Notes on topics not discussed to date from Michael Meierhoffer (August 6, 2008)

2. Collection of funds by preneed providers: Kim inserted language requiring funds to be deposited within 45 days.

3. Record keeping for preneed fund payments: The trustee, as recipient of 100% of the funds should be responsible for keeping records of payments.

8. Payments to providers for services rendered: Do not require a certified copy of the death certificate. This is not consumer friendly as the cost of the death certificate will only be passed on to the family. Insurance companies and trust companies currently require a certificate of performance signed by the family.

9. Trustee responsibilities: New language in 436 as proposed spells this out.

10. Independent advisors: I think we are waiting on language from banking department.

11. Reporting/notification requirements for trustees: The Board should be notified with the annual reporting; consumers will be notified at the time of the contract (Trustee should be listed on the contract); Sellers are aware based upon the seller/provider agreement they should have entered into to do business together; the provider and the trustee should be aware of their relationship as well since their payment comes from the trustee and there is no reason for additional reporting to the Attorney General's office (if an investigation/audit is called for, the AG should be able to review annual reports.

12. Record keeping for trustees: Is this not a function of the banking/financial institutions statues?

13. Trust disbursements: Is this not a function of the banking/financial institutions statutes?

22. Rulemaking for the Board: All for it.

35. Licensing requirements for preneed registrants: All discussion seems to be leading to licensure of preneed sellers. As discussed earlier, licensed funeral directors, apprentice funeral directors and licensed insurance producers should be exempt from this requirement. Persons employed by an establishment, provider or seller, or third-party sellers, who do not hold one of the aforementioned licenses or registrations should be required to apply for licensure to sell preneed trust agreements or joint account agreements and should pass a test as designed by the Board based upon the statutes governing preneed trust and joint account agreements.

39. Changing/clarifying basic requirements for preneed contracts: Proposed language covers these items fully.

40. Adopting/requiring standard forms for preneed contracts: No. Contract should be devised to fit the business needs of individual sellers. One size does not fit all with contracts. The details and items that would have to be included to encompass all items currently provided throughout the state would be burdensome and confusing to the consumer.

41. Requiring the filing or approval of preneed forms & contracts with/by the Board or other agency: Too much oversight. A contract doesn't break the law. A dishonest person does with or without an approved contract on file. Contracts should be drafted and approved by the businesses attorney which would provide oversight and adherence to contract law.

42. Definition of a "preneed contract": Proposed language addresses this point fully.

43. Changing/clarifying the Current Chapter 436 investigative/examination/audit process: Refer to Meierhoffer's proposed changes from August 4, 2008. Examination would be the first step as conducted by the Board or its staff during the annual reporting process. If deemed necessary by the Board and investigation may be initiated after this point for further review. This process could include other agencies as requested by the Board. If the investigation merits, the Board could call for an audit which would be a more comprehensive review conducted by certified professionals.

48. Allowing the regulatory agency for Chapter 436 to hire legal counsel: Why? Is legal counsel not already provided to the Board? Is the Attorney General's Office not available if needed? What cause is there for another level of attorney's and more importantly, their fees?

49. Expanding/modifying investigative, audit or examination powers of the Board/Attorney General's Office/Missouri Department of Insurance, etc.: Refer to item 43.

50. Expanding/modifying criminal/civil authority of the Board/Insurance/Attorney General's Office: This item may have already been discussed and resolved at an earlier meeting.

NOTES:

- Nobody has clearly explained why it is necessary to attach this proposed language to Statute 333. Do we run the risk of opening that statute when we do this?
- Do the new statutes apply only to contracts entered after the effective date of the new law, if passed? If so, what law to older contracts fall under if the current 436 is repealed? It is mandatory that changes in Chapter 436 do not affect contracts entered before the effective date of the new law.
- There is a great need to keep funeral service/law and cemetery service/law separate. Although it may seem that the two industries are one in the same they do have very different business cycles, revenue streams and practices that should differentiate them from each other enough to keep them governed by separate statutes (333 and 436 for funeral service and 214 for endowed care cemeteries). Pre-need statute as described in the proposed language could cripple cemeteries. Trusting requirements and disbursements for cemetery property would potentially

take generations to recognize revenue, if at all in some cases. Keep funeral and cemetery separate.