

Approved: March 17, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Emert at 10:13 a.m. on March 13, 1997 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Mary Blair, Committee Secretary

Conferees appearing before the committee: Gerry Goodell, Probate Law Advisory Comm. Ks. Jud. Council
Representative Tim Carmody, Probate Law Adv. Comm. K.J. C
Teresa Sittenhauer, Ks. Funeral Dir. & Embalmers Asso.
Betty McBride, Director of Ks. Div. of Vehicles
Brian Vazquez, SRS

Others attending: See attached list

HB 2042 - Fiduciary security transfers, tax obligations

Conferee Goodell testified on behalf of the Kansas Judicial Council in support of **HB 2042** a bill which he stated would "correct a problem concerning sale of stock by an executor during administration of an estate." He stated that often transfers are delayed because transfer agents assume that a lien continues to apply until such time as the Department of Revenue (DOR) issues a consent to transfer or waiver. The proposed amendment would "affirmatively state that transfers made under the provisions of the uniform act are deemed to have been made in accordance with law for the purposes of the Inheritance Tax Act and, therefore, a corporation or transfer agent need not require that the estate obtain a consent from the DOR to transfer or waiver." (attachment 1) Following discussion and with no further testimony offered, the Chair closed the hearing on **HB 2042**.

HB 2055 - Nonprobate transfers of real estate

HB 2056 - Nonprobate transfers of motor vehicles

Conferee Carmody testified on behalf of the Kansas Judicial Council in support of **HB 2055** and **HB 2056**. He stated the purpose and gave a brief overview of **HB 2055**, a bill which concerns transfer of property to a designated beneficiary on death. He stated the bill would provide a clean chain of title in property records by the use of a transfer on death (TOD) form. He also covered amendments to the bill made by the House Committee which satisfy SRS needs in certain circumstances as well as a provision regarding a beneficiary who dies before the owner. (attachment 2) Conferee Carmody stated the purpose and gave a brief overview of **HB 2056**, a bill which allows the owner of a vehicle to designate a take on death (TOD) beneficiary on the title. (attachment 3) Brief discussion followed.

Conferee Sittenauer testified on behalf of the Kansas Funeral Directors and Embalmers Association in opposition to **HB 2055** and **HB 2056** in their present form. She stated that the TOD provisions "would hinder a funeral home's ability to recover funeral expenses from the estate of the deceased" and explained how this would occur. She offered two amendments to **HB 2055** and **HB 2056** which would add verbiage that would insure priority payment for funeral expenses. (attachment 4) Brief discussion followed.

Conferee McBride, Director of Division of Vehicles, appeared before the committee and presented her department's findings on a review of the requirements to implement **HB 2056**. She stated that a redesign of the certificate of title will be required, provided information on the new design including the cost to the state. (attachment 5) Brief discussion followed.

Brian Vazquez, representing SRS, testified in support of **HB 2055** as amended in the House Judiciary Committee. He stated that prior to the amendment the bill would have had a negative fiscal effect on the SRS but that the amendment insures that the agency's estate claims are protected. (attachment 6)

Following discussion with some clarification by Conferee Carmody on certain questions from the committee on **HB 2055** and **HB 2056**, and there being no further conferees, the Chair closed the hearings on **HB 2055** and **HB 2056**.

HB 2007 - Amendments to rules of civil procedure

HB 2013 - Release of federal prisoners

The Chair introduced for a vote, **HB 2007** and **HB 2013** which were heard by committee on March 12, 1997. Senator Pugh made a motion to pass **HB 2007** out favorably, Senator Schraad seconded. Motion carried. Senator Bond made a motion to pass **HB 2013** out favorably, Senator Oleen seconded. Motion carried.

Meeting adjourned at 10:45 a.m. The next scheduled meeting is Monday March 17, 1997.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 13, 1997 #1

NAME	REPRESENTING
Danielle Powell	Kingman Co.
Bethany Gore	Kingman Co.
Angie Allen	Kingman Co.
Kasey VanHusen	Kingman Co.
Shelly Hewitt	"
Richard Berkley	Cowley County, (Dexter)
Kasey L. Crow	" " "
Gerald Goodell	Judicial Council
J. M. Harrell	Judicial Council
Hallie Bennett	Marion County
Emily Costello	Marion County
Amy Hessel	Cowley County
Ambi Greene	Cowley County
Torrey L. Bush	Cowley County
Donald D. Dwyer	SRS
Hevvi Novis	Cowley County
Jennifer Novis	Cowley County
Nadia C. Piotrowsky	Franklin County
Amanda Vornauf	

KANSAS JUDICIAL COUNCIL TESTIMONY ON
House Bill No. 2042
by Committee on Judiciary
March 12, 1997

The Kansas Judicial Council supports the adoption of HB 2042 which will correct a problem concerning sale of stock by an executor during administration of an estate. Presently, K.S.A. 1996 Supp. 79-1569 provides that the inheritance tax lien:

". . . shall not affect any property after it has been sold or disposed of for value by the executors or administrators in accordance with law, and no consent to transfer issued by the director shall be required to release such lien, but in all such cases a lien shall attach to the proceeds . . ."

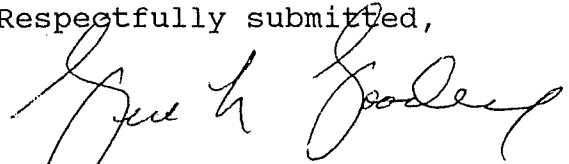
Many transfer agents take the position that they will not determine whether the transaction is "in accordance with the law" and choose to assume the lien continues to apply until such time as the Department of Revenue issues a consent to transfer or waiver. As a result, many transfers which might be accomplished pursuant to law are delayed while the estate obtains a specific release from the Department of Revenue.

HB 2042 should alleviate much of the confusion as to when a transfer is made in accordance with law. K.S.A. 17-4911 is a part of the Uniform Act for the Simplification of Fiduciary Security Transfers, an act which provides corporations and transfer agents with guidelines to follow when dealing with fiduciaries. The proposed amendment would affirmatively state that transfers made

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under the provisions of the uniform act are deemed to have been made in accordance with law for the purposes of the Inheritance Tax Act and, therefore, a corporation or transfer agent need not require that the estate obtain a consent from the Department of Revenue to transfer or waiver. This should simplify the sale of stock in an estate where the will gives the executor the power of sale or the court allows such a sale. The Department of Revenue has supported earlier versions of this bill in prior years.

Respectfully submitted,



Gerald L. Goodell
Kansas Judicial Council Member

**JUDICIAL COUNCIL TESTIMONY
ON HOUSE BILL 2055
MARCH 13, 1997**

There continues to be a great deal of public demand for means to transfer property to a designated beneficiary on death without the necessity of going through probate. At the same time, people want to retain the freedom to use the property as they wish, and they do desire the named beneficiary to have any rights in the property before they die.

House Bill 2055 is designed to permit this while allowing the owner free use of the property during life, protecting creditors of the owner and protecting people relying on the recorded title. The Council took care to protect the rights of good faith purchasers from the owner or the beneficiary after the owner's death. It also sought to prevent the need for litigation by laying out clear guidelines the public can understand. Kansas has permitted pay on death (POD) bank accounts since 1979 with no appellate litigation on their validity and very little litigation on the way they operate in conjunction with other statutes.

Subsection 1(a) allows the owner of property to record ownership of the property or an interest in property in transfer on death (TOD) form. The beneficiary becomes the owner of the property on the owner's death. It is anticipated most, if not all, transfers will be gifts. **Subsection 1(b)** allows the owner of the property to register the property in TOD form without the consent of the beneficiary, just as the consent of a will, trust or POD beneficiary is not required. Of course, the beneficiary may refuse to accept (may disclaim) the property if the beneficiary does not desire it.

Section 2 sets out a standard form for the deed which may be used. It makes it clear that the deed is revocable at any time by the owner. The beneficiary acquires no rights in the property until the death of the owner, and each new deed recorded by the owner replaces any former deed, simplifying the determination of who the beneficiary is on the owner's death. The format of the deed explains how the deed operates.

Subsection 3(a) provides the mechanism for revoking a beneficiary designation. This is accomplished by recording a new deed which describes the nature of the interest in the property being deed, such as full ownership (fee simply absolute), tenancy-in-common, or mineral rights, and revoking the interest. The consent of the beneficiary is not required, just as the consent of a beneficiary is not required to revoke a will or a pay on death account. **Subsection 3(b)** deals with changing a beneficiary designation. This is done by recording a replacement TOD deed, which supersedes prior TOD deeds. The beneficiary need not know or consent. **Subsection 3(c)** provides that the TOD designation may not be revoked by a will. This same rule also applies to POD accounts, joint tenancies and trusts.

Section 4 provides the grantee beneficiary takes the property on the owner's death, subject to all claims against the owner of the land. If the beneficiary dies before the record owner, the gift fails unless the predeceasing beneficiary is a family member of the owner and the beneficiary leaves issue (children or grandchildren, by birth or adoption). The gift does not fail but passes to the issue. This is the same rule currently applied to wills by K.S.A. 59-615.

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Section 5 deals with joint tenancies with the right of survivorship. A joint tenant may execute a TOD deed, but it is only effective if that joint tenant survives the cotenants' tenancies.

Section 6 applies the statute of frauds to the TOD deed. The owner is treated as the sole owner for the benefit of the transferees and creditors of the owner.

Section 7 provides that the transfer in accordance with the act is valid despite the statute of wills.

Section 8 makes the statute is effective on publication in the statute book, July 1 after passage.

The act will provide a clean chain of title in the property records. Later purchasers will be able to deal with the named beneficiaries who survive. As with current law, those who claim by descent may need a hearing on descent to prove their inheritance

The House Committee amended the bill by inserting provisions which specifically lists the Department of Social and Rehabilitation Services (SRS) as a creditor with rights against the owner in certain circumstances. Other changes include the provision regarding a beneficiary who dies before the owner.

JUDICIAL COUNCIL TESTIMONY
ON HOUSE BILL 2056
MARCH 13, 1997

Many members of the public desire a means to transfer ownership of motor vehicles effective at death without the need to go through probate. The disadvantage of using joint tenancy with right of survivorship is that it is presumed to create present ownership rights in the named joint tenant and may complicate insuring the vehicle. Adoption of a take on death (TOD) statute allows the owner to designate a beneficiary to whom the vehicle passes at death. It does not give the named beneficiary any interest in the vehicle while the owner is alive. The Council took care to protect the rights of the owner's creditors, and purchasers from the owner or from the beneficiary.

Section 1 enables the owner to designate a TOD beneficiary on the certificate of title. Multiple owners (joint tenants with the right of survivorship) may designate a beneficiary to take on the death of the last of the owners. A TOD beneficiary takes the vehicle on the death of the owner subject to all liens noted on the title.

Section 2 provides the means for creating TOD registration, which requires the owner's name be followed by TOD and a designation of the beneficiary.

Section 3 clarifies that the TOD beneficiary has no interest in the vehicle until the death of the designated owner(s). The designation of a beneficiary may be made, changed or revoked by the owners without the approval of the beneficiary. The beneficiary may reject (disclaim) the gift after the death of the owner(s), just as one may reject any attempted gift.

Under **section 4**, on the death of all the owner(s), title to a vehicle registered in TOD form vests in the designated beneficiary. If a subsequent application for a certificate of title has been filed, but the new title has not been issued, the subsequent filing will control. All liens on the certificate of title are valid against the beneficiary. If the beneficiary dies before the owner, the gift lapses.

Section 5 validates the TOD designation as an exception to the formalities required by the statute of wills (K.S.A. 59-606).

Section 6 amends K.S.A. 8-135 (the current statutory provision dealing with the transfer of ownership of vehicles) by adding a new paragraph 8-135(c)(10) on page 7, line 13 of the bill, to allow vehicles to be titled in TOD form. Section 7 then repeals the existing 8-135.

Section 8 provides the statute is effective on publication in the statute book, July 1 after passage.

The House Committee amended the bill to include the TOD situation in addition to present provisions of transfer or sale which fall under the transfer of ownership of vehicles. Another change is the January 1, 1998 delayed effective date.

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MEMORANDUM

TO: Chair, Senate Judiciary Committee

FROM: Teresa L. Sittenauer
Kansas Funeral Directors and Embalmers Association

DATE: March 13, 1997

RE: HB 2055, 2056

Mr. Chairman, Members of the Committee: My name is Teresa Sittenauer, and I appear today on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA). We appreciate this opportunity to testify in opposition to HB 2055 and 2056.

HB 2055 would allow an interest in real estate to be transferred via a transfer on death form. Similarly, HB 2056 would allow the nonprobate transfer of motor vehicles by naming a take on death beneficiary on the certificate of title. KFDA is opposed to these bills in their present form because the take on death provisions would hinder a funeral home's ability to recover funeral expenses from the estate of the deceased.

Many times the equity in a car or home is the only asset of value a deceased may own to cover funeral expenses. If title to real estate or a vehicle is allowed to be transferred immediately on death to a designated beneficiary, such action would reduce the value of an estate to the extent that there would be insufficient assets available to cover funeral expenses. If this occurs, the cost of burying the deceased will fall on state or county government if no family member steps forward to pay funeral expenses.

K.S.A. 59-1301, part of the probate code, provides a classification of demands upon the estate of the deceased. This means that the statute prioritizes creditors' claims in the event the assets

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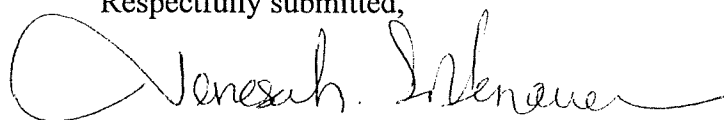
of the estate of insufficient to pay in full all of the demands made upon it. The very first priority for payment, according to the statute, is appropriate funeral expenses. The second priority is any claim by the State of Kansas for medical assistance paid under K.S.A. 39-709(e). The House committee, after hearing testimony from SRS, amended HB 2055 to state that the beneficiary of real estate via a transfer on death deed would take the property subject to the State's claim. This protects a claim that actually falls second in line, under current statute, to appropriate funeral expenses.

Funeral homes, unlike other creditors, do not perform a service for the individual until after that individual has died. This prevents funeral homes from placing a lien on real estate or motor vehicles if those items have been transferred upon death of the individual to a third party. This could prevent the funeral home from being paid for providing its vital service of a funeral for the deceased --an expense which this legislature, by statute, has recognized as a first priority claim. This priority position, like the position of the State's claim for medical assistance reimbursement, should be protected.

To ensure protection of this priority interest, we would ask that you adopt the attached amendment to both HB 2055 and HB 2056. The amendment provides that the property would transfer subject to claims for reasonable funeral expenses of the record owner if the claim is made within 30 days of death. This amendment is similar to the one requested by SRS for HB 2055 in the House committee. The two claims should enjoy the same treatment in this legislation as they currently receive in K.S.A. 59-1301.

Please do not hesitate to contact me if you have questions or need further consideration.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Teresa L. Sittenauer". The signature is written in black ink and is positioned below the typed name.

Teresa L. Sittenauer

1 death beneficiary designation revokes all prior designations of grantee
2 beneficiary or beneficiaries by such record owner for such interest in real
3 estate.

4 (c) A transfer-on-death deed executed, acknowledged and recorded
5 in accordance with this act may not be revoked by the provisions of a will.

6 Sec. 4. (a) Title to the interest in real estate recorded in transfer-on-
7 death form shall vest in the designated grantee beneficiary or benefici-
8 aries on the death of the record owner.

9 (b) Grantee beneficiaries of a transfer-on-death deed take the record
10 owner's interest in the real estate at death subject to all conveyances,
11 assignments, contracts, mortgages, liens and security pledges made by the
12 record owner or to which the record owner was subject during the record
13 owner's lifetime including, but not limited to, any executory contract of
14 sale, option to purchase, lease, license, easement, mortgage, deed of trust
15 or lien, **claims of the state of Kansas for medical assistance, as de-**
16 **defined in K.S.A. 39-702, and amendments thereto, pursuant to sub-**
17 **section (g)(2) of K.S.A. 39-709, and amendments thereto,** and to any
18 interest conveyed by the record owner that is less than all of the record
19 owner's interest in the property.

20 (c) If a grantee beneficiary dies prior to the death of the record owner
21 **and an alternative grantee beneficiary has not been designated on**
22 **the deed,** the transfer shall lapse. ~~However, if a grantee beneficiary is~~
23 ~~the spouse of the record owner or any relative of the record owner by~~
24 ~~lineal descent or within the sixth degree, whether by blood or adoption,~~
25 ~~and such grantee beneficiary dies before the record owner, leaving issue~~
26 ~~who survived the record owner, such issue shall take the same estate~~
27 ~~which the grantee beneficiary would have taken if the grantee beneficiary~~
28 ~~had survived, unless a different disposition is made by the transfer on-~~
29 ~~death deed. As used in this subsection, "issue" means offspring, progeny,~~
30 ~~or lineal descendants, by blood or adoption, in whatever degree.~~

31 Sec. 5. (a) A record joint owner of an interest in real estate may use
32 the procedures in this act to title such interest in transfer-on-death form.
33 However, title to such interest shall vest in the designated grantee ben-
34 eficiary or beneficiaries only if such record joint owner is the last to die
35 of all of the record joint owners of such interest. A deed in transfer-on-
36 death form shall not sever a joint tenancy.

37 (b) As used in this section, "joint owner" means a person who owns
38 an interest in real estate as a joint tenant with right of survivorship.

39 Sec. 6. The provisions of K.S.A. 58-2414, and amendments thereto,
40 apply to the grantor of a transfer-on-death deed.

41 Sec. 7. A deed in transfer-on-death form shall not be considered a
42 testamentary disposition and shall not be invalidated due to nonconform-
43 ity with the provisions of chapter 59 of the Kansas Statutes Annotated.

and subject to claims for the reasonable funeral
expenses for the record owner if made within 30
days of death.

HOUSE BILL No. 2056

By Committee on Judiciary

1-22

10 AN ACT concerning nonprobate transfers; relating to motor vehicles;
11 amending K.S.A. 1996 Supp. 8-135 and repealing the existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. A motor vehicle, as defined by subsection (b) of
15 K.S.A. 8-126, and amendments thereto, may be titled in transfer-on-
16 death, TOD, form by including in the certificate of title a designation of
17 a beneficiary or beneficiaries to whom the motor vehicle shall be trans-
18 ferred on death of the owner or the last survivor of the joint tenant with
19 right of survivorship owners, subject to the rights of all lien holders.

20 New Sec. 2. A motor vehicle is registered in transfer-on-death form
21 by designating on the certificate of title, the name of the owner, the names
22 of tenant in common owner or the names of the joint tenant with right
23 of survivorship owners, followed in substance by the words "transfer on
24 death to _____"
(name of beneficiary or beneficiaries)

25 Instead of the words "transfer on death to" the abbreviation "TOD" may
26 be used.

27 New Sec. 3. The transfer-on-death beneficiary or beneficiaries shall
28 have no interest in the motor vehicle until the death of the owner or the
29 last survivor of the joint tenant with right of survivorship owners. A ben-
30 eficiary designation may be changed at any time by the owner or all of
31 the joint tenant with right of survivorship owners then surviving without
32 the consent of the beneficiary or beneficiaries by filing an application for
33 a subsequent certificate of title.

34 New Sec. 4. Ownership of a motor vehicle titled in transfer-on-death
35 form, for which an application for a subsequent certificate of title has not
36 been filed, shall vest in the designated beneficiary or beneficiaries on the
37 death of the owner or the last of the joint tenant with right of survivorship
38 owners, subject to the rights of all lien holders.

39 New Sec. 5. A certificate of title in transfer-on-death form shall not
40 be considered a testamentary disposition or be invalidated due to non-
41 conformity with the provisions of chapter 59 of the Kansas Statutes An-
42 notated, and amendments thereto.

43 Section 6. K.S.A. 1996 Supp. 8-135 is hereby amended to read as

and subject to claims for the reasonable funeral
expenses for the record owner if made within 30
days of death.

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TE OF KANSAS
Bill Graves, Governor

DEPARTMENT OF REVENUE
John D. LaFaver, Secretary

Betty McBride, Director of Vehicles
Kansas Department of Revenue
Robert B. Docking State Office Building
915 SW Harrison St.
Topeka, KS 66626-0001



(913) 296-3601
FAX (913) 296-3852
TTY (913) 296-3601

Division of Vehicles

To: Honorable Tim Emert, Chairman
Senate Judiciary Committee

From: Betty McBride, Director
Division of Vehicles

Date: March 13, 1997

Re: Amended House Bill 2056

Mr. Chairman, members of the Committee, I am Betty McBride, Director of the Kansas Division of Vehicles. I appreciate the opportunity to appear before you today, regarding Amended House Bill 2056.

Passage of Amended House Bill 2056 will allow a vehicle owner to designate, on the certificate of title, a beneficiary to the vehicle upon death of the owner. The designation on the title will read "Transfer on Death" "T.O.D." to the beneficiary or beneficiaries.

The Department has reviewed the requirements to implement House Bill 2056. The findings are as follows:

- 1) Re-design of the certificate of title will be required. Currently the size and format of the Kansas certificate of title is in compliance with the American Association of Motor Vehicle Administrators (AAMVA) for uniform titling guidelines. We have samples of the title Kansas currently uses available for your review. You will note that the fields which are currently being used for required information are indicated by the X's shown on the title. In order to open a field to allow the names of a beneficiary or beneficiaries, it will be necessary to remove the second lien holder information shown on the lower front of the title. We have determined that along with the verbiage T.O.D., there would be space for no more than two names as beneficiaries, if names did not require additional lines due to length. The Division of Vehicles will need to add a new program to the Vehicle Information Processing System (VIPS), to allow the new data to be entered into the system. The Department of Revenue's Information Systems Bureau has estimated cost for program changes to be between the \$30,000 to \$40,000 range.
- 2) The Division currently purchases 1,000,000 titles each year. To re-design the title, and to avoid destroying approximately 500,000 old titles already printed and currently in storage, the implementation date was amended to Jan 1, 1998 by the House Judiciary Committee at the request of the Division.

Division procedures and requirements for decedent titles on vehicles will not change with passage of Amended House Bill 2056. The only notable change to the vehicle owner will be that T.O.D. beneficiaries will appear on the face of the title.

Mr. Chairman, I would like to thank the committee again for allowing me to present the Division of Vehicles' view regarding this issue, I would stand for questions at this time.

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DO NOT ACCEPT TITLE SHOWING ANY ERASURES, ALTERATIONS OR MUTILATIONS

Federal and Kansas law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment. Application for title must be made in the treasurer's office in the county in which the vehicle will be located.

ASSIGNMENT OF TITLE	The undersigned hereby certifies that the vehicle described in this title has been transferred to the following printed name(s) and address:	
	Name of Purchaser(s) _____ Address _____ City _____ State _____ Zip _____	
	Lienholder or Secured Party _____ Address _____ I seller(s) certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked: <input type="checkbox"/> The mileage stated is in excess of the mechanical limits of the odometer. <input type="checkbox"/> The odometer reading is not actual mileage. WARNING-ODOMETER DISCREPANCY. ODOMETER READING (No Tenths) _____ PURCHASE PRICE of the vehicle was: \$ _____ Subscribed and Sworn before me this _____ day of _____, 19____ County _____ St _____ Notary Public _____	Seller(s) must sign and hand print name to transfer ownership and certify odometer reading. Seller(s) Signature _____ Seller(s) Hand Printed Name _____ Date _____ I (buyer(s) am aware of the odometer certification made by seller(s). Buyer(s) Signature _____ Buyer(s) Hand Printed Name _____ My Commission expires the _____ day of _____, 19____ <p align="right">NOTARY SEAL HERE</p>
The undersigned hereby certifies that the vehicle described in this title has been transferred to the following printed name(s) and address:		
Name of Purchaser(s) _____ Address _____ City _____ State _____ Zip _____		
FIRST RE-ASSIGNMENT BY LICENSED DEALER	Lienholder or Secured Party _____ Address _____ I seller certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked: <input type="checkbox"/> The mileage stated is in excess of the mechanical limits of the odometer. <input type="checkbox"/> The odometer reading is not actual mileage. WARNING-ODOMETER DISCREPANCY. ODOMETER READING (No Tenths) _____ PURCHASE PRICE (Not Applicable to Dealers): \$ _____ Dealer's Name (Print or Type) _____ Dealer's Number _____ Subscribed and Sworn before me this _____ day of _____, 19____ County _____ St _____ Notary Public _____	Seller must sign and hand print name to transfer ownership and certify odometer reading. (Seller) "BY" Signature _____ (Seller) Hand Printed "BY" Name _____ (Dealer) Date _____ I buyer(s) am aware of the odometer certification made by seller(s). Buyer(s) Signature _____ Buyer(s) Hand Printed Name _____ My Commission expires the _____ day of _____, 19____ <p align="right">NOTARY SEAL HERE</p>
	The undersigned hereby certifies that the vehicle described in this title has been transferred to the following printed name(s) and address:	
	Name of Purchaser(s) _____ Address _____ City _____ State _____ Zip _____	
LAST RE-ASSIGNMENT BY LICENSED DEALER	Lienholder or Secured Party _____ Address _____ I seller certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked: <input type="checkbox"/> The mileage stated is in excess of the mechanical limits of the odometer. <input type="checkbox"/> The odometer reading is not actual mileage. WARNING-ODOMETER DISCREPANCY. ODOMETER READING (No Tenths) _____ PURCHASE PRICE (Not Applicable to Dealers): \$ _____ Dealer's Name (Print or Type) _____ Dealer's Number _____ Subscribed and Sworn before me this _____ day of _____, 19____ County _____ St _____ Notary Public _____	Seller must sign and hand print name to transfer ownership and certify odometer reading. (Seller) "BY" Signature _____ (Seller) Hand Printed "BY" Name _____ (Dealer) Date _____ I buyer(s) am aware of the odometer certification made by seller(s). Buyer(s) Signature _____ Buyer(s) Hand Printed Name _____ My Commission expires the _____ day of _____, 19____ <p align="right">NOTARY SEAL HERE</p>

STATE OF KANSAS

No Additional Re-Assignments Shall be Attached - Last Assignee Must Title in Their Name

53

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
ROCHELLE CHRONISTER, SECRETARY

SENATE COMMITTEE ON JUDICIARY
Testimony on H.B. 2055 Pertaining to Transfer on Death Deeds
March 13, 1997

SRS Mission Statement
*To provide services to Kansans in need that contribute to their safety
and promote dignity, independence and responsibility*

Mr. Chairman and members of the committee, thank you for the opportunity to present testimony on H.B.2055. This bill will create a transfer-on-death designation for real property deeds. This would allow the transfer of property without a probate proceeding. As originally introduced, the legislation would have a potentially significant negative fiscal impact on the agency. In proceedings before the House Judiciary Committee, the legislation was amended to protect the claim of the agency for medical assistance. The agency support the legislation as amended since the amendment minimizes the fiscal impact on the agency.

The fiscal impact mentioned above concerns the agency's Estate Recovery program. This program allows the agency to recover Medicaid expenditures paid on behalf of a recipient from the recipient's estate. Congress acknowledged the importance of such efforts in controlling Medicaid costs by mandating in 1993 that all states develop estate recovery programs. Since that time States have implemented a variety of recovery procedures. State programs differ in their approach, scope of recovery, and recovery methods. In Kansas, most recoveries are from probate actions and family agreements. Operation of the program has helped offset the ever-increasing costs in the Medicaid program. The Kansas Estate Recovery program has recovered \$3,858,900 while incurring expenses of \$794,000 in handling over 2,400 cases during FY 93, 94, 95 and 96. So far this fiscal year, the program has collected approximately \$1,200,000 .

Transfer-on-death deeds should be very attractive to estate planners and other individuals interested in planning for Medicaid eligibility. Under present rules, SRS may deny or delay Medicaid benefits due to transfers of property for inadequate consideration. However, a transfer-on-death deed does not transfer a present interest in property. As a result, it would not be a basis for denying benefits. Transfer-on-death deeds do avoid probate proceedings and creditors who use those proceedings for collection of debts.

As a creditor of an estate, SRS, through the Estate Recovery program, is dependent on there being an estate to probate. In FY 96, the Estate Recovery program recovered

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approximately \$1,000,000 from probate proceedings. Approximately 71% of the Estate Recovery probate proceedings involved real estate. In dollars, those cases represented \$742,000 in recoveries or 74% of the total probate collections. If all the real estate cases are removed from Estate Recovery collections for FY 97, the loss would be an estimated \$800,000 to \$900,000. This would have a devastating impact on the effectiveness of the Estate Recovery program.

As amended, the legislation would protect the agency's claim. This amendment curtails the potential loss from probate recoveries. SRS supports the amended legislation and urges the Judiciary Committee to support the amended legislation.