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Secretary of State



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## STATE OF KANSAS

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### KOBACH'S COLUMN

Kansas Secretary of State Kris W. Kobach

Governor Sam Brownback signed HB 2240 on May 12, 2011, a bill my office advocated to improve oversight of cemetery trust funds for the benefit of Kansans. The secretary of state's office has a statutory duty to audit certain cemetery corporation trust funds to confirm that they are financially able to meet required obligations to purchasers over time.

A cemetery must sustain a permanent maintenance trust fund to generate income in order to maintain the cemetery in perpetuity. Otherwise, bankrupt cemeteries go unmaintained, degrading communities and dishonoring those buried there. For those who purchase cemetery merchandise or services before they are needed, cemeteries must keep sufficient funds in a merchandise trust fund to cover the cost of such goods or services at the time of need.

Because of several instances where cemeteries have not complied with the law, we formed a Cemetery Study Group to evaluate the industry and how the law could be improved. Members were cemetery owners, cemetery trustees, industry experts, the Kansas Bankers Association, the attorney general's office and the secretary of state's office. The group set the following goals: (1) to secure the statutory trust funds but still allow the cemeteries to generate reasonable income; (2) to give the secretary of state's office the ability to respond to irregularities quickly and fairly; and (3) to create an efficient but not overly burdensome method of auditing the trust funds.

The result of the Cemetery Study Group's efforts was HB 2240, one of the biggest overhauls of cemetery laws in the country and a model for other states to consider. This law offers three benefits. First, it gives consumers better assurance that when their loved ones are laid to rest the cemetery lawn will continue to be mowed, and that the headstone they pre-purchased will be provided at the time of need because the cemetery has sufficient funds in trust. Second, this law protects the reputation of good cemeteries that may be damaged by the illegal actions of a few. And third, it enables regulators to monitor cemetery activity more effectively and efficiently.

I call that a win-win-win.

Your Secretary of State,  
Kris Kobach

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