

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

23/4

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2314

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2314

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-30-00

Tape Number	Side A	Side B	Meter #
1	x		0 to 18.0
(March 28/01) 1	x		25.7 to 31.1
(April 03/01) 1	x		25.9 to 34.7
Committee Clerk Signature <i>Don E. Perry</i>			

The meeting was called to order. All committee members present. Hearing was opened on SB 2314 relating to pre-need funeral contracts.

AANDERS JACKSON (ND Funeral Directors Association) Supports the bill. The prime reason for requesting that a portion of the pre-need contracts be made irrevocable is to ensure that the wishes of an individual's contract be followed. See attached testimony.

SENATOR ESPEGARD: Currently, the funeral arrangements are revocable. Are you asking for them to be irrevocable?

AANDERS JACKSON: Yes, we want to make it so the consumer has a choice.

SENATOR KREBSBACH: If someone stated in the will how they wish funeral arrangements to be handled, would this still work?

AANDERS JACKSON: The problem with that is that wills are usually read 2-3 weeks after the funeral.

SENATOR EVERY: What happens if I come to you, pre-plan a funeral, and three years down the road I find another funeral home who offers a better deal, can I take it?

AANDERS JACKSON: Yes, it is portable- it can be moved from funeral home to funeral home.

SENATOR KLEIN: What is with the "45 day" issue?

AANDERS JACKSON: If a person comes in, sets money aside for funeral, they then have 45 days to "cancel".

SENATOR KLEIN: So once it is "irrevocable" and it passes the 45 day deadline, it's too bad?

AANDERS JACKSON: Yes, but most of the people who do this are elderly and down to the last dollar and trying to keep money from others; so this is good for them.

REP. JON NELSON, District 7, cosponsor of this bill. Vote do pass.

WILLIAM DELMORE, Counsel, ND Funeral Director's Association, in favor.

SENATOR KLEIN: The question here is the amount of allowable assets, calculating different costs, and setting aside money that agencies or Social Services can't touch?

WILLIAM DELMORE: We currently can take \$3000 for a funeral not counted by Social Services.

SENATOR MUTCH: So even if you have a \$5000 contract, could they could still come in and take the extra \$2000 up and above the \$3000?

WILLIAM DELMORE: Yes.

Blaine L Nordwall, Director of Economic Assistance, Human Services; Neutral. Seeks clarification and includes amendment relating to asset exclusion. NDCC currently imposes a \$3,000 limitation on asset exclusion.

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Senate Industry, Business and Labor Committee  
Bill/Resolution Number SB 2314  
Hearing Date 1-30-01

See attached testimony and proposed amendment.

**Senator Klein:** Would someone in favor of this bill tell me if the proposed amendment looks satisfactory to you?

**WILLIAM DELMORE:** We are comfortable with the amendment, it makes things more specific.

Hearing closed.

Senator Espegard moves to accept proposed amendment. Seconded by Senator D. Mathern. Roll call vote taken. 7-0-0.

Senator Krebsbach made a motion to "Do Pass" as amended. Seconded by D. Mathern. Roll call vote taken. 7-0-0. Floor carrier is D. Mathern.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2314

Hearing Date 1-30-01

March 28/01. Tape 1-A- 25.7 to 31.1

Committee reconvened. All members present. Committee reviewed and discussed amendments.

Action deferred pending outcome of HB 1126 and consultation with sponsors.

April 03/01. Tape 1-A-25.9 to 34.7

Committee reconvened. All members present.

**Jennifer Clark**, Legislative Council. Amendment are alternative amendments dependent on passage of HB 1126. Regardless the bill still does something. 1126 became effective then amend section 43.10.1 or 3.1 of the code. 1126 repealed law 2314 was going to amend, took it out of title 23 and moved it over to title 43 almost word for word. Substantive changes in 1126: money needs to be deposited. 2314 addresses irrevocable pre-need funeral contract. If you want the irrevocable provision put into law, you need to pass 2314.

**Senator Espgaard:** If I set up x dollar amount for funeral , x has to be spent. Is that what irrevocable means?

**J Clark:** Honestly I didn't look at the substance of the provisions, it has something to do with medical assistance eligibility.

**Senator Mathern:** Do we need to remove section alluding to HB 1126 in amendments?

**J Clark:** It stands either way, whatever is easier for you.

**Senator Mathern:** Motion to concur with House amendments. **Senator Krebsbach:** Second.

Roll call vote: 6 yes;

Prepared by the North Dakota  
Department of Human Services  
January 29, 2001

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2314**

Page 2, line 5, replace "chapter 50-24.1" with "section 50-24.1-02.3"

Renumber accordingly

Date: 1-30-01  
Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2314

Senate Industry, Business and Labor Committee

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

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

Action Taken Accept proposed amendment

Motion Made By S Espgaard Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

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

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



Date: 1-30-01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2314

Senate Senate Industry, Business and Labor Committee

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

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

Action Taken DPA

Motion Made By Sen Krebsbach Seconded By S. Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Mathern

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

**REPORT OF STANDING COMMITTEE (410)**  
January 31, 2001 8:08 a.m.

Module No: SR-17-1972  
Carrier: D. Mathern  
Insert LC: 10743.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**SB 2314: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2314 was placed on the Sixth order on the calendar.

Page 2, line 5, replace "chapter 50-24.1" with "section 50-24.1-02.3"

Renumber accordingly

Date: 4/03/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2314

Senate Industry, Business and Labor Committee

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

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

Action Taken Do concur with House amendments

Motion Made By Sen Mathern Seconded By Sen Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Mathern

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

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2314


2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2314

House Industry, Business and Labor Committee

Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
2	X		32.1
		X	-13.1
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.  
Rep Dave Weiler: Cosponsor of bill.

Syver Vinje: Explained HB 1126 and its relation to SB 2314.

Anders Jackson: *ND Funeral Directors Assoc.* **Written testimony** in support of bill.

Doug Murphy: *Funeral director* It's the money that irrevocable, not the wishes.

Bill Delmer: *Kelsch law Firm* Up to \$3,000 is irrevocable because then public services can't be removed. SB 2493 allows that the wishes need to be followed by the family.

Murphy: With this there is little reason to change the wishes.

Jackson: We're not changing, we're just adding another option.

Rep Kasper: Which is more powerful, the will of the person or an irrevocable contract?

Jackson: The contract is generally first, the will is usually after the funeral.

Rep Pietsch: Is this included in assets?

Jackson: No it is not an asset.

Delmer: People haven't been following the wishes because they take the money after a cheaper service. This would attempt to prevent that.

Blaine Nordwall: (6.5) *Medicaid* We support this bill, we don't care where the money is coming from. This helps provide expected money's to funeral directors and helps the deceased also.

Contracts can be written to do whatever.

Chairman Berg: We'll close the hearing on SB 2314.

March 12, 2001

VR  
3/13/01  
1082

**House IBL AMendments to Eng. SB 2314 3/13/01**

Page 1, line 1, after the comma insert "or in the alternative to amend and reenact section 43-10.1-03.1 of the North Dakota Century Code as created by section 3 of House Bill No. 1126, as approved by the fifty-seventh legislative assembly,"

Page 1, line 4, replace "Section" with "If House Bill No. 1126 does not become effective, section"

**House IBL AMendments to SB 2314 3/13/01**

Page 2, line 3, remove the first "pre-need" and after "purchaser" insert "of a pre-need funeral service contract"

Page 2, line 6, remove the first "pre-need" and replace "The pre-need purchaser has forty-five days from" with "A purchaser of a pre-need funeral service contract has forty-five days from entering the contract to cancel the irrevocable part of the contract by giving notice to the cemetery association or licensed funeral establishment with whom the contract was entered. Any pre-need funeral service contract held by a cemetery association or a licensed funeral establishment must be fully transferable to another cemetery association or funeral establishment licerised under chapter 43-10 or a substantially similar law of another jurisdiction which agrees to accept the obligations."

Page 2, remove line 7

Page 2, after line 19, insert:

**"SECTION 2. AMENDMENT.** If House Bill No. 1126 becomes effective, section 43-10.1-03.1 of the North Dakota Century Code, as created by section 3 of House Bill No. 1126, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

**43-10.1-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage.** Whenever payments are made to any person upon pre-need funeral service contracts, one hundred percent of the funds collected under the contracts for the sale of professional service or personal property to be used in funeral services and fifty percent of the funds collected under the contracts for the sale of cemetery merchandise must be deposited in or transferred to a trust company in this state or to a federally insured bank, credit union, or savings and loan association in this state, within ten days. The deposit must be placed in a federal deposit insurance corporation or national credit union administration insured certificate of deposit or negotiable debt obligation of the United States government. Payments received from the sale of professional service or personal property to be used in funeral services or cemetery merchandise which cannot or would not be serviced by a licensed funeral establishment or cemetery association in the area where the service or property was sold are specifically included, whether or not the sales might otherwise be considered pre-need funeral service contracts, within the payments to be deposited under this section. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the depositor upon the death of the person for whose benefit the funds were paid. A certified copy of the certificate of death must be furnished to the bank, credit union, savings and loan association, or trust company as prima facie evidence of death. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the person making the payment, before the death of

