MAY 6, 1992

Approved [signature]

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Sen. Edward F. Reilly, Jr. at 11:00 a.m. on March 20, 1992 in Room 254-E of the Capitol.

All members were present except:
Sens. Ehrlich and McClure were excused

Committee staff present:
Emalene Correll, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
Martha Jenkins, Loyalty Management Group

Others attending: See attached list

Sen. Reilly called the meeting to order and introduced Martha Jenkins, who presented testimony on SB 771 (Attachment 1). She asked the committee to support this bill and requested it be amended to become effective upon publicaiton in the Kansas Register. Sen. Morris asked if it is supported by KCCI, and Ms. Jenkins answered that it was. Sen. Reilly told the committee the fiscal note states there is no fiscal impact. Sen. Morris moved SB 771 be amended as requested by Ms. Jenkins, and Sen. Bond seconded the motion. The motion passed. Sen. Bond moved SB 771 be passed out of committee as amended, and Sen. Morris seconded the motion. The motion passed

The committee discussed SB 703 and amendments made to it. Sen. Morris made a conceptual motion to change the language as it relates to the concessionaires, and it was seconded by Sen. Bond. The motion passed (Attachment 2). Several questions were raised concerning juvenile records, and since Dana Nelson was not present, Sen. Reilly requested that Mary Torrence work with Mr. Nelson on appropriate language and bring it back to the committee for consideration.

Emalene Correll briefed the committee on HB 2761 and amendments made by the House (Attachment 3) and on HB 2762 (Attachment 4).

The meeting adjourned at 11:55.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs DATE: MARCH 20, 1992

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Martha Jenkins	Loyalty Manag. Group	Topeka
Kim Baker	Topeka	Loyalty Management Group
John Peterson	Topeka	Anheuser Busch
[illegible]	Topeka	Ks Govt Consult
Neal Whitaker	Topeka	KBWA
Carol McDowell	Topeka	Kansas City

Attach. 1

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
TESTIMONY ON SB 771
(AMENDING THE KANSAS TRADING STAMP ACT)

MARCH 19, 1992

Mr. Chairman, Members of the Committee:

I am Martha Jenkins representing Loyalty Management Group, a Delaware Corporation, seeking to do business here in Kansas. I appear before you today to request your support of SB 771 which amends the Kansas Trading Stamp Act, specifically KSA 21-2803.

KSA 21-2801, the Trading Stamp Act, makes it unlawful for any person or business to redeem stamps, coupons or other similar devices for merchandise or cash.

KSA 21-2803 provides certain exceptions to the prohibitions found in the Trading Stamp Act. The Act does not apply to coupons redeemed by manufacturers or packers for any of their products or redemption by manufacturers or packers in cash. Secondly, it does not apply to any coupon redeemed by retailers for their own products.

SB 771 amends current law to create a third exception to the Act's prohibitions by allowing a person or business to redeem coupons or other similar devices for travel and travel related services.

I'm sure you all are familiar with various airlines' "frequent flyer" programs and some of you may even belong to a program or two. Our client, Loyalty Management Group, will be marketing a similar program called Air Miles whereby customers are awarded credits for airline miles based on purchases of travel and travel related services. This is a national program and unfortunately Kansas is one of two states that may not be able to participate due to a prohibition in the Trading Stamp Act. SB 771 subsection (c) will allow Kansans to participate in the Air Miles program.

We believe that there are now many activities such as ours taking place lawfully or otherwise in Kansas. Various bank cards and charge/credit cards offer these services to their cardholders. American Express, for example, offers a mile for dollar credit for purchases made with its card.

Att. 1
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Like the American Express program, Loyalty Management Group is in the business of brokering airlines' excess seating for purposes of crediting individuals with Air Miles based on their purchases. We want to make certain that the Air Miles program falls squarely within the excepted provisions of the Trading Stamp Act. We believe the new language under subsection (c) accomplishes this.

We believe this amendment simply clarifies the law so that programs like ours can be offered to Kansas. We would greatly appreciate your support of this measure. Thank you very much.

Att. 1
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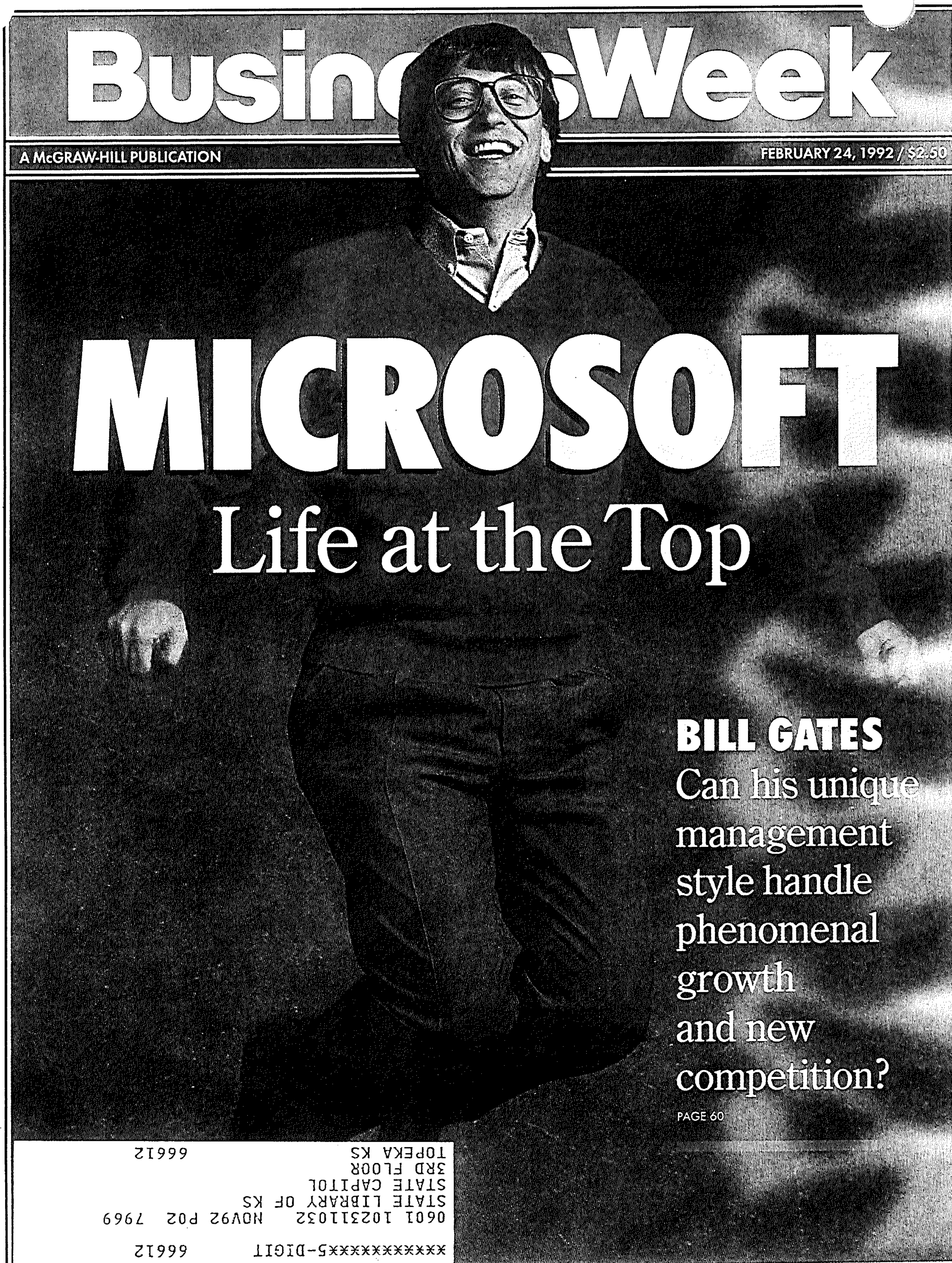
BEST MUTUAL FUNDS PART II, BOND FUNDS DEFENSE CUTS THE NEW THREAT TO RECOVERY



Att. 1
3

AIRLINES

FORGET THE GREEN STAMPS—GIVE ME A TICKET TO MIAMI

The Air Miles program lets shoppers rack up free mileage

Remember those trading stamps that stores across the country used to hand out to win shoppers' loyalty? The simple lure of exchanging them for a toaster made S&H Green Stamps and hundreds of similar programs fixtures of consumer marketing in the 1950s and 1960s.

Some Midwestern consumers can still get Gold Bond stamps, but by and large, this ploy has gone the way of *The Milton Berle Show.* Soon, though, the essence of the trading-stamp idea—an incentive that is not a price cut—will get a very visible boost. In March, Boston-based Loyalty Management Group will use a $50 million promotional and advertising campaign in the U. S. and Canada to launch Air Miles, a program that uses the promise of free travel to win shopper dollars for specific marketers. Marketing types expect big things of it. "This will have a huge impact in the '90s," says Richard G. Barlow, president of consultant Frequency Marketing Inc., which specializes in frequent-shopper programs.

Air Miles lines up one sponsor each in a range of businesses, from credit cards to gas-station chains, and retailers in separate territories. By patronizing these sponsors, consumers enrolled in Air Miles rack up "miles" that are good on United Airlines, American Airlines, USAir, or Air Canada. Air Miles buys seats from the carriers at a discount bulk rate and books members on their free flights. Air Miles gets a small percentage of every piece of business an Air Miles member gives a sponsor. It can also handle direct mail campaigns that target the heaviest spenders from Air Miles records.

Airlines have been using frequent-flyer plans since 1980, of course. But many consumers feel left out. Sara Linnie Slocum, a lighting designer in San Francisco, has belonged to four such programs over 10 years—and has never racked up enough miles for a free ticket. "I have become extremely cynical" about the programs, says Slocum.

Keith Mills, Air Miles' founder, hopes his program will banish such cynicism by bringing free tickets within the grasp of people who don't travel on business. He says customers can rack up miles by, say, using a sponsor's credit card to pay for lodging at a sponsoring hotel, then phoning home on a sponsor's long-distance service. He says a typical customer could collect enough miles in a year to win a free trip from New York to Florida. Charged with the task of enrolling consumers is Marketing Vice-President Michael A. Miles Jr., who may have marketing in his blood (box).

According to industry sources, Air Miles already has such sponsors as AT&T, Citicorp, Sears of Canada, and Time Warner, though none of those companies will comment. "By 1995," says Miles, "we'll have 2 million to 5 million consumers a year taking trips." The prospect of new customers pleases the airlines. "What's nice is, we can fill seats with a mechanism that isn't hurting pricing," says L. Anthony Bacci, a managing director at American. And since Air Miles doesn't target business travelers, it's unlikely to compete with the airlines' own frequent-flyer programs.

AIR MILES

FREQUENT-BUYER MILES

1 Air Miles signs up one sponsor each in such categories as gas-station chains, bank credit cards, and department stores

2 Consumers enroll and rack up Air Miles for free trips by buying from sponsors

3 Air Miles collects a percentage fee on the business it generates for sponsors

4 Air Miles buys discounted blocks of seats from airlines, and awards them to members in exchange for their Air Miles

DATA: COMPANY REPORTS

Those empty seats inspired the British-born Mills to dream up his plan. In 1988, the 41-year-old former adman persuaded British Airways PLC to back his idea—and fly 100 marketers to a castle in the Bordeaux region of France for a feast and sales pitch. Since then, the British Air Miles program has reached some $40 million in revenues and picked up such sponsors as Shell, IBM, and Toshiba. One sponsor, National Westminster Bank PLC, figures Air Miles has helped it win a higher share of British Visa and Access credit card transactions.

BIG PAYOFF. The U. S. market is certainly ripe for such a program. Retailers and other marketers know they have to promote their products harder than ever. But most promotions involve price cuts, which tend to erode a brand's image and encourage shoppers to switch stores and brands in quest of the best deal. And with the growth of overall consumer spending slow, keeping a customer is more important than ever. A study by consultants Bain & Co. concludes that a company that improves customer retention by 2% can boost profits as much as if it had cut costs 10%. Dozens of marketers, from Waldenbooks Inc. to Volkswagen, are trying variations on buyers' clubs to secure such loyalty.

So Air Miles has a promising formula. But will it be a winner? A lot depends on

TALK ABOUT BORN TO MARKET

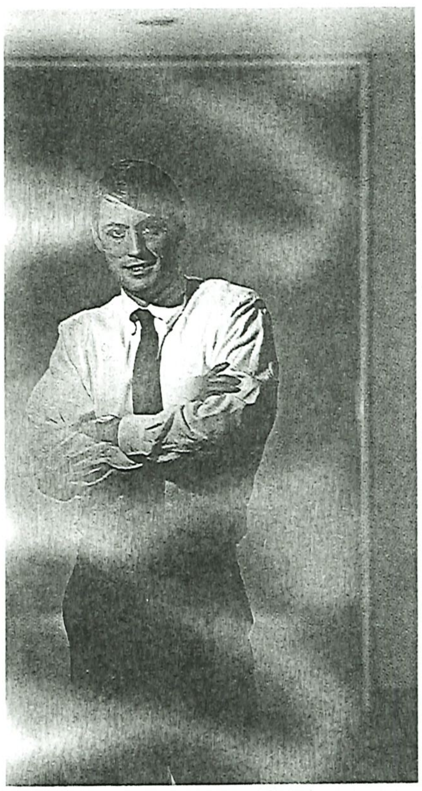
As Air Miles' marketing chief, 30-ye[ar-]old Michael A. Miles Jr. is in char[ge] of recruiting shoppers to the f[re]quent-buyer program. Educated at Yale U[ni]versity and Harvard business school, Mi[les] spent six years at consultant Bain & Co. where he worked for such clients as Saat[chi] & Saatchi—before signing on with Air Mil[es]. His father, who has always worked for lar[ge] companies, didn't think much of the mo[ve]. "He viewed my job at a startup with so[me] trepidation," says Miles Jr.

So what does dad know? Well, he's [Mi]chael A. Miles, chairman and CEO of Ph[ilip] Morris Cos. and before that a top execut[ive] at Leo Burnett, Heublein, and Kraft Gene[ral] Foods. Miles Jr. clearly learned a thing [or] two about savvy marketing at his fathe[r's] knee. He has already signed an innovat[ive] deal for Air Miles' $30 million ad laun[ch], agreeing to put all of his network ads [on] NBC. In exchange, the network is giving h[im] unusual flexibility to change the timing a[nd] content of Air Miles ads based on respon[se] to previous spots.

Att. 1
4

whether consumers find the program, which has to track mileage points from a variety of sources, easy to use. Remembering which store or brand is a sponsor could become a bother—and eventually a deterrent, says Joel C. Huber, associate professor of marketing at Duke University and a student of promotional plans. "Gradually, people come to realize what the real cost is and stop," he says. And defection among sponsors could confuse customers. Burton Group PLC, a British apparel retailer, dropped Air Miles in 1990 after concluding it wasn't a strong enough selling tool, especially in recession.

And it's not as though other programs aren't out there. You can spend money using Citibank's Visa card to rack up miles on American Airlines. Or you can use American Express to earn miles on several carriers in the Membership Miles program. U.S. Sprint Communications Co. and Holiday Inns Inc. have mileage-award programs, too.



MILES JR.: DAD HAD HIS DOUBTS

Mills figures that with a stable of up to 20 heavy-duty sponsors to start, his program will have a scope unmatched by any other loyalty plan. As for customer turnoff, he's setting up an administrative center in Florida to make the program as painless as possible. It's an impressive plan. The challenge is to make this clever version of trading stamps take wing.

By Gary McWilliams in Boston, with Mark Maremont in London

Att. 1
5

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Federal and State Affairs

Recommends that Senate Bill No. 703

"AN ACT concerning the Kansas parimutuel racing act; amending K.S.A. 77-609 and K.S.A. 1991 Supp. 38-1607, 74-8802, 74-8804, 74-8810, 74-8812, 74-8813, 74-8815, 74-8816, 74-8817 and 74-8824 and repealing the existing sections."

Be amended:

On page 5, in line 32, after "county", by inserting "or the county where a racetrack facility is located, if the order relates to activities at such facility or to a licensee or applicant who engages in or will engage in licensed activities at such facility";

On page 6, in line 27, by striking "(o)" and inserting "(s)"; in line 30, by striking "(n)" and inserting "(r)"; in line 32, by striking "(p)" and inserting "(t)";

On page 7, in line 8, after "licensee", by inserting ", except that a member, employee or appointee of the commission may own in the aggregate not more than 5% of the shares of a corporation that holds a concessionaire license or totalisator license and has shares registered under section 12 of the securities exchange act of 1934 (15 U.S.C. 78l)"; in line 39, after "licensee", by inserting ", except that an officer, director or member of an organization licensee may own in the aggregate not more than 5% of the shares of a corporation that holds a concessionaire license or totalisator license and has shares registered under section 12 of the securities exchange act of 1934 (15 U.S.C. 78l)";

On page 12, in line 37, after "adjudicated", by inserting "in the last five years";

On page 21, in line 9, after "adjudicated", by inserting "in the last five years"; in line 16, after "adjudicated", by inserting "in the last five years";

On page 24, in line 40, after"adjudicated", by inserting "in the last five years";

On page 25, in line 2, after "adjudicated", by inserting "in the last five years";

On page 27, in line 10, after "adjudicated", by inserting "in the last five years"; in line 15, after "adjudicated", by inserting "in the last five years";

On page 28, in line 39, after "adjudicated", by inserting "in the last five years,";

On page 29, in line 1, after "adjudicated", by inserting "in the last five years";

And the bill be passed as amended.

___________________________Chairperson

Att. 2
2

Attach. 3

SESSION OF 1992

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2761

As Amended by House Committee of the Whole

Brief*

As amended, H.B. 2761 retains the responsibility for the conducting of audits of prearranged funeral accounts and trusts with the Secretary of State as presently provided in K.S.A. 1991 Supp. 16-310. The Committee amendments make it clear that the Secretary of State is to conduct such audits by changing the word "may" to "shall" in directing that audits be done. The House Committee of the Whole further amended the bill to require that audits be done on a random basis and that not more than 25 audits be conducted in any one calendar year. Pursuant to the Committee amendments, the Secretary of State shall assess expenses incurred in conducting a field audit against the entity audited in an amount not in excess of $100 per day or part of a day related to a field audit. Other amendments shorten the time in which the Secretary of State may order a seller to redeposit money to a preneed account or trust if the audit reveals that funds have been improperly withdrawn. Amendments to K.S.A. 75-441 rename the cemetery and funeral audit fee fund created by the statute as the cemetery audit fee fund, make it a continuation of the existing fund, and retain existing statutory citations. Amendments to K.S.A. 75-442 add a citation to the statute that requires audits of cemetery merchandise trusts and delete references to preneed funeral agreement statutes. The effect of the latter amendments is to make the statue applicable only to audits of cemetery merchandise agreements and trusts.

Background

H.B. 2761, in its original form, was requested by the Board of Mortuary Arts and would have transferred the responsibility for auditing prearranged funeral agreement accounts and trusts from the Secretary of State to the Board of Mortuary Arts, the agency responsible for the licensing and regulation of funeral establishments that sell prearranged funeral agreements, contracts, or trusts. The bill was supported by representatives of the Board and the Kansas Funeral

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* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

Att. 3
1

Directors Association and opposed by representatives of the Kansas Cemetery Association and cemetarians who contended that the responsibility should remain with the Secretary of State who is also responsible for auditing preneed cemetery merchandise accounts and trusts. The Secretary of State's representative indicated that audits had not been conducted due to lack of clarification of the role of the Secretary of State and the Board. The representative of the Secretary of State also indicated that the existing statutory authority in regard to assessing the costs of audits does not allow the Secretary of State's office to recover the total cost of such audits.

The House Committee amendments leave the audit responsibility with the Secretary of State and make it clear that it is the intent of the legislation that audits be done by the Office of the Secretary of State. The amendments would also allow the Secretary of State to assess the full cost of audits against the entity audited.

Attach. 4

SESSION OF 1992

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2762

As Amended by House Committee on
Public Health and Welfare

Brief*

As amended by House Committee, H.B. 2762, which concerns certain types of prearranged funeral agreements, would amend K.S.A. 1991 Supp. 16-302 to create new requirements relative to the handling of payments received as a result of preneed contracts, agreements, or plans entered into under the authority of K.S.A. 16-301. Pursuant to the amendments, any funds received by a seller (funeral establishment) as payment on a prearrangement agreement, contract, or plan would have to be deposited in a bank, credit union, or savings and loan association into a separate account maintained in the name of the purchaser. A seller who accepts payment for deposit would have to require that payments be made in the form of checks, cashiers checks, or money orders payable to the financial institution in which the account is maintained and deposit such payments within seven business days after they are received.

A seller would be exempt from the new requirements relating to the form of payments and limitations on the time for depositing payments noted above if such seller maintains commercial insurance providing a minimum of $100,000 coverage against employee dishonesty. Under this alternative, the seller would have to deposit payments within 30 days of receipt. Evidence of insurance would have to be provided to the Secretary of State, the agency charged by statute with auditing prearrangement accounts, within ten days of a written request, and any funeral establishment that accepts prearrangement payments and elects to maintain insurance would be required by the amendments to file evidence of insurance with the State Board of Mortuary Arts at the time of renewal of the funeral establishment license. If such insurance lapses, is cancelled, or otherwise not maintained by the seller, the insurance carrier would be required to notify the Board and the Secretary of State.

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* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

Background

In its original form, H.B. 2762 was requested by the Board of Mortuary Arts. The Committee amendments are the result of concerns of conferees with the bill in its original form and the Committee's concerns over protecting purchasers who enter into preneed funeral arrangements.