

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: **06/25/99**

Received By: **yacketa**

Wanted: **As time permits**

Identical to LRB:

For: **Assembly Republican Caucus**

By/Representing: **Kratochwill**

This file may be shown to any legislator: **NO**

Drafter: **yacketa**

May Contact:

Alt. Drafters:

Subject: **Public Assistance - Wis works  
Public Assistance - med. assist.**

Extra Copies:

**Pre Topic:**

ARC:.....Kratochwill - Am #--,

**Topic:**

Funeral and burial expenses

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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/1	yacketa 06/25/99	lrb_editor					
		1/1 6/25 jlg	Kjf 6/25	Kjf/SH 6/26			

FE Sent For:

<END>



# John Gard

**Assembly Chairman, Joint Committee on Finance**

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**TO:** Tina Yacker, LRB

**FROM:** Rep. Gard (Diane 6-2343)

**RE:** Additional Item Adopted as Part of the "Correction"  
Amendment by Assembly Republican Caucus

**DATE:** June 25, 1999

The attached Motion #LFB 1000 was adopted as part of the final "correction" package at the end of the caucus deliberations.

The Fiscal Bureau can be contacted for any further clarification needed.

Jason K. is aware that I am forwarding this to you for inclusion.

Representative Kaufert

WORKFORCE DEVELOPMENT AND HEALTH AND FAMILY SERVICES

Funerals and Burials

Motion:

Move to: (a) increase the maximum amount of unpaid funeral and burial expenses of public assistance recipients for which state reimbursement is provided from \$1,000 to \$1,500 on January 1, 2001, and to \$2,500 on July 1, 2001; and (b) increase the value of an irrevocable burial trust that may be excluded from the determination of a medical assistance (MA) applicant's assets from \$2,000 to \$2,500 on January 1, 2001, and to \$3,000 on July 1, 2001; and (c) specify that to be exempt for MA eligibility, the burial trust must specify the state as the secondary beneficiary for any funds remaining after payment of burial costs, and direct the Department of Health and Family Services (DHFS) to file a state MA plan amendment to accomplish this change.

\_\_\_\_\_  
v b  
w b

(3)(dz)

Note:

Under current law, if any individual who is receiving public assistance benefits dies, and the estate of that recipient is insufficient to pay the funeral, burial and cemetery expenses for that recipient, the county or tribe is required to pay up to \$1,000 in cemetery expenses and up to \$1,000 for the funeral and burial expenses not paid by the estate of the recipient and other persons. The state is required to reimburse the county or tribe for these cemetery and funeral and burial expenses.

Under this motion, the maximum amount that the county or tribe would be required to pay for funeral and burial expenses of a public assistance recipient would be increased by \$500 to \$1,500 as of January 1, 2001, and to \$2,500 as of July 1, 2001. It is estimated that increasing the amount of the reimbursement would result in increased costs of \$568,800 GPR and \$56,300 FED in 2000-01. The share of increased costs to be provided from federal funding is from the temporary assistance to needy families (TANF) block grant, and is based on 1997-98 data which indicates that 9% of the cases for which DWD reimbursed local agencies for funeral and burial expenses were cases involving a recipient under the W-2 program. The remaining 91% of the cases involved MA and SSI recipients.

(3) (md)  
625,100

Under current law, persons who are 65 years of age or older, blind or disabled may qualify for MA if their resources and income do not exceed specified limits. In determining whether an applicant meets the resource criteria, certain types of assets are excluded. One such excluded asset

is an irrevocable trust used to fund a burial agreement with a value up to \$2,000. If an applicant has an irrevocable trust with a value that exceeds \$2,000, only the value of the trust that exceeds \$2,000 is considered a countable asset. MA law and regulations also exempt other burial assets from countable assets such as a burial plot of any value and funeral insurance.

Increasing the allowed amount of an irrevocable burial trust from \$2,000 to \$2,500 on January 1, 2001, and to \$3,000 on July 1, 2001, may allow certain elderly and disabled MA applicants to become eligible for MA at an earlier date by allowing such individuals to exclude additional assets, rather than requiring those assets to be used for the cost of their care. Because of the lack of data and the availability of other exempt burial assets, it is uncertain what the exact effect would be on MA, but it may increase MA costs by approximately \$159,100 GPR and \$230,900 FED in 2000-01. Part of the increase in MA expenditures might be offset in later years, since individuals would have greater amounts to pay for their own burial expenses, and this may decrease the state's costs for indigent funerals. These offsetting savings would not be in the current biennium, but may eventually offset one-third to one-half of the MA costs.

This motion would require an irrevocable burial trusts to name the state as the secondary beneficiary for any funds remaining in the burial trust that are not needed for funeral or burial expenses. This provision is intended to prevent an irrevocable burial from being used as a vehicle to transfer assets to family members without any divestment penalty or to bypass MA estate recovery.

[Change to Joint Finance Bill: \$727,900 GPR and \$287,200 FED]

20.435(4)(6)

568,800



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1282/1

TAY.....

ARC:..... *Kratochwill* Funeral and burial expenses

*WFO:*  
*please*  
*fix request sheet.*  
*JG*

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 198, line 14: increase the dollar amount for fiscal year 2000-01 by  
3 \$159,100<sup>✓</sup> for the purpose for which the appropriation is made.

4 2. Page 212, line 10: increase the dollar amount for fiscal year 2000-01 by  
5 \$568,800<sup>✓</sup> for the purpose of providing increased funeral and burial expense  
6 payments.

7 3. Page 213, line 14: increase the dollar amount for fiscal year 2000-01 by  
8 \$56,300<sup>✓</sup> for the purpose of providing increased funeral and burial expense payments.

9 4. Page 703, line 12: after that line insert:  
*→ INSERT A (from next page)*

10 "SECTION 1355v. 49.30 (1) (a) of the statutes is amended to read:  
*x*

1 49.30 (1) (a) The lesser of \$1,000 \$1,500 or the cemetery expenses that are not  
2 paid by the estate of the deceased and other persons.

3 History: 1973 c. 147, 333; 1975 c. 39, 224; 1979 c. 206; 1981 c. 20; 1985 ~~a. 29~~, 176, 332; 1989 a. 31, 239; 1995 a. 27, 289; 1997 a. 27.

3 SECTION 1355vb. 49.30 (1) (a) of the statutes, as affected by 1999 Wisconsin Act  
4 .... (this act), is amended to read:

5 49.30 (1) (a) The lesser of \$1,500 \$2,000 or the cemetery expenses that are not  
6 paid by the estate of the deceased and other persons.

7 SECTION 1355w. 49.30 (1) (b) of the statutes is amended to read:

8 49.30 (1) (b) The lesser of \$1,000 \$1,500 or the funeral and burial expenses not  
9 paid by the estate of the deceased and other persons.”

as affected by 1999 Wisconsin Act.... (this act),

10 History: 1973 c. 147, 333; 1975 c. 39, 224; 1979 c. 206; 1981 c. 20; 1985 a. 29, 176, 332; 1989 a. 31, 239; 1995 a. 27, 289; 1997 a. 27.

10 SECTION 1355wb. 49.30 (1) (b) of the statutes is amended to read:

11 49.30 (1) (b) The lesser of \$1,500 \$2,000 or the funeral and burial expenses not  
12 paid by the estate of the deceased and other persons.”

INS A  
MOVE TO  
PREVIOUS  
PAGE 15

5. Page 683, line 8: delete lines 8 and 9 and substitute:  
“(j) *Funeral expenses.* For funeral expenses under s. 49.30, \$3,300,000 in fiscal  
year 1999–2000 and ~~3,925,100~~ <sup>\$</sup>3,925,100 in fiscal year 2000–~~2001~~.”

16 6. Page 724, line 5: after that line insert:

17 “SECTION 1439m. 49.47 (4) (cm) 3. of the statutes is created to read:

18 49.47 (4) (cm) 3. An individual who is otherwise eligible under this subsection  
19 and who has set aside funds in an irrevocable burial trust under s. 445.125 (1) (a) 2.  
20 shall, as a condition of eligibility for medical assistance, specify the state as a  
21 secondary beneficiary of the trust with respect to all funds in the trust that exceed  
22 the burial costs but do not exceed the amount of medical assistance paid on behalf  
23 of the individual.”

24 7. Page 1375, line 20: after that line insert:

1 "SECTION 2923mm. 445.125 (1) (a) 2. of the statutes is amended to read:  
 2 445.125 (1) (a) 2. Notwithstanding s. 701.12 (1), such agreements may be made  
 3 irrevocable as to the first \$2,000 ~~\$2,000~~ <sup>\$2,500</sup> of the funds paid under the agreement by  
 4 each depositor.

as affected by 1999 Wisconsin Act ... (this act)

History: 1973 c. 227; 1977 c. 40; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.125; 1981 c. 64; 1983 a. 448, 486, 538; 1985 a. 29; 1989 a. 307; 1991 a. 39, 221; 1995 a. 295.

5 SECTION 2923mn. 445.125 (1) (a) 2. of the statutes is amended to read:  
 6 445.125 (1) (a) 2. Notwithstanding s. 701.12 (1), such agreements may be made  
 7 irrevocable as to the first \$2,500 ~~\$2,500~~ <sup>\$3,000</sup> of the funds paid under the agreement by  
 8 each depositor."

9 8. Page <sup>1610</sup> ~~1592~~, line 16: after that line insert:

- 10 (1) FUNERAL AND BURIAL EXPENSES.
- 11 (a) The treatment of section 49.30 (1) (a) (by SECTION 1355v) and (b) (by SECTION
- 12 1355w) of the statutes takes effect on January 1, 2001.
- 13 (b) The treatment of section 49.30 (1) (a) (by SECTION 1355vb) and (b) (by
- 14 SECTION 1355wb) of the statutes takes effect on July 1, 2001."

15 9. Page <sup>1613</sup> ~~1598~~, line <sup>19</sup> ~~21~~: after that line insert:

- 16 (1) IRREVOCABLE BURIAL TRUSTS.
- 17 (a) The treatment of section 445.125 (1) (a) 2. (by SECTION 2923mm) of the
- 18 statutes takes effect on January 1, 2001.
- 19 (b) The treatment of section 445.125 (1) (a) 2. (by SECTION 2923mn) of the
- 20 statutes takes effect on July 1, 2001."

21 (END)

ARC:..... - Kratochwill - Funeral and burial expenses

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS AMENDMENT**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 1999 ASSEMBLY BILL 133**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 198, line 14: increase the dollar amount for fiscal year 2000-01 by  
3 \$159,100 for the purpose for which the appropriation is made.

4 **2.** Page 212, line 10: increase the dollar amount for fiscal year 2000-01 by  
5 \$568,800 for the purpose of providing increased funeral and burial expense  
6 payments.

7 **3.** Page 213, line 14: increase the dollar amount for fiscal year 2000-01 by  
8 \$56,300 for the purpose of providing increased funeral and burial expense payments.

9 **4.** Page 683, line 8: delete lines 8 and 9 and substitute:

1           “(j) *Funeral expenses.* For funeral expenses under s. 49.30, \$3,300,000 in fiscal  
2           year 1999–2000 and \$3,925,100 in fiscal year 2000–01.”.

3           **5.** Page 703, line 12: after that line insert:

4           “~~SECTION 1355v.~~ 49.30 (1) (a) of the statutes is amended to read:

5           49.30 (1) (a) The lesser of ~~\$1,000~~ \$1,500 or the cemetery expenses that are not  
6           paid by the estate of the deceased and other persons.

7           ~~SECTION 1355vb.~~ 49.30 (1) (a) of the statutes, as affected by 1999 Wisconsin Act  
8           .... (this act), is amended to read:

9           49.30 (1) (a) The lesser of ~~\$1,500~~ \$2,000 or the cemetery expenses that are not  
10          paid by the estate of the deceased and other persons.

11          “~~SECTION 1355w.~~ 49.30 (1) (b) of the statutes is amended to read:

12          49.30 (1) (b) The lesser of ~~\$1,000~~ \$1,500 or the funeral and burial expenses not  
13          paid by the estate of the deceased and other persons.”.

14          ~~SECTION 1355wb.~~ 49.30 (1) (b) of the statutes, as affected by 1999 Wisconsin  
15          Act .... (this act), is amended to read:

16          49.30 (1) (b) The lesser of ~~\$1,500~~ \$2,500 ~~\$2,000~~ or the funeral and burial expenses not  
17          paid by the estate of the deceased and other persons.”.

18          **6.** Page 724, line 5: after that line insert:

19          “~~SECTION 1439m.~~ 49.47 (4) (cm) 3. of the statutes is created to read:

20          49.47 (4) (cm) 3. An individual who is otherwise eligible under this subsection  
21          and who has set aside funds in an irrevocable burial trust under s. 445.125 (1) (a) 2.  
22          shall, as a condition of eligibility for medical assistance, specify the state as a  
23          secondary beneficiary of the trust with respect to all funds in the trust that exceed

1 the burial costs but do not exceed the amount of medical assistance paid on behalf  
2 of the individual.”.

3 **7.** Page 1375, line 20: after that line insert:

4 “SECTION 2923mm. 445.125 (1) (a) 2. of the statutes is amended to read:

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11 irrevocable as to the first ~~\$2,500~~ \$3,000 of the funds paid under the agreement by  
12 each depositor.”.

13 **8.** Page 1610, line 16: after that line insert:

14 “(14d) FUNERAL AND BURIAL EXPENSES.

15 (a) The treatment of section 49.30 (1) (a) ~~(by SECTION 1355v)~~ and (b) (by SECTION  
16 1355w) of the statutes takes effect on January 1, 2001.

17 (b) The treatment of section 49.30 (1) ~~(a) (by SECTION 1355v) and (b) (by~~  
18 SECTION 1355wb) of the statutes takes effect on July 1, 2001.”.

19 **9.** Page 1613, line 19: after that line insert:

20 “(2c) IRREVOCABLE BURIAL TRUSTS.

21 (a) The treatment of section 445.125 (1) (a) 2. (by SECTION 2923mm) of the  
22 statutes takes effect on January 1, 2001.





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB 1282/2  
TAY/jg:jf

ARC:.....Kratochwill - Am #—, Funeral and burial expenses

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