

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Stephen Morris at 10:40 a.m. on February 20, 2003, in Room 123-S of the Capitol.

All members were present except: Senator David Adkins - excused
Senator Christine Downey - excused

Committee staff present:

Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Audrey Nogle, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Assistant Revisor of Statutes
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Duane Goossen, Director, Division of the Budget
Candy Shively, Deputy Secretary, Kansas Department of Social and Rehabilitation Services
Pam Scott, Executive Director, Kansas Funeral Directors Association

Others attending: See attached list

Copies of the Kansas Legislative Research Department Budget Analysis Report for FY 2003 and FY 2004 were distributed to the committee.

Subcommittee report on:

Kansas Guardianship Program (Attachment 1)

Subcommittee Chairman Jackson reported that the Subcommittee concurs with the recommendation of the Governor for FY 2003.

Subcommittee Chairman Jackson reported that the Subcommittee concurs with the recommendation of the Governor with adjustment and notations for FY 2004.

Senator Feleciano moved, with a second by Senator Jackson, to adopt the subcommittee budget report for the Kansas Guardianship Program for FY 2003 and FY 2004. Motion carried on a voice vote.

Chairman Morris opened the public hearing on:

SB 175--State general fund, consensus revenue estimate, April 2003

Staff briefed the committee on the bill.

Duane Goossen, Director, Division of the Budget, explained that the administration is in support of **SB 175**. Director Goossen asked to change the date from April 18 to April 22 to allow maximum processing in regard to opening the State income tax returns. (No written testimony was submitted.)

There being no further conferees to come before the committee, the Chairman closed the public hearing on **SB 175**. Committee questions and discussion followed.

CONTINUATION SHEET

Senator Feleciano moved, with a second by Senator Schodorf, to amend **SB 175**, line 31, to change the date from April 18 to April 22. Motion carried on a voice vote.

Senator Feleciano moved, with a second by Senator Jordan, to recommend **SB 175** favorable for passage as amended. Motion carried on a roll call vote.

Chairman Morris opened the public hearing on:

SB 213--Medicaid recipients to report prearranged burial agreements to secretary of social and rehabilitation services

Staff briefed the committee on the bill.

Candy Shively, Deputy Secretary, Integrated Service Delivery, Kansas Department of Social and Rehabilitation Services, testified in support of **SB 213** (Attachment 2). Ms. Shively mentioned that the bill would help the Department's Estate Recovery Program by increasing recoveries from the estates of deceased medical assistance recipients (Medicaid).

Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association, Inc., testified that their association does not oppose the intent of the **SB 213**, but feel that the wrong statutes are used to achieve the objectives sought in the bill (Attachment 3). Committee questions and discussion followed.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **SB 213**.

Committee questions and discussion followed. Chairman Morris asked Ms. Scott to discuss with the Department of Social and Rehabilitation Services in regard to the bill.

The meeting adjourned at 11:20 a.m. The next meeting is scheduled for February 21, 2003.

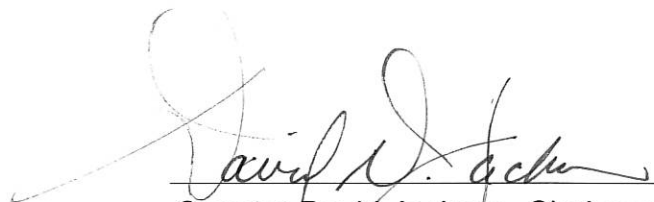
SENATE WAYS AND MEANS COMMITTEE

GUEST LIST

DATE February 20, 2003

NAME	REPRESENTING
Brian Vazquez	SRS - Estate Recovery
Candy Shwily	SRS
Scott Bruner	SRS
Kerry Stanley	Lane Co. Ldrshp
Kathleen Delaney	" "
Jim Algrim	" "
Leon Kral	KGP
Josie Torres	RACH
Ramona Deertjen	KCSL

FY 2003 and FY 2004
Senate Subcommittee Report
Kansas Guardianship Program



Senator David Jackson, Chairperson



Senator Paul Feleciano, Jr.

Senate Ways and Means
2-20-03
Attachment 1

Senate Subcommittee Report

Agency: Kansas Guardianship Program **Bill No.**

Bill Sec.

Analyst: Calderwood

Analysis Pg. No. 548

Budget Page No. 171

Expenditure Summary	Agency Estimate FY 03	Governor's Recommendation FY 03	Subcommittee Adjustments
State General Fund:			
State Operations	\$ 1,038,983	\$ 998,297	\$ 0
Employee Positions*	13.0	12.0	0.0

* Employees if the Kansas Guardianship Program are not state employees, but are listed for informational purposes.

Agency Estimate/Governor's Recommendation

The agency's estimate for FY 2003 operating expenditures of \$1,038,983 is an increase of \$40,686 (4.1 percent) from the FY 2003 approved budget. The increase is due to the agency's submission of its budget prior to the November allotment. The request includes \$539,645 for salaries and wages, \$484,552 for contractual services, \$14,786 for commodities, and \$0 for capital outlay. On August 15, 2002, the Governor imposed a State General Fund allotment against executive branch agencies. The State General Fund allotment against this agency was \$22,506 or 2.1 percent. The second allotment for this agency was \$40,686 or 3.9 percent.

The Governor recommends \$998,297 for FY 2003 operating expenditures which is consistent with the approved budget. The request includes \$513,959 in salaries and wages, \$469,552 in contractual services, \$14,786 for commodities, and \$0 for capital outlay. The Governor's FY 2003 recommendation reflecting the second allotment includes:

- \$11,256 increase in shrinkage.
- \$10,000 reduction in travel expenditures.
- \$14,430 reduction of salaries and wages through the elimination of 1.0 employee position for the second half of the current year.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

Senate Subcommittee Report

Agency: Kansas Guardianship Program **Bill No.** _____ **Bill Sec.** _____
Analyst: Calderwood **Analysis Pg. No.** 548 **Budget Page No.** 171

Expenditure Summary	Agency Request FY 04	Governor's Recommendation FY 04	Subcommittee Adjustments
State General Fund:			
State Operations	\$ 1,144,713	\$ 1,000,506	\$ 0
Employee Positions*	15.0	12.0	0.0

* Employees if the Kansas Guardianship Program are not state employees, but are listed for informational purposes.

Agency Estimate/Governor's Recommendation

The agency's request for FY 2004 operating expenditures of \$1,144,713 is an increase of \$105,730 (10.2 percent) from the FY 2003 estimate. The request includes \$620,567 for salaries and wages, \$502,646 for contractual services, \$15,500 for commodities, and \$6,000 for capital outlay. The request includes an enhancement package for two recruiter/facilitator positions (\$71,864) and related operating expenses (\$18,500).

The Governor recommends FY 2004 operating expenditures of \$1,000,506, which is an increase of \$2,209 (0.2 percent) from the FY 2003 recommendation. The recommendation includes \$519,834 for salaries and wages, \$465,672 for contractual services, \$15,000 for commodities, and \$0 for capital outlay. The Governor did not recommend the enhancement package.

STATUTORY BUDGET SUBMISSION

KSA 75-6701 requires that the budget submitted by the Governor and the budget ultimately approved by the Legislature provide for a State General Fund ending balance of at least 7.5 percent of expenditures for FY 2004. To comply with this provision, Volume 1 of the *Governor's Budget Report* includes a "statutory budget" designed to provide for a 7.5 percent ending balance. In general, this requires a 21.1 percent reduction to the FY 2004 State General Fund budget recommendations submitted by the Governor. That reduction has not been applied to school finance funding in the Department of Education or to the Board of Regents and its institutions. **For this agency, the reduction to the Governor's recommended FY 2004 State General Fund budget would total \$210,625.**

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with Governor's recommendation with the following adjustment and notations:

1. The Subcommittee notes that the agency is cost effective and recommends a review of the program's FY 2004 funding level at Omnibus; the Subcommittee recommends an addition of \$30,000 from the State General Fund to bring the funding to a level that the agency believes will ensure the program's integrity be considered for addition at Omnibus. The program's goal is to provide that qualified, caring, willing and trained persons are available throughout the State to serve as court appointed guardians and/or conservators for those program eligible person in need of this level of protection and advocacy, and those non-adjudicated persons who elect to have a voluntary conservator, and who do not have family members willing or able to assume such responsibilities.

The Subcommittee notes that during FY 2002, the Kansas Guardianship Program volunteers provided guardianship/conservatorship services to 1,647 wards and conservatees. As of June 30, 2002, approximately 815 volunteers were serving in the program and over the years approximately 3,152 Kansans have been recruited to serve as volunteers in the program.

2. The Subcommittee notes its support of the Governor's recommendations to maintain the available stipend funds for the program volunteers and the establishment of a gifts and donations fund, so that the program may utilize fund raising revenue to supplement funding when state resources are reduced. The Subcommittee recommends that the donated funds would not affect the amount of State General Fund appropriated to the Kansas Guardianship Program.
3. The Subcommittee expresses its concern for the future of this program and the need to maintain its integrity, in light of the needs associated with Kansas' aging population.

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

Senate Ways and Means Committee

February 20, 2003

SB 213 - Prearranged agreements for burial plots

Integrated Service Delivery
Candy Shively, Deputy Secretary

For additional information contact:
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Marianne Deagle, Director

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Senate Ways and Means
2-20-03
Attachment 2

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

Senate Ways and Means Committee
February 20, 2003

SB 213 - Prearranged agreements for burial plots

Mr. Chairman and members of the Committee, thank you for the opportunity to testify in support of SB 213. My name is Candy Shively, Deputy Secretary, Kansas Department of Social and Rehabilitation Services. I am testifying on behalf of the agency in support of this legislation. This legislation would help the Department's Estate Recovery Program by increasing recoveries from the estates of deceased medical assistance recipients (Medicaid).

As background, the Estate Recovery Program was initially authorized by the Kansas Legislature in 1992 and has since become a federally mandated process. The program allows the agency to recover Medicaid expenses properly paid on behalf of a Medicaid recipient from their post-death assets. The program is limited to recipients who are either 55 years of age or older or in a long term care arrangement. Most recoveries are from probate actions and family agreements. Significantly, no recovery action is taken when there is a surviving spouse or a minor or disabled child. Kansas Estate Recovery recouped \$5 million during FY 2002 and approximately \$20 million during the last five fiscal years. Approximately 40% of the recouped funds were returned to the State general fund; the remaining funds were returned to the federal government.

Last year, the Department requested and the Legislature passed amendments to K.S.A. 16-301 et seq. involving excess funds from pre-arranged funeral plans owned by medical assistance recipients. The legislation was designed to control post-death changes to pre-arranged plans while increasing collections. In essence, it provided for funds remaining after the payment of a recipient's funeral to be forwarded to the Department as partial satisfaction of the medical assistance claim. The legislation has been successful. In the period of July 1, 2002 to January 31, 2003, the Estate Recovery Unit has recovered \$131,117 from 151 cases.

Senate Bill 213 follows the pattern of last year's legislation by requiring any balances left in pre-arranged burial plot agreements owned by medical assistance recipients to be forwarded to the Department as partial satisfaction of the medical assistance claim. It also requires the person who enters into such agreements to notify the Department of the existence of such agreements.

As to financial impact, the Department's estimate is conservative. In the last 12 months, there have been approximately 600 medical assistance recipients who owned burial spaces at the time of their death. The average value of these assets is approximately

\$600 per case. While this creates an annual potential pool of \$360,000 of burial space assets, most of these assets are used for the burial of the decedent. Approximately 5% are unused. Hence, there may only be assets valued at \$18,000 available for recovery. More significantly, these assets may not be cash assets and, thus, harder to liquidate. As a result, the Department may only see a recovery from cash assets in the 1 - 2 % range or approximately \$3,600 - \$7,200.

As noted in last year's testimony, the medical assistance program encourages families to pre-arrange their funerals and burials by allowing such funds and assets to be excluded from the eligibility restrictions inherent to these programs. However, when there are excess assets, those assets should be available to the State to offset the cost of operation of the medical assistance program. Our goal is to be fair to individuals and families impacted by the estate recovery process while allowing for enhanced collections in an accurate and equitable manner. This bill would allow us to meet this goal. I ask for your support of this new measure to help us in further improving our efforts.



KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION

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EXECUTIVE DIRECTOR

PAM SCOTT
Topeka

Date: February 20, 2003

To: Senate Ways and Means Committee

From: Pam Scott
Executive Director

Re: Senate Bill No. 213

Chairman Morris and members of the committee, thank you for the opportunity to appear before you today on behalf of the Kansas Funeral Directors and Embalmers Association concerning Senate Bill No. 213. While we do not oppose the intent of the bill, we think the wrong statutes are used to achieve the objectives sought in the bill.

It appears that the purpose of the bill is to allow for the recovery of excess funds in cemetery contracts. The recovery of excess funds in prearranged funeral agreements was already provided for last year in Substitute for Senate Bill No. 513.

K.S.A. 16-301 et seq. does not apply to burial plots. K.S.A. 16-301 which sets forth the trusting requirements for prearranged funeral agreements provides that personal property or funeral or burial merchandise shall not include grave lots, grave spaces, grave memorials, tombstones, crypts, niches and mausoleums. These items are governed under the cemetery laws of the state of Kansas. The statutes on cemetery merchandise contracts, K.S.A. 16-320 et seq., apply to crypts, niches and mausoleum spaces. That act specifically states, in K.S.A. 16-333, that the sale of cemetery merchandise shall be exempt from K.S.A. 16-301 through 16-309. Cemetery merchandise is only required to be trusted at 110% of wholesale while funeral merchandise is trusted at 100% of retail.

To recover excess funds from cemetery merchandise contracts, it appears the statutes dealing with these items should be amended rather than the prearranged funeral agreement statutes.

Thank you for the opportunity to share our concerns with this legislation with you.

Let's Renew in 2002!

Senate Ways and Means
2-20-03
Attachment 3