

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2075

2001 SENATE JUDICIARY

SB 2075

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2075

Senate Judiciary Committee

Conference Committee

Hearing Date January 16th 2001

Tape Number	Side A	Side B	Meter #
1	X		0-26.0
Committee Clerk Signature			

Minutes: SENATOR TRAYNOR opened the hearing on SB 2075: A BILL FOR AN ACT TO CREATE AND ENACT CHAPTER 30.10.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE DISCLAIMER OF PROPERLY INTERESTS; TO AMEND AND REENACT SUBSECTION 1 OF SECTION 47-24.1-18 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE DISCLAIMER OF CUSTODIAN DUTIES; AND TO REPEAL SECTION 30.1-10-01 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE DISCLAIMER OF PROPERTY INTERESTS.

JAY BURINGRUD, representing the Uniform Laws Commission, look at statute for uniform laws to prevent Federal intervention. Disclaimer of property interest is to disclaim property which will go to the next of kin. Provides info who can disclaim an interest; heir, beneficiary, trusty. What can disclaim page 2 line 19; powers of appointment. 9 month time frame. Timed to Federal tax law, for tax purposes. This is an update of the current law.

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB 2075

Hearing Date January 16, 2001

SENATOR TRAYNOR existing law is in my interest. Time frame is 9 months after time of death. A client of mine we did not handle the probate, everything was left to the widow and there would be no tax. I asked if we could use a disclaimer. IRS would not permit that.

What would be the wisdom of doing away with the 9 months.

JAY BURINGRUD I don't know the wisdom in doing away with the 9 months, but there are reasons.

SENATOR TRENBEATH are we legitimizing electronic signatures?

JAY BURINGURD yes.

SENATOR TRENBEATH is intention of defining jointly held property the same as property held in joint tendency?

JAY BURINGURD I'm not sure.

SENATOR TRENBEATH either am I.

SENATOR NELSON property means assets or physical property or both?

JAY BURINGURD both.

SENATOR WATNE is the disclaimer to a corporation or an individual?

JAY BURINGURD yes.

SENATOR WATNE line 6 page 6 "inter vivos?"

JAY BURINGURD I can't remember my Latin.

MALCOM BROWN, attorney for state bar, testifies neutrally on SB 2034. Wants to point out 30.1 for divorce. Believes it would be significant to remove this.

SENATOR NELSON 30.1.1-10-01 would 04 still be a statute?

MALCOM BROWN I think Mr. Buringurd could answer that.

MARILYN FOSS, ND Bankers association, talked to interim committee. Greater clarity of property is not objectionable to us.

SENATOR TRAYNOR apparently if the disclaimer is made after 9 months, the IRS see this as a gift.

MARILYN FOSS possible that they may see this as a gift.

SENATOR TRAYNOR bar would be advised to look at the 9 months.

SENATOR NELSON anything over 10,000 dollars is difficult to find?

SENATOR LYSON does the bar send bills to attorneys to look at this before we pass it?

MALCOM BROWN we look at this.

SENATOR LYSON is there timely verification?

MALCOM BROWN no.

JAY BURINGURD copies were sent to bar members.

SENATOR NELSON States don't have to endorse all these laws.

JAY BURINGURD this is brand new. I believe Hawaii is the only one to adopt this.

SENATOR TRENBEATH when someone orders a copy years from now. Will probate codes conform to this?

SENATOR LYSON this 9 months bothers me.

SENATOR TRAYNOR closed the hearing on SB 2075. After discussion SENATOR WATNE motioned for a Do Pass, seconded by SENATOR LYSON. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING. SENATOR TRAYNOR VOLUNTEERED TO CARRY THE BILL.

Date: January 16<sup>th</sup>, 2001  
 Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2075**

Senate Judiciary \_\_\_\_\_ Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken D. Pass \_\_\_\_\_

Motion Made By Leahy \_\_\_\_\_ Seconded By Lyson \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	X
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

*Absent*

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment S. Traynor

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

**REPORT OF STANDING COMMITTEE (410)**  
January 16, 2001 4:44 p.m.

**Module No: SR-06-1098**  
**Carrier: Traynor**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2075: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS**  
**(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2075 was placed on the**  
**Eleventh order on the calendar.**

2001 HOUSE JUDICIARY

SB 2075



2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2075

House Judiciary Committee

Conference Committee

Hearing Date 02-20-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		494 to 942
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:Chairman DeKrey opened the hearing on SB 2075.

Jay Buringrud:Secretary and Commissioner of the North Dakota Commission of Uniform State Laws. I am here testifying in support of SB 2075. SB 2075 is the uniform disclaimer of property interests act of 1999. It replaces three previous acts dealing with disclaimer of property interests. A disclaimer of property interest is, a disclaimer is used by a person who is going to receive a property interest, to disclaim or negate getting that interest. It is usually used so that someone else will take the place of the person who disclaims. It is simply a declaration that a person that is entitled to property doesn't want the property. To illustrate, it is used to avoid tax liability. He gives an example. The difference in this bill, it adds to fiduciary a trustee. That is on page one lines 22 through 24. What can be disclaimed is on page two line 19, power of appointment is added to the law. A major change is the time for disclaiming, with this bill it is unlimited provided for on page 3 line seven through nine. This bill will be a tool for estate planners, trustees, or transfer of estates. That concludes my testimony.

Page 2

House Judiciary Committee

Bill/Resolution Number SB 2075

Hearing Date 02-20-01

Rep. Delmore: According to current state law, who can disclaim? Are we just adding trustees?

Jay Buringrud: Basically it is the same people, with the trustees being added.

Chairman DeKrey: Are there any other questions, if not thank you for appearing. Anyone else wishing to testify either for or against SB 2075? If not we will close the hearing on SB 2075.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2075a

House Judiciary Committee

Conference Committee

Hearing Date 02 20-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		1499 to 1887
Committee Clerk Signature <i>Jean Diez</i>			

Minutes: Chairman DeKrey: we will call the committee to order and take up SB 2075. What are the wishes of the committee?

COMMITTEE ACTION

Rep Delmore moved a DO PASS on SB 2075, Rep Brekke seconded.

DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO PASS motion on SB 2075. The motion passes with 15 YES, 0 NO and 0 Absent. Carrier Vice Chr Kretschmar.

Date: 02-20-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2075

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep Delmore Seconded By Rep Brekke

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield	✓				
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Vice Chr Kretschmar

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

**REPORT OF STANDING COMMITTEE (410)**  
February 20, 2001 10:06 a.m.

**Module No: HR-31-3965**  
**Carrier: Kretschmar**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2075: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
**(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2075 was placed on the**  
**Fourteenth order on the calendar.**