

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by Rep. Robert H. Miller at _____
Chairperson

8:30 a.m./p.m. on April 11, 1986 in room 526S of the Capitol.

All members were present except:

Rep. Peterson - E

Committee staff present:

Lynda Hutfles, Secretary
Arden Ensley, Revisor's Office
Russ Mills, Research Department

Conferees appearing before the committee:

The meeting was called to order by Chairman Miller.

SB731 - prison-made goods.

Rep. Vancrum made a motion, seconded by Rep. Sughrue to report SB731 favorable for passage. Motion carried.

There was discussion about liability.

SB499 - cemetery merchandise

The Chairman told the committee that in an attempt to try to find out more about fees for prearranging services, he wrote to the State Board of Mortuary Arts. The response from them was distributed. See attachment A.

Representative Eckert made a motion, seconded by Representative Ramirez, to report SB499 favorable for passage.

Representative Barr made a substitute motion to amend line 30 by striking "caskets" and changing the minimum funding requirement to 100%. The motion died for lack of a second.

Representative Eckert's motion to report SB499 favorably carried. Representative Barr was recorded as voting "no".

Representative Vancrum made a motion, seconded by Representative Walker, to request an interim study on this issue. The motion carried.

SB754 - Targeted Research & Development Tax Credit Act

Representative Walker made a motion, seconded by Representative Sprague, to include individuals or taxpayers after "corporations" on line 0022. After discussion the motion was withdrawn until later.

There was discussion of whether hydrogen was included in research & development.

Representative Sprague made a conceptual motion, seconded by Representative Aylward, to link Sec. 174 of the Internal Revenue Code with current law as of Dec. 31, 1985. The motion carried.

Representative Walker made a motion, seconded by Representative Sprague, to renew his motion to include "taxpayer in line 0022. The motion carried.

There was discussion about changes that might have to be made in the Kansas Income Tax return to accomodate changes made in SB754.

Representative Aylward made a motion, seconded by Representative Roenbaugh, to recommend SB754 favorable for passage as amended. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,
room 526S, Statehouse, at 8:30 a.m./p.m. on April 11, 1986

SB761 - Public Disclosure Commission

Representative Walker made a motion, seconded by Representative Hensley, to report SB761 favorable for passage. The motion carried. Representative Brady recorded as voting "no".

SB755 - Kansas Technology Enterprise Corp.

Representative Vancrum made a motion, seconded by Representative Roenbaugh, to change "birth" to "creation" in line 26. The motion carried.

There wad discussion of words such as "key" and "innovative" which are undefinable adjectives and could cause problems with interpretations. The intent of the committee should be to provide clear meaning.

The meeting was recessed until first adjournment.

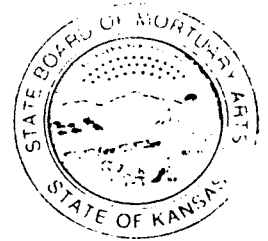
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TERRY A BLAND
OFFICE SECRETARY

The Kansas
State Board of Mortuary Arts

CREATED AUG 1 1907

214 WEST SIXTH 16TH STREET
TOPEKA, KANSAS 66603 3797
(913) 296 3980



April 10, 1986

Representative Robert H. Miller
House of Representatives
State Capitol
Topeka, Kansas 66612

Dear Representative Miller:

In response to your letter of April 10, 1986:

Fees for pre-arranging services do not fall under K.S.A. 16-301. Any services immediately provided including the service of pre-arrangement may be immediately billed and would not be considered a commission if the fee is based upon the value of the services rather than the amount of the contract.

Since most funerals involve the sale of caskets and the vast majority of pre-need arrangements involve the future sale of caskets-it is doubtful that it will have any effect upon future use of pre-financed funeral arrangements.

SB 499 does not change the way in which funeral directors do business. It simply maintains the status quo. From my experience very few funeral directors charge for the pre-arrangement service.

K.A.R. 63-2-8, (c), prohibits the paying of commission for securing business. Any provision of any agreement which may be construed as violating that regulation is void. Violations should be reported to the Kansas State Board of Mortuary Arts.

Sincerely,

Douglas "Mack" Smith
Executive Secretary

DMS:tab

ATTACHMENT A
H. F+SA
4/11/86

PRE-ARRANGED FUNERAL TRUST AGREEMENT

THIS Irrevocable TRUST AGREEMENT made and entered into this _____ day of _____, 19____, by and between _____ hereinafter referred to as "The Purchaser" and _____ of _____ hereinafter referred to as "The Home".

That in consideration of the payments provided for herein by Purchaser, the Home, its successors or assigns, will provide the casket specified below and will provide for other articles or professional services and facilities described below (REGARDLESS OF FUTURE PRICE INCREASES):

THE FUNERAL SERVICE AND MERCHANDISE PURCHASED UNDER THIS AGREEMENT

A. A funeral service which includes arrangements and supervision of details, local transfer of the body and transportation for interment within a 30 mile radius of the Home, professional care of the body, use of chapel, state room, preparatory room and other applicable facilities, use of funeral coach and other customary funeral vehicles, and other directional services \$ _____
 Other remarks (_____)

C. An Outside Enclosure of General Description (_____) \$ _____

D. Other (_____) \$ _____

B. A Casket of General Description (_____) \$ _____

E. TOTAL (For Service and Merchandise) \$ _____

1. Total (For Service and Merchandise) \$ _____

2. Less Pre-Arranged Allowance \$ _____

3. Sub-Total (See General Conditions, Payment) \$ _____

4. Plus Non-Refundable Counselor's Commission (See Irrevocable Status, Paragraph III) \$ _____

5. Total Contract Price (Equals 'At-Need' Price at Date of Contract Line 1) \$ _____

6. Less Cash Downpayment \$ _____

7. Unpaid Balance Due (Contract Price) \$ _____

The Purchaser agrees to pay the Home for the foregoing a total contract price (Line 7) of \$ _____ payable in _____ consecutive minimum monthly installments of \$ _____ plus a final installment of \$ _____, the first installment being payable on _____, 19____, and all subsequent installments on the same day of each consecutive month. The Purchaser shall have a (30) thirty-day grace period within which to make any of the above payments.

In the event that the Purchaser fails to make the installment payments as required in the previous paragraph, then the Home may give the Purchaser written notice of such failure and if the required payments are not brought current within ten (10) days of such notice, the Home may notify the Purchaser that a default has been declared and that all portions of this agreement which would otherwise establish a maximum price for each casket or services shall be null and void and delivery of any casket or services described herein at the potential decedent's death shall be conditioned upon the receipt by the Home of an agreement from a responsible party to pay to the Home the difference between the amount on deposit and the trust amount, including accrued interest and/or dividends, and the price of the casket as of the date of such delivery plus applicable sales tax. Absent such an agreement, the total of the payments plus any interest or dividends paid on said payments by the Trustee will be returned to the Purchaser upon the potential decedent's death and no casket or services shall be required to be furnished by the Home to such potential decedent or decedents.

ADOPTION AGREEMENT

The undersigned, as the Purchaser of this Funeral Trust Agreement, acknowledges that on the 1st day of January, 1986, the Heartland Funeral Trust Fund was established under a Trust Agreement entered into between the Heartland Management Co. and The Highland Park Bank & Trust as Trustee, 2100 S.E. 29th Street, Topeka, Kansas 66605.

The undersigned has reviewed the terms and provisions of the Trust Agreement, and understands the provisions and agrees to become a participant and member of such Trust Agreement effective as of this date. The undersigned further understands that the Trust is irrevocable and that the undersigned is bound by all its provisions, and that upon request the undersigned may receive a complete copy of the Trust Agreement at any time.

By signing this Agreement, the undersigned agrees to become an Individual Settlor to the Trust Agreement which will be binding on all parties. It is the express intention of the undersigned that the signature to this Adoption Agreement binds the undersigned to the terms of the Trust Agreement in the same manner as if the undersigned had been an original party thereto.

THIS PLAN	INCLUDES (X)	DOES NOT INCLUDE (X)
Casket	_____	_____
Complete Service	_____	_____
Sales Tax	_____	_____
Clothing	_____	_____
Flowers	_____	_____
Grave Opening Charges	_____	_____
Outer Enclosure	_____	_____
Minister's Honorarium	_____	_____
Organist and Vocalist	_____	_____
Special Hairdressing	_____	_____

Signature _____ Date _____, 19____

Purchaser or Beneficiary Name _____

Purchaser or Beneficiary S.S. # _____

Street _____ Place of Birth _____

City _____ Date of Birth _____

State _____ Zip _____ Telephone _____

Counselor _____

Accepted: _____ Date _____

Funeral Home Name: _____

Address: _____

License No. _____

This irrevocable Funeral Trust Agreement (FTA) is entered into on the date and place stated by the individual designated as "The Purchaser" and the licensed funeral home designated as "The Home" for the express purpose of prepaying the Purchaser's funeral and burial expenses which are to be incurred by the Home in the performance of those services described herein. The Purchaser is depositing money or property in trust with the Trustee which is to be held and invested by the Trustee until the Home performs the services described herein at which time the money or property deposited and all interest earned is to be paid to the Home as payment for the services to be provided under this FTA.

I. GOVERNING LAW

The FTA is governed by and established pursuant to Kansas Statutes Annotated 16-301, et seq., as amended, effective as of July 1, 1982, and as may later be amended, and will be construed in accordance with and governed by the laws of the State of Kansas.

II. TRUST AGREEMENT

The funds payable by the Purchaser will be delivered by the Home to the Trustee to be held under a Trust Agreement in effect with the Trustee and established on the 1st day of January, 1986. The Trust Agreement requires that a separate Sub-Trust Account will be established for each FTA between The Heartland Funeral Trust and a Home; that the accounts of all Purchasers establishing FTA's will be commingled and invested and that all income derived from investments will be added periodically on a prorata basis to each Sub-Trust Account; that the money originally deposited and interest earned thereon will be paid to the Home when it provides evidence satisfactory to the Trustee that it has performed the funeral and burial services described herein; and that the Trustee may receive from interest earned on the commingled funds, its reasonable compensation for services.

III. IRREVOCABLE STATUS

It is agreed and understood that, except for a change in the designation of the Home or the provisions of additional services both as provided herein, both this Agreement and the Trust Agreement are irrevocable and may not be revoked, altered, amended or terminated in any respect. The monies received by the Home in payment of the contract price shall first be applied to the Non-Refundable Counselor's Commission until paid in full. The remaining installments and the monies paid will be irrevocable only as to the first \$2,000.00 of the funds so paid plus any interest and earnings accumulated thereon. The Counselor's Commission

does not constitute payment for services or merchandise required to be furnished by the Home.

IV. GENERAL CONDITIONS

1. DESCRIPTION OF SERVICES The professional services, facilities, equipment and merchandise to be provided by the Home in the performance of this FTA and those as shown, attached, if applicable.

2. SUBSTITUTION OF MERCHANDISE If the merchandise selected by the Purchaser is no longer available at the time the services are to be provided, the Home may substitute merchandise of equal or better quality.

3. PAYMENT The payment made by the Purchaser for Services and Merchandise (Item 3), constitutes payment in full for all services to be provided by the Home. All interest on the money deposited to Purchaser's Sub-Trust Account will accrue to it and shall inure to the Home to cover all costs incurred by the Home in the performance of the services required of it hereunder. In the event there is any excess amount remaining after funeral and burial services are fully performed, the excess amount is to be paid to the personal representative of the Purchaser's estate or those persons designated as the Purchaser's heirs-at-law by the court having jurisdiction of the Purchaser's estate. Further, in the event no personal representative of the Purchaser's estate is appointed within the period allowed by law, the Home shall deliver any excess amount to the Trustee to be placed in and held in the Excess Trust Account established in the Trust Agreement, and disposed of in accordance with the terms thereof.

4. UNPAID BALANCE In the event the death of the Purchaser occurs before the total contract has been paid, the above services and merchandise will be provided by the Home upon payment of the remaining balance of the total contract or upon completion of satisfactory supplemental arrangements.

5. COMPLETE AGREEMENT This FTA constitutes the complete agreement as between these parties and including, by execution of the Adoption Agreement, the Trust Agreement. By execution, the Purchaser acknowledges receipt of this Agreement and that no further notification concerning it is necessary or required.

It is understood by the parties hereto that if the costs of an individual casket increase, the Home may, at its option, increase the price of the casket; provided, however, that in the event the contract price has been paid in full and there has not been a default, any increase in the price of a casket shall not increase the contract price which has been

paid in payment to the terms of this agreement; but any such increase in the price of a casket shall be deducted from the accumulated interest or dividends credited to the Trust Account.

In the event that a default has been declared, then the default provisions of this agreement shall govern and no maximum price shall be considered as having been established.

It is agreed that the funeral trust established under this agreement is the only funeral trust in existence established by and for the benefit of only the Purchaser and may not be assigned. Further, the Home warrants that this Agreement exists only for the purpose of providing for a plan and method of prepayment of the Purchaser's funeral and burial expenses and not for any other reason including qualification for any statutory benefit existing by virtue of state or federal law.

It is agreed that the Purchaser may, during his or her lifetime, change the description of the funeral or burial services to be provided by the Home, or may add to the principal of the Sub-Trust Account or the Purchaser's estate such additional funds as may be necessary to cover the cost of expanded funeral or burial services expressly selected by the Purchaser. Provided, however, the Home shall not have any right to withdraw income from or reduce the account balance of the Purchaser's Sub-Trust Account for any reason up to the first \$2,000.00 of the funds paid plus any interest and earnings accumulated under this Agreement. Any amounts over and above the first \$2,000.00 of the funds paid plus any interest and earnings accumulated are completely revocable.

If the death of the Purchaser or the designated beneficiary occurs outside of the general area served by the Home, and the funeral is to be held at another city, then the Home agrees to either procure the furnishing of comparable services and merchandise by a mortuary selected or approved by the Purchaser's next-of-kin, or at the Home's option, pay over to the Purchaser's legal representative the amount standing in the name and account of the Purchaser or Trustee.

If death occurs outside of the general area, but is to be returned to the Home for the funeral, then the next-of-kin or legal representative of the decedent is responsible for the charges made by the local funeral director and the transportation charges to the Home. The Home will reimburse the next-of-kin or the legal representative of decedent for the charges for the first call and the preparation of the remains for shipment to the Home (not to exceed \$100.00).

