

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 340**

Introduced by Murante, 49; at the request of the Governor.

Read first time January 12, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to veterans homes; to amend sections 80-314,  
2 80-315, 80-316, 80-317, 80-319, 80-320, 80-321, 80-322, 81-1316,  
3 81-3113, 81-3116, 83-107.01, and 83-108, Reissue Revised Statutes of  
4 Nebraska; to name the Nebraska Veterans Services Act; to transfer  
5 powers and duties from the Division of Veterans' Homes of the  
6 Department of Health and Human Services to the Department of  
7 Veterans' Affairs; to provide for transfer of personnel, property,  
8 funds, rights, and duties as prescribed; to create a fund; to  
9 eliminate the division; to harmonize provisions; to provide an  
10 operative date; to repeal the original sections; and to declare an  
11 emergency.  
12 Be it enacted by the people of the State of Nebraska,

1           Section 1. This section, sections 2 and 11 to 16 of this act, and  
2 sections 80-314 to 80-331 shall be known and may be cited as the Nebraska  
3 Veterans Services Act.

4           Sec. 2. For purposes of the Nebraska Veterans Services Act:

5           (1) Department means the Department of Veterans' Affairs;

6           (2) Director means the Director of Veterans' Affairs; and

7           (3) Veterans homes means the homes listed in section 80-315.

8           Sec. 3. Section 80-314, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10           80-314 Effective July 1, 2017, all programs, services, and duties  
11 of the Division of Veterans' Homes of the Department of Health and Human  
12 Services shall be transferred to the Department of Veterans' Affairs. The  
13 department ~~Division of Veterans' Homes~~ shall be responsible for the  
14 management and administration of the veterans homes and the treatment of  
15 the members thereof, define the duties of the officers, fix their  
16 compensation, and adopt and promulgate rules and regulations. The  
17 director shall ~~Director of Veterans' Homes and the Director of Veterans'~~  
18 ~~Affairs shall jointly~~ develop member grievance procedures, family support  
19 programs, volunteer support, policy, and internal standards. The director  
20 ~~Director of Veterans' Affairs~~ shall have access to all confidential  
21 information relating to members' care.

22           Sec. 4. Section 80-315, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24           80-315 ~~(1)~~ The Grand Island Veterans' Home, the Norfolk Veterans'  
25 Home, the Eastern Nebraska ~~Thomas Fitzgerald~~ Veterans' Home, and the  
26 Western Nebraska Veterans' Home are established. ~~On July 1, 2007, the~~  
27 ~~Eastern Nebraska Veterans' Home is established.~~ The State of Nebraska  
28 shall maintain the homes as provided in the Nebraska Veterans Services  
29 Act sections 80-314 to 80-331.

30           ~~(2) The veterans' home known as the Thomas Fitzgerald Veterans' Home~~  
31 ~~as of July 14, 2006, shall continue to be known by that name until July~~

1 ~~1, 2007. On and after July 1, 2007, the veterans' home shall be known as~~  
2 ~~the Eastern Nebraska Veterans' Home.~~

3 Sec. 5. Section 80-316, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 80-316 (1) ~~The department shall purpose of the Division of Veterans'~~  
6 ~~Homes of the Department of Health and Human Services is to provide~~  
7 domiciliary and nursing home care and subsistence to:

8 (a) All persons who served on active duty in the armed forces of the  
9 United States other than active duty for training and who were discharged  
10 or otherwise separated with a characterization of honorable or general  
11 (under honorable conditions) if, at the time of making an application for  
12 admission to one of the Nebraska veterans homes:

13 (i) The applicant has been a bona fide resident of the State of  
14 Nebraska for at least two years;

15 (ii) The applicant has become disabled due to service, old age, or  
16 otherwise to an extent that it would prevent such applicant from earning  
17 a livelihood; and

18 (iii) The applicant's income from all sources is such that the  
19 applicant would be dependent wholly or partially upon public charities  
20 for support or the type of care needed is available only at a state  
21 institution;

22 (b) The spouse of any such person admitted to one of the homes who  
23 has attained the age of fifty years and has been married to such member  
24 for at least two years before his or her entrance into the home;

25 (c) Subject to subsection (2) of this section, the surviving spouses  
26 and parents of eligible servicemen and servicewomen as defined in  
27 subdivision (a) of this subsection who died while in the service of the  
28 United States or who have since died of a service-connected disability as  
29 determined by the United States Department of Veterans Affairs; and

30 (d) Subject to subsection (2) of this section, the surviving spouses  
31 of eligible servicemen or servicewomen as defined in subdivision (a) of

1 this subsection who have since died.

2 (2) The surviving spouses and parents referred to in subdivision (1)  
3 (c) or (d) of this section shall be eligible for such care and  
4 subsistence if, at the time of applying, they:

5 (a) Have been bona fide residents of the State of Nebraska for at  
6 least two years;

7 (b) Have attained the age of fifty years;

8 (c) Are unable to earn a livelihood; and

9 (d) Are dependent wholly or partially upon public charities or the  
10 type of care needed is available only at a state institution.

11 (3) No one admitted to one of the Nebraska veterans homes under  
12 conditions enumerated in this section shall have a vested right to  
13 continued residence in such home if such person ceases to meet any of the  
14 eligibility requirements of this section, except that no person who has  
15 been regularly admitted shall be denied continued residence solely  
16 because of his or her marriage to a member of one of the homes.

17 Sec. 6. Section 80-317, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 80-317 The Veterans' Homes Board shall prescribe rules of membership  
20 in the Nebraska veterans homes in accordance with the Nebraska Veterans  
21 Services Act ~~sections 80-314 to 80-331~~. An application for membership in  
22 a Nebraska veterans home shall be made to a county veterans service  
23 officer, to a recognized veterans organization as defined in subdivision  
24 (1) of section 80-401.01, or to a Nebraska veterans home, and such  
25 officer, organization, or Nebraska veterans home shall coordinate the  
26 required financial and medical information and, if necessary, provide an  
27 opinion regarding its validity. The county veterans service officer,  
28 recognized veterans organization, or Nebraska veterans home shall at once  
29 forward the application together with a finding in regard to the  
30 condition of the applicant to the board, whose duty it is to receive,  
31 review, and act upon applications for membership. During the interim

1 between meetings of the board, the secretary of the board is authorized  
2 to adjudicate applications, subject to the approval of the full board at  
3 its next meeting.

4 Sec. 7. Section 80-319, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 80-319 The Veterans' Homes Board shall meet at least quarterly and  
7 at other times at the request of either the chairperson or the secretary  
8 of the board at a site selected by the secretary after consultation with  
9 the chairperson. The board shall review all applications submitted for  
10 admission to the Nebraska veterans homes system and shall make all final  
11 determinations regarding admission, or continued admission, to one of the  
12 homes. The board may check periodically on members of the Nebraska  
13 veterans homes to determine whether or not their physical or financial  
14 status has so changed since admission that they should no longer be  
15 maintained there. The board has power to subpoena witnesses and take  
16 testimony under oath relative to the duties of the board. No specified  
17 amount, either as to income or accumulated reserve, shall be arbitrarily  
18 fixed for determining the eligibility of an applicant to membership or to  
19 continuing rights of membership, but each case shall be considered solely  
20 on its merits and the evidence presented. The department ~~Division~~ of  
21 ~~Veterans' Homes~~ shall consult with the board prior to denying further  
22 residence to members the board finds should no longer be supported there.

23 Sec. 8. Section 80-320, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 80-320 (1) Nothing in the Nebraska Veterans Services Act sections  
26 ~~80-314 to 80-331~~ shall be construed as limiting the authority vested with  
27 the director ~~Director~~ of ~~Veterans' Homes~~ to adopt and promulgate rules  
28 and regulations, not inconsistent with the act herewith, for the  
29 administration of the Nebraska veterans homes. The department ~~Department~~  
30 ~~of Health and Human Services~~, in conjunction and after consultation with  
31 the Veterans' Homes Board, shall adopt and promulgate rules and

1 regulations governing admission to and administration of the homes.

2 (2) All rules, regulations, and orders of the Division of Veterans'  
3 Homes of the Department of Health and Human Services or its predecessor  
4 agencies adopted prior to July 1, 2017, in connection with the powers,  
5 duties, and functions transferred to the Department of Veterans' Affairs  
6 pursuant to the Nebraska Veterans Services Act, shall continue to be  
7 effective until revised, amended, repealed, or nullified pursuant to law.

8 Sec. 9. Section 80-321, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 80-321 Nothing in the Nebraska Veterans Services Act sections 80-314  
11 to 80-331 shall be construed to deny any person who has been properly  
12 admitted to one of the Nebraska veterans homes the privilege of paying  
13 the cost of his or her care, or any part thereof, if he or she so desires  
14 or if it has been determined by the Veterans' Homes Board that his or her  
15 financial status is such that he or she should no longer be maintained  
16 there at public expense.

17 Sec. 10. Section 80-322, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 80-322 Any veteran, spouse, surviving spouse, or parent admitted to  
20 one of the Nebraska veterans homes under section 80-316 who has an income  
21 in excess of forty dollars per month, including federal pension,  
22 compensation, or social security, or has sufficient assets will be  
23 required to reimburse the state monthly a reasonable amount for the  
24 expense of his or her maintenance. The amount shall be determined by the  
25 Veterans' Homes Board. All money paid to the state by members of the  
26 Nebraska veterans homes in compliance with this section shall be remitted  
27 to the State Treasurer for credit to the Department of Veterans' Affairs  
28 Cash Fund. The State Treasurer shall transfer any money remaining in the  
29 Health and Human Services Cash Fund on July 1, 2017, that was credited to  
30 the fund pursuant to this section to the Department of Veterans' Affairs  
31 Cash Fund.

1           Sec. 11. The Department of Veterans' Affairs Cash Fund is created.  
2           The fund shall include money from section 80-322. The department shall  
3           administer the fund. Any money in the fund available for investment shall  
4           be invested by the state investment officer pursuant to the Nebraska  
5           Capital Expansion Act and the Nebraska State Funds Investment Act.

6           Sec. 12. On and after July 1, 2017, positions of employment in the  
7           Division of Veterans' Homes of the Department of Health and Human  
8           Services related to the powers, duties, and functions transferred  
9           pursuant to the Nebraska Veterans Services Act are transferred to the  
10           Department of Veterans' Affairs. For purposes of the transition,  
11           employees of the division shall be considered employees of the department  
12           and shall retain their rights under the state personnel system or  
13           pertinent bargaining agreement, and their service shall be deemed  
14           continuous. This section does not grant employees any new rights or  
15           benefits not otherwise provided by law or bargaining agreement or  
16           preclude the department or the director from exercising any of the  
17           prerogatives of management set forth in section 81-1311 or as otherwise  
18           provided by law. This section is not an amendment to or substitute for  
19           the provisions of any existing bargaining agreements.

20           Sec. 13. On and after July 1, 2017, whenever the Division of  
21           Veterans' Homes of the Department of Health and Human Services is  
22           referred to or designated by any contract or other document in connection  
23           with the duties and functions transferred to the Department of Veterans'  
24           Affairs pursuant to the Nebraska Veterans Services Act, such reference or  
25           designation shall apply to such department. All contracts entered into by  
26           the division prior to July 1, 2017, in connection with the duties and  
27           functions transferred to the department are hereby recognized, with the  
28           department succeeding to all rights and obligations under such contracts.  
29           Any cash funds, custodial funds, gifts, trusts, grants, and any  
30           appropriations of funds from prior fiscal years available to satisfy  
31           obligations incurred under such contracts shall be transferred and

1 appropriated to the department for the payments of such obligations. All  
2 documents and records transferred, or copies of the same, may be  
3 authenticated or certified by the department for all legal purposes.

4       Sec. 14. No suit, action, or other proceeding, judicial or  
5 administrative, lawfully commenced prior to July 1, 2017, or which could  
6 have been commenced prior to that date, by or against the Division of  
7 Veterans' Homes of the Department of Health and Human Services, or the  
8 director or any employee thereof in such director's or employee's  
9 official capacity or in relation to the discharge of his or her official  
10 duties, shall abate by reason of the transfer of duties and functions  
11 from the Division of Veterans' Homes of the Department of Health and  
12 Human Services to the Department of Veterans' Affairs.

13       Sec. 15. On and after July 1, 2017, unless otherwise specified,  
14 whenever any provision of law refers to the Division of Veterans' Homes  
15 of the Department of Health and Human Services in connection with duties  
16 and functions transferred to the Department of Veterans' Affairs, such  
17 law shall be construed as referring to the department.

18       Sec. 16. On July 1, 2017, all items of property, real and personal,  
19 including office furniture and fixtures, books, documents, and records of  
20 the Division of Veterans' Homes of the Department of Health and Human  
21 Services pertaining to the duties and functions transferred to the  
22 Department of Veterans' Affairs pursuant to the Nebraska Veterans  
23 Services Act shall become the property of the department.

24       On July 1, 2017, any federal, cash, canteen, and trust funds  
25 remaining in the following program classifications shall be transferred  
26 from Agency No. 25, the Department of Health and Human Services, to  
27 Agency No. 28, the Department of Veterans' Affairs: Program No. 510,  
28 Veterans' Home System Administration; Program No. 519, Grand Island  
29 Veterans' Home; Program No. 520, Norfolk Veterans' Home; Program No. 521,  
30 Western Nebraska Veterans' Home; and Program No. 522, Eastern Nebraska  
31 Veterans' Home.

1           Sec. 17. Section 81-1316, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           81-1316 (1) All agencies and personnel of state government shall be  
4 covered by sections 81-1301 to 81-1319 and shall be considered subject to  
5 the State Personnel System, except the following:

6           (a) All personnel of the office of the Governor;

7           (b) All personnel of the office of the Lieutenant Governor;

8           (c) All personnel of the office of the Secretary of State;

9           (d) All personnel of the office of the State Treasurer;

10          (e) All personnel of the office of the Attorney General;

11          (f) All personnel of the office of the Auditor of Public Accounts;

12          (g) All personnel of the Legislature;

13          (h) All personnel of the court systems;

14          (i) All personnel of the Board of Educational Lands and Funds;

15          (j) All personnel of the Public Service Commission;

16          (k) All personnel of the Nebraska Brand Committee;

17          (l) All personnel of the Commission of Industrial Relations;

18          (m) All personnel of the State Department of Education;

19          (n) All personnel of the Nebraska state colleges and the Board of  
20 Trustees of the Nebraska State Colleges;

21          (o) All personnel of the University of Nebraska;

22          (p) All personnel of the Coordinating Commission for Postsecondary  
23 Education;

24          (q) All personnel of the Governor's Policy Research Office, but not  
25 to include personnel within the State Energy Office;

26          (r) All personnel of the Commission on Public Advocacy;

27          (s) All agency heads;

28          (t)(i) The Director of Behavioral Health of the Division of  
29 Behavioral Health; (ii) the Director of Children and Family Services of  
30 the Division of Children and Family Services; (iii) the Director of  
31 Developmental Disabilities of the Division of Developmental Disabilities;

1 (iv) the Director of Medicaid and Long-Term Care of the Division of  
2 Medicaid and Long-Term Care; and (v) the Director of Public Health of the  
3 Division of Public Health; ~~and (vi) the Director of Veterans' Homes of~~  
4 ~~the Division of Veterans' Homes;~~

5 (u) The chief medical officer established under section 81-3115, the  
6 Administrator of the Office of Juvenile Services, and the chief executive  
7 officers of the Beatrice State Developmental Center, Lincoln Regional  
8 Center, Norfolk Regional Center, Hastings Regional Center, Grand Island  
9 Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home,  
10 Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment  
11 Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;

12 (v) The chief executive officers of all facilities operated by the  
13 Department of Correctional Services and the medical director for the  
14 department appointed pursuant to section 83-4,156;

15 (w) All personnel employed as pharmacists, physicians,  
16 psychiatrists, or psychologists by the Department of Correctional  
17 Services;

18 (x) All personnel employed as pharmacists, physicians,  
19 psychiatrists, psychologists, service area administrators, or facility  
20 operating officers of the Department of Health and Human Services;

21 (y) Deputies and examiners of the Department of Banking and Finance  
22 and the Department of Insurance as set forth in sections 8-105 and  
23 44-119, except for those deputies and examiners who remain in the State  
24 Personnel System; and

25 (z) All personnel of the Tax Equalization and Review Commission.

26 (2) At each agency head's discretion, up to the following number of  
27 additional positions may be exempted from the State Personnel System,  
28 based on the following agency size categories:

29	Number of Agency	Number of Noncovered
30	Employees	Positions
31	less than 25	0

1	25 to 100	1
2	101 to 250	2
3	251 to 500	3
4	501 to 1000	4
5	1001 to 2000	5
6	2001 to 3000	8
7	3001 to 4000	11
8	4001 to 5000	14
9	over 5000	50

10       The purpose of having such noncovered positions shall be to allow  
11 agency heads the opportunity to recruit, hire, and supervise critical,  
12 confidential, or policymaking personnel without restrictions from  
13 selection procedures, compensation rules, career protections, and  
14 grievance privileges. Persons holding the noncovered positions shall  
15 serve at the pleasure of the agency head and shall be paid salaries set  
16 by the agency head. An agency with over five thousand employees shall  
17 provide notice in writing to the Health and Human Services Committee of  
18 the Legislature when forty noncovered positions have been filled by the  
19 agency head pursuant to this subsection.

20       (3) No changes to this section or to the number of noncovered  
21 positions within an agency shall affect the status of personnel employed  
22 on the date the changes become operative without their prior written  
23 agreement. A state employee's career protections or coverage by personnel  
24 rules and regulations shall not be revoked by redesignation of the  
25 employee's position as a noncovered position without the prior written  
26 agreement of such employee.

27       Sec. 18. Section 81-3113, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29       81-3113 The Department of Health and Human Services is created. The  
30 department shall have five ~~six~~ divisions to be known as (1) the Division  
31 of Behavioral Health, (2) the Division of Children and Family Services,

1 (3) the Division of Developmental Disabilities, (4) the Division of  
2 Medicaid and Long-Term Care, and (5) the Division of Public Health, ~~and~~  
3 ~~(6) the Division of Veterans' Homes.~~

4 Sec. 19. Section 81-3116, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 81-3116 The responsibilities of the divisions created in section  
7 81-3113 include, but are not limited to, the following:

8 (1) The Division of Behavioral Health shall administer (a) the state  
9 hospitals for the mentally ill designated in section 83-305 and (b)  
10 publicly funded community-based behavioral health services;

11 (2) The Division of Children and Family Services shall administer  
12 (a) protection and safety programs and services, including child welfare  
13 programs and services and the Office of Juvenile Services, (b) economic  
14 and family support programs and services, and (c) service areas as may be  
15 designated by the chief executive officer or by the Director of Children  
16 and Family Services under authority of the chief executive officer,  
17 except that on and after September 1, 2012, the western, central, and  
18 northern service areas shall be aligned to be coterminous with the  
19 district court judicial districts described in section 24-301.02;

20 (3) The Division of Developmental Disabilities shall administer (a)  
21 the Beatrice State Developmental Center and (b) publicly funded  
22 community-based developmental disabilities services;

23 (4) The Division of Medicaid and Long-Term Care shall administer (a)  
24 the medical assistance program also known as medicaid, (b) aging  
25 services, and (c) other related programs and services; and

26 (5) The Division of Public Health shall administer (a) preventive  
27 and community health programs and services, (b) the regulation and  
28 licensure of health-related professions and occupations, and (c) the  
29 regulation and licensure of health care facilities and health care  
30 services. ~~;~~ ~~and~~

31 ~~(6) The Division of Veterans' Homes shall administer (a) the Eastern~~

1 ~~Nebraska Veterans' Home, (b) the Grand Island Veterans' Home, (c) the~~  
2 ~~Norfolk Veterans' Home, and (d) the Western Nebraska Veterans' Home.~~

3       Sec. 20. Section 83-107.01, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5       83-107.01 The official names of the state institutions under the  
6 supervision of the Department of Health and Human Services shall be as  
7 follows: (1) Beatrice State Developmental Center, (2) Lincoln Regional  
8 Center, (3) Norfolk Regional Center, (4) Hastings Regional Center, (5)  
9 ~~Grand Island Veterans' Home, (6) Norfolk Veterans' Home, (7) Western~~  
10 ~~Nebraska Veterans' Home, (8) Youth Rehabilitation and Treatment Center-~~  
11 ~~Kearney, and (6) (9) Youth Rehabilitation and Treatment Center-Geneva,~~  
12 ~~and (10) the Thomas Fitzgerald Veterans' Home prior to July 1, 2007, and,~~  
13 ~~on and after July 1, 2007, the Eastern Nebraska Veterans' Home.~~

14       Sec. 21. Section 83-108, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16       83-108 The Department of Health and Human Services shall have  
17 oversight and general control of the Beatrice State Developmental Center,  
18 ~~the Nebraska veterans homes,~~ the hospitals for the mentally ill, such  
19 skilled nursing care and intermediate care facilities as may be  
20 established by the department, facilities and programs operated by the  
21 Office of Juvenile Services, and all charitable institutions.

22       Sec. 22. This act becomes operative on July 1, 2017.

23       Sec. 23. Original sections 80-314, 80-315, 80-316, 80-317, 80-319,  
24 80-320, 80-321, 80-322, 80-326, 81-1316, 81-3113, 81-3116, 83-107.01, and  
25 83-108, Reissue Revised Statutes of Nebraska, are repealed.

26       Sec. 24. Since an emergency exists, this act takes effect when  
27 passed and approved according to law.