

Approved Ivan Sand 2/25/86
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at
Chairperson

1:30 ~~xxx~~ p.m. on FEBRUARY 19, 1986 in room 521-S of the Capitol.

All members were present except: ALL PRESENT

Committee staff present: Mike Heim, Legislative Research Department
Mary Hack, Revisor of Statutes Office
Gloria M. Leonhard, Committee Secretary

Conferees appearing before the committee:

Mike Heim, New Legislation
Rep. Elaine Hassler, HB 2332
Mr. Don Moler, League, HB 2332
Mr. Harold Shoaf, Landlords of Kansas, HB 2332
Mr. Bill Dodson, Topeka Landlords Assn., HB 2332
Mr. John Peterson, Kansas Cemetery Assn., HB 2715
Mr. Dave Newcomber, D.W. Newcomber & Sons, Johnson Co.
HB 2715
Mr. Hap Blodsoe, Resthaven Gardens, Wichita, HB 2715
Mr. Sam McDonna, cemetery owner, Hutchinson, HB 2715
Mr. John Miller, AARP, Topeka, KS, HB 2715
Mr. Jim Snyder, Kansas Funeral Directors Assn.,
HB 2715
Mr. Mack Smith, Executive Dir., Kansas Board of
Mortuary Arts, HB 2715
Mr. Craig Stancliff, President, Kansas Board of
Mortuary Arts, HB 2715
Mr. Larry McElwain, Warren-McElwain Mortuary, HB 2715
Mr. Fred Rowley, Jones Funeral Home, Lebo, KS., HB 2715
Mr. Jim McGilley, McGilley & Hoge, Johnson Co.
Memorial Chapel, Overland Park, KS., HB 2715
Mr. Ren Newcomber, Funeral Home Director, Topeka, KS.,
HB 2715
Rep. Ginger Barr, HB 2715
Mr. Bill Anderson, Jo. Co. RWD #1, HB 2877

Chairman Sand called for introduction of new legislation.

Mr. Mike Heim, Staff, presented a request which had been sent to Rep. Harold Dyck from the City of Halstead. Mr. Heim said the City of Halstead has received a federal grant for flood control protection; that the city must fund a share of the project so the city is asking for a capital improvements fund to be established; that the legislation would relate only to the City of Halstead. (See Attachment I.)

Rep. Phil Kline made a motion to introduce the proposed legislation as a committee bill. Rep. Dorothy Nichols seconded the motion. The motion carried.

Chairman Sand called for hearings on the following bills:

HB 2332, concerning municipalities; relating to municipal utility services;

Rep. Elaine Hassler, a co-sponsor of HB 2332, urged the committee to support the bill.

A committee member asked if the legislation might cause a requirement of larger deposits on the part of utility companies. Rep. Hassler said the committee might want to limit such requirements.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
room 521-S, Statehouse, at 1:30 ~~xxx~~ p.m. on FEBRUARY 19, 1986

Mr. Mike Heim, Staff, reviewed HB 2332 section by section and pointed out the types of services included in the bill.

Chairman Sand asked Rep. Hassler to work with the Revisor to clarify the bill sponsors' intent.

Mr. Don Moler, League of Kansas Municipalities, said the League opposes HB 2332 and asked the committee to kill the bill. (See Attachment II.)

Mr. Harold Shoaf, representing Landlords of Kansas, said that some sections of HB 2332 need changes; that the intent of the bill was good. Mr. Shoaf introduced Mr. Bill Dodson, Topeka Landlords Association. Mr. Dodson said landlords should not be responsible for anyone else's debts.

The hearing on HB 2332 was closed.

HB 2715, relating to funeral agreements; concerning the sale of cemetery merchandise; also concerning the administration of funds;

Mr. John Peterson, representing Kansas Cemetery Assn., who had requested that the legislation be introduced, appeared in support of HB 2715.

Mr. Dave Newcomber, D. W. Newcomber & Sons, Johnson County, Kansas, urged the committee to support HB 2715. (See Attachment III.)

Mr. Hap Blodsoe, Resthaven Gardens of Memory, Wichita, Kansas, urged the committee to support HB 2715. (See Attachment IV.)

Mr. Sam McDonna, cemetery owner, Hutchinson, Kansas, urged the committee to support HB 2715. (See Attachment V.)

Mr. John Miller, Topeka, Kansas, appeared on behalf of the American Assn. of Retired Persons, in support of HB 2715. (See Attachment VI.)

Mr. Jim Snyder, representing Kansas Funeral Directors Association, appeared in opposition to HB 2715 and introduced Mr. Mack Smith, Executive Director, and Mr. Craig Stancliff, President, of the Kansas Board of Mortuary Arts. Mr. Smith testified regarding requirements for reporting of Prefinanced Funeral Agreements. (See Attachment VII.) Mr. Smith urged the committee not to amend the law; that it is not in the interest of the consumer. (See Attachment VIII.)

Mr. Larry McElwain, Warren-McElwain Mortuary, Lawrence, Kansas, urged the committee not to support HB 2715. (See Attachment IX.)

Mr. Fred Rowley, Jones Funeral Home, Lebo, Kansas, urged the committee to not support HB 2715. (See Attachment X.)

Mr. Jim McGilley, McGilley and Hoge, Johnson County Memorial Chapel, Overland Park, Kansas, testified that he supports pre-arrangement; that such choices are available under present law. (See Attachment XI.)

Mr. Ren Newcomber, Funeral Home Director, Topeka, Kansas, compared pre-need casket sales procedure under K.S.A. 16-301 with procedure under K.S.A. 16-320 and urged the committee not to support HB 2715. (See Attachment XII.)

(Also, see written testimony of John Peterson, Kansas Cemetery Association. Attachment XIII.)

Representative Ginger Barr, a cemeterian, urged the committee to look past an apparent trade war and think of the consumer when considering HB 2715.

The hearing on HB 2715 was closed.

HB 2877, concerning water districts; relating to the qualifications of the manager thereof;

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
room 521-S, Statehouse, at 1:30 ~~xxx~~ a.m./p.m. on FEBRUARY 19, 1986

Rep. Phil Kline introduced Mr. Bill Anderson, who urged the committee to support HB 2877, a local bill. (See Attachment XIV.)

The hearing on HB 2877 was closed.

The minutes of the meeting of February 18, 1986, were approved as presented.

The meeting was adjourned.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE 2-19-86

NAME	ADDRESS	REPRESENTING
Fred Rowley, Jr.	Lebo, Ks.	Myself & ^{Kansas Funeral} Directors Assn.
Bin Smith	Derby, Ks	Kansas Funeral Directors Assn.
Larry McElwain	Lawrence, Ks.	Kansas Funeral Directors
Shirley Brown	Honda, Ks	Kansas Funeral Directors
Jim McElwain	Leawood, Ks	K. F. D. A.
Richard Casselman	Haworth, Ks.	K F D A.
Jim Snyder	Topeka	K F D A
Greg Blodgett	1800 W. Hwy 54 ^{Wichita}	Cemeteries & Mortuaries -
Joe Duke	Kansas City Ks	See Cemeteries & Mortuaries
Bob McCRACKEN	TOPEKA	PRES. KANSAS CEM. ASSN.
Mrs Robert E. Mackay, Jr.	Topeka	
Beverly Cavanaugh	"	Ks. Cemetery Assn
Bob Dodson	Topeka	Landlords of Kansas
John Miller	Topeka	AARP
Harold Shroy	"	Landlords of Ks.
John Peter		Ks Cemetery Assn
Don Self	Parvix Village	Dunklewe Commissions (KCTA)
Greg A. Sanchez	Lawrence	Ks Bd of Mort. Arts
Chip Wheeler	Topeka	Funeral Directors Assn
Amelia McGill	"	"
Mack Smith	"	Ks St Bd of Mortuary Arts
Bill Anderson	Mission Ks	Water Dist No 1 of Johnson County
W.B. Damm	Topeka, Ks	J. Battenberg
Joseph R. Eaton	K. F. D.	Cemeteries of Kansas
Sam McDonough	Hutchinson, Ks	Fairlawn Burial Park assoc.
Sharon McDonough	Hutchinson, Ks	Glendale Funeral Parl

W. Newcomer

Topeka

KFDA

Brig Gen W. Keith Kettner

Salina Ks

Secy of State

Ivay

City of Halstead

303 Main, Box 147 Halstead, Kansas 67056
316-835-2286

February 11, 1986

Representative Harold Dyck
Capitol Building
Topeka, Kansas 66612

Dear Representative Dyck:

When we met with you and Senator Harder recently, in Topeka, concerning our highway project, Mr. Nierman also briefly discussed our flood control project.

Last week we got great news--President Reagan has included the Halstead Project as only one of twelve in the Country to be included for funding in his FY87 budget. That seems to mean that our project will definitely go--if we can come up with our local share. The total cost of the project is estimated to be about \$7.75 million, with the local amount approaching \$2 million.


It is our obligation to acquire land, easements, and rights of way (LERR), the cost of which will be credited toward our share of the project. As Dick discussed with you, this is the area where we could use your help.

As it is our responsibility for LERR, and since the process can take quite a while, we need to get started as soon as possible. However, current state law does not allow us to develop a fund to start this "acquisition" phase. A measure passed last year (SB75) permits a Capital Improvement Fund, but requires a well-developed, all-inclusive, multi-year capital improvement program. It was not designed nor intended to be used as a one-time "special project" situation, and we really can't develop a full program before we need to get going on this.

Therefore, as we discussed with you, perhaps a "Halstead" bill could be introduced, which would allow us to create an "up front" fund. Money spent through this fund would be credited, ultimately, toward our share of the total project. The Halstead City Council, at its January 31 meeting, voted unanimously to endorse the effort to see if a bill could be passed to address our need.

Please let us know if we can be of further help.

Sincerely,



Don Osenbaugh
City Administrator

cc: Senator Harder, Mayor Neufeld, Dick Nierman

As. Local Gov.

ATTACHMENT I
2-19-86



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL / 112 WEST SEVENTH ST., TOPEKA, KANSAS 66603 / AREA 913-354-9565

TO: Ivan Sand, Chairman and Members of the
House Local Government Committee
FROM: Don Moler, Research Attorney
RE: HB 2332
DATE February 19, 1986

The League of Kansas Municipalities opposes HB 2332. "We believe the operation and control of municipally-owned utilities, including charges and delinquency penalties, should be subject to local control. We strongly oppose any state legislative or administrative action subjecting such municipal utilities to state regulation. The authority of cities to impose liens on property for delinquent utility, sewerage and refuse charges should be continued." (From the 1985-86 Statement of Municipal Policy) This bill is a blatant assault upon the home rule powers of cities with respect to the manner by which cities regulate and administer municipal utilities. The intent of this bill obviously is to discourage cities from passing ordinances which make landlords liable for the delinquent utility accounts of their tenants. It prohibits the creation of a lien upon property for unpaid charges for municipal utility services unless the property is owned by the person requesting the utility service. The legal authority of cities to adopt and enforce ordinances which make landlords liable for their tenants' utility delinquency has long been recognized by the courts. As recently as 1983 the Kansas Supreme Court, in Cook v. City of Enterprise, upheld such an ordinance.

While landlords protest that it is unfair for a city to require them to pay for debts incurred by their tenants, the League maintains that it is certainly unfair for the city to pass the dollar loss of the delinquent utility account on to the ratepayers-at-large, particularly when it is the landlord, not the ratepayers-at-large, who is benefiting from the city's provision of utility services to the property where the delinquency arose. It should also be noted that utilities serve property, not people and it is the landlords who are benefiting from this service.

ATTACHMENT II

2-19-86

Hs. Local Gov.

Having to bear the burden of joint-liability for utility bills of tenants should be viewed as simply a cost of doing business as a landlord. That ultimate liability is a reasonable duty to impose upon landlords for two reasons: (1) Landlords obtain direct economic benefit from having the city provide their rental property with utility services. Without that service the rental property could not be leased, therefore their rental business would not exist. (2) It is the landlord, not the city, that is in the best position to "screen out" persons who are most likely to default in their utility payments. Landlords are already in a position to protect themselves without having the unfair protection offered by this legislation. Landlords can make the failure to pay a municipal utility bill a breach of the lease agreement and they can also require rental security deposits in amounts sufficient to cover the landlord's potential liability for utility bills.

The ability of cities to make landlords jointly liable for tenant utility delinquency is important. Landlords, placed on notice that they may be made jointly liable, will not only exercise care in entering into lease agreements, but will also show a continuing interest in whether or not their tenants are paying utility bills in a timely fashion.

The most telling argument against HB 2332 is that it is totally contrary to the concept of Home Rule in Kansas. Whether or not a city feels it is necessary to have joint landlord-tenant liability is a purely local policy question which can only be answered by consideration of local circumstances.

Should this legislation pass in its present form it should be anticipated that cities would act to protect themselves. One option would be to increase the security deposits required for rental property to provide more protection for cities which would no longer be able to attach the landlord's property.

A second option would be to require that landlord's personally request the utility service in their name only. It would then up to landlords to make billing arrangements with their tenants. This type of reaction is not what League or its member cities, ^{want but} should this legislation pass it will become necessary for the cities of Kansas to act in the interest of the

ratepayers-at-large who do not default on their utility bills. An example of this type of ordinance would be: "Each new customer making application for utility service shall make a cash deposit to the city. The deposit shall be a guarantee for the payment of utility services furnished to the customer's premises. Only the person who owns the property served by the utility may request such service and the service, and all utility service billings, shall be only in that person's name."

Also there seems to be some ambiguity in the requirement that "The landlord's liability for unpaid bills or charges of a tenant shall be limited to an amount equal to the amount of the security deposit required from the user of the service." Does this mean that the landlord's liability is limited to the deposit, or does it mean the landlord will pay an amount equal to the deposit required of the tenant?

Cities have a duty to their municipal utility customers who pay their bills and support the utility rate base. Delinquencies are serious problems which have the potential of raising all utility rates and threaten the viability of the utility system.

Delinquencies attributable to customers who rent their premises leave the cities most vulnerable since the renter has no real property which may be attached for payment of the bill. Therefore, it is crucial that cities retain the power to impose a lien on real property which is served by public utilities.

We ask this Committee to kill HB 2332.

D. W. Newcomer IV
Testimony before Kansas House
Committee on Local Governments

Wednesday, February 19, 1986

Mr. Chairman and Representatives:

I am David W. Newcomer IV, a resident of Prairie Village, a Kansas licensed funeral director, a Kansas cemeterian, and president of a prearrangement company that markets prearranged funeral and cemetery plans in 6 states.

I support H.B. 2715 because I believe that prearrangement helps consumers, and I also believe in the free enterprise system.

H.B. 2715 is necessary because it corrects three errors in the current preneed laws.

First it "levels out," the playing field. Presently, cemeterians may sell caskets under a more favorable law than funeral directors or others who wish to sell caskets.

The Attorney General in his opinion on the Cemetery Merchandise Law suggested that the legislature correct this imbalance. I favor allowing anyone to presell caskets who wishes to register with the Secretary of State and agrees to be audited. H.B. 2715 will create competition and help keep casket costs in line.

The opponent, the Kansas Funeral Directors Association, prefers to restrict the sales of caskets to funeral directors, and prefers this sale occur during the time of bereavement. They have sponsored legislation in the Senate, S.B. 499, which would accomplish this end.

The Wichita Eagle Beacon, the Kansas City Times, The Hutchinson newspaper, The Overland Park Sun all favor free enterprise. Various consumer groups also favor this position.

Only the funeral directors association is in opposition.

Secondly, I support H.B. 2715 because it amends the 30 year old restrictive solicitation law currently on the books.

The Federal Trade Commission held 10 years of hearings and promulgated a funeral rule that mandates open disclosure of funeral prices.

If I were to ask you if I could present information about funeral options and prices right here and now, I could lose my license to do business, because I was soliciting you. This is ridiculous. If you are not interested you merely tell me no.

If H.B. 2715 passes and I can ask you if you want to know more about funerals, and invite me to your home and purchased a plan, I would have to present you with a Federally Mandated Cancellation Form.

Hs. Local Gov.

*ATTACHMENT III
2-19-86*

Federal law allows you a cooling off period in which you have full right of rescission. You are protected from a high pressure sales job.

When was the last time you woke up feeling well and chipper and decided today is the day I'm going to go in to my local funeral director and plan my funeral.

When did you actually do it. Most people don't. It takes a gentle prodding to get most of us to act. Uniformed bereaved buy more expensive funerals than those who preplan. Funeral directors know this. That's why the KFDA endorses these anti-solicitation laws.

H.B. 2715 will help consumers receive valuable information about funerals.

Finally, I support H.B. 2715 because it saves those persons who purchase a guaranteed price funeral from the onerous tax burden caused by the current law.

Under 16-301 a person could pay more in taxes for their prepaid funeral than the original cost. Each year around the first of February we receive hundreds of complaints from consumers about taxes on their funeral plans.

These people did not believe they made an investment, they purchased a funeral. They cannot understand why they must report and pay taxes on this purchase each year.

They believe this money has already gone to the seller. Most prefer to make their plans irrevocable rather than pay the tax.

This only demonstrates that people do not preplan funerals because they expect a return on their money, or even their money returned - they only want their funeral.

The only reason any funds are placed in trust is to secure the promise to provide a funeral.

H.B. 2715 does not require that funds be withdrawn only that it is permissible to withdraw income and only for guaranteed price funerals.

If consumers actually want the income they will only purchase investment programs. However, I believe the market place should determine the products that survive.

H.B. 2715 allows a wider selection of plans which benefits the consumer.

In conclusion, I ask your support for H.B. 2715.

The Wichita Eagle-Beacon

FEBRUARY 4, 1986

Editorials/Opinion

© 1986 Wichita Eagle and Beacon Publishing Co.

Planning Ahead on Funeral Costs

NO one likes to think about death, but sooner or later, all families are touched by it. It makes sense, then, to plan ahead in making funeral arrangements.

The Kansas Funeral Directors Association is pushing legislation in Topeka, however, that would restrict all pre-need sales of caskets and other funeral materials. Currently, pre-need casket sales by funeral directors are regulated by a 1953 law that requires the consumer to put the entire retail cost of the casket in trust. The consumer must pay taxes on the trust earnings, and there is no state audit of the trust account. This law actually discourages pre-need casket sales because it often can end up costing the consumer more than buying at the time of the death of a loved one.

Cemetery owners also are involved in pre-need casket sales. They're regulated by a 1984 law that's less restrictive: 110 percent of the wholesale cost of the casket must be put in trust, and the seller — not the con-

sumer — must pay the trust tax. Further, the trust is audited by the secretary of state. The benefits to consumers — in cost, convenience and security — are much greater.

Now the funeral directors association is trying to get all pre-need casket sales regulated under the earlier, more restrictive law. This would discourage competition within the funeral industry — and consumers would pay the cost.

"We encourage pre-planning," says a Federal Trade Commission official, "because at time of need, decisions must be made in a hurry, when people are under emotional stress." Studies show families pay 20-25 percent more on funeral arrangements at the time of death.

Instead of discouraging pre-planning, the Legislature should support H.B. 2715, which was introduced at cemetery owners' request. It wisely would bring all funeral sellers under the 1984 regulations, and give consumers the incentive to plan ahead.

The Kansas City Times

A Capital Cities/ABC, Inc., Newspaper

JAMES H. HALE MICHAEL E. WALLER JAMES W. SCOTT
 Publisher and Editor and Editor,
 Chairman of the Board Vice-President Editorial Page

MEMBER OF THE ASSOCIATED PRESS

The Associated Press exclusively is entitled to use for
 republication all local news published
 herein as well as all AP dispatches
 (Copyright, The Kansas City Star Co., 1986)

Vol. 118

Tuesday, February 18, 1986

No. 140

Funeral Law in Kansas

Passion for a new funeral law has developed in Kansas. Specifically at issue are caskets and at least several million dollars a year in the state in pre-need funeral sales.

As legislative committees begin examining two proposals offered by competing interests in the battle, members must stubbornly return to a simple question: What is in the best interests of the public. "Our bill," claim both the funeral home lobby and the cemetery lobby. But any moderately sophisticated consumer would be uneasy about items on both sides. Lawmakers must do the serious study; they must make the objective judgments about what the figures and the fine print will do to people 20 years hence.

The casket question arises under how pre-arranged funeral packages will be sold. Will they remain the province of funeral directors or will the market be opened to others selling such packages, including cemetery firms? The latter must be allowed, contend proponents, if real competition is to exist. That can happen, they say, only if the amount of money required to be kept in trust is changed.

The Senate bill, S.B. 499, requires that a casket be identified as an item for which 100 percent of the retail price be set aside in trust. The income would stay in the trust until the casket is needed. The buyer pays tax due on earnings. No outside audit is required.

The House bill, H.B. 2715, identifies caskets as an item requiring that 110 percent of the wholesale price be put in trust. The seller takes the earnings, pays the taxes, and uses the difference between the trust figure and the retail price paid. The secretary of state audits the trust.

One obvious compromise that would promote competition, yet limit more reasonably how much of the consumer's money the seller can use, would be to require trusting 75 or 80 percent of the retail cost.

Lawmakers don't have to rush into a new law. Not just because enormous sums of money are involved, which they are, but because no family will escape the consequences of what the Legislature does on this.

People must demand restraint of their representatives. Ask questions. Tell personal experiences in making final arrangements. Let people quit pretending about death so someone else can make too much money from grief. Blind buying is usual because death is a most painful time for families. But it's big business for those in the industry.

Profit-making should be managed equitably so it takes the least advantage of hurting families, while doing the greatest service. Any new Kansas statute must be grounded in that principle.

THE SUN NEWSPAPERS
DAILY PUBLISHED MONDAY THROUGH SATURDAY IN JOHNSON COUNTY

Published by **SUN PUBLICATIONS, INC.**
U.S.P.S. 542920

Stan and Shirley Rose
Publishers


Stephen F. Rose
President & Co-Publisher

Judy Katz Dorothy Baum
Editor *Dir. Marketing*

7373 W. 107th
 Overland Park, Kans. 66212

Circulation Audited by	General Office	Want Ads	Circulation
	381-1010	381-1200	381-1040

VERIFIED Member Suburban Newspapers of America Represented Nationally by
Kansas Press Assn. National Newspaper Assn. U.S. SUBURBAN PRESS, INC.



Planning ahead for funerals may get setback

No one likes to think about death, but sooner or later, all families are touched by it. It makes sense, then, to plan ahead in making funeral arrangements.

The Kansas Funeral Directors Association is pushing legislation in Topeka, however, that would restrict all pre-need sales of caskets and other funeral materials. Currently, pre-need casket sales by funeral directors are regulated by a

1953 law that requires the consumer to put the entire retail cost of the casket in trust. The consumer must pay taxes on the trust earnings, and there is no state audit of the trust account. This law actually discourages pre-need casket sales because it often can end up costing the consumer more than buying at the time of the death of a loved one.

Cemetery owners also are involved in pre-need casket sales.

They're regulated by a 1984 law that's less restrictive: 110 percent of the wholesale cost of the casket must be put in trust, and the seller — not the consumer — must pay the trust tax. Further, the trust is audited by the secretary of state. The benefits to consumers—in cost, convenience and security—are much greater.

Now the funeral directors association is trying to get all

pre-need casket sales regulated under the earlier, more restrictive law. This would discourage competition within the funeral industry — and consumers would pay the cost.

"We encourage pre-planning," says a Federal Trade Commission official, "because at time of need, decisions must be made in a hurry, when people are under emotional stress." Studies show families

pay 20-25 percent more on funeral arrangements at the time of death.

Instead of discouraging pre-planning, the Legislature should support H.B. 2715, which was introduced at cemetery owners' request. It wisely would bring all funeral sellers under the 1984 regulations, and give consumers the incentive to plan ahead.

— Wichita Eagle-Beacon

MAX FUNDRAISING SECURITY PLANS, INC Max
 Profile Profile

Year	Payments	Starting Balance	Earnings	Ending Balance	Taxes Paid	Total Taxes
1	200.00	200.00	15.00	215.00	4.00	4.00
2	200.00	415.00	33.28	448.28	8.32	12.32
3	200.00	648.28	51.84	700.12	12.98	25.30
4	200.00	901.22	72.99	973.31	18.02	43.32
5	200.00	1,173.31	93.86	1,267.17	23.46	66.78
6	0.00	1,267.17	101.37	1,368.54	25.34	92.12
7	0.00	1,368.54	106.48	1,475.02	27.37	119.49
8	0.00	1,475.02	110.24	1,585.26	29.56	149.05
9	0.00	1,585.26	127.70	1,713.96	31.92	180.97
10	0.00	1,713.96	137.91	1,851.87	34.47	215.44
11	0.00	1,851.87	148.94	2,010.81	37.23	252.67
12	0.00	2,010.81	160.86	2,171.67	40.21	292.88
13	0.00	2,171.67	173.73	2,345.40	43.43	336.31
14	0.00	2,345.40	187.63	2,533.03	46.90	383.21
15	0.00	2,533.03	202.54	2,735.57	50.66	433.87
16	0.00	2,735.57	218.85	2,954.42	54.71	488.58
17	0.00	2,954.42	236.36	3,190.78	59.09	547.67
18	0.00	3,190.78	255.27	3,446.05	63.81	611.48
19	0.00	3,446.05	275.69	3,721.34	68.92	680.40
20	0.00	3,721.34	297.74	4,019.08	74.43	754.83
21	0.00	4,019.08	321.56	4,341.14	80.39	835.22
22	0.00	4,341.14	347.29	4,688.43	86.82	922.04
23	0.00	4,688.43	375.07	5,063.50	93.76	1,015.80
24	0.00	5,063.50	405.00	5,468.50	101.27	1,117.07
25	0.00	5,468.50	437.48	5,905.98	109.37	1,226.44
26	0.00	5,905.98	472.48	6,378.46	118.12	1,344.56
27	0.00	6,378.46	510.28	6,888.74	127.57	1,472.13
28	0.00	6,888.74	551.10	7,439.84	137.77	1,609.90
29	0.00	7,439.84	595.19	8,035.03	148.79	1,758.69
30	0.00	8,035.03	642.66	8,677.69	160.70	1,919.39
31	0.00	8,677.69	694.23	9,371.92	173.55	2,092.94
32	0.00	9,371.92	749.77	10,121.69	187.44	2,280.38
33	0.00	10,121.69	809.75	10,931.44	202.43	2,482.81
34	0.00	10,931.44	874.53	11,805.97	218.63	2,701.44

When You Need It



ADVANTAGES

NONE

DISADVANTAGES

1. HIGHER PRICES
2. REQUIRES CASH
3. GREAT EMOTIONAL STRAIN
4. HASTY DECISION
5. LIMITED SELECTION

SOMEDAY EVERYONE WILL HAVE TO FACE THE PROBLEM OF PURCHASING THEIR BURIAL ESTATE.

IT IS CERTAINLY **EASIER, KINDER** AND MORE **ECONOMICAL** TO DO IT TOGETHER...BEFORE THE NEED OCCURS.

Before You Need It



ADVANTAGES

1. LOWER PRICES
2. CHOICE SELECTION
3. TERMS TO SUIT
4. SELECTION MADE TOGETHER
5. PROTECTION FOR YOUR LOVED ONES AND THE PERSONAL SATISFACTION OF HAVING SOLVED THIS DIFFICULT PROBLEM

FTC closes lid on retail casket firm

By LORI DODGE
Associated Press Writer

SPRINGFIELD, Mo. (AP) — Danny Morley thought he'd come up with a novel business enterprise when he opened what he believes was the only retail casket store in the country.

But the lid slammed shut on his business after just six months, Morley said, thanks to area funeral homes and the Federal Trade Commission.

Morley said resistance from the funeral home industry and a policy switch by the FTC were to blame for the failure of Family First, the funeral accessory store he opened last summer in a shopping mall here.

Hard feelings in the industry toward Morley's business venture have also caused a sharp

decrease in sales for his 10-year-old casket-making business in nearby Republic, Mo., Morley said.

"I'm afraid people are going to hold a grudge for a long time," he said, adding that Countryside Casket Co.'s average annual casket sales had dropped from 7,000 to 2,500.

Morley's casket retail store idea came after an FTC order two years ago attempted to regulate the funeral industry, in part by requiring funeral homes to itemize their costs for customers. The FTC also said that a customer could purchase an item from a third party.

"That is the part that made it worthwhile to me," Morley said, adding that he could sell caskets for less than funeral homes did. "It was just good business. We

weren't trying to set the world on fire — just taking advantage of an opportunity."

When Family First opened, Morley expected to sell eight to ten caskets a month.

"We started off real well," he said. "Then it slowed way down and we started seeing a lot of opposition. We sat around the third and fourth months saying 'What is wrong?'"

Morley said a loophole in the FTC regulation allowed funeral home directors to pressure Family First by charging a surcharge for using items bought from a third party.

The FTC first said it would allow the surcharge as long as it wasn't a penalty, and then said it would get involved only if there was evidence of price fixing by funeral home directors.

The surcharges ranged from \$50 to \$2,000, Morley said.

"It only took a couple of weeks for the funeral directors to start using the surcharges as a club . . . to influence customers," Morley said.

Morley said he lost a number of sales because of the possibility of excessive surcharges. Finally, he said, he decided to close down permanently on New Year's Eve.

"It was a business venture that had a lot of potential on paper," Morley said. "We raised enough eyebrows and we made enough sales and showed that it can be done.

"But it has put this company in a real financial strain," he said. "I need to conform to the thinking of the mainstream of this industry. The casket industry is still my livelihood."

The Wichita Eagle-Beacon

FEBRUARY 4, 1986

Editorials/Opinion

© 1986 Wichita Eagle and Beacon Publishing Co.

Planning Ahead on Funeral Costs

NO one likes to think about death, but sooner or later, all families are touched by it. It makes sense, then, to plan ahead in making funeral arrangements.

The Kansas Funeral Directors Association is pushing legislation in Topeka, however, that would restrict all pre-need sales of caskets and other funeral materials. Currently, pre-need casket sales by funeral directors are regulated by a 1953 law that requires the consumer to put the entire retail cost of the casket in trust. The consumer must pay taxes on the trust earnings, and there is no state audit of the trust account. This law actually discourages pre-need casket sales because it often can end up costing the consumer more than buying at the time of the death of a loved one.

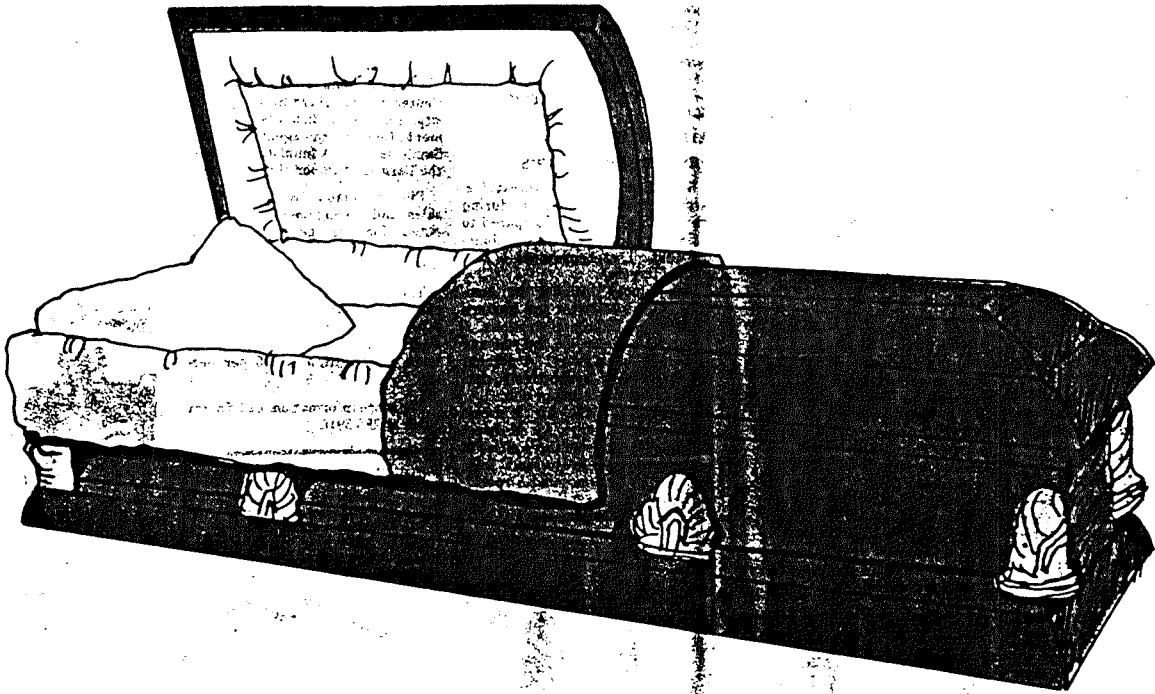
Cemetery owners also are involved in pre-need casket sales. They're regulated by a 1984 law that's less restrictive: 110 percent of the wholesale cost of the casket must be put in trust, and the seller — not the con-

sumer — must pay the trust tax. Further, the trust is audited by the secretary of state. The benefits to consumers — in cost, convenience and security — are much greater.

Now the funeral directors association is trying to get all pre-need casket sales regulated under the earlier, more restrictive law. This would discourage competition within the funeral industry — and consumers would pay the cost.

"We encourage pre-planning," says a Federal Trade Commission official, "because at time of need, decisions must be made in a hurry, when people are under emotional stress." Studies show families pay 20-25 percent more on funeral arrangements at the time of death.

Instead of discouraging pre-planning, the Legislature should support H.B. 2715, which was introduced at cemetery owners' request. It wisely would bring all funeral sellers under the 1984 regulations, and give consumers the incentive to plan ahead.



Legislature to settle funeral fury

Funeral directors, cemeterians fight over casket sales

By Jerry Maxfield
The Hutchinson News
Business Writer

Chances are you're going to have to select a casket one day, either for a loved one or for yourself as a matter of pre-planning.

Handled beforehand, it is a prudent business matter. Handled at the time of need, it can be costly.

This matter of casket sales has two separate but related groups battling in the Legislature for your business.

Both groups want to sell you caskets, but in a different manner, and the difference is significant.

On one hand is the Kansas Funeral Directors Association; on the other the Kansas Cemetery Association.

Currently two Kansas laws regulate the pre-death sale of caskets.

The Pre-Need Funeral Law of 1953 regulates the sale of caskets by funeral directors. Under this law the entire retail cost of a pre-sold casket must be placed in a trust account. This account is audited by the federal government. The buyer pays income tax on the trust earnings, and is liable for increases in casket prices from the time of purchase to the time of need.

In short, customers opting for pre-sold caskets are not buying a casket; they are merely establishing an account for their funeral expenses.

The second law, the Cemetery

Merchandise Act of 1984, regulates the sale of caskets by cemetery operators, or cemeterians.

Under this law the seller places 110 percent of the wholesale price of the casket in trust and pays the taxes on interest. The cemeterian uses the difference between the wholesale cost and retail price for administrative costs.

The trust is audited annually by the Kansas secretary of state.

When the casket is needed, the cemeterian delivers it.

Both sides are fighting for a bigger share of the market. The funeral directors are backing Senate Bill No. 499, which would prohibit cemeterians from selling caskets.

The cemeterians want to open the market further by requiring all casket sellers to operate under their present system. They are backing House Bill No. 2715.

Under the terms of this bill, anyone who agrees to place 110 percent of the casket wholesale purchase price in trust and to be audited annually can sell caskets.

Sears could then sell caskets if it wished.

"Funeral directors supported the 1983 law until they realized it allowed cemeterians to sell caskets in competition with them. Now they want to do battle," said Sam McDonough, 2401 Carey Boulevard.

McDonough and his wife, Sharon, own and operate Fairlawn Burial Park and Mausoleum.

"Right now people have a

choice. If this passes, it will go back to the restrictive 1953 law. If this gets through, it's going to put caskets in the 1953 law that was designed by the funeral directors to prevent competition," Mrs. McDonough said.

Cemeterians argue that the conditions of the 1953 law make the pre-selling of caskets unattractive for the buyer and provides no incentive for the funeral director to pre-sell.

Studies by the National Funeral Directors Association show that those buying under the emotional impact of immediate need spend an average of 20 percent more for a casket than those who have pre-purchased.

Cemeterians say the last thing funeral directors want to do is pre-sell a casket.

"Previously they built a fence to keep the competition out. Now it's got them fenced in from the broader field of competition," McDonough said.

"We're outnumbered and out-funded. There are a lot more funeral directors than there are cemeterians," he said.

Bruce Kelley, general manager of Johnson & Sons Funeral Home, 134 East Sherman, sees the issues differently.

The real issue, he says, is not casket sales but the way the money is handled under pre-sale conditions.

Kelley provided an example illustrating the differences in the two systems.

A \$1,000 pre-purchase from a

funeral director is placed into escrow 100 percent. If the account grows to \$1,500 through interest, and the purchaser cancels the contract, the entire \$1,500 is refunded.

Under the Cemetery Merchandise Law, the consumer pays the same \$1,000 for the casket. The cemeterian places \$550 — or 110 percent of the wholesale price — into an escrow account.

The remaining \$450 can be used by the cemeterian for administrative costs.

Each year the seller checks the wholesale cost. Any interest accumulated in the account could be removed by the seller.

If the purchaser makes a permanent change of residence to another state, the cemeterian ships the casket. If the purchaser moves at least 150 miles from the cemetery and wishes to cancel, the cemetery is only obligated to refund 85 percent of the \$550, or \$467.50 of the \$1,000 purchase price.

It is this difference that irritates the funeral directors.

"The cemeterians want to go door to door, and when you don't have a 100 percent law, they have that money available to pay a salesman to go from door to door. That doesn't benefit the consumer; it benefits the salesman," Kelley said.

Kelley discounts the charges that funeral directors don't want to pre-sell.

"Funeral directors in the state of Kansas have \$40 million in pre-

sales escrowed, and we certainly pre-sell at any time," he said, producing two file cabinet drawers full of signed pre-sale contracts.

Pamphlets and brochures advising pre-planning and pre-purchase are also available in the home's counseling room.

Kelley doesn't like the charge that funeral directors pressure people to buy more expensive caskets during time-of-need sales.

"That's not true. We break all charges down and show people what they are. Even under stress people will usually talk to other family members and decide what they want to spend. People can even make their own caskets if they want to," he said.

"A salesman can put more pressure on you in your own home than might happen here at time of need. It will be a stressful thing to deal with a commission salesman trying to make a sale," he said.

Regarding the monopoly aspect of the matter, Kelley says it isn't an issue.

"We're no more a monopoly than the cemeterians with the (grave) space they have to sell and the opening and closing (of the grave) charges. That's a monopoly," he said.

"I was brought up in the funeral service business. The 100 percent law is how I operate and how I can counsel with a family with a clear conscience. I don't want to have to think up gimmicks," he said.

Sam McDonough
ATTACH. II
2-19-86

Hs. Local Gov.



1985-1986
KANSAS STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mr. Morton F. Ewing
1806 Tracy Lane
Hutchinson, KS 67501
(316) 665-8767

VICE CHAIRMAN
Mr. James V. Behan
P.O. Box 339
Satanta, KS 67870
(316) 649-2960

SECRETARY
Mr. Oscar M. Haugh
1512 University Drive
Lawrence, KS 66044
(913) 843-7613

AMERICAN ASSOCIATION OF RETIRED PERSONS

House Bill 2715

Mr. Chairman, members of the Committee. I am appearing on behalf of AARP and their State Legislative Committee. The American Association of Retired Persons has 49 chapters in Kansas and we have a total membership of 256,559.

We appear today not on behalf of the cemetery industry, not on behalf of the funeral industry, but on the behalf of Kansas consumers. Although the high cost of funerals fall most heavily on senior citizens, we believe that all Kansans should be concerned about the issues you have before you.

AARP believes that competition within the funeral and cemetery industry benefits the public. Further, we believe the availability of pre-need sales benefits the consuming public and that the availability and access to information as to funeral and cemetery prices and services enhances that competition and further benefits the consuming public.

Competition within the funeral and burial industry can best aid the public through the availability of pre-need sales, when a customer is able, both emotionally and timewise to shop around, to compare prices, to make rational, unemotional decisions and plans.

Several years ago, your Legislative post audit review of the State Board of Embalming cited advantages to pre-need sales:

Such agreements provide assurance to individuals that their funeral will be conducted according to their wishes. They allow individuals and their families to make these decisions without time pressures and disorientation, and they protect survivors from making hasty decisions about funeral arrangements at a difficult time. In addition, they allow the consumer the opportunity and the time to investigate alternatives and compare prices. It is also possible that consumers

JOHN MILLER
ATTACHMENT VI
2-19-86
Hs. Local Gov.

arranging their own services would be more inclined to "cut corners" than family members who might feel guilty about such cost savings.

That report concluded that "the Kansas funeral prearrangement laws requiring 100% trust funds and prohibiting soliciting appear to be an unnecessary exercise of the State's police power, potentially restricting pre-need sales of funeral arrangements, and do not appear to protect the public. In fact, such restrictions serve to limit the availability of prearrangement and its advantages to interested consumers."

About three years ago you enacted the Cemetery Merchandise Law, K.S.A. 16-320. That law provides protection for the consumer by requiring sufficient funds to be placed in trust to insure that the customer will receive the merchandise they had purchased on a pre-need basis. In order to allow increased competition and fair competition funeral directors, marker companies and others should be allowed, if they so desire, to sell under these same provisions as cemetery corporations. It is for that reason that we support House Bill 2715.

A second provision in this bill would allow for dissemination of advertising and informational materials and solicitation by companies who want to sell pre-need plans to the public. This has been allowed for many, many years in regard to cemetery plots. Many of you may have received information. You may have been personally asked if you wanted to buy a cemetery lot. As with any other sale the consumer has the right to say no, or to buy elsewhere or to compare prices offered with those that otherwise might be available. There is always the possibility of inappropriate or improper sales tactics. That's why we enact consumer protection laws. Any such pressures can be handled better before-need than in an at-need situation where the opportunity to decline is not a viable one. The consumer making a purchase on a pre-need basis with time, with the opportunity to investigate alternatives and to comparison shop and to become acquainted with what may be unfamiliar products and services is more capable of dealing with these situations.

The final amendment deals with the payment of income taxes only on pre-need sales where the price for the funeral is guaranteed. This type of contract has a distinct advantage for many consumers. However, unless the contract is made irrevocable under 16-301, every year the consumer must pay income taxes on the interest earned by their funds in trust. The amendment would give the funeral home and the consumer another option for that type of guaranteed contract where the principal would remain in trust and the interest would be paid to the funeral home, thereby avoiding the consumer being taxed annually and then the funeral home being taxed again when it receives the funds at the time of death. Obviously it would not be mandatory that any consumer enter into this type of guaranteed price sale. You might want to include language that would require any such contract to specifically state a notice that the terms of this contract provide for interest to be paid to the funeral home and taxed to the funeral home, not the consumer. Also, you might consider adding a requirement that the seller of this type of contract must be bonded to assure ultimate delivery of the funeral service.

We urge you to vote not for one segment of an industry or another, but for the consuming public. Funeral directors may argue to you that all caskets should be sold by them, just as cemeteries may argue that all vaults and markers should be sold by them. But even if you agree with any of these arguments, should the legislature make these decisions or should it be the consumer who is allowed to make those choices. We urge you in the name of free enterprise and fair competition to allow any company so desires to sell under the same protections and obligations as the Cemetery Merchandise Act.

Thank you.

KANSAS STATE BOARD OF MORTUARY ARTS

REPORTING OF PREFINANCED FUNERAL AGREEMENTS

In accordance with K.A.R. 63-3-20, the following information concerning prefinanced funeral agreements entered into pursuant to K.S.A. 16-301 et. seq. shall accompany each funeral home's biennial application for renewal of its establishment license, as required by K.A.R. 63-3-19.

*** This first report shall include all such prefinanced funeral agreements for which any merchandise or service has not yet been rendered.

Failure of any funeral home to report as required by K.A.R. 63-3-20 shall be grounds for refusal or revocation of its establishment license.

EXAMPLE:

<u>Fun. Home Agreement #</u>	<u>Institution of Deposit</u>	<u>City</u>	<u>Bank Account #</u>	<u>Purchase Amount</u>	<u>Date</u>
1	First National Bank	Topeka	5112-367	\$1,500.00	1/1/74

The funeral home agreement shall be an individual number available at the funeral home for each separate agreement. Please list each prefinanced agreement separately as in the above example.

Extra forms are available upon request.

63-3-20. Reporting of prefinanced funeral agreement. (a) Each funeral home licensed in the state of Kansas shall report to the state board of mortuary arts, on forms provided by the board, the following information concerning prefinanced funeral agreements entered into pursuant to K.S.A. 16-301 et. seq.:

(1) The numbers which identify the accounts, in the records of the funeral home, of each purchaser of merchandise and services pursuant to those agreements.

(2) The name of each bank, trust company, savings and loan association or credit union into which each purchaser's funds were deposited and the number of each named account.

(3) The amounts of each purchase pursuant to those agreements; and

(4) The dates of those purchases.

(b) These reports shall accompany each funeral home's biennial application for renewal or its establishment license, as requires by K.A.R. 63-3-19, and any notification of the secretary of the board made pursuant to K.A.R. 6302-7(b). The reports shall include all pre-financed funeral agreements entered into by each funeral home since the last issuance of its license or since the last reports submitted under K.A.R. 63-2-7(b). The first report of each funeral home due after the effective date of this regulation shall include all such prefinanced funeral agreements for which any merchandise or service has not yet been rendered.

(c) Upon written complaint, the state board may require that a funeral home report the name and address of any purchaser and the corresponding account number described in (a) (1) above. The funeral home shall report such additional information within 10 days of having received a written request therefor by the board.

(d) Failure of any funeral home to report as required by this regulation shall be grounds for refusal or revocation of its establishment license.

ATTACHMENT VII
2-19-86
Hs. Local Gov.

Prepaid Funerals May Bring the Unwary A Lot More Grief Than Peace of Mind

YOUR MONEY MATTERS

By MARK ZIEMAN

Staff Reporter of THE WALL STREET JOURNAL

Prepaid funerals are becoming more popular, but unwary consumers are being buried by bad deals.

These plans, which allow people to pay funeral homes now for their eventual burial or cremation, are tempting for anyone who wants to spare survivors the task of making and paying for arrangements during a time of grief. The funeral industry has responded by setting up a variety of trusts and insurance programs to finance the plans.

The concept is simple and appealing: Money paid today fixes the cost of the funeral for the consumer and enables the funeral home to buy insurance or securities that will cover any cost increases.

In only a few years deposits in funeral trusts alone have reached at least \$4 billion, industry officials estimate. A fund in New Jersey is growing by nearly \$40,000 a week. Last year almost a half-million Texans were enrolled in such programs.

But while the theory may be simple and the plans popular, they aren't always safe—as 80-year-old Pauline Bagley of Lincoln City, Ore., discovered. Three years ago she paid a local mortician, Dale Omsberg, \$2,039 for her funeral arrangements. The money was supposed to earn 8% interest in a trust.

Pocketed Check

But Mr. Omsberg pocketed her check, according to local authorities. And instead of performing 50 prepaid cremations, they found that he had stacked some of the remains in the basement of his mortuary and buried others in mass graves. Mr. Omsberg pleaded guilty in January to 60 counts of theft and abuse of a corpse, was sentenced to 30 days in jail and was ordered to leave the county for five years. Mrs. Bagley got back half her money after threatening to sue him.

"Oh, it was a bitter, bitter experience," she says today. "I would like to have the assurance that my funeral expenses would be taken care of, but I would not do it that way again."

Such atrocities are the work of crooks, not the vast majority of undertakers. Yet funerals have always been expensive, and the industry has suffered repeated allegations of abuse. After decades of controversy, the federal government a year ago began regulating certain funeral costs and sales practices.

Funeral operators, including a few big, image-conscious companies, laud and de-

fend prepayment programs as a way to protect survivors when they are grieving and most vulnerable to abuse. "People have a great desire to have their funeral arrangements taken care of," says Donald Campbell, in charge of pre-arranged funerals for Houston-based Service Corp. International, the country's largest funeral-home operator. Adds David Bohardt, executive director of the National Funeral Directors Association: "You have to assume that a goodly portion of these people are probably taking money from CDs, money-markets and other accounts" to fund their funeral plans. "They must understand what's involved," he says.

But many people, particularly the elderly, don't always understand. Although most prepaid funeral trusts, insurance pro-

'I would like to have the assurance that my funeral expenses would be taken care of, but I would not do it that way again,' says a defrauded customer.

grams and installment plans are legal and safe, consumer groups note that hundreds of programs like the one that victimized Mrs. Bagley aren't controlled by state trust and insurance laws, creating the potential for fraud and abuse. And they say that subtle contract clauses and vague stipulations in prepaid funeral programs can shortchange the unwary as much as the basest scam.

Many plans, for instance, leave buyers in the lurch if the sponsoring funeral home is sold or closed. Other agreements aren't honored if the buyer dies before completing payments. Still others are canceled if the buyer relocates, which can result in big losses for the consumer. Even plans that promise a "good-faith effort" to transfer the accounts of relocated buyers to other morticians have a hitch: Undertakers in the new locations might not assume the accounts, since the original funeral homes usually retain the interest earned on them as "administrative fees."

And when the survivors don't know the terms of the plan, their loved one may wind up in a pine box instead of the oak casket that was paid for.

State trust and insurance laws governing these plans also don't adequately cover potential abuse, according to some state officials. For example, the Texas Banking Department is advocating a move to

strengthen the state's laws on prepaid funerals, claiming they have encouraged undertakers to switch money from trust funds into less-beneficial insurance policies. Through this maneuver, the department has found, some operators are pocketing interest accumulated in trust funds and putting customers into policies subject to cancellation penalties often as high as 60%.

The department is also pursuing several lawsuits, including one against a mortician in Amarillo who used prepaid funeral funds as collateral for a personal loan, then defaulted and lost his customers' money to the bank.

State laws also vary greatly in what they allow. Some states, such as New York and New Jersey, permit buyers to withdraw 100% of their payments and interest if they cancel their contracts. These states also force operators to return any unspent funds following the burial or cremation. But other states let funeral homes write irrevocable contracts, or let them keep a huge share of the payments—up to 20% in Missouri and 50% in Mississippi, for instance—if the contract is canceled.

Even in states with strong regulations, consumers pay in other ways. In states with the 100%-refund provision, for example, funeral operators tend to charge much higher rates for prepaid services.

Lower Rates

Because of the confusion, the American Association of Retired Persons urges members to get advice from an attorney before signing any prepaid plan. But some other consumer groups advocate staying away from the plans. The contracts often accumulate value at much lower rates than certificates of deposit or money-market funds, and for decades can tie up money that may be needed elsewhere, says Carol Coile, director of the Continental Association of Funeral & Memorial Societies, a Washington-based watchdog and consumer-information group. Most people, she says, are better off opening their own interest-bearing accounts or buying more life-insurance.

Meanwhile, the new federal rules make planning for funerals easier. For instance, undertakers must disclose prices over the phone, making it easier for consumers to avoid strong-arm sales tactics.

Despite the new federal laws, critics contend that some operators don't provide the required itemized account of a funeral's expense, and other morticians have used itemization to raise prices on products and services that formerly cost consumers less when they were included in package deals.

"The rules were enacted for the benefit of consumers," Ms. Coile says, "but really and truly it remains to be seen."

I feel that it is necessary to first review the recent history of trusting funeral and cemetery monies to better understand where we are today. Kansas Funeral directors are governed by trust laws that date back to about 1953 with various amendments along the way. The most recent amendment being in 1983. The legislature has amended this law to allow for the co-mingling of funds in a trust and providing irrevocable trusts for the benefit of those people going into public assistance (SRS) with the peace of mind knowing that the funds are secure for the time of need. This law requires that I as a funeral director must trust 100% of the retail cost of services and merchandise. Should the consumer move out of the area or desire to cancel the contract, they are given 100% of principal and 100% of the interest that has accrued on the account. These accounts are placed in federally insured banks, trust institutions, credit unions or savings and loans. Also, if after providing the designated services and merchandise there are funds left in the account, they are then considered part of the decedent's estate and distributed to the heirs as such. In my 14 years of experience in Kansas, I know of no family that we served that was unhappy with this arrangement. Our firm has approximately \$150,000 of trusted money at this time drawing interest in Kansas financial institutions. The revocable and irrevocable trusts have been very beneficial in allowing consumers the flexibility of locking money into the institution if they wish. In an irrevocable trust the money cannot be moved but the client can change beneficiaries of the trust at any time they desire without penalty.

The cemetery law was amended about three years ago to allow the trusting of 110% of wholesale cost on cemetery merchandise. We did not oppose that bill since up to that time there were no real trust laws on cemetery merchandise. It was not until about seven ^{months} ~~years~~ ago that we realized the loop hole in the law that was allowing two firms that are operating in Kansas to trust less than 100% of the merchandise. The cemetery law contained a general phrase at the end of the law that stated "all merchandise commonly sold or used in cemeteries" could be trusted at the 110% of wholesale cost. K.F.D.A. asked the Secretary of

State's office for a legal opinion from the Kansas Attorney General's Office.

opinion stated that the general statement "all merchandise commonly sold...." did not exclude caskets so therefore was legal. During this legal opinion process we felt that we showed adequate proof that the intent was not to include caskets implicitly or explicitly.

This difference of business practice and opinion has brought us to the legislature this year to correct the inequity in trusting funeral and burial merchandise. Senate Bill 499 which is in the Senate now deals specifically with this issue. The consumer cannot best be served when there are two laws governing the trusting of monies of the same piece of merchandise.

We have with us today several colleagues who will address our areas of concern. We wish through this testimony to make several points. I list these now for your information and as a basis for questions that you may have.

POINT #1 KFSA, its Board of Directors and these colleagues do not support the passage of House Bill 2715

POINT #2 KFSA, its Board of Directors and these colleagues feel that the cemetery laws that allow caskets to be trusted at the 110% of wholesale are not in the best interest of the consumer or the funeral director or the cemeterian. We intend to show you through example the dangers inherent in this imprudent trusting of consumer's money.

POINT #3 We do not wish to restrict who can sell any merchandise but rather how the money will be trusted to insure it is there when it is needed or if the consumer desires to cancel the contract prior to death. We want the money, regardless of the seller, to be trusted at the 100% of retail level. The money must be accounted for and the funeral director or other seller must be accountable for the consumer's funds.

POINT #4 When the funeral merchandise is trusted under 100% retail trust laws, Kansas will be able to preserve their stringent control of in-person solicitation. Cemetery corporations presently do not have any provisions in their law to control what methods can be used in selling their merchandise. We feel that the U.S.

Supreme Court case of Ohralik vs. Ohio State Bar Association decided in 1978 has as much validity now as it did then. It stated it was appropriate for states to regulate in-person solicitation. In Kansas we can now advertise in the media and through the mail but we cannot solicit in-person (ie. knocking on doors or making hospital or nursing home visits to secure business).

POINT #5 We believe that after seeing the actual comparison of the two laws, you will see the problems that are inherent. The proponents quite obviously are supporting this bill so that they can quite clearly operate under the more liberal cemetery laws. We do not want to have a choice as to which laws are in our best interest but rather we desire to operate within the current funeral merchandise laws that protect the money and therefore protect our relationship with the consumer at need or upon cancellation.

POINT #6 After reading lines 0084-0094 you will no doubt have heard the argument from the proponents of this bill that this "rake off provision" is needed to see that they are adequately compensated up front for their time and expenses in making a pre-arrangement. For the average funeral home or cemetery, pre-arrangements are made at a convenient time for both parties. Time spent in making pre-arrangements will proportionately diminish the time at-need to make arrangements. For the unusual operation where there are staff accountants, computer operators, door-to-door sellers, money managers, etc., there is not enough money on the front end to run the operation.

POINT #7 Funeral directors are eager to write pre-arrangements to secure future business. We are not eager though to enter into an agreement (110% wholesale) that will not insure adequate money at need or a satisfied consumer when only a portion of his/her money is returned upon cancellation of the contract.

POINT #8 If you allow for the passage of H.B. 2715, you will probably only affect 2-5 firms initially. You will not be affecting any municipal and township cemetery operation. Only for-profit cemetery/mortuary operations will be benefited by passage of H.B. 2715. Not one non-profit cemetery (which most cemeteries are) is involved in the passage of this legislation.

POI 9 When the smoke and dust settles after this meeting today, the real issue will remain that of protecting peoples' money and the integrity of the funeral director and the cemeterian. I urge you to not support H.b. 2715.

THANK YOU

OHRALIK vs. OHIO STATE BAR ASSOCIATION

This case dealt with an attorney who made in-person solicitation of business. The Supreme Court made it quite clear that there was no *en* entitlement to in-person solicitation of clients protected by the first amendment and distinguished it from a long line of cases permitting advertising in general. The Supreme Court of the United States indicated that it was appropriate for the various states to regulate in-person solicitation. Some of the language of the Court is interesting as the differences between free speech and solicitation are pointed out and some of the principals referred to by the Court in permitting this restriction are as follows:

1. In-person solicitation may exert pressure and often demands immediate response without providing an opportunity for comparison or reflection.
2. The aim and effect of in-person solicitation may be to provide a one-sided presentation and to encourage speedy and perhaps uninformed decision making. There is no opportunity for intervention for counter education by any agency in the affected industry to provide information to the solicited individual.
3. In-person solicitation is as likely as not to discourage persons needing a service from engaging in a critical comparison of the availability, nature and prices of services and may actually disserve the individual and societal interest identified to justify advertising of the "informed and reliable decision making."
4. Potential harm to the solicited client in the form of over-reaching, over-charging and under-representation and mis-representation.

HB 2715

FRED ROWLEY

Ms. Chairman & members of Committee
Jones Funeral Home, Inc.

Phone 256-6522

Lebo, Kansas 66856

Introduction

- Here to relate some thoughts in regard to solicitation of prearranged funerals and related items. *(Oppose Housebill 2715)*
- Favor Senate Bill #499 in that it would remove funeral merchandise from a category that would allow the sale of such merchandise under less than a 100% trust law for the funds. Under a minimum funding requirement of only 110% of wholesale cost, solicitation would run rampant in the State and would do a disservice to the consumer. *would cause many unwanted telephone calls & unwanted knock on your door* Minimum funding immediately frees up funds for salesmans commissions and extensive investments by the selling institution.
- Most solicitors are designed to sell merchandise in a cold, calculated plan to generate commissions and not necessarily to serve the consumer. I ~~personally~~ have observed lying by omission when selling to a consumer, requiring an instant decision, the wearing down and weakening of resistance of the elderly, and gaining entrance to the consumers home under false pretenses.
- Furthermore, I can't imagine that any of you would be elated to have your husband or wife tell you when you get home tonight that a salesman ~~as~~ had called and an appointment was set up for later this evening to make your funeral arrangements. I think most of us would kind of like to do our own thinking and have it be our own idea.

- Not talking about availability of pre-planning to the consumer, but the abuse of it.
Prearrangement offered in variety of ways & has been for some time.

Most funeral homes advertise it
in newspapers & radio
have handouts, ^{mailings} signs, display
in lobbies
but don't force it upon people

Uninvited
telephone calls
& uninvited
knocks on doors

FRED ROWLEY
ATTACHMENT X-A
2-19-86
Hs. Local Gov.

Jones Funeral Home, Inc.

Phone 256-6522

Lebo, Kansas 66856

In 1965, Mrs. C. Harvey Smith of Lebo, Kansas was living in Kansas City, Mo. At that time she was approached and subsequently purchased a \$950 prearranged funeral plan for herself from a company known as "Funeral Security Plans". During March of 1984 (19 yrs. later), she attempted to have this prearrangement transferred to the Jones Funeral Home of Lebo, Kansas and was told that only a portion of her original investment could be transferred and that there were no interest earnings on her behalf in the account. The amount that could be transferred was \$760. Mrs. Smith was shocked and disgusted and withdrew her \$760 from the account immediately and put it into an account of her own that would earn interest for her.

She had been told at the time of her original purchase that the account was transferrable and that it would provide the type of funeral service that she had selected.

Had Mrs. Smith purchased this same plan under the existing 100% trusted law that Kansas has at this time, she could have had an account worth approx. \$4,300 to transfer, anywhere she wished.

Wouldn't you agree that there is quite some difference between \$4,300 and \$760?

Mrs. Smith has given her consent to be contacted at 316-256-6554 for this to be verified, if need be.

This is not an isolated instance, but is the only one recently verifiable.

FRED ROWLEY
ATTACHMENT ~~X~~ B
2-19-86
Hs. Local Gov.

WHOSE NEED IS

Taken from "Mortuary Management" magazine dated November, 1985

All of funeral service is now entranced with that which is called the advent of preneed. Suddenly every aspect of the profession has come alive over the prospect of generating dollars with the development of preneed funeralization.

Just as quickly everyone has become confused over what constitutes the effective marketing of this type of product.

Fear not though, because this matter of funerals is not much different than any other American enterprise today.

With dreams of possible expansion and dollar bills dancing in the eyes of thousands of funeral entrepreneurs, the potential of development in funeral preneed seems limitless.

So too, now, do the plethora of preneed programs; legitimate, suspect, and down-right awful, being introduced by companies, organizations, and others anxious over the prospect of making a dollar.

Not only are funeral directors drooling over the prospect of nailing down additional clients and dollars in advance, those who market ideas in preneed are leading the parade of encouragement with enticing concepts to make it all a reality.

Funeral directors are being told, correctly, that the world of financial services is changing rapidly.

Then the message is that there are millions of people in our society who are interested in preneeding their funerals.

Certainly that assumption can be ratified since we now have an abundance of aging people who obviously are ripe for marketers of preneed funerals.

To further interest morticians, those people who have developed preneed programs need only to point to the advent of HMO'S in health-care and medicine.

That always pricks up the ears of those who are caregivers. It gives greater credibility to be placed in the company of medicine and doctors.

So in what is being termed an "exciting" new age of funeral service, we're seeing a tremendous amount of maneuvering in the market place of death.

Frankly much of it is unpleasant to watch, and could be potentially dangerous to participate in by all of the parties involved.

One fact must be addressed.

Preneed funeral arrangements in an abundance of programs have been around for a long time.

For years the west coast, the south-west, and the deep south with the gulf states have matured programs.

Their markets, (the people in their areas) have been saturated with all kinds of potential for pre-arrangements.

Some have been excellent, others good, and any number of them have been awesome failures which have resulted in grim law-suits.

These failures didn't result only because monies were not placed in trust accounts; or because a particular state law did not have laws which demanded 100% trust account funding.

There have been large-scale failures of insurance companies who pinned their hopes and dreams on funeral preneed dollars.

There were those organizations who promise specific merchandise to consumers, received monies; then could not deliver for a variety of reasons.

Funeral preneed monies have been placed in financial institutions which were speculative; then collapsed.

The list goes on and on.

The history of these monetary debaucheries is not at all in the distant past.

One only has to read any professional journal monthly, or for that matter digest the contents of the daily media, to know that continued abuse of preneed funeral funds is still alive and well.

Our drive for success in business too often has overshadowed the ability of some funeral people to retain a modicum of common sense in this area of preneed.

Presently it almost appears that funeral directors are losing their potential as purveyors of preneed dollars as they are looked upon by experienced marketers as virgins ready to be plucked in an unviolated territory.

That is wrong.

It is wrong because there have been too many violations of trust in the past, and we just can't be certain that all of the preneed programs now thrust upon us will be fail-safe.

Certainly the ideal preneed program is simple in perception and execution.

Money would be given to the funeral director under contract ratified by a given state's security commission. The contract would be executed, and one hundred per-cent of the money would be placed in trust at an FDIC bank.

The account would be governed and monitored by the individual state security commission, which would have an accounting of all trust monies made to the trust company and the funeral director yearly by the trust company and the funeral director.

Finally the account would be revokable.

A second ideal situation is the institution of Preneed ON DEATH certificates of deposits. The monies and/or interest belongs solely to the person who instituted a preneed contract, and proceeds can be paid to the funeral director only at the death of the holder.

It is therefore unfortunate today that many people

PRENEED, ANYWAY!

By Tom Fisher



interested in marketing preneed funerals do not find these programs ideal.

To listen to them, better plans are available.

A better word for the hundreds of other different plans on the market today would be "speculative".

Suddenly morticians are about to become money managers, financial service advisors, even to and for the consumers.

There is entirely too much emphasis placed on **MAKING MONEY** in funeral service with preneed funding.

That, to the surprise of many, is not a **NEW THEME**.

It has been around a long time, and any number of people, mostly the consumers themselves, have gotten burned badly.

This is not a blanket condemnation of every preneed plan on funerals currently available.

Some are good.

Most preneed plans now available to us however need some fine tuning, and certainly demand prudence by the funeral director before embarking on a commitment that will affect the ultimate destiny of a given firm.

The greatest number of morticians today are a long way from being money managers.

A potentially large number of practitioners of funerals could suffer grave consequences to their business, and hurt whatever image the industry has by engaging in preneed funeralization which is less than ideal.

A rather frightening area today in preneed sales is represented by the mortician who will guarantee particular merchandise to clients at a price set when the preneed contract is signed.

One only has to recall the inflation period of 1979 - 1981 to know that merchandise in funeral service was given a blast that resulted in 50% to 100% increases in merchandise cost.

It does not take a mathematician to figure out that 10%, or even 15% interest on investments over the short term can cover that type of bump.

Then there is the matter of supply of the

merchandise.

How sound is the company? What is their history of style changes in what they supply? How is that treated in the program they offer to funeral directors? What alternative options are available within the contract offered the consumer? Can a merchandiser and/or funeral director use preneed contracts as leverage for borrowing power?

These are salient points that must be recognized by funeral directors before investing time and dollars in public relations and sales expense by joining a specific preneed group marketing funeral service today.

Damage to prestige and public confidence to funeral directors is on the line today more than at any other time in the history of American funeral service.

We do little to build confidence levels as funeral directors when we engage ourselves in the frivolous pursuit of looking to preneed as a quick fix for generating money directly into our business.

That type of thinking is permeating itself through the entire industry today.

It is far better to offer and even promote preneed service that take funeral directors and/or their agents out of the role of middle-men.

From the largest organization to the smallest funeral home in this nation today, there still is not one that can offer a program that even touches the protections offered the consumer by 100% preneed trusted funds.

For those who indicate that companies like Sears are going to enter the market-place with their own program, there is an answer.

Right now that company, along with several others who entered the financial service markets a number of years ago, have enough problems keeping their existing service going.

Be careful.

That is the best advice that can be given to funeral directors now.

Join the preneed movement, but join cautiously and with programs that will be a help, not a hindrance to you and your clients in the future.

The exercise of caution after all, is the exercise of good judgement. ■

COMMENTARY

By Bud Noakes

Taken from "Mortuary Management" magazine dated January, 1986

WHY MAKE EASY CHOICES RIDICULOUSLY COMPLICATED

There are those people in business who appear to find it easy to brush aside all religious and humanistic concepts of social responsibility and proclaim, without suffering noticeable pangs of conscience, that making a profit is not only the proper objective of conducting business but is the only worthwhile objective, no matter the kind of business.

Supposedly those who assume the roll of professionals, or lay some claim to being at least semi-professionals, have traditionally been bound to a rather strictly imposed set of obligations called ethics. While each profession may specify rules and standards of conduct governing their own particular field of endeavor, in all such codes of practice one may observe statements articulating a body of moral principals and values to which its members must freely and willingly agree to be bound.

I have never heard of any funeral director's organization that did not have a code of ethics, usually printed on parchment, for its members to subscribe to and pledge to follow. That seems well and good. The trouble is that we are now seeing, in all too many instances, examples of what may be defined as 'ethical relativism,' which is the view that moral standards and principals are relative to the nature of the particular situation in which they exist and allow no outside criticism or evaluation.

I am particularly distressed by the corrosion of ethical standards we now see in our profession with regard to preneed financing. If there is one thing practically all funeral directors agree upon it is that making preneed funeral arrangements is a very good thing for both funeral service as a whole and the public in general. But beyond that basic point of agreement the road becomes rocky in the extreme. Too many funeral director/business people have rationalized their ethical standards to the point where they now feel quite

comfortable doing some perfectly horrible things with other people's money.

Many states have laws requiring that every cent of money paid toward mortuary expenses in advance of need, be 100% trusted. THAT IS GOOD! I believe this is exactly as it should be. But there are states that are considering various regulations and legislation that would allow funeral directors accepting preneed money to bleed off ALL the interest funeral funds entrusted to them earn.

THAT IS EVIL! Needless to say, such funds do not grow along with the forces of inflation and when the trustor dies several years in the future, the money left in the trust has remained the same as to the number of dollars; dollars which have lost a good deal of the buying power they were worth when the money was originally deposited 6, 8, 10, 12, or more years previously. In order to gain access to the earnings of the pre-paid funeral funds, the funeral director has to go through the motions of claiming to guarantee to provide the items of service and merchandise at some future date. When the death occurs, these specified services and merchandise (as outlined in the Federal Trade Commission-mandated general Price List) must be provided. Of course, there is a serious question as to whether any funeral director can provide on a regular basis, services and merchandise at prices that had been in effect 6, 8, 10, 12, or more years earlier.

If they find this financially impossible, the original trustor, in all probability will not receive the services and merchandise he or she had paid for in good faith many years ago. And in many cases there will be no one for the bereaved family to turn to for satisfaction.

In California, with the largest population of any of the fifty states, we have the fewest number of mortuaries per capita. We have lost about three

(Continued on page 16)

EDITORIAL

Continued from page 5

service business to sustain. Many owners are now faced with the challenge to fairly evaluate their property, and make the decision to continue in funeral service knowing of the inequity, or make changes which will be more cost/profit effective.

Fairness in wages to staff members can be a constant challenge. Moving from full time personnel, and the respective obligations of appropriate health insurance and other benefits, to part-time, at-need call-in assistance is being utilized more often than in the past. Professional services, such as embalming, is being utilized on a per case basis with noted economical benefits.

The challenge for 1986 is to become keenly aware of property and equipment values, growth potential, and profitability. A well supported understanding of where we are in 1986 may well be a primary factor in making wise decisions towards a successful future. **M**

COMMENTARY

Continued from page 7

mortuaries per month during each of last four years. There are many reasons for this phenomena; some mortuary property has simply gotten too valuable to operate as a funeral home. Getting qualified employees has proved to be so difficult some funeral directors have just decided to quit trying to run a business 24 hours a day with employees that want to work forty hour-weeks. The increase in not only direct cremation, but simplified funeral services, has had severe consequences in gross income. Then there are mergers, acquisitions, and deaths of owners/operators among other reasons for business terminating or at least changing their form of operation. All of which means that very very few mortuaries can be assured of continuing to be in

business many years in the future. And if the owners themselves cannot be so assured, how could it be possible to guarantee people making and pre-paying for their own funeral services that they may rest assured they will eventually get what they paid for? In my opinion they can't unless the money is deposited in Federally insured Savings and Loan Association Trust accounts and all of the interest is allowed to accrue to the original corpus as a hedge against

inflation. The consultation and detailed pre-planning of a person's funeral services requires the time and expertise of very well qualified funeral service personnel. It seems reasonable to me that a mortuary should at least have the option of making a charge for the services involved at the time of making detailed pre-arrangements but, other than that, all the earnings of the trust should be left intact.

The choice is really quite simple. Do you believe in good or evil? **M**

Jensen's Business Sales

LICENSED REAL ESTATE BROKERS

'FLOYD'

'GENE'

OFFERS

35416 FIRLOK PARK BOULEVARD
ST. HELENS, OREGON 97051
Telephone: (503) 397-5321

515 N. HUNTER STREET
STOCKTON, CALIFORNIA 95202
Telephone: (209) 466-0525

CALIFORNIA COAST: Long established mortuary on large valuable lot. Building extensively redorated recently. Living quarters within. Rentals included for a total price of \$695,000. Terms negotiable. Owner wishes to retire.

INTERMOUNTAIN MORTUARY: Small town business with a branch in neighboring community. Low volume, but all quality sales. One of the two buildings has very good living quarters. All real property, equipment, cars, caskets and furnishings included in the asking price of \$295,000. No competitor in area.

METROPOLITAN MORTUARY: Predominately black business with good volume and cash flow. Good modern building with parking. Two small apartments included for living quarters. Selling price includes all equipment, vans, caskets and real property. This can be handled on an SAB loan.

SMALL TOWN MORTUARY: Coastal community with NO competitor in the area. This 90 case business has good cash flow on high average sales. A very good building with an adjacent three bedroom home for \$350,000. Price includes the business, furnishings, car, caskets. Most of the balance assumable at only 9%.

NORTHWEST BUSINESS: A 75 case business for a total selling price of just \$110,000. Business includes furnishings, equipment, cars and lease with option on a very good building with a large 3 bedroom apartment. Parking & beautiful grounds surround the building. No competitor in area & great potential. Low down & terms.

WESTERN FUNERAL HOME: Only one in the area with good sales on a volume of 160+ cases a year. Extensive real property included in the sales price, so sellers are looking for a substantial down payments.

" 32 years experience selling mortuaries and cemeteries...it is
our only business

DISCREET- CONFIDENT-PERSONAL SERVICE

It's Your Funeral!

Death is one of the most difficult topics to discuss, especially when you are talking about yourself or a loved one.

Planning for death is often a neglected part of life. It is easy to put off planning for the inevitable. As a matter of fact, planning a complete pre-arranged funeral is quite easy if you know the right people to consult. **And you DO have many choices.**

The Johnson County Funeral Homes listed below are capable of answering any and all questions pertaining to funeral arrangements.

There are many **decisions to be made**

regarding funeral arrangements. Not only is there a special payment plan to fit any budget, but the money you invest in your funeral is placed in a Trust Account which can and does collect interest. There are never any finance charges, and at any time before you die you can remove all of your money and the acquired interest.

MAKE SURE you know what you are buying before signing anything. Call one of these Johnson County Funeral Homes and see what they can do for you. Make an appointment. **No salesman will call or come by without you contacting them first.**

Being confident in knowing you have made the right choice is what we want. Remember, there does come a time when it is too late with no more options to choose, but It's Your Funeral.

THE AMOS FAMILY FUNERAL HOME

10901 Johnson Drive
Shawnee, Kansas

631-5566

McGilley & Hoge Johnson County Memorial Chapel

8024 Santa Fe Drive
Overland Park, Kansas

642-3565

W. L. Frye and Son Funeral Home

Loula & Cherry Streets
Olathe, Kansas

782-0582

JIM MCGILLEY
ATTACHMENT XI
2-19-86

FUNERAL DIRECTORS TRUST

Total Gross Sales

\$	1987.00	Casket
	<u>477.00</u>	Outer enclosure
	2464.00	Selling cost
	<u>x3</u>	Sales per week
	7392.00	Sales per counselor each week
	<u>x10</u>	Counselors
	73,920.00	Gross sales a week
	<u>x4</u>	Weeks
	295,680.00	Gross sales a month
	<u>x12</u>	months
	<u>3,548,160.00</u>	Gross sales a year

CEMETERIANS TRUST

Trusted 110% of Wholesale

\$	741.40	Casket
	<u>256.30</u>	Outer enclosure
	997.70	
	<u>x3</u>	Sales per week
	2993.10	
	<u>x10</u>	Counselors
	29,931.00	Trusted per week
	<u>x4</u>	Weeks
	119,724.00	Trusted per month
	<u>x12</u>	Months
	<u>1,436,688.00</u>	Trusted per year

(less 15% cancellation fee \$215,503.00 if all cancelled and/or wanted money back)

Difference \$1,081,872.00*

Less \$ 270,468.00

\$ 811,404.00

*Sales expenses would come out (average 25% or \$270,468.00)

FUNERAL DIRECTORS TRUST

Total Gross Sales

\$ 1987.00	Casket
477.00	Outer enclosure
<u>2464.00</u>	Selling cost
x3	Sales per week
<u>7392.00</u>	Sales per counselor each week
x10	Counselors
<u>73,920.00</u>	Gross sales a week
x4	Weeks
<u>295,680.00</u>	Gross sales a month
x12	months
<u>3,548,160.00</u>	Gross sales a year

CEMETERIANS TRUST

Trusted 110% of Wholesale

\$ 741.40	Casket
256.30	Outer enclosure
<u>997.70</u>	
x3	Sales per week
<u>2993.10</u>	
x10	Counselors
<u>29,931.00</u>	Trusted per week
x4	Weeks
<u>119,724.00</u>	Trusted per month
x12	Months
<u>1,436,688.00</u>	Trusted per year

(less 15% cancellation fee \$215,503.00 if all cancelled and/or wanted money back)

Difference \$1,081,872.00*

Less \$ 270,468.00

\$ 811,404.00

*Sales expenses would come out (average 25% or \$270,468.00)

INDIVIDUAL PRE-NEED CASKET SALES FORECAST

General: This model is based on selling a casket only using the trust requirements of funeral director's K. S. A. 16-301 et seq. Briefly stated, all money as well as interest and earnings shall be held for the benefit of the purchaser. As compared to selling the identical merchandise under the same terms to the consumer, however applying the trust requirements of cemeterian's K. S. A. 16-320 et seq. Seller is allowed to retain the first 35% of collections on the account, then funding the trust requirement of 110% of wholesale cost, and retaining the balance of the contract.

Casket Sale--\$1725. Batesville C-47 Silver Rose
Casket Cost--\$ 665. Effective 02/03/86
Length of Payout--5 years
Rate of Return on Investments--7% Tax Free

OTHER ASSUMPTIONS:

Average Age and Length of Maturity is based on industry average and national health statistics.

Average Consumer Age (Years) 62 / Longevity (Years) 17

Inflation Rate for Merchandise of 4.61% is based on 10 and 15 year cost history for Batesville Casket Company's 18 gauge casket wholesale cost.

The Statutory Refund is 100% of funds paid plus all accumulated earnings under Funeral Plan. The statutory refund applying the Cemetery Plan is 85% of 110% of wholesale cost of casket less administrative fees.

Consumers Economic Loss is determined as funds available from Funeral Trust based on a rate of return of investment of 7% tax free less the statutory amount of the refund upon cancellation, either Funeral Plan or Cemetery Plan.

*Ren Newcomer
ATTACHMENT XII
2-19-86
Hs. Local Gov.*

FUNERAL PRENEED PLAN
 K.S.A. 16-301 et seq

YEAR	CONSUMER'S ANNUAL PAYMENT	TOTAL RECEIVED	CUMMULATIVE AMOUNT TRUSTED @ 7%	STATUTORY REFUND	CONSUMER'S ECONOMIC LOSS	CONSUMER'S ANNUAL PAYMENT	F
1	345	345	369	369	0	345	
2	345	690	714	714	0	345	
3	345	1035	1109	1109	0	345	
4	345	1380	1532	1532	0	345	
5	345	1725	1984	1984	0	345	
6	0	1725	2123	2123	0	0	
7	0	1725	2271	2271	0	0	
8	0	1725	2430	2430	0	0	
9	0	1725	2601	2601	0	0	
10	0	1725	2783	2783	0	0	
11	0	1725	2977	2977	0	0	
12	0	1725	3186	3186	0	0	
13	0	1725	3409	3409	0	0	
14	0	1725	3648	3648	0	0	
15	0	1725	3903	3903	0	0	
16	0	1725	4176	4176	0	0	
17	0	1725	4468	4468	0	0	

TO: House Committee on Local Government

RE: "Refund Checks" under funeral vs. cemetery law

FROM: John Peterson, Kansas Cemetery Association

In his testimony, Ren Newcomer handed out a \$4,468.00 check which a customer would be statutorily entitled to under 16-301 after 17 years on a 1,725 initial purchase (his printout is attached)

Please note.

- 1) The difference occurs primarily because he uses an inflation rate on the wholesale cost of merchandise much lower than the rate of interest return. If the cost of the merchandise increased at a higher rate than interest, one could well have a totally opposite result.
- 2) 16-301 et seq. does not require any refund on the first 2,000 principal plus interest earned.
- 3) Since his example was for 1,725 plus interest earned over 17 years the consumer has a guaranteed refund if they cancell of zero, not 4,468.00.
- 4) Both laws provide mechanisms for the services to be provided by a different funeral home and for the merchandise to be delivered to a different location.
- 5) Even if the consumer were able to negotiate their funeral contract as a totally revocable one, they would have to pay taxes every year (when all they wanted to do was buy a casket now and have its availability assured).
- 6) In that case, over that same 17 years, assuming a 11% return, a consumer even in only a 22% tax bracket would have paid more in taxes than paid for the original purchase.
- 7) Customers do not buy pre-need funerals/merchandise as an investment. They buy because they want that planning taken care of. The rate of cancellation under either plan is exceedingly low. The public policy for entrusting funds is to assure that the merchandise purchased will be delivered.
- 8) If a funeral director has a better plan, they aren't required to sell under 16-320, its only an option. In our free economic system the consumer should be free to make these choices. Competition benefits the public, your constituents.

ATTACHMENT XIII

2-19-86

Hs. Local Gov.

FUNERAL PRENEED PLAN
K.S.A. 16-301 et seq

CEMETERY PRENEED PLAN
K.S.A. 16-320 et seq

FUNERAL PRENEED PLAN K.S.A. 16-301 et seq					CEMETERY PRENEED PLAN K.S.A. 16-320 et seq					
CONSUMER'S ANNUAL PAYMENT	TOTAL RECEIVED	CUMMULATIVE AMOUNT TRUSTED @ 7%	STATUTORY REFUND	CONSUMER'S ECONOMIC LOSS	CONSUMER'S ANNUAL PAYMENT	TOTAL RECEIVED	CEMETERY (SELLER'S) RETENTION	MERCHANDISE TRUST REQUIREMENT	STATUTORY REFUND	CONSUMER'S ECONOMIC LOSS
345	345	369	369	0	345	345	345	0	0	345
345	690	714	714	0	345	690	259	86	73	641
345	1035	1109	1109	0	345	1035	0	431	366	743
345	1380	1532	1532	0	345	1380	0	776	660	872
345	1725	1984	1984	0	345	1725	246	875	744	1240
0	1725	2123	2123	0	0	1725	0	913	776	1346
0	1725	2271	2271	0	0	1725	0	956	812	1459
0	1725	2430	2430	0	0	1725	0	1000	850	1581
0	1725	2601	2601	0	0	1725	0	1046	889	1712
0	1725	2783	2783	0	0	1725	0	1094	930	1853
0	1725	2977	2977	0	0	1725	0	1144	973	2005
0	1725	3186	3186	0	0	1725	0	1197	1017	2168
0	1725	3409	3409	0	0	1725	0	1252	1064	2344
0	1725	3648	3648	0	0	1725	0	1310	1113	2534
0	1725	3903	3903	0	0	1725	0	1370	1165	2738
0	1725	4176	4176	0	0	1725	0	1434	1218	2958
0	1725	4468	4468	0	0	1725	0	1500	1275	3194

WATER DISTRICT NO. 1 OF JOHNSON COUNTY



5930 Beverly — Mission, Kansas 66202
Mailing Address: P.O. Box 2921, Mission, Kansas 66201

Tel. (913) 722-3000

WATER DISTRICT NO. 1 OF JOHNSON COUNTY

HOUSE BILL NO. 2877

HOUSE LOCAL GOVERNMENT COMMITTEE

February 19, 1986

Water District No. 1 is a publicly-owned water district serving most of Northeast Johnson County. It has approximately 72,000 customers serving 225,000 persons. It is governed by a 5-member elected Board.

Water District No. 1 is the only public water district organized under 19-3501 to 19-3520, inc., and this change in 19-3510 would affect only this water district.

This change is requested to give the Board the maximum flexibility in naming a General Manager. With the growth of the water system, the District Board believes administrative ability is a primary characteristic of a manager.

The Board believes the current legislation is too restrictive and could disqualify a person who, despite lacking the specific college degrees listed in the current law, had demonstrated outstanding capability as an administrator in his or her previous position.

We refer, also, to the current Kansas statute, which is attached, setting out the qualifications for city manager in Kansas cities and suggest the recommended changes in 19-3510 are somewhat comparable.

BILL ANDERSON
ATTACHMENT XIV
2-19-86
Hs. Local Gov.

salary of members of the governing body, including the mayor, but any salary so fixed shall not exceed the sum of three thousand dollars (\$3,000) per annum for commissioners, nor more than four thousand dollars (\$4,000) per annum for the mayor of such city. Salaries so fixed shall be payable in monthly installments; in cities of the first class with a population of not more than ninety thousand (90,000), each commissioner shall receive such compensation as the governing body shall fix by ordinance but not exceeding one hundred dollars (\$100) a year, payable in monthly installments and in cities of the first class shall give the necessary bond required by cities of this class under the commission government.

History: L. 1917, ch. 86, § 6; R.S. 1923, § 12-1008; L. 1933, ch. 116, § 1; L. 1935, ch. 97, § 1; L. 1945, ch. 99, § 4; L. 1959, ch. 65, § 2; June 30.

Research and Practice Aids:

Municipal Corporations 162(1).
C.J.S. Municipal Corporations §§ 523 et seq.

12-1009. Same; meetings. The commission shall meet regularly twice a month, or oftener if the public business requires: *Provided*, That in cities of the first class the commissioners shall meet at least once a week, or oftener if the public business requires. A call signed by a majority of the commission shall be sufficient warrant for a special meeting. Regular or special meetings shall always be open to the public.

History: L. 1917, ch. 86, § 7; Feb. 17; R.S. 1923, § 12-1009.

Law Review and Bar Journal References:

Open meeting requirements in Kansas, Jerry L. Harper, 43 J.B.A.K. 257, 259, 262 (1974).

12-1010. Same; ordinances; appointment of manager. It shall be the duty of the commission to pass all ordinances needful for the welfare of the city. The commission shall provide for such offices as shall be necessary to carry out the provisions of this act and determine salaries for the same. It shall appoint a manager as hereinafter provided, and shall be responsible for his or her efficient administration of the city's business.

History: L. 1917, ch. 86, § 8; Feb. 17; R.S. 1923, § 12-1010.

Research and Practice Aids:

Municipal Corporations 129.
C.J.S. Municipal Corporations §§ 472, 473.

CASE ANNOTATIONS

1. Commissioners appoint city manager. State, *ex rel.*, v. Jacobs, 135 K. 513, 515, 11 P.2d 739.

2. Mentioned; Wichita city manager has authority to discharge fire department employees. Piper v. City of Wichita, 174 K. 590, 596, 597, 258 P.2d 253.

12-1011. Same; powers and term of manager. The administration of the city's business shall be in the hands of a manager. The manager shall be appointed by the commission, and shall hold office at the pleasure of the board.

History: L. 1917, ch. 86, § 9; Feb. 17; R.S. 1923, § 12-1011.

Research and Practice Aids:

Municipal Corporations 168.
C.J.S. Municipal Corporations § 543.

CASE ANNOTATIONS

1. Mentioned; Wichita city manager has authority to discharge fire department employees. Piper v. City of Wichita, 174 K. 590, 596, 597, 258 P.2d 253.

2. City manager duties governmental; immune from personal liability for tortious acts. Weast v. Budd, 186 K. 249, 253, 349 P.2d 912.

12-1012. Same; qualifications of manager. The manager shall be chosen solely upon the basis of administrative ability. Choice shall not be limited by any residence qualifications.

History: L. 1917, ch. 86, § 10; Feb. 17; R.S. 1923, § 12-1012.

Research and Practice Aids:

Municipal Corporations 143.
C.J.S. Municipal Corporations § 489.

CASE ANNOTATIONS

1. Mentioned; Wichita city manager has authority to discharge fire department employees. Piper v. City of Wichita, 174 K. 590, 596, 597, 258 P.2d 253.

2. Proposal to equalize firemen's salaries with policemen administrative; exception from initiative statute (12-3013). City of Lawrence v. McArdle, 214 K. 862, 871, 522 P.2d 420.

12-1013. Same; salary and bond of manager. The manager shall receive a salary to be fixed by the commission and shall give bond for the faithful performance of his or her duties in such amount as may be provided by ordinance.

History: L. 1917, ch. 86, § 11; R.S. 1923, § 12-1013; L. 1933, ch. 116, § 2; L. 1935, ch. 98, § 1; L. 1943, ch. 87, § 1; June 28.

Research and Practice Aids:

Municipal Corporations 162(1).
C.J.S. Municipal Corporations §§ 523 et seq.

CASE ANNOTATIONS

1. Mentioned; Wichita city manager has authority to discharge fire department employees. Piper v. City of Wichita, 174 K. 590, 596, 597, 258 P.2d 253.

RURAL WATER DISTRICTS

82a-620. Same; employment of labor and services. The board of any such district in this state acting in its capacity as the governing body may employ such common and skilled labor, and professional and other services, as may be necessary to the proper performance of such work or improvement as is proposed to be done within any such district, and the maintenance thereof.

History: L. 1957, ch. 540, § 9; June 29.