

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1330

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1330

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1330

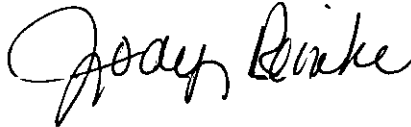
House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-1-05

Tape Number	Side A	Side B	Meter #
2	x		17.-end
3		x	8.1-26.7

Committee Clerk Signature



Minutes:

**Chairman Keiser:** Opened the hearing on HB 1330.

**Representative Dosch:** Appeared in support of bill and also was a sponsor. This bill deals with disclosure of ownership as well as pre need accounts from disclosure requirements. Most time death occurs rapidly and with out notice and it becomes very difficult at that time to make decisions.

**Mike Nathy Funeral Director, Bismarck Funeral Home, Bismarck:** Appeared in support of bill, I believe the families that we deal with have the right to know who they are dealing with. Most funeral homes are locally owned. There are people that are getting more and more in the pre planning and comparing funeral homes and costs. What is the advantage for the public to know who the owner of the funeral home is? It helps the industry to be transparent with the law. This bill is nothing new, many states are dealing with this. My point is to be honest with

who you are. This bill would help inform families with who they are dealing with, they are spending thousands of dollars with our firm, they should have the right to know who they are working with.

**Linda Wurtz, Associate State Director for Advocacy, AARP:** Appeared in support of bill. A funeral is probably the third most expensive thing our members spend money on, and the transparency in advertising is consistent with our national policies on this issue.

**Gary McDaniel, Licensed with the State Board of Funeral Services since 1960:**

For the past 12 years I have been functioning in the pre need market place in Nevada and North Dakota. Appeared in support of HB 1330. This is a consumer friendly bill. This would require that funeral establishments would include who holds the controlling interest in the funeral establishment. The ownership questions is one of the most frequent questions that I receive from a shopper.

**Bob Eastgate, Partner, Eastgate Funeral Home, Bismarck, ND:** Appeared in opposition of HB 1330. What is most important to know is that when you set up a pre need with the family, its at that time that they need to be told that not only do they own 100% of the funds invested, but that they can transfer it at any time that they want to. If they want to take that account down to Arizona with them, they can take it with them. Controlling interests, many have minority partners, and they have an equal investment in that business from their heart, may be not with their pocket book, and they care very much about what they are doing. I see this

bill as being ill advised I speak against the bill, I'm fully in favor of notification of families about pre need changes or changes in ownership, but there are factors in this bill that definitely need to be amended.

**Jay Seibel, Funeral Homes of Beulah, Hazen, ND:** Appeared in opposition of this bill. We the board would have the responsibility of enforcing this law, and we feel that it would be difficult if not impossible to do so.

**Representative Froseth:** I move to AMEND HB 1330.

**Representative N. Johnson:** I SECOND the motion to AMEND.

Motion carried.

**Representative Froseth:** Motion a **DO PASS AS AMENDED** on HB 1330.

**Representative Clark:** **SECOND** the **DO PASS AS AMENDED** motion.

Motion carried    **VOTE: 8-YES 5-NO 1-Absent (EKSTROM).**

**Representative Dosch will carry the bill on the floor.**

Hearing closed

February 1, 2005

**House Amendments to HB 1330 - Industry, Business and Labor Committee 02/02/2005**

Page 1, line 7, remove "of the funeral establishment's business"

Page 1, line 8, remove "literature, correspondence, advertising," and remove the fourth comma

Page 1, line 10, replace "fifteen" with "thirty"

Renumber accordingly

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

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1330**

House **INDUSTRY, BUSINESS AND LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Adopt amendments by Froseth*

Motion Made By *Rep. Froseth* Seconded By *Rep. N. Johnson voice vote*

Representatives	Yes	No
G. Keiser-Chairman		
N. Johnson-Vice Chairman		
Rep. D. Clark		
Rep. D. Dietrich		
Rep. M. Dosch		
Rep. G. Froseth		
Rep. J. Kasper		
Rep. D. Nottestad		
Rep. D. Ruby		
Rep. D. Vigesaa		

Representatives	Yes	No
Rep. B. Amerman		
Rep. T. Boe		
Rep. M. Ekstrom		
Rep. E. Thorpe		

Total (Yes) *13* No *0*

Absent *(1) Rep. EKstrom*

Floor Assignment *Rep. Dosch*

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

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

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1330

House **INDUSTRY, BUSINESS AND LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50158.0301 .0400

Action Taken Do Pass As Amended

Motion Made By Rep. Froseth Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman		X	Rep. B. Amerman	X	
N. Johnson-Vice Chairman		X	Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	A	
Rep. D. Dietrich		X	Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper		X			
Rep. D. Nottestad	X				
Rep. D. Ruby		X			
Rep. D. Vigasaa	X				

Total (Yes) 8 No 5

Absent (1) Rep. EKstrom

Floor Assignment Rep. Dosch

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



**REPORT OF STANDING COMMITTEE**

**HB 1330: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1330 was placed  
on the Sixth order on the calendar.

Page 1, line 7, remove "of the funeral establishment's business"

Page 1, line 8, remove "literature, correspondence, advertising," and remove the fourth comma

Page 1, line 10, replace "fifteen" with "thirty"

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1330

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1330

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-02-05

Tape Number

1

Side A

xxx

Side B

Meter #

0-4300

Committee Clerk Signature

*Lisa Van Berkom*

Minutes: **Chairman Mutch** opened the hearing on HB 1330. All Senators were present.

**HB 1330 relates to funeral establishment ownership disclosures.**

**Senator Dever** introduced the bill. He read testimony from Rep. Dosch who could not be present. Please see attached testimony.

**Senator Klein:** Upon transfer of a title of a funeral home, we would be sending notification to all of the pre-needs contracts of who now owns the funeral home. Knowing that even now, the pre-need contracts are safe, even in a bankruptcy, I don't think that money would go anywhere. What are we really doing here, other than announcing to people that the local funeral home has now been sold, and creating more anxiety because now they don't know what's going on?

**Sen. Dever:** When I come to do business with "Jerry's Grocery" I like to know who I am doing business with there too.

**Mike Nathe,** Bismarck Funeral Home, spoke in support of the bill. See written.

**Senator Klein:** The only people that would be in the loop are those with pre-needs contracts with that funeral home. Correct?

**Mike:** Remember, when they prepaid that funeral contract, that was the person they entrusted. Then five years later, when they come back, they find out someone else owns it, with a long history of bad business practice. Who knows if it will be more money, if they will honor the contracts. There is a reason why other states have these contracts.

**Chairman Mutch:** What good will it do if they do know?

**Mike:** That they are aware. They can then leave the money where they want, or they can go shop around. It gives the consumer more information to shop around.

**Senator Klein:** But they wouldn't know that the new company does bad business, they would just know that they are now the owner.

**Mike:** They may look online, or research the company and find out.

**Gary McDaniel,** Funeral Service Person, spoke in support of the bill. See written.

**Senator Espegard:** This only deals with a change of ownership?

**Gary:** It addresses two subjects. One, who owns the firm, and if they do pre pay, it addresses that if there is a change of ownership, the consumer needs to be notified by the firm.

**David Braaten, AARP,** spoke in support of the bill. See written.

**Paul Sannes,** Vice President for the North Dakota Funeral Directors Association, spoke in opposition of the bill.

**Senator Espegard:** It seems to me that when you sell a funeral home, the value of your pre-needs probably comes into the mix. It seems to me that this legislation would be saying,

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Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1330

Hearing Date 3-02-05

“Let’s throw those all in the mix again.” “And let’s see if we can get some of those away from the new place”.

**Paul:** That’s what some of our members feel.

**Senator Krebsbach:** What are the bonding requirements on a pre-needs funeral arrangement?

**Paul:** Every funeral home has to be licensed and bonded with the state of North Dakota through the Securities Commission.

**Senator Krebsbach:** Did your association discuss this issue?

**Paul:** Yes. We did.

The hearing was closed. No action was taken.

**On March 15, 2005, the committee met to make a recommendation on this bill.**

**Senator Klein moved a DO NOT PASS. Senator Krebsbach seconded.**

**Roll Call Vote: 7 yes. 0 no. 0 absent.**

**Carrier: Senator Klein**

Date: 3-15-05  
Roll Call Vote #: )

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1330

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Klein

Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Klein

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

**REPORT OF STANDING COMMITTEE (410)**  
March 15, 2005 12:52 p.m.

**Module No: SR-47-5001**  
**Carrier: Klein**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1330, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1330 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

HB 1330





**Senate Industry, Business, and Labor Committee**  
**HB 1330**  
**March 2, 2005**

Chairman Mutch and members of Senate Industry, Business, and Labor Committee. My name is David Braaten, I am an AARP volunteer from Grand Forks and I serve as Chair of the Government Affairs Committee for AARP North Dakota. Thank you for this opportunity to provide information on AARP policy regarding funeral and burial practices.

The transparency provisions in HB 1330 are in line with national AARP policy. The original version of this bill included transparency in advertising, and we were more comfortable when that provision was included in the bill.

AARP also supports the portability of pre-need funeral and burial contracts to ensure a level playing field between consumers and sellers. We believe this is important for consumer protection.

Thank you and I'd be happy to answer any questions.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE MY NAME IS GARY McDANIEL.

I HAVE BEEN LICENSED BY THE NORTH DAKOTA STATE BOARD OF FUNERAL SERVICE SINCE 1960 AND HAVE TWELVE (12) YEARS EXPERIENCE IN THE PRE-NEED MARKETS IN NEVADA AND NORTH DAKOTA.

I HAVE BEEN A PRE-NEED COORDINATOR FOR A MAJOR DEATH CARE COMPANY AND CURRENTLY AM THE PRE-NEED COORDINATOR FOR THREE (3) FUNERAL FIRMS IN CENTRAL NORTH DAKOTA.

HB 1330 IS CONSUMER FRIENDLY AND IT WOULD COMPLIMENT THE FUNERAL RULE WHICH REQUIRES FUNERAL DIRECTORS AND THEIR AGENTS TO GIVE ITEMIZED PRICES IN PERSON AND IF ASKED OVER THE PHONE. FOR EXAMPLE, IF YOU ASK ABOUT FUNERAL ARRANGEMENTS IN PERSON, THE FUNERAL DIRECTOR OR THEIR AGENT MUST GIVE YOU A WRITTEN PRICE LIST TO KEEP THAT SHOWS THE SERVICES AND MERCHANDISE THEY OFFER.

HB 1330 WOULD REQUIRE THAT THE FUNERAL ESTABLISHMENT INCLUDE WHO OWNS THE CONTROLLING INTEREST IN THE FUNERAL ESTABLISHMENT ON THEIR GENERAL PRICE LIST AND CONTRACTS. IT SHOULD ALSO REQUIRE THAT THIS INFORMATION BE INCLUDED IN ADVERTISING.

THE OWNERSHIP QUESTION IS ONE OF THE MOST FREQUENTLY ASKED QUESTIONS BY THE CONSUMER LOOKING INTO MAKING PREARRANGEMENTS FOR HIMSELF OR HERSELF OR A LOVED ONE.

HB 1330 IS CONSUMER FRIENDLY. IT WOULD ENABLE THE CONSUMER TO BECOME BETTER INFORMED. THE BETTER INFORMED THE CONSUMER IS THE EASIER IT IS FOR THE CONSUMER TO MAKE AN INFORMED DECISION WHEN SHOPPING FUNERALS.

THEREFORE, I ASK THAT YOU GIVE HB1330 A DO PASS RECOMMENDATION.

THANK YOU.

# NDFDA

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*Opposed*

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This memo is in regards to HB 1330, which is being heard before the Senate Industry Business & Labor Committee on Wednesday, March 2, 2005.

The North Dakota Funeral Directors Association Board of Governors opposes this bill and urges a NO vote on the bill.

Our reasons for opposing the bill are listed below.

1. The expense that would go along with reprinting printed materials.
2. There doesn't seem to be any penalty for non-compliance, and therefore, policing the law would be difficult and spotty - often promulgated by a competitor.
3. We feel by passing this bill, it will have no benefit to the consumer and it will be just another regulation for a small business in North Dakota.
4. What other businesses in the state are required to show ownership, i.e., motels, restaurants, convenience stores, etc...



**BISMARCK**  
*funeral home*

3/2/05

Mr. chairman, members of the committee my name is Mike Nathe I am the owner and Funeral Director at Bismarck Funeral Home here in Bismarck, ND.

I am here to support HB. 1330. I believe that this is a very consumer friendly bill that adds transparency to our industry and protects the families that we serve. In the funeral service industry we have been experiencing corporate take over of many family funeral homes around the country. Unfortunately these corporations have a long history of bad business practices.

When these corporations buy a funeral home they will leave the same name on the funeral home and not change it, thus creating the impression that they are still owned by that former owner and leaving the community in the dark as to who they are really working with. This can be a negative on two fronts, first the families that do business with that firm can be unknowingly subjected to these bad business practices, thinking that they are still working with a locally owned firm, when in fact they are not. Secondly it can have negative effect on the families who have prepaid for their funerals in advance. Will that Corporate owned funeral home now honor that contract? Will they have to pay any additional costs now that they have been sold? Will that prepaid money be moved without their permission? The later happened in Mandan in December 2000. The family went to the funeral home to check on their mother's prepaid funeral account only to find out that the money had been moved (Without their consent, it's the families money, not the funeral homes, according to the Century Code) and the firm had been sold almost 10 years earlier without their knowledge, they still believed the firm was locally owned. Had they known sooner they would have kept closer tabs on her account. The family went to the Securities Dept and had them correct not only their mothers situation, but all the other accounts that the Canadian funeral conglomerate Lowen Group owned in the state. The Lowen Group later filed bankruptcy in federal court without the families being notified.

This bill will help better inform the families, I believe they have the right to know exactly who they are dealing with when it comes time to make arrangements for their loved one and are spending thousands of dollars. What possible advantage is there to keep these families in the dark when it comes to ownership. The ownership issue may not be a big concern in most other industries, but because of the nature of funeral service and the situation that the families are in, the issue can be of great importance to these families.

This bill is really nothing new, there are laws similar to this bill in many states, such as Minnesota, Oklahoma, Ohio, Pennsylvania, Kentucky, and Florida to name just a few. There is a reason that these states have these laws, they have seen the misdeeds and look it as a way to inform and protect the public. This bill costs the state nothing and can easily be enforced as other states in the country have done.

In conclusion I hope you give HB 1330 a Do Pass recommendation to help protect and better inform the people of North Dakota.

INDUSTRY, BUSINESS AND LABOR COMMITTEE  
CHAIRMAN MUTCH  
HB 1330

Testimony of Representative Mark Dosch District 32

Mr. Chairman and members of the Industry Business and Labor Committee, Unfortunately I am unable to appear before you today, as a result of the passing of my mother in law on Monday night. I have asked Representative Lisa Meier and Senator Dick Dever to present on my behalf this testimony in support of HB 1330.

HB 1330 calls for disclosure of ownership and, notification requirements anytime there is a change in ownership of a funeral establishment that maintains pre-need accounts.

Why is this important?

Several years ago an out of state, in fact, an out of Country Company purchased several funeral homes not only in ND but through out the Midwest. Several years later the company ended up filing Chapter 11 Bankruptcy. It was not until the names of the funeral homes listed under the chapter 11 bankruptcy were published, that people realize it included local funeral homes. This was of great concern to people as many had thought they knew who they were dealing with. Unfortunately they did not realize that the funeral home had been sold to an out of state interest. What was so concerning to them is that many had established pre-need accounts, many in the amounts of \$7000 up to \$30,000 for a couple with the funeral home. Although the pre-need accounts were in trust and protected, the anxiety that it caused is of concern, and why this bill is needed.

Unfortunately death many times come unexpectedly and knowing who you are dealing with I believe is very important. Further more, when pre-need accounts are involved, notification of funeral homes customers as to what their options are upon the sale of a funeral home is a very important consideration, and is something I feel people have the right to know.

Mr. Chairman and members of the IBL committee, I respectfully ask for your support and Do Pass Recommendation.

Thank you.

Rep. Mark Dosch