND COMMITTEE MEMBERS:

My name is Mark C. Goehner. I run the Eddy Funeral Home in Jamestown and am president of the North Dakota Funeral Directors Association. Our Association worked closely with the Department of Human Services in the development of this bill and we strongly support it. We respectfully request that you give it a do pass.

This bill affects the amount an individual can set aside in a pre-need funeral service contract, pre-payment or deposit for a traditional North Dakota funeral and not have it count as an asset for Medicaid eligibility purposes. It does not affect any other aspect of Medicaid eligibility or assistance. It does not deal with county payments for funerals.

From our standpoint, the most important portion of the bill is found on page one, line 11. The current set-aside amount of \$3,000 was established 24 years ago...in 1981...and hasn't been increased since. This bill raises that figure to \$5,500. Current law also allows an individual another \$3,000 exemption to use for general purposes, including a funeral. This is found on line 15 of the bill. Many persons use a portion of this for their funeral as well, so this bill could make approximately \$8,000 - \$8,500 available for funeral use.

The national average for an adult funeral in May 2003 was about \$7,100. The North Dakota figure in 2004 is a bit higher than that, approximately \$8,000. The average cost only covers the funeral and does not include such items as grave space, monuments and similar items. This bill will allow our citizens to set aside enough funds for a normal North Dakota funeral.

This bill carries an appropriation of \$445,915 in state funds and \$816,585 in federal funds, for a total of \$1,262,500. We think this is a reasonable amount. This bill has the support of the Department of Human Services and the appropriation is included in the Governor's Budget.

This bill also contains language to discourage individuals from attempting to set aside more than is necessary for a funeral and not have that count as an asset for Medicaid purposes. It additionally provides that the Department of Human Services will seek a federal waiver to "grandfather" in set-aside plans made prior to April 1, 2004.

We believe this bill will allow North Dakotans to plan in an orderly fashion for a dignified, traditional funeral while at the same time ensuring there will not be abuses of the Medicaid eligibility system. We respectfully urge you to give this bill a Do Pass.

Thank you for your time. I'd be glad to answer any questions.

#2

Testimony on HB 1181
Celeste Kubasta
Office of Management and Budget
January 19, 2005

Good morning members of the House Human Services Committee.

For the record, my name is Celeste Kubasta and I am the budget analyst for Human Services in the ND Office of Management and Budget.

I am here today in support of HB 1181 which increases the funeral set-aside for Medicaid recipients to \$5,500.

As you are aware, the Governor's executive recommendation includes the fiscal effects of these changes. The \$1.3 million provided for 2005-07 includes general funds of \$445,915.

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

#3

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

REGARDING HOUSE BILL 1181

JANUARY 19, 2005

Chairman Price, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you to provide information and support this bill.

At the present time, the asset limit for Medicaid eligibility is set at \$3,000 for a single household, and \$6,000 for a two member household. In addition, each individual may set aside up to \$3,000. Additionally, a recipient could designate any part of the \$3,000 asset allowance to also be used for funeral expenses. All earnings from the funeral accounts are not counted toward the asset limit. The current limit has been in effect since 1981. When a recipient passes away and has no funds, or limited funds, the funds set aside for burial, up to \$3000, may be claimed from the individual's estate.

This bill would increase the funeral allowance to \$5,500 for each household member, and would continue to exempt any earnings from the funeral account from counting toward the \$3,000 asset limit.

Lines 12 through 14 clarify that if the applicant or recipient provides the funds that will be used for the funeral expenses of the recipient or applicant, that those funds are counted as the burial set-aside. This addition is designed to clarify that the limit of \$5,500 applies no matter who actually sets up, or is listed as the owner of the account.

We also note that line 15 was inadvertently changed from \$3,000 to \$5,500. The \$3,000 asset limit was intended to remain in tact, and this change should not have also increased that limit to \$5,500.

Section 2 of the bill provides for an appropriation of about \$1.3 million of which about \$446,000 are general funds to implement this change. This appropriation is based on the Department's estimate of the additional costs that will be incurred because individuals will be able to set aside additional assets, and therefore will become eligible for Medicaid earlier than under the current limits on pre-need funeral funds.

Section 3 directs the Department to seek approval from the federal government to disregard for eligibility purposes, any amount that had previously been established prior to April 1, 2004. The Department had noted that applicants and recipients were purchasing insurance policies that exceeded the established limit, and then transferred ownership so that the burial plan does not count; then if the policy exceeded the amount of the funeral, the extra funds went to the beneficiary of the policy. This bill is designed to clarify that this practice is not acceptable. It is the position of the federal government that equal treatment be afforded all applicants and recipients of the Medicaid program. Therefore, it is not permitted to have some recipients with a higher burial limit than others. The approval request would ask the federal government to make an exception in those instances where individuals had exceeded the established limit prior to April 2004.

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

February 4, 2005

HOUSE APPROPRIATIONS COMMITTEE HUMAN RESOURCES DIVISION
HB 1181

CHAIRMAN DELZER AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Funeral Directors Association to support this bill involving the funeral set-aside. The appropriation contained in this bill is included in the Department of Human Services' appropriation in HB 1012. The Association worked with DHS in drafting this bill. We respectfully request that you give it a do pass.

This bill affects the amount an individual can set aside in a pre-need funeral service contract, pre-payment or deposit for a traditional North Dakota funeral and not have it count as an asset for Medicaid eligibility purposes. It does not affect any other aspect of Medicaid eligibility or assistance or county payments for funerals.

From our standpoint, the most important provision of the appropriation is that it will allow an increase in the funeral set-aside. The current set-aside amount of \$3,000 was established 24 years ago...in 1981...and hasn't been increased since. In 1987 you did allow the interest on this amount to also be exempt for eligibility purposes. This bill raises that figure to \$5,500. This amounts to an increase of about \$100 per year, which we believe is not out of line.

Current law also allows an individual another \$3,000 exemption to use for general purposes. In 1997 - in a bill sponsored by Rep. Kerzman - you allowed persons to use a portion of this for their funeral as well. So, with this bill, it is possible that \$8,500 could be available for funeral use. However, in practice, most persons use some of the \$3,000 for other personal uses and living expenses, so that as a practical matter, with this bill, probably \$6,500 to \$7,500 would be available for a funeral.

The national average for an adult funeral in May 2003 was about \$7,100. However, this reflects the increasing use of cremation in other parts of the country. This is not widely used in North Dakota. The North Dakota figure in 2004 is a bit higher than that, approximately \$8,000. The average cost only covers the funeral and does not include such items as grave space, monuments and similar items.

This bill will allow North Dakotans to set aside enough funds for a normal North Dakota funeral. We think the total of \$445,915 in state funds and \$816,585 in federal funds (\$1,262,500) is reasonable for what it will accomplish.

HB 1181 also contains language to discourage individuals from attempting to set aside more than is necessary for a funeral and not have that count as an asset for Medicaid purposes. It additionally provides that the Department of Human Services will seek a federal waiver to "grandfather" in set-aside plans made prior to April 1, 2004.

[OVER]

We believe this will allow North Dakotans to plan in an orderly fashion for a dignified, traditional funeral while at the same time ensuring there will not be abuses of the Medicaid eligibility system. We respectfully urge you to support this bill.

Thank you for your time. I'd be glad to answer any questions.

March 1, 2005

SENATE HUMAN SERVICES COMMITTEE
HB 1181

SENATOR LEE AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Funeral Directors Association to support this bill involving the funeral set-aside. The appropriation to support this increased set-aside was included in the Governor's Budget and is in the Department of Human Services' appropriation, HB 1012. The Association worked for the past year with DHS in drafting this bill. We respectfully request that you consider our requested amendment and then give it a do pass.

This bill affects the amount an individual can set aside in a pre-need funeral service contract, pre-payment or deposit for a traditional North Dakota funeral and not have it count as an asset for Medicaid eligibility purposes. It does not affect any other aspect of Medicaid eligibility or assistance or county payments for funerals.

The current set-aside amount of \$3,000 was established 24 years ago...in 1981...and hasn't been increased since. In 1987 you did allow the interest on this amount to also be exempt for eligibility purposes. This bill raises that figure to \$5,000. This amounts to an increase of about \$83 per year, which we believe is not out of line.

Current law also allows an individual another \$3,000 exemption to use for general purposes. In 1997 you allowed persons to use a portion of this for their funeral as well. So, with this bill, it is possible that up to \$8,000 could be available for funeral use. However, in practice, most persons use some of the \$3,000 for other personal uses and living expenses, so that as a practical matter, with this bill, probably \$6,000 to \$7,000 would be available for a funeral.

The national average for an adult funeral in May 2003 was about \$7,100. However, this reflects the increasing use of cremation in other parts of the country. This is not widely used in North Dakota. The North Dakota figure in 2004 is a bit higher than that, approximately \$8,000. The average cost only covers the funeral and does not include such items as grave space, monuments and similar items.

This bill will allow North Dakotans to set aside enough funds for a normal North Dakota funeral. The bill as introduced called for an increase of \$5,500. This amount was included in the Governor's Budget and was contained in the DHS appropriation. The House cut this to \$5,000. We are asking that you consider our proposed amendment below and restore the \$500.

This would be an increase of \$252,500 (\$91,405 in general funds, \$161,095 in other funds). We think the original appropriation of \$445,915 in state funds and \$816,585 in other funds (\$1,262,500) is reasonable for what it will accomplish.

[OVER]

HB 1181 also contains language to discourage individuals from attempting to set aside more than is necessary for a funeral and not have that count as an asset for Medicaid purposes. It additionally provides that the Department of Human Services will seek a federal waiver to "grandfather" in set-aside plans made prior to April 1, 2004.

We believe this bill will allow North Dakotans to plan in an orderly fashion for a dignified, traditional funeral while at the same time ensuring there will not be abuses of the Medicaid eligibility system. We respectfully urge you to support the proposed amendment and then give this bill a do pass.

Thank you for your time. I'd be glad to answer any questions.

PROPOSED AMENDMENTS TO RENGROSSED HOUSE BILL 1181

On page 1, line 11, after "thousand" insert "five hundred"

On page 1, line 21, after "thousand" insert "five hundred"

Renumber accordingly

TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE

REGARDING HOUSE BILL 1181

MARCH 1, 2005

Chairman Lee, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you to provide information and support this bill.

At the present time, the asset limit for Medicaid eligibility is set at \$3,000 for a single household, and \$6,000 for a two-member household. In addition, each individual may set aside up to \$3,000. ^{for a funeral allowance.} Additionally, a recipient could designate any part of the \$3,000 asset allowance to also be used for funeral expenses. All earnings from the funeral accounts are not counted toward the asset limit. The current limit has been in effect since 1981. When a recipient passes away and has no funds, or limited funds, the funds set aside for burial, up to \$3000, may be claimed from the individual's estate.

The original bill would have increased the funeral allowance to \$5,500 for each household member, and would continue to exempt any earnings from the funeral account from counting toward the \$3,000 asset limit. The bill was amended in the House to reduce the pre-need funeral account to \$5,000.

Lines 12 through 14 clarify that if the applicant or recipient provides the funds that will be used for the funeral expenses of the recipient or applicant, that those funds are counted as the burial set-aside. This addition is designed to clarify that the limit of \$5,000 applies no matter who actually sets up, or is listed as the owner of the account.

Section 2 of the bill originally provided for an appropriation of about \$1.3 million of which about \$446,000 are general funds to implement this change. The House amended the bill and reduced the appropriation by \$252,500 of which \$91,405 is general funds to reflect the reduction of the limit to \$5,000. This appropriation is based on the Department's estimate of the additional costs that will be incurred because individuals will be able to set aside additional assets, and therefore will become eligible for Medicaid earlier, than under the current limits on pre-need funeral funds.

Section 3 directs the Department to seek approval from the federal government to disregard for eligibility purposes, any amount that had previously been established prior to April 1, 2004. The Department had noted that applicants and recipients were purchasing insurance policies that exceeded the established limit, and then transferred ownership so that the burial plan does not count as an asset; then if the policy exceeded the amount of the funeral, the extra funds went to the beneficiary of the policy. This bill is designed to clarify that this practice is not acceptable. It is the position of the federal government that equal treatment be afforded all applicants and recipients of the Medicaid program. Therefore, it is not permitted to have some recipients with a higher burial limit than others. The approval request would ask the federal government to make an exception in those instances where individuals had exceeded the established limit prior to April 2004.

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

Friday, March 11, 2005

SENATE APPROPRIATIONS COMMITTEE
HB 1181

SENATOR HOLMBERG AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing on behalf of the North Dakota Funeral Directors Association to support this bill involving the funeral set-aside. The appropriation to support this increased set-aside was included in the Governor's Budget and is in the Department of Human Services' appropriation, HB 1012, that Sen. Fischer's subcommittee is now considering. The Association worked for the past year with DHS in drafting this bill. We respectfully request that you give it a do pass.

This bill affects the amount an individual can set aside in a pre-need funeral service contract, pre-payment or deposit for a traditional North Dakota funeral and not have it count as an asset for Medicaid eligibility purposes. It does not affect any other aspect of Medicaid eligibility or assistance or county payments for funerals.

The current set-aside amount of \$3,000 was established 24 years ago...in 1981...and hasn't been increased since. In 1987 you did allow the interest on this amount to also be exempt for eligibility purposes. This bill raises that figure to \$5,500. This amounts to an increase of about \$104 per year, which we believe is not out of line.

Current law also allows an individual another \$3,000 exemption to use for general purposes. In 1997 you allowed persons to use a portion of this for their funeral as well. So, with this bill, it is possible that up to \$8,000 could be available for funeral use. However, in practice, most persons use some of the \$3,000 for other personal uses and living expenses, so that as a practical matter, with this bill, probably \$6,000 to \$7,000 would be available for a funeral.

The national average for an adult funeral in May 2003 was about \$7,100. However, this reflects the increasing use of cremation in other parts of the country. This is not widely used in North Dakota. The North Dakota figure in 2004 is a bit higher than that, approximately \$8,000. The average cost only covers the funeral and does not include such items as grave space, monuments and similar items.

[OVER]

This bill will allow North Dakotans to set aside enough funds for a normal North Dakota funeral. The bill as introduced called for an increase of \$5,500. This amount was included in the Governor's Budget and was contained in the DHS appropriation. The House cut this to \$5,000. The Senate Human Services Committee restored the \$500.

The restoration of the \$500 means an increase of \$252,500 (\$91,405 in general funds, \$161,095 in other funds). It restores the original appropriation of \$1,262,500 (\$445,915 in state funds and \$816,585 in other funds) that we believe is reasonable for what it will accomplish.

HB 1181 also contains language to discourage individuals from attempting to set aside more than is necessary for a funeral and not have that count as an asset for Medicaid purposes. It additionally provides that the Department of Human Services will seek a federal waiver to "grandfather" in set-aside plans made prior to April 1, 2004.

We believe this bill will allow North Dakotans to plan in an orderly fashion for a dignified, traditional funeral while at the same time ensuring there will not be abuses of the Medicaid eligibility system. We respectfully urge your favorable consideration.

Thank you for your time. I'd be glad to answer any questions.

HB 1181

Craig Olson

Board of Governors, ND Funeral Directors Association

Licensed Funeral Director, West Funeral Homes, West Fargo & Casselton

I am here today to urge a DO PASS on HB 1181

Items of consideration:

1. \$8500 is reasonable -

- avg cost of funeral in Fargo is nearly \$ 8500
(not including cemetery space, marker/monument, other in the like)
- the full \$8500 will not be allowed in a fund for the funeral
(social service will likely ask for a misc fund - \$500,
resulting in only \$8000 for the funeral fund)
- our costs keep rising for taxes, employees, electricity, gas, vehicles,
and merchandise items like caskets, outer burial containers and other
items. Some of those merchandise items increased by 7% this year.
(much greater than the general inflation rate).
- neighboring states allow for "reasonable" amounts some with no \$ cap

2. Safety net for the State

- any money not used is sent back to the state
- some people have less money than \$8500 when they apply for
assistance (they cannot fully fund funeral expenses anyway)
- this proposal will close any loop holes for allowing funding of over \$8500.
(thus creating more of a stronghold for the state)

3. Why is it our turn?

- no change since 1981 (\$6000 has not changed for 24 years)
- that equates to less than 1.5% increase each year
(normal inflation rate is around 3% to 4% per year)
- at 3% normal inflation the avg funeral would be \$12,000
(see reverse side)
- we believe that we have more than waited our turn
- it is time to get us back on the level

The citizens of North Dakota deserve to have a reasonable funeral for themselves. I am guessing, but I don't think that you (the members of the legislature) would like to be the last ones to let them down.

Thank you very much for your time and consideration. A **DO PASS** would be greatly appreciated!!

From 1981 to 2005, our increase factors out to less than 1.5 %

		1.50%	3.00%
1981	\$6,000.00	\$ 6,090.00	\$ 6,180.00
1982		6,181.35	6,365.40
1983		6,274.07	6,556.36
1984		6,368.18	6,753.05
1985		6,463.70	6,955.64
1986		6,560.66	7,164.31
1987		6,659.07	7,379.24
1988		6,758.96	7,600.62
1989		6,860.34	7,828.64
1990		6,963.24	8,063.50
1991		7,067.69	8,305.40
1992		7,173.71	8,554.57
1993		7,281.31	8,811.20
1994		7,390.53	9,075.54
1995		7,501.39	9,347.80
1996		7,613.91	9,628.24
1997		7,728.12	9,917.09
1998		7,844.04	10,214.60
1999		7,961.70	10,521.04
2000		8,081.13	10,836.67
2001		8,202.35	11,161.77
2002		8,325.38	11,496.62
2003		8,450.26	11,841.52
2004		8,577.02	12,196.76
2005		8,705.67	12,562.67

Most Businesses have annual increases of 3.0 to 4.0 %

Funeral Set-aside

@ \$5,000 Limit		@ \$4,500 Limit		@ \$4,000 Limit		@ \$3,500 Limit	
Total	General	Total	General	Total	General	Total	General
1,010,000	354,510	757,500	265,883	505,000	177,255	252,500	88,628

Current Funeral & Asset Exclusions with ability to qualify for Medical Assistance to cover Nursing Home Costs

Burial Fund Exclusion

\$3,000

Asset Fund Exclusion

\$3,000

May be added to the
\$3,000 Burial Fund

Currently transfers have been allowed to children, etc. using the state formula for disqualifying transfers to meet Medical Assistance requirements.

For Example: \$4,200/month avg. Nursing Home Cost & a transfer of \$8,400 to a child would disallow the parent for benefits for nursing home care for 2 months. $\$8,400 / 4,200 = 2 \text{ months}$

What has been done and allowed is transfers to a child who purchases a funeral insurance plan for a parent. The policy is owned by the child and excluded from the parent's assets. The parent can then purchase their own burial fund exclusion.

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Proposed change in HB 1181 would simply increase the Burial Fund Exclusion to \$5,500 and still allow the \$3,000 asset fund exclusion to be added to the burial fund.

Transfers from a parent to child for example for purpose of that parents funeral would be discontinued.