

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 264
Final Reading

Introduced by Heidemann, 1.

Read first time January 11, 2011

Committee: Executive Board

A BILL

1 FOR AN ACT relating to state government; to amend sections 30-241,
2 81-176, and 81-1108.33, Reissue Revised Statutes of
3 Nebraska, and section 12-1301, Revised Statutes
4 Cumulative Supplement, 2010; to provide requirements for
5 certain acquisitions of real property, structures, or
6 improvements; to repeal the original sections; and to
7 declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-1301, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 12-1301 (1) The Director of Veterans' Affairs may
4 establish and operate a state veteran cemetery system consisting of a
5 facility in Box Butte County, a facility in Sarpy County, and the
6 Nebraska Veterans' Memorial Cemetery in Hall County. The director may
7 seek and expend private, state, and federal funds for the
8 establishment, construction, maintenance, administration, and
9 operation of the cemetery system as provided in this section. Any
10 gift, bequest, or devise of real property and any acquisition of real
11 property with the proceeds of a donation, gift, bequest, devise, or
12 grant from an individual, an organization, a corporation, a
13 foundation, or a similar entity or from a nonfederal governmental
14 agency for the cemetery system shall be subject to the approval
15 requirements of section 81-1108.33 notwithstanding the value of the
16 real property. All funds received for the construction of the
17 cemetery system shall be remitted to the State Treasurer for credit
18 to the Veteran Cemetery Construction Fund. Any funds remaining in the
19 Veteran Cemetery Construction Fund following the completion of
20 construction of the three facilities comprising the state veteran
21 cemetery system shall upon such completion be transferred to the
22 Nebraska Veteran Cemetery System Endowment Fund, and the Veteran
23 Cemetery Construction Fund shall thereafter terminate.

24 (2)(a) A trust fund to be known as the Nebraska Veteran
25 Cemetery System Endowment Fund is hereby created. The fund shall

1 consist of:

2 (i) Gifts, bequests, grants, or contributions from
3 private or public sources designated for the maintenance,
4 administration, or operation of the state veteran cemetery system;

5 (ii) Any funds transferred from the Veteran Cemetery
6 Construction Fund following the completion of construction of the
7 three facilities comprising the state veteran cemetery system; and

8 (iii) Following the termination of the Veteran Cemetery
9 Construction Fund, any funds received by the state from any source
10 for the state veteran cemetery system.

11 (b) No revenue from the General Fund shall be remitted to
12 the Nebraska Veteran Cemetery System Endowment Fund. The Legislature
13 shall not appropriate or transfer money from the Nebraska Veteran
14 Cemetery System Endowment Fund for any purpose other than as provided
15 in this section. Any money in the Nebraska Veteran Cemetery System
16 Endowment Fund available for investment shall be invested by the
17 state investment officer pursuant to the Nebraska Capital Expansion
18 Act and the Nebraska State Funds Investment Act. No portion of the
19 principal of the Nebraska Veteran Cemetery System Endowment Fund
20 shall be expended for any purpose except investment pursuant to this
21 subdivision. All investment earnings from the Nebraska Veteran
22 Cemetery System Endowment Fund shall be credited on a quarterly basis
23 to the Nebraska Veteran Cemetery System Operation Fund.

24 (3) There is hereby created the Nebraska Veteran Cemetery
25 System Operation Fund. Money in the fund shall be used for the

1 operation, administration, and maintenance of the state veteran
2 cemetery system. Any money in the fund available for investment shall
3 be invested by the state investment officer pursuant to the Nebraska
4 Capital Expansion Act and the Nebraska State Funds Investment Act.

5 (4) The director may make formal application to the
6 federal government regarding federal financial assistance for the
7 construction of any of the facilities comprising the state veteran
8 cemetery system which is located in a county with a population of
9 less than one hundred thousand persons when he or she determines that
10 the requirements for such assistance have been met.

11 (5) The director may make formal application to the
12 federal government regarding financial assistance for the
13 construction of any facility comprising a portion of the state
14 veteran cemetery system located in a county with a population of more
15 than one hundred thousand persons when sufficient funds have been
16 remitted to the Nebraska Veteran Cemetery System Endowment Fund such
17 that (a) the projected annual earnings from such fund available for
18 transfer to the Nebraska Veteran Cemetery System Operation Fund plus
19 (b) the projected annual value of formal agreements that have been
20 entered into between the state and any political subdivisions or
21 private entities to subsidize or undertake the operation,
22 administration, or maintenance of any of the facilities within the
23 state veteran cemetery system, has a value that is sufficient to fund
24 the operation, administration, and maintenance of any cemetery
25 created pursuant to this subsection.

1 (6) The director may expend such funds as may be
2 available for any of the purposes authorized in this section.

3 (7) The director, with the approval of the Governor, may
4 enter into agreements for cemetery construction, administration,
5 operation, or maintenance with qualified persons, political
6 subdivisions, or business entities. The director shall provide lots
7 in the cemetery system for the interment of deceased veterans as
8 defined by the National Cemetery Administration of the United States
9 Department of Veterans Affairs. The director shall provide lots for
10 the interment of those veterans' spouses, minor children, and
11 unmarried adult children who were physically or mentally disabled and
12 incapable of self-support. Section 12-501 does not apply to the state
13 veteran cemetery system.

14 (8) The Veteran Cemetery Construction Fund is created.
15 Any money in the fund available for investment shall be invested by
16 the state investment officer pursuant to the Nebraska Capital
17 Expansion Act and the Nebraska State Funds Investment Act.

18 (9) The director may adopt and promulgate rules and
19 regulations to carry out this section. The rules and regulations
20 shall include requirements for proof of residency, cost of burial if
21 any, and standards for cemeteries, including decorations and
22 headstones.

23 Sec. 2. Section 30-241, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 30-241 With the exception of lands, money, or other

1 property devised or bequeathed to this state for educational purposes
2 which are controlled by Article VII, section 9, of the Constitution
3 of Nebraska, and except as provided in section 81-1108.33, the
4 Governor, on behalf of the State of Nebraska, is authorized to accept
5 devises of real estate or bequests of personal property, or both,
6 made to the State of Nebraska, or any department or agency thereof,
7 if in his or her judgment, under the terms on which such devise or
8 bequest is made, it is for the best interests of the State of
9 Nebraska to accept the same.

10 Sec. 3. Section 81-176, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-176 The task force shall conduct a review of the
13 plans, specifications, and other construction and repair documents
14 and ongoing maintenance requirements for real property, structures,
15 or improvements that may be proposed to be made available to any
16 state agency, board, or commission by means of gift, bequest, or
17 devise and any acquisition of real property, structures, or
18 improvements with the proceeds of a donation, gift, bequest, devise,
19 and grant from an individual, an organization, a corporation, a
20 foundation, or a similar entity or from a nonfederal governmental
21 agency pursuant to section 81-1108.33. The task force shall submit a
22 report of its findings and recommendations to the Committee on
23 Building Maintenance.

24 Sec. 4. Section 81-1108.33, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 81-1108.33 (1) It is the intent of the Legislature that
2 the state will not assume responsibility for the substandard
3 construction, repair, or maintenance of, or for the excessive
4 maintenance or repair costs for, real property, structures, or
5 improvements which will be made available by gift, bequest, or devise
6 to or acquired with the proceeds of donations, gifts, bequests,
7 devises, or grants from an individual, an organization, a
8 corporation, a foundation, or a similar entity or from a nonfederal
9 governmental agency by any state agency, board, or commission.
10 Therefor, prior to any construction, repair, or maintenance work on
11 such real property, structure, or improvement, the state building
12 division and the Task Force for Building Renewal shall review the
13 plans, specifications, other construction or repair documents, and
14 potential maintenance requirements as a requirement for acceptance or
15 acquisition by the state of such real property, structure, or
16 improvement.

17 (2)(a) Any gift of, bequest of, or devise of ~~(i)~~—real
18 property, ~~(ii)~~—a structure, or ~~(iii)~~—an improvement proposed to be
19 made available to any state agency, board, or commission and any
20 acquisition of real property, a structure, or an improvement with the
21 proceeds of a donation, gift, bequest, devise, or grant from an
22 individual, an organization, a corporation, a foundation, or a
23 similar entity or from a nonfederal governmental agency shall be
24 reviewed by the state building division and the Task Force for
25 Building Renewal pursuant to sections 81-176, 81-1108.15, and

1 81-1114. Such review shall include any potential matching of state
2 funds, any plans, specifications, and other construction or repair
3 documents reviewed pursuant to subsection (1) of this section, and
4 any potential maintenance requirements as a condition of acceptance
5 or acquisition. Subsequent to such review, the state building
6 division and the task force shall submit a report to the Governor,
7 the Committee on Building Maintenance, and the Legislative Fiscal
8 Analyst including a summary of the review of the plans,
9 specifications, and other construction or repair documents and
10 potential maintenance requirements and outlining the terms and
11 conditions of the proposed gift, bequest, ~~or devise~~, or acquisition
12 along with its recommendation.

13 (b) Any proposed gift of, bequest of, or devise of (i)
14 real property, (ii)~~a structure~~, or (iii)~~an improvement in excess of~~
15 ten thousand dollars shall be approved by the Governor and the
16 Legislature prior to acceptance and any acquisition of real property,
17 a structure, or an improvement with the proceeds of a donation, gift,
18 bequest, devise, or grant from an individual, an organization, a
19 corporation, a foundation, or a similar entity or from a nonfederal
20 governmental agency shall be approved by the Governor and Legislature
21 prior to such acquisition. If the Legislature is not in session, the
22 Executive Board of the Legislative Council, after recommendation by
23 the Committee on Building Maintenance, may approve such gift,
24 bequest, ~~or devise~~, or acquisition along with the Governor.

25 (c) No construction or other work related to the proposed

1 gift, bequest, ~~or~~ devise, or acquisition shall be initiated prior to
2 receiving the approval required by this section.

3 (3) For purposes of this section, gift of, bequest of, or
4 devise of (a) real property, (b) a structure, or (c) an improvement
5 shall include, but not be limited to, a donation of, gift of, bequest
6 of, devise of, or grant of (i) real property, (ii) a structure, or
7 (iii) an improvement from an individual, an organization, a
8 corporation, a foundation, or a similar entity or from a nonfederal
9 governmental agency. For purposes of this section, gift, bequest, or
10 devise shall not include a donation, gift, bequest, devise, or grant
11 of tangible or intangible personal property.

12 (4) This section shall not apply to the University of
13 Nebraska or any Nebraska state college, since these agencies are
14 subject to and participate in statewide facilities planning developed
15 by the Coordinating Commission for Postsecondary Education pursuant
16 to the Coordinating Commission for Postsecondary Education Act.

17 Sec. 5. Original sections 30-241, 81-176, and 81-1108.33,
18 Reissue Revised Statutes of Nebraska, and section 12-1301, Revised
19 Statutes Cumulative Supplement, 2010, are repealed.

20 Sec. 6. Since an emergency exists, this act takes effect
21 when passed and approved according to law.