

SECOND REGULAR SESSION

# SENATE BILL NO. 1070

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CRAWFORD.

Read 1st time February 28, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal section 214.160, RSMo, and to enact in lieu thereof one new section relating to cemetery trust funds.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 214.160, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 214.160, to read as follows:

214.160. 1. Under sections 214.140 to 214.180, and as otherwise not  
2 prohibited under Article VI, Section 23 of the Constitution of Missouri, the county  
3 commission may invest or loan said trust fund or funds in United States  
4 government, state, county or municipal bonds, certificates of deposit, first real  
5 estate mortgages, or deeds of trust and may utilize investment managers to  
6 invest, reinvest, and manage assets, subject to the terms, conditions, and  
7 limitations provided in this section and Article IV, Section 15 of the Constitution  
8 of Missouri. **When sufficient**, they shall use the net income from said trust  
9 fund or funds or such investments or so much thereof as is necessary to support  
10 and maintain and beautify any public or private cemetery or any particular part  
11 thereof which may be designated by the person, persons or firm or association  
12 making said gift or bequest. **If the net income from said trust fund or**  
13 **funds is not sufficient to support and maintain and beautify a cemetery,**  
14 **then the commission shall use as much of the principal thereof as the**  
15 **commission deems necessary for such purposes.** In maintaining or  
16 supporting the cemetery or any particular part or portion thereof the commission  
17 shall as nearly as possible follow the expressed wishes of the creator of said trust  
18 fund.

19 2. An investment manager shall discharge his or her duties in the interest  
20 of the public or private cemetery and the interest of the person, persons, or firm  
21 making the gift or bequest and shall:

22 (1) Act with the same care, skill, prudence, and diligence under the  
23 circumstances then prevailing that a prudent person acting in a similar capacity  
24 and familiar with those matters would use in the conduct of a similar enterprise  
25 with similar aims;

26 (2) Act with due regard for the management, reputation, and stability of  
27 the issuer and the character of the particular investments being considered;

28 (3) Make investments for the purpose of supporting, maintaining, and  
29 beautifying any public or private cemetery or any particular part thereof, which  
30 may be designated by the person, persons, or firm or association making said gift  
31 or bequest, and of defraying reasonable expenses of investing the assets;

32 (4) Give appropriate consideration to those facts and circumstances that  
33 the investment fiduciary knows or should know are relevant to the particular  
34 investment or investment course of action involved, including the role the  
35 investment or investment course of action plays in that portion of the investments  
36 for which the investment fiduciary has responsibility. For purposes of this  
37 subdivision, "appropriate consideration" shall include, but is not limited to, a  
38 determination by the investment fiduciary that a particular investment or  
39 investment course of action is reasonably designed to further the purposes of  
40 supporting, maintaining, and beautifying any public or private cemetery or any  
41 particular part thereof, which may be designated by the person, persons, or firm  
42 or association making said gift or bequest, while considering the risk of loss and  
43 the opportunity for gain or other return associated with the investment or  
44 investment course of action and considering the following factors as they relate  
45 to the investment or investment course of action:

46 (a) The diversification of the investments;

47 (b) The liquidity and current return of the investments relative to the  
48 anticipated cash flow requirements; and

49 (c) The projected return of the investments relative to the funding  
50 objectives; and

51 (5) Give appropriate consideration to investments that would enhance the  
52 general welfare of this state and its citizens if those investments offer the safety  
53 and rate of return comparable to other investments available to the investment  
54 fiduciary at the time the investment decision is made.

55 3. As used in this section, "invest" or "investment" means utilization of  
56 moneys in the expectation of future returns in the form of income or capital gain.

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