

SESSION OF 2014

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2172**

As Amended by Senate Committee on  
Commerce

**Brief\***

HB 2172, as amended, would make changes to existing law regarding cemetery pre-need merchandise, the permanent maintenance fund, and reporting. The bill would make the following changes:

- Specify that payments received by a cemetery corporation as part of an installment pre-need cemetery merchandise contract that includes burial spaces must first be allocated to the permanent maintenance fund. Once the burial spaces have been paid in full, pre-need merchandise and services products would continue to be funded as required by existing law;
- Require cemetery corporations to report information regarding the cemetery merchandise trust fund to the Secretary of State on a quarterly basis. Current law calls for that information to be reported monthly;
- Create definitions for the terms “burial lot,” “burial space,” “community mausoleum,” “garden mausoleum,” and “niche”;
- Modify the definition of “funding requirement” as it relates to that portion of the purchase price set aside in the permanent maintenance fund to mean the following: 15 percent of the purchase price of a

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

burial lot, but not less than \$25; 10 percent of the purchase price of a community mausoleum crypt, but not less than \$100; or 5 percent of the purchase price for each garden mausoleum crypt or niche, but not less than \$50. Under current law, “funding requirement” as it relates to the permanent maintenance fund is equal to 15 percent of the purchase price of a burial space, but not less than \$25;

- Modify the definition of “purchase price” related to cemetery burial space to subtract any amount included in the total for permanent maintenance, but specify that the purchase price stated in the contract may include the amount of the funding requirement;
- Further specify that the definition of “purchase price” would not include burial fees charged by the Secretary of State;
- Modify the definition of “abandoned cemetery” to be applicable when either of two separate circumstances apply, when a cemetery has been abandoned for a year or when records have not been maintained for 180 days. Under current law, both conditions must be met;
- Extend by 15 days the time allowed after moneys are received before those moneys must be deposited to the permanent maintenance fund or the cemetery merchandise trust fund;
- Allow taxes from capital gains related to the permanent maintenance fund to be paid from the realized capital gains proceeds; and
- Make several technical changes.

## **Background**

Representative Frownfelter testified in support of the bill at the House Committee hearing, which he stated makes changes necessary in today's market. Also testifying in support was the President of the Kansas Cemetery Association, who stated the Association had worked with the Secretary of State's Office over the past year to clarify or modify a limited number of practices that were part of the major revision of cemetery statutes in 2011. A representative of the Secretary of State's Office agreed, stating the purpose of the bill was to further clarify the intent of the 2011 legislation. The representative noted the mutual goal of the Office and the Association is to ensure that statutory requirements and regulations are not overly burdensome to cemetery businesses and, at the same time, do not compromise the duty to protect the security of funds prepaid by consumers.

There was no neutral testimony or testimony in opposition to the bill.

The House Committee on Local Government amended the bill to extend the time allowed to deposit money into the cemetery merchandise trust fund and the permanent maintenance fund, and changed a reference in the definition of "funding requirement" as it relates to the permanent maintenance fund from "burial space" to "burial lot."

The Senate Committee on Commerce amended the bill to revise the definitions for "purchase price" and "abandoned cemetery." The Committee also made several technical amendments.

The fiscal note prepared by the Division of the Budget said the Secretary of State's Office reported the bill, as introduced, would have no fiscal effect and would not change the Office's filing processes regarding cemetery trusts.