

Approved: _____

Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 3, 1994 in Room 526-S of the Capitol.

All members were present except: Senator Hardenburger, Excused

Committee staff present: Norman Furse, Revisor of Statutes
Emalene Correll, Legislative Research Department
Jo Ann Buntin, Committee Secretary

Conferees appearing before the committee:

Bob Williams, Executive Director, Kansas Pharmacy Association
Tom Hitchcock, Board of Pharmacy
David Hanzlick, Kansas Dental Association
Pam Scott, Executive Director, Kansas Funeral Directors
Larry McElwain, funeral director, Lawrence
Senator Bob Vancrum
Robert L. Epps, Commissioner, Income Support/Medical Services, SRS

Others attending: See attached list

Introduction of bills

Bob Williams, Kansas Pharmacy Association, appeared before the Committee with two bill requests: (1) K.S.A. 65-1657 be modified to permit the Kansas Board of Pharmacy to promulgate regulations which would apply the same requirements or standards for oral consultation to an out-of-state pharmacy who mails prescription medication to Kansas residents as are applied to in-state pharmacies, (Attachment 1) Senator Walker made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Ramirez. The motion carried.

The second bill requested by the Kansas Pharmacy Association would amend K.S.A. 65-1642 to permit a two-to-one ratio for the use of supportive personnel for in-patient medical facility and a one-to-one ratio in non-medical care retail pharmacies unless specifically permitted by the Board upon the approval of a specific plan describing the manner in which additional supportive personnel shall be supervised, (Attachment 2) Senator Walker made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Papay. The motion carried.

Tom Hitchcock, Board of Pharmacy, appeared before the Committee with a bill request to amend four different statutes updating the medications as listed on the attached testimony. (Attachment 3) Senator Ramirez made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Jones. The motion carried.

David Hanzlick, Kansas Dental Association, appeared before the Committee with a request for introduction of a bill that would allow the Kansas Dental Board to develop rules and regulations governing the in-office use by dentists of intravenous sedation and general anesthesia. Mr. Hanzlick noted that 47 states have this authority in their state statutes. Senator Ramirez made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Langworthy. The motion carried.

Senator Langworthy requested introduction of a bill that is a licensure issue dealing with continuing education of real estate brokers. Senator Langworthy made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Ramirez. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 3, 1994.

Hearing on SB 587 - Funeral and burial expenses of recipients of assistance

Pam Scott, Kansas Funeral Directors, addressed the Committee in support of **SB 587** and introduced Larry McElwain to speak on behalf of the bill. Mr. McElwain submitted written testimony and noted that the proposed legislation would allow the secretary of SRS to pay burial assistance when the estate of a deceased, who had been receiving public assistance, is not sufficient to pay for burial expenses. He noted that currently the SRS Burial Assistance Plan provides that the funeral director is to receive an allowance of \$1150, of which \$750 is for the funeral and \$250 for the cemetery, and \$150 for the outside container. Concern was expressed that of the \$1150, SRS deducts the amount of any assets the deceased or his/her family may have and requires the funeral director to recover those assets as part of his payment. Mr. McElwain noted that the passage of this bill would increase the cost of the Burial Assistance Plan to the state, but that the financial responsibility of burying the indigent should lie with the government and not the funeral director who already absorbs a portion of the cost. (Attachment 4)

The Chair called the Committee's attention to the fiscal note of the bill and the budget director's belief that SRS could recover \$85,000 if this were to be a function of the agency. (Attachment 5) A Committee member called attention to stricken language in the bill that reads "which shall not be more than the maximum amounts," and it was noted by Mr. McElwain that expenses can be fixed by rules and regulations adopted by the secretary of SRS. Mr. McElwain commented that they are not asking to change the amount upward, but would like to be assured they can get up to \$1150. It was noted that a similar bill had been introduced in the 1990 legislature but never got out of Ways and Means because of the fiscal note involved.

Senator Bob Vancrum, as sponsor of the bill, appeared in support of **SB 587** and noted that since SRS has an estate recovery team in place that it makes more sense for them to be the debt collector. (Attachment 6)

In answer to a member's question related to obtaining burial expenses from non-indigents, Mr. McElwain noted they can recover expenses from the family by having them sign a contract and obtain money from life insurance, and do not get into personal ownership such as cars, boats, etc., but SRS can because that's an asset of that family. He stated that they talk to the family about cash available for expenses, and if they can borrow money from a bank to pay for the funeral.

A concern was expressed by a member regarding the issue of state appropriations being used for reimbursement of burial expenses and questioned Mr. McElwain if he knew what neighboring states do not have such a reimbursement program. Mr. McElwain noted that the situation in Missouri is county by county, however, the reimbursement amount is much lower than \$1150. It was pointed out that since 1991 the money that was appropriated in the SRS budget was \$734,000, and today the budget for this current fiscal year for burial assistant is approximately \$853,000, which is also the Governor's recommendation for the 1995 budget which funds 1/3 of the cost of the burial.

Robert L. Epps, SRS, appeared before the Committee in opposition to **SB 587** for several reasons. First the burial assistance program was intended to be only a resource available to help pay for the cost of burial where the individual or family does not have adequate resources. He noted that to require SRS to pay the full cost of the service and attempt to recover the expense would be opening a Pandora's box since there are other entities that SRS clients do business with and might also desire a similar payment procedure *i.e.*, nursing homes, doctor offices and day care centers. In order to collect from the estate of an individual, Mr. Epps stated that SRS would have to pursue probate action, and the cost of such action could exceed the amount of recovery in most instances. He noted that the fiscal impact of this bill would be approximately \$341,200 from the state general funds. (Attachment 7)

During committee discussion, Mr. Epps noted that the SRS estate recovery program was set up to conform with OBRA 92 and structured to go after other areas of SRS programs such as nursing homes as well as burial expenses. SRS would try to obtain the set amount which is the difference between the Medicaid rate that is paid and their charge. The Medicaid rate would fluctuate with the assets of the individual and income guidelines when that person came into the program based on the means test. SRS funds the cost of the staff within SRS that does the recovery work. The fiscal note of **SB 587** was also discussed.

Mr. Epps provided the Committee a copy of the April 1990 Performance Audit Report on funerals and burials for public assistance recipients. (Attachment 8)

The meeting was adjourned at 11:00 a.m.

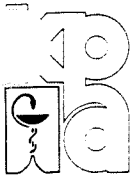
The next meeting is scheduled for February 8, 1994.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH & WELFARE

DATE: 2-3-94

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EXECUTIVE DIRECTOR

TESTIMONY

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

Request for Revisions to KSA 65-1657

February 3, 1994

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you Madam Chairman and committee members for this opportunity to address the committee.

The Kansas Pharmacists Association requests that KSA 65-1657 be modified to permit the Kansas Board of Pharmacy to promulgate regulations which would apply the same requirements or standards for oral consultation to an out-of-state pharmacy who mails prescription medication to Kansas residents as are applied to in-state pharmacies. Please note the proposed language would not permit the Board to require face-to-face consultation nor could the regulations result in any unnecessary delay in patients receiving their medication.

The current Pharmacy Practice Act regulation dealing with patient consultation can be found under **Section 68-2-20 Pharmacists function in filling a prescription:**

(e) initiating oral patient consultation on new prescriptions as a matter of routine to expressly notify the patient if brand exchange has been exercised and encouraging proper patient drug utilization and administration. Exceptions to subsection (e) may be authorized by the pharmacist on a case-by-case basis in special situations. In no case may exceptions exceed general regulations providing for patient consultations.

-over-

Senate PH & W
Attachment #1
2-3-94

Too often we assume that patients understand how and when to take their medication. However, statistics indicate that that simply is not true. Annually drug noncompliance is the cause of 125,000 deaths, 20 million lost work days, \$1.5 billion in lost earnings and 25% of hospital admissions among the elderly. Noncompliance is defined as failing to have a prescription filled or refilled as instructed by a physician, failing to take all of the medication when instructed to do so, failing to take the medication when scheduled, taking more or less than prescribed, or taking a drug in combination with food, medications, or under conditions warned against by the physician or pharmacist.

Many Kansas citizens choose or are required by their insurance carrier to purchase their prescription medication from a mail order pharmacy located in another state. Oftentimes these Kansas citizens receive no oral consultation regarding their prescription medication. They receive no follow-up phone calls to verify receipt of medication or to inquire if the patient has any questions.

We believe that those Kansas citizens who choose to purchase their medication from an out-of-state pharmacy deserve the same standard of care as those citizens who purchase their prescription medication from a pharmacy located in Kansas.

Thank you.

Revisions to the Kansas Pharmacy Practice Act

65-1657. Registration of certain out-of-state pharmacies.

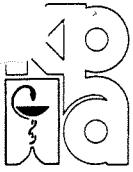
(h) Upon request of the board, the attorney general may bring an action in a court of competent jurisdiction for injunctive relief to restrain a violation of the provisions of this section or any rules and regulations adopted by the board under authority of this section. The remedy provided under this subsection shall be in addition to any other remedy provided under this section or under the pharmacy act of the state of Kansas.

(i) The Board shall adopt regulations that apply the same requirements or standards for oral consultation to an out-of-state pharmacy that ships, mails, or delivers any prescription medication or dangerous drugs or devices to residents of this state, as are applied to an in-state pharmacy that operates pursuant to Section 68-2-20 when the pharmacy ships, mails or delivers any prescription medication or dangerous drugs or devices to residents of this state. The board shall not adopt any regulations that require face to face consultation for a prescription that is shipped, mailed or delivered to the patient. The regulations adopted pursuant to this section shall not result in any unnecessary delay in patients receiving their medication.

(j) ~~(i)~~ The board may adopt rules and regulations as necessary and as are consistent with this section to carry out the provisions of this section.

(k) ~~(j)~~ The executive secretary of the board shall remit all moneys received from fees under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit such moneys in the manner specified under K.S.A. 74-1609 and amendments thereto.

(l) ~~(k)~~ This section shall be part of and supplemental to the pharmacy act of the state of Kansas.



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EXECUTIVE DIRECTOR

TESTIMONY

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

Request for Revisions to KSA 65-1642

February 3, 1994

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you Madam Chairman and committee members for this opportunity to address the committee. The Kansas Pharmacists Association respectfully requests that KSA 65-1642 be modified to permit a two-to-one ratio for the use of supportive personnel for in-patient medical facility and a one-to-one ratio in non-medical care retail pharmacies unless specifically permitted by the Board upon the approval of a specific plan describing the manner in which additional supportive personnel shall be supervised. The current statute requires a one-to-one ratio regardless of practice setting.

The utilization of training programs and voluntary certification programs by supportive personnel coupled by the increased demand on the pharmacist to be involved with drug therapy issues has increased the need for the use of supportive personnel in controlled environments.

Additionally, the Kansas Pharmacists Association is wanting to participate in "pharmaceutical care projects" which are revolutionizing the way pharmacy is practiced. Many of these projects are still in the developmental phase. In an effort to move the pharmacist out of the "dispensing mode" and into the "pharmaceutical care" arena, some of these projects require a two-to-one ratio in the retail community setting. By permitting the Board to make exceptions you will be helping the pharmacy profession in Kansas with some of our own needed reforms.

Thank you.

*Senate PH&W
Attachment #2
2-3-94*

65-1642. Equipment of pharmacy; records of prescription orders; medication profile records systems.

(a) Each pharmacy shall be equipped with proper pharmaceutical utensils, in order that prescriptions can be properly filled and United States pharmacopeia and national formulary preparations properly compounded, and with proper sanitary appliances which shall be kept in a clean and orderly manner. The board shall prescribe the minimum of such professional and technical equipment which a pharmacy shall at all times possess, and such list shall include the latest revisions of the United States pharmacopeia dispensing information and all supplements thereto. The ratio of supportive personnel performing nonjudgmental functions in the compounding area of the pharmacy under the direction of a pharmacist, excluding pharmacist interns, to licensed pharmacist shall not exceed a one-to-one ratio *in non-medical care retail pharmacies and a two-to-one ratio for in-patient medical care facility pharmacies unless specifically permitted by the Board upon the approval of a specific plan describing the manner in which additional supportive personnel shall be supervised.*

h:65-1642.2nd

65-4105. Substances included in schedule I. (a) The controlled substances listed in this section are included in schedule I and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl] -N-phenylacetamide) 9815
- (2) Acetylmethadol 9601
- (3) Allylprodine 9602
- (4) Alphacetylmethadol 9603

(except levo-alpha-cetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM)

- (5) Alphameprodine 9604
- (6) Alphamethadol 9605
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propionilido) piperidine) 9814
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl] -N-phenylpropanamide) 9832
- (9) Benzethidine 9606
- (10) Betacetylmethadol 9607
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl] -N-phenylpropanamide) 9830
- (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide) 9831
- (13) Betameprodine 9608
- (14) Betamethadol 9609
- (15) Betaprodine 9611
- (16) Clonitazene 9612
- (17) Dextromoramide 9613
- (18) Diampromide 9615
- (19) Diethylthiambutene 9616
- (20) Difenoxin 9168
- (21) Dimenoxadol 9617
- (22) Dimepheptanol 9618
- (23) Dimethylthiambutene 9619
- (24) Dioxaphetyl butyrate 9621
- (25) Dipipanone 9622
- (26) Ethylmethylthiambutene 9623
- (27) Etonitazene 9624
- (28) Etoperidine 9625
- (29) Furethidine 9626
- (30) Hydroxypethidine 9627
- (31) Ketobemidone 9628
- (32) Levomoramide 9629
- (33) Levophenacymorphan 9631
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl] -N-phenylpropanamide) ... 9813
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]- N-phenylpropanamide) 9833
- (36) Morpheridine 9632
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) 9661
- (38) Noracymethadol 9633
- (39) Norlevorphanol 9634
- (40) Normethadone 9635

Senate PHK
Attachment #3
2-3-94

Norpipanone.....	9636
ara-fluorofentanyl (N-(4-fluorophenyl)-N-[1- 2-phenethyl]-4-piperidinyl] propanamide ..	9812
(43) PEPAP (1-(2-phenethyl)-4-phenyl-4- acetoxypiperidine)	9663
(44) Phenadoxone	9637
(45) Phenampromide.....	9638
(46) Phenomorphan.....	9647
(47) Phenoperidine	9641
(48) Piritramide	9642
(49) Proheptazine.....	9643
(50) Properidine.....	9644
(51) Propiram.....	9649
(52) Racemoramide	9645
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl- 4- piperidinyl]-propanamide	9835
(54) Tilidine	9750
(55) Trimeperidine	9646

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine	9319
(2) Acetyldihydrocodeine	9051
(3) Benzylmorphine.....	9052
(4) Codeine methylbromide.....	9070
(5) Codeine-N-Oxide.....	9053
(6) Cyprenorphine.....	9054
(7) Desomorphine	9055
(8) Dihydromorphine	9145
(9) Drotebanol	9335
(10) Etorphine (except hydrochloride salt).....	9056
(11) Heroin.....	9200
(12) Hydromorphenol	9301
(13) Methyl-desorphine	9302
(14) Methyl-dihydromorphine.....	9304
(15) Morphine methylbromide	9305
(16) Morphine methylsulfonate.....	9306
(17) Morphine-N-Oxide	9307
(18) Myrophine	9308
(19) Nicocodeine	9309
(20) Nicomorphine.....	9312
(21) Normorphine	9313
(22) Pholcodine	9314
(23) Thebacon.....	9315

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) 4-bromo-2,5-dimethoxy-amphetamine	7391
Some trade or other names: 4-bromo-2,5-di- methoxy-alpha-methylphenethylamine; 4- bromo-2,5-DMA.	
(2) 2,5-dimethoxyamphetamine	7396
Some trade or other names: 2,5-dimethoxy- alpha-methyl-phenethylamine; 2,5-DMA.	
(3) 4-methoxyamphetamine	7411
Some trade or other names: 4-methoxy-al- pha-methylphen- ethylamine; paramethox- amphetamine; PMA.	
(4) 5-methoxy-3,4-methylenedioxy- amphetamine	7401
(5) 4-methyl-2,5-dimethoxy-amphetamine	7395
Some trade or other names: 4-methyl-2,5- dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP"	
(6) 3,4-methylenedioxy amphetamine	7400
(7) 3,4-methylenedioxymethamphetamine (MDMA).....	7405

3,4-methylenedioxy-N-ethylamphetamine also known as N-ethyl-alpha-methyl-3,4- (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA)	7404
(9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl- 3,4(methylenedioxy) phenethylamine, and N- hydroxy MDA).....	7402
(10) 3,4,5-trimethoxy amphetamine	7390
(11) Bufotenine	7433
Some trade or other names: 3-(Beta-Di- methyl- aminoethyl)-5-hydroxyindole; 3-(2- dimethyl- aminoethyl)-5-indolol; N,N-dime- thylserotonin; 5-hydroxy-N,N-dimethyltryp- tamine; mappine.	
(12) Diethyltryptamine	7434
Some trade or other names: N,N-Diethyl- tryptamine; DET.	
(13) Dimethyltryptamine	7435
Some trade or other names: DMT.	
(14) Ibogaine	7260
Some trade or other names: 7-Ethyl-6,6 Beta,7,8,9,10,12,13-octahydro-2-methoxy- 6,9-methano -5H-pyrido[1',2':1,2] azepino [5,4-b]indole; Tabernanthe iboga.	
(15) Lysergic acid diethylamide	7315
(16) Marihuana.....	7360
(17) Mescaline	7381
(18) Parahexyl.....	7374
Some trade or other names: 3-Hexyl-1-hy- droxy-7,8,9,10-tetrahydro-6,6,9- trimethyl- 6H-dibenzo[b,d]pyran; Synhexyl.	
(19) Peyote	7415
Meaning all parts of the plant presently clas- sified botanically as <i>Lophophora williamsii</i> <i>Lemaire</i> , whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.	
(20) N-ethyl-3-piperidyl benzilate.....	7482
(21) N-methyl-3-piperidyl benzilate.....	7484
(22) Psilocybin	7437
(23) Psilocyn.....	7438
(24) Tetrahydrocannabinols	7370
Synthetic equivalents of the substances con- tained in the plant, or in the resinous ex- tractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and phar- macological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol, and their optical iso- mers Delta 3,4 cis or trans tetrahydrocan- nabinol, and its optical isomers (Since nomenclature of these substances is not in- ternationally standardized, compounds of these structures, regardless of numerical des- ignation of atomic positions covered.)	
(25) Ethylamine analog of phencyclidine	7455
Some trade or other names: N-ethyl-1- phenyl- cyclo-hexylamine; (1-phenylcycloh- exyl)ethylamine; N-(1-phenylcycloh- exyl)ethylamine; cyclohexamine; PCE.	
(26) Pyrrolidine analog of phencyclidine.....	7458
Some trade or other names: 1-(1-phenylcy- clo- hexyl)-pyrrolidine; PCPy; PHP.	
(27) Thiophene analog of phencyclidine	7470
Some trade or other names: 1-[1-(2-thienyl)- cyclohexyl]-piperidine; 2-thienylanalog of phencyclidine; TCP; TCP.	
(28) 1-[1-(2-thienyl)-cyclohexyl] pyrrolidine	7473
Some other names: TCPy	
(29) 2,5-dimethoxy-4-ethylamphetamine	7399
Some trade or other names: DOET	

, Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone..... 2572
- (2) Methaqualone..... 2565

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- (1) Fenethylline..... 1503
- (2) N-ethylamphetamine..... 1475
- (3) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)..... 1590
- (4) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl- benzeneethanamine; N,N-alpha-trimethylphenethylamine)..... 1480
- (5) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-amino propiophenone, 2-amino propiophenone and norphedrone)..... 1235

(g) Any material, compound, mixture or preparation which contains any quantity of the following substances:

- (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers..... 9818
- (2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers..... 9834
- (3) Methcathinone (some other names: 2-methylamino-1-phenylpropan-1-one: Ephedrone: Monomethylpropion: UR1431, its salts, optical isomers and salts of optical isomers) .. 1237

(4) Aminorex (some other names: Aminoxaphen 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers, and salts of optical isomers - - - - - 1585

(5) Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers - - - - - 7249
 some other names; etryptamine, alpha-methyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

5.4107. Substances included in sched-

I. (a) The controlled substances listed in section are included in schedule II and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone and their respective salts, but including the following:

(A) Raw opium.....	9600
(B) Opium extracts	9610
(C) Opium fluid	9620
(D) Powdered opium	9639
(E) Granulated opium	9640
(F) Tincture of opium	9630
(G) Codeine.....	9050
(H) Ethylmorphine.....	9190
(I) Etorphine hydrochloride	9059
(J) Hydrocodone	9193
(K) Hydromorphone.....	9150
(L) Metopon	9260
(M) Morphine	9300
(N) Oxycodone	9143
(O) Oxymorphone.....	9652
(P) Thebaine.....	9333

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine (9041) or ecgonine (9180).

(5) Cocaine, its salts, isomers and salts of isomers (9041).

(6) Ecgonine, its salts, isomers and salts of isomers (9180).

(7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy) (9670).

(c) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation dextrorphan and levopropoxyphene excepted:

entamil.....	9737
phaprodine	9010
(3) Anileridine	9020
(4) Bezitramide	9800
(5) Bulk dextropropoxyphene (nondosage forms).....	9273
(6) Carfentanil	9743
(7) Dihydrocodeine	9120
(8) Diphenoxylate	9170
(9) Fentanyl	9801
(10) Isomethadone.....	9226
(11) Levomethorphan	9210
(12) Levorphanol	9220
(13) Metazocine	9240
(14) Methadone	9250
(15) Methadone-intermediate, 4-cyano-2-dimethyl amino-4, 4-diphenyl butane.....	9254
(16) Moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid	9802
(17) Pethidine (meperidine).....	9230
(18) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	9232
(19) Pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	9233
(20) Pethidine-intermediate-C, 1-methyl-4-phenyl- piperidine-4-carboxylic acid	9234
(21) Phenazocine	9715
(22) Piminodine	9730
(23) Racemethorphan	9732
(24) Racemorphan	9733
(25) Sufentanil	9740

(26) Levo-alphaacetyl methadol 9648
 (some other names: levo-alpha-acetyl methadol, levomethadyl acetate, or LAAM)

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers.....	1100
(2) Phenmetrazine and its salts	1631
(3) Methamphetamine, including its salts, isomers and salts of isomers	1105
(4) Methylphenidate	1724

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital	2125
(2) Glutethimide	2550
(3) Secobarbital	2315
(4) Pentobarbital	2270
(5) Phencyclidine.....	7471

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
- (A) Phenylacetone 8501
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.
- (2) Immediate precursors to phencyclidine (PCP):
- (A) 1-phenylcyclohexylamine 7460
- (B) 1-piperidinocyclohexanecarbonitrile (PCC)... 8603

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product 7369
Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro -6,6,9-trimethyl-3-pentyl-6H-dibenzo (b,d)pyran-1-ol, or (-)-delta-9-(trans)- tetrahydrocannabinol.
- (2) Nabilone 7379
[Another name for nabilone:
(±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a- hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d] pyran-9-one]

65-109. Substances included in schedule III. (a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following

substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

(A) Amobarbital.....	2126
(B) Secobarbital.....	2316
(C) Pentobarbital.....	2271

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(A) Amobarbital.....	2126
(B) Secobarbital.....	2316
(C) Pentobarbital.....	2271

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.....

2100

(4) Chlorhexadol 2510

(5) Lysergic acid 7300

(6) Lysergic acid amide 7310

(7) Methypylon..... 2575

(8) Sulfondiethylmethane..... 2600

(9) Sulfonethylmethane..... 2605

(10) Sulfonmethane..... 2610

(11) Tiletamine and zolazepam or any salt thereof..... 7295

Some trade or other names for a tiletamine-zolazepam combination product: Telazol

Some trade or other names for tiletamine:

2- (ethylamino)-2-(2-thienyl)-cyclohexanone

Some trade or other names for zolazepam:

4- (2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo- [3,4-e] [1,4]-diazepin-7(1H)-one, flupyzapon

(c) Nalorphine..... 9400

(d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium..... 9803

(2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts..... 9804

3-8

(3) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium.....	9805	(3) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium.....	9805
(4) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....	9806	(4) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....	9806
(5) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....	9807	(5) (3)	
(6) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....	9808	(6) (4)	
(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....	9809	(7) (5)	
(8) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....	9810	(8) (6)	

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances..... 1405
- (2) Benzphetamine 1228
- (3) Chlorphentermine 1645
- (4) Chlortermine 1647
- (5) Phendimetrazine 1615

(f) Anabolic steroids..... 4000
 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacolog-

ly related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) boldenone
- (2) chlorotestosterone (4-chlortestosterone)
- (3) clostebol
- (4) dehydrochlormethyltestosterone
- (5) dihydrotestosterone (4-dihydrotestosterone)
- (6) drostanolone
- (7) ethylestrenol
- (8) fluoxymesterone
- (9) formebolone (formebolone)
- (10) mesterolone
- (11) methandienone
- (12) methandranone
- (13) methandriol
- (14) methandrostenolone
- (15) methenolone
- (16) methyltestosterone
- (17) mibolerone
- (18) nandrolone
- (19) norethandrolone
- (20) oxandrolone
- (21) oxymesterone
- (22) oxymetholone
- (23) stanolone
- (24) stanozolol
- (25) testolactone
- (26) testosterone
- (27) trenbolone
- (28) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

(A) Except as provided in (B), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States' secretary of health and human services for such administration.

(B) If any person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection (f).

(g) The board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

65-4111. Substances included in schedule IV. (a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam	2882
(2) Barbitol	2145
(3) Bromazepam.....	2748
(4) Camazepam	2749
(5) Chloral betaine	2460
(6) Chloral hydrate	2465
(7) Chlordiazepoxide.....	2744
(8) Clobazam	2751
(9) Clonazepam	2737
(10) Clorazepate.....	2768
(11) Clotiazepam	2752
(12) Cloxazolam	2753
(13) Delorazepam	2754
(14) Diazepam	2765
(15) Estazolam	2756
(16) Ethchlorvynol.....	2540
(17) Ethinamate.....	2545
(18) Ethyl loflazepate	2758
(19) Fludiazepam.....	2759
(20) Flunitrazepam	2763
(21) Flurazepam.....	2767
(22) Halazepam	2762
(23) Haloxazolam	2771
(24) Ketazolam	2772
(25) Loprazolam.....	2773
(26) Lorazepam	2885
(27) Lormetazepam	2774
(28) Mebutamate	2800
(29) Medazepam	2836
(30) Meprobamate	2820
(31) Methohexital.....	2264
(32) Methylphenobarbital (mephobarbital)	2250
(33) Midazolam	2884
(34) Nimetazepam	2837
(35) Nitrazepam	2834
(36) Nordiazepam	2838
(37) Oxazepam	2835
(38) Oxazolam.....	2839
(39) Paraldehyde	2585
(40) Petrichloral	2591
(41) Phenobarbital.....	2285
(42) Pinazepam.....	2883
(43) Prazepam	2764
(44) Quazepam.....	2881
(45) Temazepam.....	2925
(46) Tetrazepam.....	2886
(47) Triazolam	2887
(48) Zolpidem.....	2783

(49) Carisoprodol

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine).....	1230
(2) Diethylpropion.....	1610
(3) Fencamfamin	1760
(4) Fenproporex.....	1575
(5) Mazindol.....	1605
(6) Mefenorex.....	1580
(7) Pemoline (including organometallic complexes and chelates thereof)	1530
(8) Phentermine.....	1640
(9) Pipradrol.....	1750
(10) SPA((-)-1-dimethylamino-1,2-diphenylethane).....	1635

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

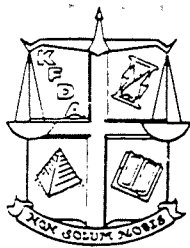
(1) Pentazocine.....	9709
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(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.....	9167
(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionyxybutane).....	9278

(g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(h) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.



AFFILIATED WITH N.F.D.A.

THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

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TESTIMONY PRESENTED TO SENATE PUBLIC HEALTH AND WELFARE COMMITTEE BY THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION

Madam Chair and members of the committee, my name is Larry McElwain, and I am a funeral director and embalmer with Warren-McElwain Funeral Home, in Lawrence, Kansas. I appear before you today as a member of the Kansas Funeral Directors and Embalmers Association (KFDA) to urge your support of Senate Bill No. 587.

Senate Bill No. 587 amends K.S.A. 39-713d, which allows the Secretary of the Department of Social and Rehabilitation Services (SRS) to pay burial assistance when the estate of a deceased, who had been receiving public assistance, is not sufficient to pay for burial expenses. The statute currently provides that the Secretary will establish the maximum dollar amount payable as burial assistance, but allows her to pay less than the maximum by deducting from that amount any assets remaining in the deceased's estate. The amendment to the statute contained in the bill would delete the maximum language and would provide that the amount paid to the funeral director for burial assistance would be a fixed dollar amount. The amounts paid by SRS to the Funeral director would be recoverable by SRS as a debt due the state and would be considered a first class claim against the deceased's estate.

This bill addresses a problem funeral directors are experiencing with the manner in which they are being reimbursed under the burial assistance program for providing a funeral to a deceased who had been a recipient of public assistance. Currently, the SRS Burial Assistance Plan provides that the funeral director is to receive an allowance of \$1150. Of the \$1150, \$750 is for the funeral, \$250 is for the cemetery and \$150 is for an outside container, if required by the cemetery. This dollar amount has not been changed for many years. The \$750, for the actual funeral, must cover body removal, embalming, the casket, facilities use, staff time and the funeral service itself. From the \$1150, SRS deducts the amount of any assets the deceased or his family may have and requires the funeral director to

Senate P.H.W.
Attachment # 4
2-3-94

recover those assets as part of his payment. The \$1150 rate of reimbursement described above does not fully reimburse the funeral director for providing the cost of a funeral. Even though the funeral costs more than what the funeral director receives from SRS, he cannot receive additional reimbursement from the family of the deceased even if they are willing to pay. The funeral director must eat a portion of the cost of the funeral. By reducing the \$750 even further by deducting the value of an asset, which often times is not recoverable in the first place, places a further costs and burden on the funeral director. The funeral director, who is performing a public service by providing a funeral service to an indigent at under cost should not be expected to, for example, recover the deceased's automobile to cover a portion of the burial allowance SRS would otherwise pay. The amount of assets to be recovered are often small or in a form not easily recoverable. SRS does not expect a physician or pharmacist who provides medical treatment to an indigent to recover assets as part of his payment. Why should a funeral director be treated differently?

Furthermore, it is not uncommon for a funeral director to contact his local SRS office and be told a deceased is covered under the burial assistance program only weeks later, after the funeral, to find that SRS has located assets and is deducting the value of the assets from the \$1150 or is declining payment altogether. The funeral director must then recover those assets which are often already gone and unrecoverable.

We believe the recovery of assets should be the responsibility of SRS and not the funeral director, who is performing a public service by burying the indigent. SRS already has in place an Estate Recovery System through which it recovers, from the property belonging to the estate of a deceased, medical assistance which has been paid to the deceased. This mechanism could easily be extended to recover burial assistance benefits paid.

We know that the passage of this bill will increase the cost of the Burial Assistance Plan to the state, but we believe the financial responsibility of burying the indigent should lie with the government and not the funeral director, who already absorbs a portion of the cost. We would appreciate your vote in favor of Senate Bill No. 587.

Thank you for the opportunity to appear before you today.

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

Topeka, Kansas 66612-1504

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Joan Finney
Governor

Gloria M. Timmer
Director

January 28, 1994

The Honorable Sandy Praeger, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 128-S
Topeka, Kansas 66612

Dear Senator Praeger:

SUBJECT: Fiscal Note for SB 587 by Senator Vancrum

In accordance with KSA 75-3715a, the following fiscal note concerning SB 587 is respectfully submitted to your committee.

This bill amends existing law to allow the Secretary of Social and Rehabilitation Services to recover burial expenses paid by the Burial Assistance Program. The full amount of any payment could be recovered against the decedent's estate, if any assets are discovered.

Estimated State Fiscal Impact				
	FY 1994 SGF	FY 1994 All Funds	FY 1995 SGF	FY 1995 All Funds
Revenue	--	--	--	\$85,000
Expenditure	--	--	--	--
FTE Pos.	--	--	--	--

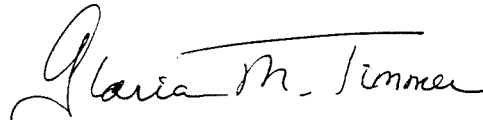
The bill would have no impact on state expenditures, but it could have an impact on receipts to the SRS Fee Fund. Burial expenditures for FY 1995 are budgeted at \$850,000. If passage of the bill results in recovery of 10.0 percent of expenditures, then \$85,000 in additional receipts would be realized by the SRS Fee

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The Honorable Sandy Praeger, Chairperson
January 28, 1994
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Fund. The amount of receipts cannot be estimated in the absence of actual experience. However, since this program serves indigent individuals, it is likely that recoveries would not exceed 10.0 percent of expenditures. Additional receipts to the SRS Fee Fund resulting from passage of this bill are not included in the *FY 1995 Governor's Budget Report*.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Timmer". The signature is written in dark ink and is positioned above the printed name and title.

Gloria M. Timmer
Director of the Budget

cc: Don Pound, SRS

587.fn

STATE OF KANSAS

BOB VANCURUM

SENATOR, ELEVENTH DISTRICT
OVERLAND PARK, LEAWOOD,
STANLEY, STILWELL, IN
JOHNSON COUNTY
9004 W. 104TH STREET
OVERLAND PARK, KANSAS 66212
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TOPEKA

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STATE LEGISLATURES
MEMBER: ENVIRONMENTAL TASK FORCE,
COUNCIL ON STATE GOVERNMENTS

TESTIMONY FROM SENATOR BOB VANCURUM

TO

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

RE: SENATE BILL 587

Ladies and Gentlemen:

All of us have businesses outside the legislature. From time to time, items come to my attention in my practice that really demand a change in law. For some time, funeral directors who provide funerals for people who have been on public assistance have been limited to a maximum recovery of \$750 for the funeral. Even though this rate of reimbursement does not fully cover the cost of a funeral, most funeral directors are willing to do so simply because they are generally community spirited people.

Recently SRS has adopted the policy of deducting from the \$750 any amount of assets the deceased or his family may have, and in effect require the funeral director to become a collection agency for SRS. SRS already has an estate recovery team whose job it is to go after assets that may have belonged to the deceased person on public assistance. To say the least, public spirited funeral directors should not be forced to seize the old automobile of the deceased and sell it in order to collect an amount which in many cases doesn't cover the actual out of cost expense for the funeral anyway.

Senate Bill 587 was introduced to take away the Secretary's authority to offset the \$750 reimbursement by rule and regulation. Conversely, the bill would put the SRS claim on the same level (first-class claim) as the funeral director would have had against the estate.

Curiously, SRS and the budget division have estimated that this bill would actually generate \$85,000 in additional receipts to SRS apparently since they would have a first-class claim (the same priority as funeral homes). Although I doubt this fiscal note, it is nice to have a positive fiscal note attached to the bill.

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2-3-94

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary
Senate Committee on Public Health and Welfare
Testimony on S.B. 587
pertaining to payment of funeral and burial
expenses of recipients of assistance.
February 3, 1994

SRS MISSION STATEMENT

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities, and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

Madam Chair and members of the Committee. Thank you for this opportunity to present testimony on Senate Bill 587. The bill would require that the Department pay the expenses of a funeral and burial for a recipient of assistance and recover such expenses from the estate of the deceased. We do not support passage of this bill.

The burial assistance program helps pay the cost of funeral and burial expenses for indigent persons in the State. If the individual dies without any surviving dependents, the estate of the deceased is looked to first for payment of these expenses. Where that amount is insufficient, the State would then pay all or part of the expenses based on established limits. Standards are set for funeral expenses, cemetery expenses, and if required, the cost of an outside container. The current standard for these expenses is approximately \$1,150. If the person's estate is greater than this amount, no assistance is provided. If it is less than this amount, assistance is provided to make up the difference. Payments are made directly to the funeral home and cemetery via vendor payments. The Department's cost for this program in FY 1993 was \$790,993 and \$852,800 has been appropriated for the current year.

In reviewing the bill, the Department presumes that the standards currently in place would continue and that if the estate amount exceeded these standards, there would still be ineligibility for assistance. We believe the bill would require that the Department begin paying the full standard where the estate was insufficient and then initiate collection activity from the estate for repayment.

X We oppose this change for several reasons. First, the burial assistance program was intended to be only a resource available to help pay for the cost of burial where the individual or family does not have adequate resources to meet the expense of a low cost burial. As a tax supported program and one which is totally state funded, burial assistance like other public assistance programs

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is means tested. Any available income or resources are counted when determining eligibility and the amount of payment to be made. A change to providing a full payment to funeral homes, regardless of income or resources which might be available to help cover the funeral, would be different from every other program this agency administers. To require SRS to pay the full cost of the service and attempt to recover the expense would be opening a Pandora's box. There are many other entities with which SRS clients do business which might also desire a similar payment procedure, i.e., nursing homes, doctor offices, day care centers.

Secondly, funeral homes in Kansas are set up to routinely collect expenses for services rendered to their clients. It has been a long standing practice for the homes to take whatever collection activity is necessary to satisfy the bill for services as does any other private business or entity in the state which provides services. We suggest it is more reasonable to ask the funeral home which is working directly with the family to assure the payment from resources available to that family, than to place that burden on SRS.

Third, by amending the burial assistance program in this way, the costs of the program will increase. It is not likely that the Department will be able to recover a substantive amount of the costs paid out in the program. In order to collect from the estate of an individual, the Department will have to pursue probate action. The cost of such action could be expected to exceed the amount of recovery in most instances. The agency would be paying increased assistance and recovering few assets. It is estimated that the fiscal impact of this bill would be \$341,200, all of which would be state general funds.

It should be noted that the Legislative Post Audit Committee issued a report on the burial assistance program in April 1990 when legislation similar to this was proposed. That study specifically looked at concerns about the program's reimbursement practices, particularly where payments had been reduced due to the estate assets. The findings were that the funeral home and cemetery reimbursements were handled in the same way as the Department's reimbursements for doctors and similar providers. The study also found that the burial program in Kansas was generally more comprehensive and costly than the programs in other surrounding states. A copy of that report is being provided for your review.

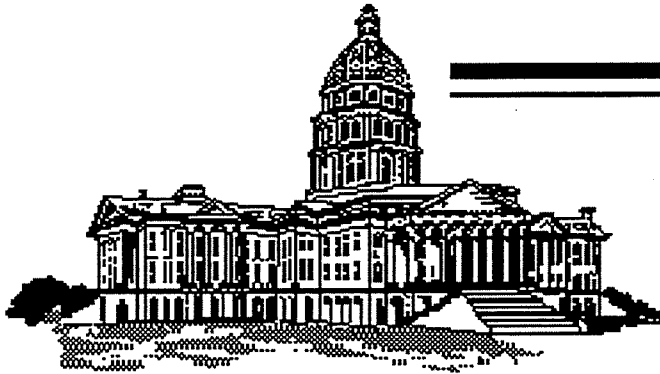
The Department does not support passage of this bill.

Robert L. Epps, Commissioner
Income Support/Medical Services

Comparison of Burial Reimbursement Programs In Kansas and Surrounding and Similar States

	Colorado	Iowa	Kansas	Missouri	Nebraska	Oklahoma
Who is responsible for providing burial assistance?	State/ County(a)	State/ County(b)	State	County	County	State/ County
Who is eligible for state burial assistance?						
Public Assistance Recipients?	Yes	Yes	Yes	N/A	N/A	Yes
Indigents?	No	Yes	Yes	N/A	N/A	Yes
What is the maximum state reimbursement rate?	\$1,250	\$400	\$1,250	N/A	N/A	(c)
Are the decedent's assets used to reduce the state's reimbursement?	Yes	Yes	Yes	N/A	N/A	(d)
Who is responsible for collecting those assets?	Funeral Home	Funeral Homes	Funeral Homes	N/A	N/A	(d)
How much did the state spend on burial assistance in fiscal year 1989?	\$377,732(e)	\$30,800	\$758,916	\$0	\$0	(d)
How many burials did the state pay for during fiscal year 1989?	1,201	77	1,083	0	0	(d)
What was the average cost per burial during fiscal year 1989?	\$393	\$400	\$701	N/A	N/A	\$1,200-\$1,500(f)

- (a) This program is administered by the counties; the State provides 80 percent of the funding and the counties provide the remaining 20 percent.
- (b) The state of Iowa provides burial assistance for certain categories of decedents; the counties are responsible for providing assistance to any other decedents.
- (c) No maximum reimbursement range has been set by the state. Department of Human Services personnel are instructed to contract with funeral homes for the lowest price possible.
- (d) Oklahoma officials could not provide this information.
- (e) Although the total cost of the program was \$472,165, the state was only responsible for 80 percent of the cost.
- (f) These are the average payments made by the State of Oklahoma to bury children in State custody.



PERFORMANCE AUDIT REPORT

Funerals and Burials for Public Assistance Recipients

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
April 1990

90-47

Senate PH&U
Attachment # 8
2-3-94

Legislative Post Audit Committee

Legislative Division of Post Audit

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$6 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. General Accounting Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

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PERFORMANCE AUDIT REPORT

FUNERALS AND BURIALS FOR PUBLIC ASSISTANCE RECIPIENTS

OBTAINING AUDIT INFORMATION

This audit was conducted by Mary Beth Green, Senior Auditor, and Holly Zane and Rick Riggs, Auditors, of the Division's staff. If you need any additional information about the audit's findings, please contact Ms. Green at the Division's offices.

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FUNERALS AND BURIALS FOR PUBLIC ASSISTANCE RECIPIENTS

Summary of Legislative Post Audit's Findings

State law authorizes the Secretary of Social and Rehabilitation Services to pay funeral and burial costs for public assistance recipients and others whose estates or other available resources are insufficient to pay those costs. This audit addressed legislative concerns about the Department's practice of deducting certain assets or resources of the decedent or the decedent's family from the amount it will pay for these funerals and burials.

What is the Department of Social and Rehabilitation Services' payment practice for burying public assistance recipients, and how does it compare with payment practices for services provided by other vendors? Kansas funeral directors have expressed concerns about the burial assistance program's reimbursement practices, including concerns that they may be treated differently than doctors and others who provide services to Department clients. During the first half of fiscal year 1990, the Department reduced approximately one-fourth of its burial assistance payments because the decedent's estate had assets available to help reduce the Department's contribution or because the decedent's family had resources that exceeded the limits established by the Department for full burial assistance. Those reductions averaged about 11 percent of the total amounts billed to the Department.

It appears that funeral home and cemetery reimbursements are handled in about the same way as the Department's reimbursements for doctors and similar providers, although other providers may not have to attempt to collect funds from estates as often as funeral homes. Finally, the state burial assistance program in Kansas is generally more comprehensive and costly than the programs in surrounding and similar states.

How does the amount the Department budgets for these funerals and burials compare with the amounts actually spent? The Department's burial assistance program cost more than its appropriation each year from fiscal year 1986 through 1989. For example, for fiscal year 1990, the program received appropriations of \$740,000, and estimated expenditures for the year will be about \$822,150, a difference of \$82,150. According to Department officials, these deficits in the burial assistance program were met each year by transferring funds from other assistance programs into the burial program.

The report recommends that the Department take steps to ensure that consistent burial reimbursement practices are used across the State and to ensure that funeral homes and cemeteries receive formal, written notification of the amount to be paid for services provided on a timely basis. We would be happy to discuss these recommendations or any other items in the report with legislative committees, individual legislators, or other State officials.

A handwritten signature in dark ink, appearing to read 'M. Williams', with a stylized, cursive script.

Meredith Williams
Legislative Post Auditor

FUNERALS AND BURIALS FOR PUBLIC ASSISTANCE RECIPIENTS

K.S.A. 39-713d authorizes the Secretary of Social and Rehabilitation Services to pay the funeral and burial costs for public assistance recipients whose estates or other available resources are insufficient to pay those costs. The maximum amount of such payments has been fixed by the Secretary under K.A.R. 30-4-121. According to the Kansas Public Assistance Manual, the Department will deduct any cash contributions or partial payments made by relatives or friends for the funeral or burial from the amount the Department will pay. The Department also deducts certain other assets or resources of the decedent or the decedent's family from the amount it will pay.

Legislative concerns have been raised about this practice of deducting cash and property assets from the Department's reimbursements for funeral and burial costs, even when those assets may be uncollectible or may impose a burden on the funeral home to collect. To address these concerns, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a performance audit of the Department's burial assistance program. The audit addressed the following questions:

- 1. What is the Department of Social and Rehabilitation Services' payment practice for burying public assistance recipients, and how does it compare with payment practices for services provided by other vendors?**
- 2. How does the amount the Department budgets for these funerals and burials compare with the amounts actually spent?**

To answer these questions, we reviewed State laws and regulations and Department policies and procedures for paying various types of vendors, including funeral homes and cemeteries. We also interviewed Department staff and reviewed Department records for funeral and burial payments made Statewide during the first six months of fiscal year 1990. We examined a sample of fiscal year 1990 payments in detail to determine whether any amounts were deducted from the Department payments and the reasons for such reductions. We also surveyed a sample of funeral home directors in Kansas to determine how the Department's reimbursement practices had affected them, and interviewed officials from the four surrounding states and Iowa. Finally, we compared the Department's budgeted and actual expenditures for the burial assistance program for the past several years. In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office.

We found that the Department reduced about one-fourth of the payments made for funerals and burials during the first half of fiscal year 1990. These reductions generally were made because Department staff determined that the decedent's estate had assets available to offset funeral and burial expenses or that the decedent's family had resources in excess of the maximum resources allowable to qualify for

complete Department reimbursement. Department staff indicated that the payment practices for the burial program are not significantly different from payment practices for other programs, particularly if payments are reduced because the family's resources exceed the Department's allowable levels for maximum assistance. When compared with burial assistance programs in the four surrounding states and Iowa, the Kansas program appeared to be the most comprehensive and costly state-funded program. Finally, we found that actual expenditures for the burial assistance program have always exceeded appropriations for the program during recent years.

Overview of the Burial Assistance Program

The burial assistance program is operated by the Department of Social and Rehabilitation Services' Division of Income Maintenance. The Department provides burial assistance to any person who meets the program's eligibility guidelines, including individuals who were or were not receiving public assistance at the time of death. In fiscal year 1989, Department officials indicated that the program paid for approximately 1,083 funerals at a total cost of \$758,916. Expenditures for the program are funded entirely by the State General Fund.

When a person dies who might be eligible, either the funeral home or the family may call the local Department office to ask about possible burial assistance. Applicants then work with Department staff in the county offices and fill out an application form that asks for information on the income and assets of the decedent and the financial resources of the family or other responsible parties, if any. Using a standard worksheet, personnel in the county offices decide how much money the estate or the family should be able to contribute toward the funeral, and how much burial assistance the State should provide.

Department staff determine eligibility for burial assistance in two ways. If the decedent had no dependents or other persons legally responsible for his or her debts, the Department considers all the decedent's resources at the time of death to be assets of the estate that are available to help reduce the Department's contribution to the funeral costs. In these cases, State law gives the funeral homes or cemeteries a first class claim on the decedent's estate and the funeral home or cemetery is expected to collect the estate's obligation for funeral and burial costs.

If the decedent had an immediate family (including dependents or another legally responsible adult), the Department determines eligibility through a review of the family's resources. Countable resources do not include certain items such as the family's home and one vehicle valued at up to \$1,500. The countable resources do include the family's income (less standard allowances for living and work expenses), and the value of non-exempt assets in excess of \$1,000 such as cash, savings accounts, vehicle value of more than \$1,500, or death benefit payments. If the family's resources exceed the Department's eligibility guidelines, the family is not eligible for maximum burial assistance and the Department reduces the amount of assistance according to the family's resource level. Then the funeral home or cemetery is expected to collect any reduced amounts from the decedent's family. The box on page four describes the determination process in more detail for decedents with and without assets or families with resources to pay part of the bills.

The burial program's eligibility guidelines are the same guidelines used for determining eligibility for the Department's general assistance program. The guidelines provide detailed direction to the income maintenance workers in the Department's 105 area and local offices who make the actual determinations of what the Department will pay for funeral expenses.

Once a determination is made by the local income maintenance worker, the local office is supposed to notify the family and the funeral home of the exact amount the Department will pay for all or part of the funeral charges, and how much the funeral home must collect from the family or from the assets of the estate. After the funeral, the funeral home and cemetery send their bills to the local Department office. Sometimes funeral homes submit just one bill for both funeral and cemetery charges, and sometimes funeral homes and cemeteries submit separate bills for their charges. Staff in the Department's local offices put the information into the Department's computer system. The transactions are processed and warrants are mailed from Topeka to funeral homes and cemeteries.

How Income Maintenance Workers Determine How Much the Department Will Pay for Burial Assistance

How much the Department will pay for a recipient's funeral depends on two things: first, whether the recipient had a family or anyone else legally responsible for his or her bills; second, whether those persons (or the recipient's estate) have the resources to pay for all or part of the funeral. The table below describes hypothetical examples of each situation, simplified for clarity.

Recipient Who Has an Immediate Family or Other Legally Responsible Party

In this case, the decedent was a child with two parents at home. The couple has a house, a car worth \$2,800, a monthly income of \$600, and no savings. The Department worker, in making the determination about this family's obligation for their child's funeral expenses, would make the following calculations:

Assets or Resources Available	House:	exempt
	Value of car: \$2,800, less the	
	\$1,500 vehicle allowance and the	
	\$1,000 resource limit yields:	\$300 countable
	Monthly income: \$600, less the	
	\$90 standard work expense limit	
	and the \$410 budgetary	
	standard for a family of 3 (as of	
	July 1989) yields:	\$100 countable
	TOTAL AVAILABLE	
	RESOURCES:	\$400 countable
	less funeral bill:	- \$850
	Total State share:	\$450

The funeral bill exceeds the couple's available resources by \$450, which the Department will pay. The family must pay the other \$400.

Recipient Who Has NO Immediate Family or Other Legally Responsible Party

An elderly widower dies, leaving three grown children who are not legally responsible for his burial costs. The man owned a small house with furnishings. In the yard is an old car that has not run for many years, and has no particular value. He had not prepared a will.

house:	\$2,500
furnishings (ignored by the	
Department):	exempt
Junk car (standard value for	
any vehicle with no book	
value listed):	\$100
TOTAL AVAILABLE	
ASSETS:	\$2,600
less funeral bill:	- \$1,150
Assets exceed funeral bill by:	\$1,450
Total State share:	\$0

Because the assets of the estate exceed the cost of the funeral by \$1,450, the Department will not pay for any funeral expenses in this case. Because the decedent had no will, and thus no executor for his estate, the funeral home will have to have the estate probated in order to collect the \$1,150 bill.

In this example, the decedent was a married woman whose husband is unemployed. The couple lived in an apartment, worked odd jobs, and had no car, cash, or savings.

NO Assets or Resources Available	resources:	none
	furnishings (ignored by the	
	Department):	exempt
	TOTAL RESOURCES	
	AVAILABLE:	\$0
	less funeral bill:	- \$1,150
	Total State share:	\$1,150

In this case the husband is legally responsible for his wife's funeral bills. However, because he has no countable resources, the Department will pick up all of the \$1,150 in funeral and burial expenses.

A man is found dead, without any identification. His identity cannot be determined, and there is no money on the body, nor any way to know if he has a family, assets, or other resources to help pay for the burial.

Assets or resources:	none
TOTAL ASSETS:	\$0
less funeral bill:	- \$1,150
Total State share:	\$1,150

In this case, because the decedent could not be identified, no resources could be found. Again, the Department will pick up all of the \$1,150 in funeral and burial expenses. If the man is later identified, and resources or assets found, the Department can attempt to recover its \$1,150 contribution from the estate or the family.

**What Is the Department of Social and Rehabilitation Services'
Payment Practice for Burying Public Assistance Recipients,
And How Does It Compare With Payment Practices
For Services Provided By Other Vendors?**

Kansas funeral directors have expressed a number of concerns about the burial assistance program's reimbursement methods, and about the size of reimbursements they receive. They have also expressed concerns that they may be treated differently than doctors and others who provide services to Department clients. We found that about one-fourth of the burial assistance payments made by the Department during the first half of fiscal year 1990 were reduced because the decedent's estate or family had some assets or resources to pay part of the funeral and burial costs. Those reductions averaged about 11 percent of the total amounts billed to the Department. We also found that funeral home and cemetery reimbursements are handled in about the same way as Department reimbursements for doctors and other similar providers, although other providers may not have to attempt collecting funds from estates as often as funeral homes. Finally, we found that the State burial assistance program in Kansas is generally more comprehensive and costly than the programs in surrounding and similar states.

**Reimbursement Levels for the Burial Assistance Program
Are Established by State Regulation**

According to K.A.R. 30-4-121(a), the Department will pay only certain set amounts for funeral home services, including a casket, a cemetery plot (if the decedent did not already have one), and an outside container if the cemetery requires one. The following table shows the maximum amounts the Department will pay for these items.

**Amounts Allowed by the Department of
Social and Rehabilitation Services for
Funeral and Burial Costs**

<u>Item</u>	<u>Maximum Allowance</u>
Oversize casket	\$850
Standard adult casket	750
5' Casket	650
4' to 4' 6" casket	450
3' to 3' 6" casket	350
2' to 2' 6" casket	250
Infant casket, 1' 9"	150
Cemetery plot	\$250
Outside container	\$150

As the preceding table shows, the maximum the Department would pay for a funeral for an average-size adult would be \$750 for the casket and other mortuary services, \$250 for the cemetery plot, and \$150 for the outside container, or a total of \$1,150. These reimbursements rates were established in May 1984 and have not been revised since that time.

Department officials said that their intent is to provide a basic funeral for people who cannot afford one. Therefore, if the funeral home bill contains charges for more than the most basic services—charges for flowers or musicians, for example—Department officials said they will disallow those extra charges. Only allowable charges, for the maximum allowable amount or less, will be paid by the program.

Kansas Funeral Directors Have Expressed Concerns About the Burial Assistance Program, Especially That They Are Treated Differently Than Other Providers

Although Kansas funeral home directors say they feel a strong obligation to provide funeral and burial services to indigent people, they have expressed concerns about how often the Department reduces its reimbursements below the maximum allowable amounts, leaving the funeral homes to collect the remainder of their charges from the families or estates of the decedents. The problem, according to the Kansas Funeral Directors and Embalmers Association, Inc., is that "In most cases, as a practice, the funeral director has found these assets to have dissolved and had no further recourse to recover the money."

A number of letters supplied to us by the Association detail specific instances in which the Department has allegedly cited nonexistent or unrecoverable assets as the reason for reducing a funeral home's reimbursement. The following excerpts are from some of these letters:

- In the settlement of the account, the Department took the position the client's cash of \$65.92 must be deducted from the funeral account as well as the value of two building lots. The injustice is the burden was placed on our firm to cause probate of the estate of the client, as well as that of the mother of the client dating back to her death in June of 1957. The county attorney estimated that our costs would be \$700-800 to probate the two estates in order to collect our \$500 outstanding.
- On February 19, 1990, we received a check from the Department for \$512. We immediately called the Department and asked them where the balance of the \$1,000 was. They informed us that the decedent's last paycheck was picked up by his mother after the funeral. Therefore, it was our responsibility to collect the balance of \$488 from his mother. We are still out the \$488.
- The Department agreed to pay the full amount less \$100. This \$100 was the value that they placed on an automobile that was not in running condition. They informed us that we must contact the family, have them sell the car, and then pay the \$100 to us. Needless to say, the \$100 balance was written off as a loss.

- The Department initially agreed to pay the entire \$750. We then received a check from them for \$101.20....Finally, we got a letter from them stating that they had found assets and that the rest of the bill would have to be paid by the widow. We contacted the widow about this payment; she became extremely upset, saying that she had NO funds and was barely able to eat each month. To date we still have not had an answer back from the Department.

In addition to these concerns, funeral directors have said that they are treated differently than other providers. During the 1990 legislative session, House Bill 2801 was introduced to amend K.S.A. 39-713d, the statute that allows the Secretary of Social and Rehabilitation Services to provide funeral and burial assistance when the estate of the decedent is not sufficient to pay for such expenses. That bill would require the Department to reimburse funeral homes and cemeteries for the maximum allowable amounts. The Department, rather than funeral homes, would then attempt to collect any available assets or resources from the estate or family to offset the amount paid for the funeral or burial. Department officials estimated that this change would cost about \$375,000 per year, allowing for uncollectible assets and one additional staff person. The bill is currently assigned to a House of Representatives committee.

Our survey of Kansas funeral directors showed that funeral homes are not happy with reimbursements provided by the burial assistance program. We surveyed a random sample of 100 Kansas funeral homes to identify their perceptions about the burial assistance program. A total of 55 surveys were returned. In all, 47 funeral directors said they had performed a Department-reimbursed funeral in the last two years, and 37 (79 percent) said that they had had at least one case in which they were not reimbursed the full billed amount. Those cases amounted to 131 of the 412 Department-reimbursed funerals (31.8 percent) provided by those funeral homes in that time period. In most cases, the survey respondents indicated that they were told by the Department to collect the remainder of the reduced amounts. Most said they generally attempted to recover any reduced payments informally from the family or estate (35 of 37, or about 95 percent).

One of the questions we asked on the survey dealt with the homes' actual cost for providing a basic funeral, and their usual retail charge for that same sort of service. On average, the respondents said that a basic funeral for an average-size adult, of the kind the Department requires, costs the funeral home \$2,179, including overhead charges. At a maximum reimbursement rate of \$1,150, that means the funeral homes that responded to our survey lose an average of more than \$1,000 for each such funeral they provide. The funeral homes must then recoup these losses by passing them on to other individuals, much like private-pay patients in nursing homes help subsidize Medicaid patients. We also asked the directors what their usual retail charge would be for such a funeral. The responses averaged \$2,546. That means that for each funeral provided to the Department at the \$1,150 rate, the homes lose almost \$1,400 of their normal revenue for that same type of funeral.

Funeral directors who responded to our survey also provided a number of comments about their experiences with the Department's burial reimbursement prac-

tices. The complete survey results, including a sample of the funeral directors' comments, are provided in Appendix A.

**About One-Fourth of the Burial Assistance Payments
For the First Half of Fiscal Year 1990 Were Reduced
Because the Decedent's Family or Estate Had Resources**

To determine how much and how often the Department reduced burial assistance payments from the maximum allowable amounts, we reviewed all burial assistance payments made during the first six months of fiscal year 1990. Because the information available in Topeka about Statewide burial payments usually did not include specific reasons for reductions in payments, we also reviewed burial reimbursements made by a small sample of six counties in more detail. The counties we selected were Barton, Decatur, Douglas, Montgomery, Reno, and Shawnee.

About one-fourth of the burial assistance payments made Statewide during the first half of fiscal year 1990 were reduced, although the number of reductions varied from county to county. Statewide, we identified 526 burial reimbursement payments made by the Department from July through December 1989 for 439 different funerals. Department personnel reduced 133 of those payments, so about 25 percent of all payment vouchers were reduced. For the 526 payments we identified, funeral homes and cemeteries billed the State for \$426,500 in burial assistance. Department personnel reduced the amount billed by about \$46,200, or 10.8 percent, making the State's total contribution about \$380,300. The average amount billed per funeral by funeral homes or cemeteries was \$972 and the average payment per funeral was about \$866. Most of the payments were made to funeral homes. Funeral homes and cemeteries in certain locations, however, submit separate bills and receive separate payments.

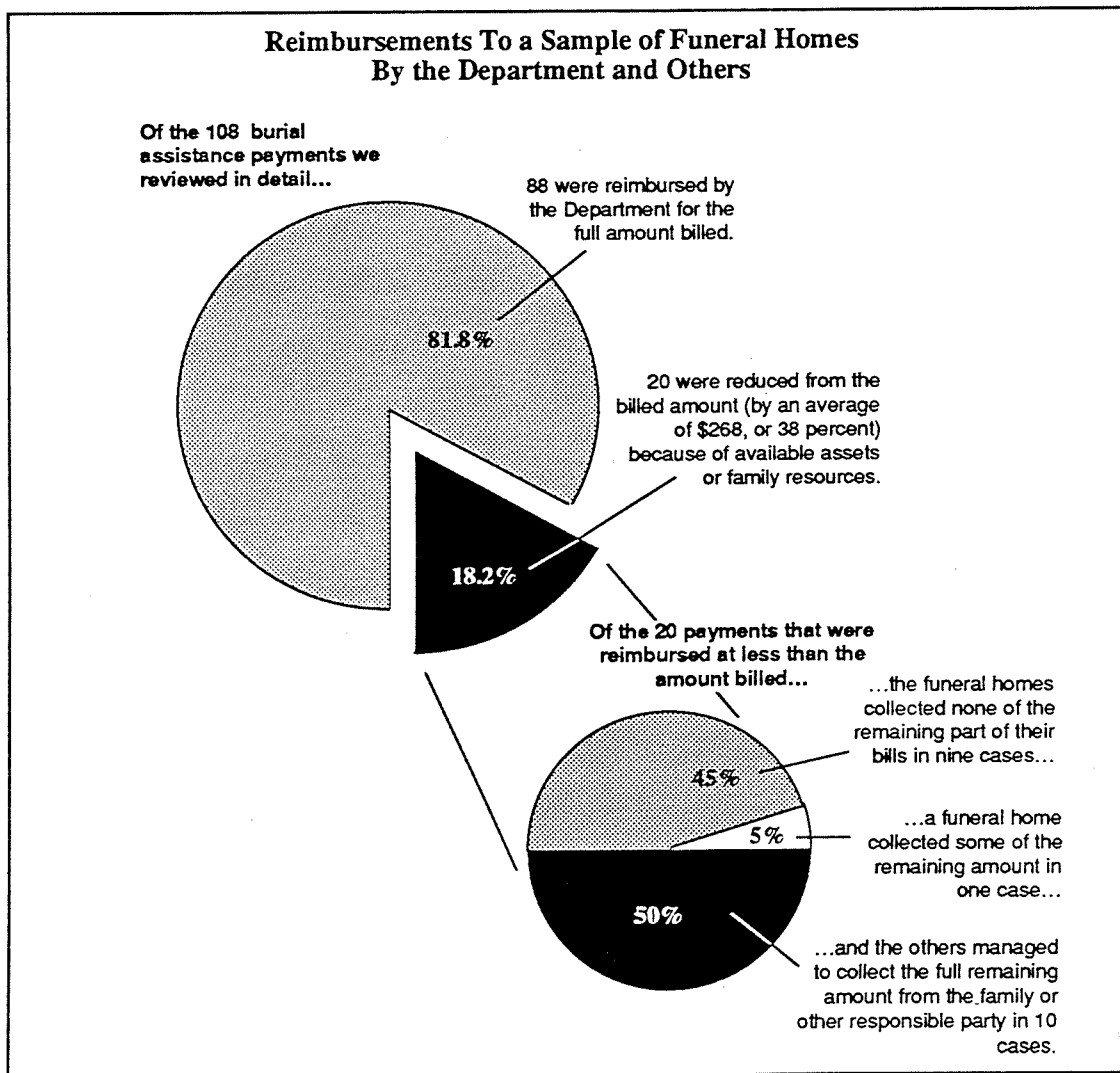
During our review of burial payments, we noted that the number and amount of reductions in payments varied from one county to the next. For example, none of the 11 payments made by the Butler County office were reduced. In Greenwood County, which borders Butler County on the east, two of three payments were reduced and in Harvey County, which borders Butler County to the west, one of three payments was reduced. Due to the limited timeframe for this audit, we were not able to determine why such variances existed.

Burial assistance payments in a sample of six counties were reduced because the decedent's estate or family had cash resources or income, and funeral homes collected more than half these reductions. In our sample of six counties, we found that the Department participated financially in 76 funerals, making 108 separate burial assistance payments during the first half of fiscal year 1990. For our sample, the average amount billed per funeral to the Department by funeral homes or cemeteries was \$702, and the average amount paid was \$652.

Of those 108 vouchers, 20 (18.2 percent) were reduced from the amount billed. Of the 20 vouchers that were reduced, the average amount of each reduction

was \$268, or 38 percent of the amount billed. In all 20 cases, the Department reduced the payments because staff identified assets such as bank accounts, money found on the decedent, recent paychecks, Social Security or Veteran's Administration death benefits, or other monetary resources. Although one concern expressed by the funeral directors was the Department's use of automobiles or other non-monetary assets to reduce reimbursements, automobiles were considered to be an asset of the estate in only one of the 20 cases; in that case, the value of the cars was below the Department's allowance for such assets and so did not figure in the reduction of the funeral home's payment.

Another concern expressed by funeral directors was that cash assets are spent before the funeral home contacts the family to collect any amount reduced by the Department. To determine if the funeral homes in the 20 sampled cases were able to collect the difference between their charges and the Department's reimbursements, we contacted the funeral directors at those facilities. The reduced amounts that these funeral homes were able to collect are illustrated in the following graph. In general,



the funeral homes were able to collect some or all of the amount reduced in 11 of the 20 cases. The most common sources of the 11 reductions collected by funeral homes were Veteran's Administration death benefits and family contributions. Funeral home directors also reported collecting funds from bank accounts, insurance policies, and cash on the decedent at the time of death.

Local and area office personnel do not always notify funeral homes of the amount of reimbursement that will be made. Some of the comments made by the survey respondents and local Department staff indicated that communication between the local Department workers and the funeral homes is not always timely or complete. For example, one funeral director said, "Many times the SRS personnel tell the family and the funeral home the deceased is eligible for [an] SRS service; then in several weeks SRS tells us they will only pay part of the charges because of available assets. By this time, the family has gone in all directions and they do not feel it is their responsibility to pay the difference."

Department staff in the central office indicated that local workers should be providing written notification to both the family and funeral home of the amount the Department will pay for a funeral and the amount that must be collected from the family or estate. However, staff in the local offices we contacted generally told us that the only formal, written communication to a funeral home on a case is the State reimbursement voucher and warrant. Department staff in the local offices do send copies of the approval form to families of the decedent. If funeral homes have to wait for the Department's normal procedures to produce a payment voucher and warrant before finding out how much they will be reimbursed, it increases the likelihood that the family may spend any resources that the worker determined should be used to help pay for the funeral. This decreases the funeral homes' ability to collect the estate or family portion of the funeral bill. Ensuring that the Department notifies the funeral home of the amount approved for reimbursement on a timely basis might improve the homes' chances of collecting the recipients' share of the bill.

The funeral home directors responding to our survey also indicated that they have not always been able to find out from the local Department office exactly which resources and assets have been included in the determination. One funeral director said, "When we are told to collect from the family, normally we cannot find out where the said assets are." This information is confidential, although Department officials indicated that in the future local workers would try to obtain a release from the family member or other applicant for service, so that the workers could tell the funeral home the nature of the resources used in the eligibility determination.

Reimbursements to Funeral Homes Are Handled In Much the Same Way As Reimbursements to Other Providers

To determine how the procedures for reimbursing funeral homes might differ from procedures for reimbursing doctors, hospitals, and other providers of services to public assistance recipients, we interviewed Department officials and reviewed the Department's Kansas Public Assistance Manual.

Officials said that in most ways the Department treats the two classes of providers in much the same way. For example, they said, the Department pays both doctors and funeral directors a set maximum amount for service. For both groups, the Department's reimbursement is considered to be payment in full; neither doctors nor funeral directors are allowed to charge clients for the remainder of their usual fees over and above what the Department pays. In addition, for both medical and burial assistance, the Department may calculate a portion of the total charge that is the recipient's obligation to pay because the recipient's or family's resources exceed the Department's allowances.

Department officials said, for example, that if a doctor usually charges \$1,600 to perform an appendectomy, the Department might reimburse a maximum of, say, \$1,000. If the Department determined that the client had income of \$450 over and above a set living allowance, it would pay only \$550 of the doctor's bill, and would require the doctor to collect the other \$450 from the client. The \$450 client obligation is the client's "spenddown," a procedure that is very common in the Department's medical program, according to officials. Department officials added that if a medical assistance recipient died before the client obligation portion of the doctor's bill had been paid, the doctor could still collect from the Department in the same way as if the recipient were alive. However, the doctor still would be required to pursue collection of any client obligation portion of the bill from the family or the estate.

In the same way, funeral homes and cemeteries are entitled to receive partial reimbursement for recipients who meet the program's eligibility guidelines. According to Department officials, the eligibility determination process of identifying estate assets and family resources establishes a "client obligation" for the dead person analogous to the "spenddown" amount set for a medical assistance recipient. The difference, of course, is that because the funeral home is providing services to someone who is dead, the "client obligation" portion of the charge must always be collected from the family or estate.

Doctors often can try to collect the client obligation portion of their bills from living patients and are forced to go to the family or estate only when a recipient dies. Department officials pointed out that, even in instances where the funeral home makes arrangements for payment with the family of a person not on public assistance, there is always the possibility that the funeral home will have to go after the decedent's assets to collect for the cost of the services rendered. Such collection efforts, Department officials said, are a normal part of doing business for all service providers, and are not unique to funeral homes.

State Burial Assistance In Kansas Is Generally More Comprehensive and Costly Than State Assistance In Surrounding and Similar States

To determine how other states' burial reimbursement practices compare with the Kansas program, we contacted state officials in Colorado, Iowa, Missouri, Nebraska, and Oklahoma. Each of the states contacted makes some provision for pro-

viding burials for indigent persons at either the state or county level, but the practices varied widely from state to state. Of the five states surveyed, only three (Colorado, Iowa, and Oklahoma) provide some kind of state-funded burial assistance. Of those, only Iowa provides assistance to both public assistance recipients and non-recipients. In all five other states the counties had some role in providing burial assistance, and burial assistance in Nebraska and Missouri is provided only by the individual counties.

**Comparison of Burial Reimbursement Programs
In Kansas and Surrounding and Similar States**

	Colorado	Iowa	Kansas	Missouri	Nebraska	Oklahoma
Who is responsible for providing burial assistance?	State/ County(a)	State/ County(b)	State	County	County	State/ County
Who is eligible for state burial assistance?						
Public Assistance Recipients?	Yes	Yes	Yes	N/A	N/A	Yes
Indigents?	No	Yes	Yes	N/A	N/A	Yes
What is the maximum state reimbursement rate?	\$1,250	\$400	\$1,250	N/A	N/A	(c)
Are the decedent's assets used to reduce the state's reimbursement?	Yes	Yes	Yes	N/A	N/A	(d)
Who is responsible for collecting those assets?	Funeral Home	Funeral Homes	Funeral Homes	N/A	N/A	(d)
How much did the state spend on burial assistance in fiscal year 1989?	\$377,732(e)	\$30,800	\$758,916	\$0	\$0	(d)
How many burials did the state pay for during fiscal year 1989?	1,201	77	1,083	0	0	(d)
What was the average cost per burial during fiscal year 1989?	\$393	\$400	\$701	N/A	N/A	\$1,200-\$1,500(f)

- (a) This program is administered by the counties; the State provides 80 percent of the funding and the counties provide the remaining 20 percent.
- (b) The state of Iowa provides burial assistance for certain categories of decedents; the counties are responsible for providing assistance to any other decedents.
- (c) No maximum reimbursement range has been set by the state. Department of Human Services personnel are instructed to contract with funeral homes for the lowest price possible.
- (d) Oklahoma officials could not provide this information.
- (e) Although the total cost of the program was \$472,165, the state was only responsible for 80 percent of the cost.
- (f) These are the average payments made by the State of Oklahoma to bury children in State custody.

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Of the five states contacted, none had a higher statewide maximum allowable reimbursement rate than Kansas. All of the states except Missouri used the decedent's assets to reduce the reimbursement and require funeral homes to collect such assets. Finally, Kansas spent \$758,916 on its burial program for fiscal year 1989 which was significantly more than any other state spent. Colorado reported the next highest expenditures with fiscal year 1989 state payments of \$377,732 for burial assistance. The burial assistance programs in other states are described in more detail in the box on page 12.

Conclusion

It does not appear that the Department's reimbursement practices for the burial assistance program are significantly different from practices for reimbursing other vendors such as physicians. Further, Kansas' burial assistance program is more comprehensive than burial assistance provided by neighboring states. The Department's reimbursement practices do result in situations where funeral homes and cemeteries may not be able to collect amounts deducted as the family or estate's obligation, or where the funeral homes and cemeteries may spend more trying to collect assets than they are actually able to collect. This could also be true for others who provide services to public assistance recipients.

Nonetheless, this is an area that has caused considerable concern among members of the funeral home industry. Any changes the Legislature may wish to make to address these concerns would have a fiscal impact, one that could be magnified if applied to other vendors. House Bill 2801, introduced during the 1990 legislative session, would have made the Department responsible for collecting any assets or resources available from families or estates to offset funeral and burial costs. Although definite cost figures for this change are not available, the Department estimated that this change would cost about \$375,000 per year. This figure could be somewhat high, but our review of funeral and burial payments made during the first half of fiscal year 1990 indicated the cost of such a change would be at least \$100,000. Another option would be to increase the maximum amounts paid by the Department for funeral and burial costs. Additional costs for this option would depend on the amount of increase in reimbursement rates. For example, if the rates were increased by \$50 per funeral and the Department paid for 1,000 funerals per year, this change would cost the State a maximum of \$50,000.

Regardless of whether any changes of this nature are made to the burial assistance program, the Department should take steps to ensure that the program is administered uniformly across the State, and to improve communications with members of the funeral and burial industry.

Recommendation

The Department of Social and Rehabilitation Services should take the necessary steps to develop consistent burial reimbursement practices and ensure that such practices are used across the State. These steps should include the following:

- a. Develop formal, written procedures for notifying funeral homes and cemeteries on a timely basis of the amount to be paid for services provided.
- b. Spread any payment reductions over both cemetery and funeral home bills when separate bills are submitted for such services.
- c. Continue to work to get written releases from family members so that funeral homes and cemeteries may be told what assets were used to reduce any Department payments.

How Does the Amount the Department Budgets For These Funerals And Burials Compare With the Amounts Actually Spent?

We found that the Department's burial assistance program spent more than its appropriation each year from fiscal year 1986 through 1989. In addition, Department officials estimated that the program would also exceed its appropriation for fiscal year 1990. According to Department officials, these deficits in the burial assistance program were met each year by transferring funds from other assistance programs into the burial program.

In Recent Years, Burial Assistance Expenditures Have Consistently Exceeded Appropriations

The Department's budget requests, appropriations, and actual expenditures, for the burial assistance program for the last five fiscal years are summarized in the following table.

**Summary of Burial Program Appropriations and Expenditures
Fiscal Years 1986 Through 1990**

	<u>Fiscal Year</u>				
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Budget Request	\$450,000	\$597,633	\$696,600	\$721,113	\$760,000
Appropriation	450,000	475,695	696,600	679,839	740,000
Expenditures	689,756	686,774	734,206	758,916	822,150 (a)
Expenditure Deficit	239,756	211,079	37,606	79,077	82,150 (a)
Deficit as a Percent of Appropriations	53.3%	44.4%	5.4%	11.6%	11.1%

(a) The fiscal year 1990 expenditure and deficit figures are estimates based on actual expenditures for the first eight months of fiscal year 1990.

As the table shows, although expenditures for burial assistance have consistently exceeded appropriations, the appropriations have more nearly kept pace with expenditures since fiscal year 1988. For the five years between fiscal years 1986 and 1990, annual expenditures have increased by approximately \$132,400, or 19.2 percent. During the same period, appropriations for burial assistance have increased \$290,000, or 64.4 percent. As a percent of appropriations, the expenditure deficits have decreased from 53.3 percent in fiscal year 1986 to a projected 11.1 percent in fiscal year 1990. The low in this area was in fiscal year 1988, when expenditures exceeded appropriations by only 5.4 percent.

According to Department staff, the annual deficit in the burial assistance program is met by transferring funds from other assistance programs. Although Department staff could not determine exactly which programs the money to fund the annual burial program deficits came from without conducting detailed reviews of appropriations and expenditures for other programs, they indicated that the shortfalls were always funded with State General Fund dollars originally allocated to other assistance programs. Department staff did indicate, for example, that the shortfall in fiscal year 1987 was at least partially funded by shutting down the emergency assistance program for several months. When operating, the emergency assistance program provides funds for families with children when evictions or disasters such as fires or tornadoes occur and no other resources are available.

Department budget requests for the burial assistance program are based on historical changes in expenditures. Department staff indicated that they calculate their budget requests for this program by estimating the current year's expenditures and increasing that amount by the percentage growth they anticipate for the budget year's expenditures. The budget request for burial assistance, consequently, would not be affected by the Department's expected average payment per burial.

APPENDIX A

Funeral Directors' Survey Responses

We sent surveys to a sample of 100 Kansas funeral homes. Of the 100 surveys, we received 55 responses. The first two pages of this Appendix show the total or average responses to our survey questions. The final two pages contain excerpts from comments made by funeral directors on the survey forms.

LEGISLATIVE DIVISION OF POST AUDIT
Survey of Funeral Home Directors

The Legislative Division of Post Audit is conducting a performance audit dealing with the Department of Social and Rehabilitation Services' expenditures for funerals and burials of public assistance recipients. As part of this audit, we are surveying a sample of Kansas funeral homes. Please take a few minutes to answer the following brief questions, and return the completed survey to us in the accompanying return envelope by April 5, 1990. Thank you for your help.

Funeral Home Name _____ City _____

Your Name _____ Your Title _____ Date _____

1. In the last two years, have you provided any funerals for indigent persons for which the Department reimbursed you? yes: 47 no: 8 total: 55
- 2a. If you answered "yes" to question one, how many such funerals have you provided in the last two years (please circle the correct number)?

total Department-reimbursed funerals in the last two years: 412

average number of Department-reimbursed funerals
per funeral home in the last two years: 8.8

- 2b. If you answered "no" to question one, why not (please check all that apply)?

We have not had the opportunity to provide such services: 8

We have refused to provide such services: 0

If you answered "no" to question one, please stop here and return the survey. If you answered "yes" to question one, please continue.

3. For the number of funerals you marked in question 2a, in how many of those cases did the Department pay less than the amount you billed (given that the Department limits the amount you may bill to the maximum allowances established by State regulation)? (Please circle the correct number.)

respondents reporting they had had at least
one payment reduced: 37

total Department payments in the last two years
that were reduced from the billed amount: 131

average number of Department payments per funeral
home that were reduced from the billed amount
in the last two years: 3.5

4. When the Department has reimbursed you for less than the amount you billed for an indigent person's funeral (given that the Department limits the amount you may bill to the maximum allowances established by State regulation), in general what explanation(s) have you been given (check all that apply)?

	<u>Number of Responses</u>	<u>Percent of 37 Reporting Reduced Payments</u>
we were told that we would have to file a claim or lien with the court:	3	8.1%
we were told that we would have to collect from the family:	27	73.0
we were told that the decedent had assets, and that it was our responsibility to find and claim those assets:	28	75.7
we were not given any explanation:	2	5.4
other:	7	19.0

5. What have your collection practices been for recovering the difference between your bills to the Department for indigent persons' funerals and the amount the Department reimbursed? (Please check all that you have used in the last two years.)

	<u>Number of Responses</u>	<u>Percent of 37 Reporting Reduced Payments</u>
we file a formal claim with the court against the estate of the decedent:	2	5.4%
we informally attempt to recover the money from the decedent's family:	35	94.6
we use a collection agency to recover the money:	4	10.8
we do not attempt to collect the difference:	2	5.4
other:	4	10.8

6. The Department will pay only for the most basic funeral, with a simple casket, plot, and an outside container only if required by the cemetery. For these goods and services, the Department will only reimburse you up to a maximum of \$1,150, assuming the decedent was an adult of average size.

a. what is your actual cost for such a funeral? (a)

b. what would be your usual retail charge for such a funeral?(a)

casket:	\$184	\$476
cemetery plot:	\$157	\$167
outside container:	\$193	\$370
all other services (including overhead):	\$1,701	\$1,665
TOTAL:	\$2,179	\$2,546

- (a) Some respondents did not itemize their individual costs and charges, but entered their total costs and charges. As a result, the figures for individual items may be less accurate than the totals for all charges.

7. Please use the space below to provide any other comments about your experiences providing funerals for indigent persons for which the Department reimbursed you.

Following is a sample of the comments provided by the funeral directors who responded to the survey:

- Our firm has not personally had any problems with collecting the fees for welfare services. The Butler County SRS office has been very cooperative and helpful, and easy to work with...
- We were told in one case that the deceased was to have been receiving alimony payments and should have money to pay the balance of the funeral bill, even though she had no money and had not been receiving alimony payments for several months.
- It would be nice if we could get the \$1,150 and welfare collect the balance.
- In my past experience it is totally a waste of effort to assume that a family who has no money and is eligible for State Assistance will ever turn money over from Social Security or Veteran's Administration. These people have no checking account or personal property to claim against or to put in an estate. They cash their monthly checks at the 1st of the month and deal in cash all month long. They are a horrible credit risk. Once the dead person is in the ground it's all over and the family knows we won't dig the person up and wait to be paid. Nothing to repossess.
- We all realize we are going to have services for indigents from time to time. I feel the recovery of our actual costs is very justified.
- I have been involved twice in the past few years where we were put in a position to have to work out the sale of old pickup trucks to received one time \$50.00 and another time about \$600. Since Social Security no longer allows assignment of the Lump Sum Death Benefit to the Mortuary we have three times lost the \$255.00 since we could not make collection from the surviving spouse. I'm sure SRS could recoup those fund gradually by withholding a portion from future payment made to the spouse...
- We have not had to provide services for an indigent person in the last two years. However, from all we know about SRS, we feel the funeral profession is being taken to the cleaners by this organization. The funeral profession should at least be able to recover their average cost of providing a service for an indigent body.
- Obviously if all our funerals were of this type we would not be in business long. Fortunately they are not. I do want to add that the Director of the Dodge City SRS office...is very cooperative and understanding of our problems. She tries to help us when she can within the confines of her regulations.
- The entire process is very unsatisfactory. Services and merchandise is provided at 30% less than our ACTUAL cost. Furthermore, this subsidized amount is further reduced in a computation that defines logic. The public is being deceived that the State is reimbursing the Funeral Director as it does all other "vendors".

- Our experience has been SRS gives us a complete understanding as to what they will pay before we conduct the services...there is a complete understanding prior to our rendering service and funeral. However, the funeral director and funeral home is forced to provide services and merchandise just as though the family was paying the full minimum service and casket. The problem lies with SRS in that it has not updated the payment schedule to keep up with rising costs. Funeral directors use "good samaritan" practices and SRS has kept schedule of payments antiquated.
- This is a common problem and has been so for years. When we are told to collect from the family, normally we cannot find out where the said assets are. The family just ignores these claims. We cannot get the location or amounts from SRS and basically have to ignore the amount and write it off. In one instance, the family couldn't even find out what assets SRS was talking about. The other case during this time, donations from the public to help the family in restoring a life after burning out was deemed assets and had to be used to pay doctor and funeral bills first. This resulted in hardship on the family.
- In the past we always have received what we bill. Recently, however, there have been several occasions when the amount allowed by the caseworker to be billed was not paid because of "assets", i.e. old cars, insurance policies with the beneficiary not willing to pay the proceeds, Social Security death benefits which the funeral home cannot claim, or VA benefits which we can claim. Several times we have gotten approval for payment of benefits, carried out the funeral service, and then been denied payment completely, because the person "did not qualify."
- We're thankful we only average one SRS case per year--one positive thought also is our office here in Phillipsburg is very cooperative.
- Most generally the folks are very cooperative. I did have one service where I told them I could never collect from a spouse the remainder the State didn't pay. I was informed - 'sorry'.
- We have received less than the amount billed in previous years because a member of the family of the deceased has been judged to have owned assets or cash. We have never been able to collect this amount and have had to write it off as a loss.
- I have been quite fortunate not to have many SRS funerals in the past two years. In 1987 I had more of them. Over these years, I have had a number of funerals that I have done for about the same fee, and the family paid for it. I do think it is unfair for us to have to take such a discount. When an SRS auto pulls into the gas station, do they only pay .35¢ per gallon on gas, when the going rate is over a \$1.00? These are many other examples where SRS has to pay the full price for goods and services every day. Why single us out?
- ...It is impossible, in most cases, to find and collect "assets" from these families. In our last case the "assets" was a Social Security check that had already been spent during the time the decedent in the hospital. This was certainly unrecoverable.
- Each office and each case worker interprets the manual differently. It's a hassle each time because there are no standards. In my opinion the entire Kansas SRS Dept. is a shambles, and we only deal with a small tip of what's probably a huge iceberg!

APPENDIX B

Agency Response

On April 17, 1990, we provided a copy of the draft audit report to the Department of Social and Rehabilitation Services. Its response is included in this Appendix.