

LEGISLATIVE BILL 1116

Approved by the Governor April 18, 2008

Introduced by Erdman, 47; Aguilar, 35.

FOR AN ACT relating to the Nebraska State Fair; to amend section 2-258, Reissue Revised Statutes of Nebraska, sections 2-101, 2-101.01, 2-103, and 81-1108.33, Revised Statutes Cumulative Supplement, 2006, and sections 2-108 and 84-612, Revised Statutes Supplement, 2007; to state intent to relocate the Nebraska State Fair; to provide a fair relocation plan; to provide for future use of the Nebraska State Fairgrounds; to change membership provisions of the Nebraska State Fair Board; to create a fund; to change provisions relating to use of a tax levy; to change and eliminate provisions relating to the Nebraska State Fairgrounds; to transfer funds; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 2-104, 2-104.01, and 2-106, Revised Statutes Cumulative Supplement, 2006.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-101, Revised Statutes Cumulative Supplement, 2006, is amended to read:

2-101 (1) The Nebraska State Fair Board, formerly known as the State Board of Agriculture, shall hold an annual meeting for the purpose of deliberating and consulting as to the wants, prospects, and conditions of the agricultural, horticultural, industrial, mechanical, and other interests throughout the state, as well as those interests in the encouragement and perpetuation of the arts, skilled crafts, and sciences.

(2) The Nebraska State Fair Board may provide in its constitution and bylaws for the qualification and participation of delegates at the annual meeting from such associations incorporated under the laws of the state for purposes of promoting and furthering the interests of participants in agricultural, horticultural, industrial, mechanical, or other pursuits or for the encouragement and perpetuation of the arts, skilled crafts, and sciences, and from such associations as provide for the training, encouragement, and competition of the youth of Nebraska in such endeavors. The annual meeting shall be held in every odd-numbered year at the capital of the state and in every even-numbered year at such location as the board determines. The chairperson of the board shall also have the power to call meetings of the board whenever he or she may deem it expedient. All meetings of the board shall be conducted in accordance with the Open Meetings Act.

(3) ~~The state fair Nebraska State Fair shall be held at or near the city of Lincoln, in Lancaster County, under the direction and supervision of the Nebraska State Fair Board, upon the site and tract of land selected and now owned by the state for that purpose and known as the Nebraska State Fairgrounds. The board may, at its discretion, hold or dispense with the holding of the fair, in any year.~~

(4)(a) It is the intent of the Legislature that the Nebraska State Fair be permanently located within the city of Grand Island upon the site and tract of land owned by the Hall County Livestock Improvement Association and known as Fonner Park no later than 2010. The Nebraska State Fair Board shall cooperate and coordinate with the Hall County Livestock Improvement Association, the city of Grand Island, and other appropriate entities to provide for and carry out any plan of improvements to Fonner Park, including the construction of buildings, other capital facilities, and other enhancements, necessary to develop the site as a location suitable for conducting the Nebraska State Fair. Such cooperation and coordination may include financial participation in the costs of new construction and other capital improvements upon Fonner Park and includes the execution of any agreement for site governance, revenue sharing, and facility utilization between and among the Nebraska State Fair Board, the Hall County Livestock Improvement Association, and other appropriate entities.

(b) The Nebraska State Fair Board, the Department of Administrative Services, and the Board of Regents of the University of Nebraska shall cooperate with each other and with other appropriate entities to provide for and carry out the plan to relocate the Nebraska State Fair and transfer the Nebraska State Fairgrounds in Lancaster County to the Board of Regents, including activities by the Board of Regents to obtain due diligence surveys, reports, and site assessments at the Nebraska State Fairgrounds in Lancaster County and by the Nebraska State Fair Board in connection with providing marketable title to the same in a form acceptable to the Board of Regents.

Sec. 2. Section 2-101.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

2-101.01 The Legislature finds that the Nebraska State Fair has been held annually for the exhibition and dissemination of agricultural, horticultural, industrial, mechanical, and other products and innovations and for exhibitions in the arts, skilled crafts, and sciences and is a beneficial cultural and educational event for the state and its citizens. The Legislature declares it to be in the public interest that management of the Nebraska State Fair ~~and the Nebraska State Fairgrounds~~ be based upon a dynamic public-private partnership that includes the active participation of the state and local governments, the private sector, and the citizens of Nebraska. In order to achieve this goal, the Legislature finds that the Nebraska State Fair Board should endeavor to:

(1) Place a priority on the development of private funding sources, including corporate donations and sponsorships;

(2) Work with municipal officials to enhance the board's participation in local planning efforts and to create a partnership with local economic development and tourism officials;

(3) Maintain a policy of openness and accountability that allows for citizen participation in the operation of the Nebraska State Fair; ~~and the Nebraska State Fairgrounds;~~ and

(4) Regularly provide the Governor, the Legislature, and appropriate state agencies with information, including, but not limited to, the development of private funding sources, the use of state appropriations, ~~the status of the state fairground facility maintenance and improvements,~~ the fiscal management of the ~~state fair,~~ Nebraska State Fair, and the activities and goals established for the ~~state fair and the state fairgrounds.~~ Nebraska State Fair.

Sec. 3. Section 2-103, Revised Statutes Cumulative Supplement, 2006, is amended to read:

2-103 (1) ~~No later than May 1, 2003,~~ The Nebraska State Fair Board shall be a board consisting of the following members:

(a) Seven members nominated and selected by district as provided in the constitution and bylaws of the board; and

(b) Four members appointed by the Governor and confirmed by the Legislature, ~~two selected to represent the business community of the city of Lincoln,~~ ~~one selected to represent the business community of Omaha,~~ and ~~one~~ three members selected to represent from the business community of the state at large, with one such member residing in each of the three congressional districts, as such districts existed on the operative date of this section, and one member selected from the business community of the most populous city within the county in which the Nebraska State Fair is located.

(2) The term of office for members of the board shall be for three years. Members selected by gubernatorial appointment pursuant to subdivision (1)(b) of this section as it existed prior to the operative date of this section who continue to be qualified to serve shall continue their term of appointment and shall be eligible for reappointment subject to the limit of terms served prescribed in subsection (3) of this section. In the event that the Nebraska State Fair is to be relocated to a new host community, the term of the member appointed or designated from the business community of the previous host community shall be vacated and the Governor shall appoint a new member from the business community of the most populous city within the county in which the Nebraska State Fair is located to fulfill the remainder of the term of the vacating member. ~~except that the terms of the initial members shall be as follows:~~

(a) ~~The terms of office for the seven members selected pursuant to subdivision (1)(a) of this section shall be for one, two, or three years as determined by lot, with two members appointed to a term of one year, two members appointed to a term of two years, and three members appointed to a term of three years; and~~

(b) ~~The terms of office for the members appointed pursuant to subdivision (1)(b) of this section shall be for one, two, or three years, as designated by the Governor, with two members appointed to a term of one year, one member appointed to a term of two years, and one member appointed to a term of three years.~~

(3) ~~No person may serve more than three consecutive terms as a member of the board.~~ except that members of the State Board of Agriculture having served or serving in an executive capacity may only serve on the Nebraska State Fair Board for one term of three years. No member of the Legislature may serve on the board.

(4) The board shall annually elect from its membership a chairperson, a vice-chairperson, a secretary, and such other officers as the

board deems necessary. The officers shall be elected at the annual meeting of the board, or any other meeting of the board called for such purpose, and shall hold their offices for one year and until their successors are elected and qualified.

(5) ~~The chairperson of the Nebraska Arts Council and the chancellor of the University of Nebraska-Lincoln, or their designees, shall be ex officio members~~ The State 4-H Program Administrator of the Cooperative Extension Service of the University of Nebraska, or his or her designee, and the Executive Director of the Nebraska FFA, or his or her designee, shall be ex officio, nonvoting members of the Nebraska State Fair Board.

Sec. 4. Section 2-108, Revised Statutes Supplement, 2007, is amended to read:

2-108 The Nebraska State Fair Support and Improvement Cash Fund is created. The fund shall be maintained in the state accounting system as a cash fund. The State Treasurer shall credit to the fund the disbursement of state lottery proceeds designated for the Nebraska State Fair and matching funds from the most populous city within the county in which the state fair is located. The balance of any fund that is administratively created to receive lottery proceeds designated for the Nebraska State Fair and matching fund revenue prior to May 25, 2005, shall be transferred to the Nebraska State Fair Support and Improvement Cash Fund on such date. The Nebraska State Fair Support and Improvement Cash Fund shall be expended by the Nebraska State Fair Board to provide support for operating expenses and capital facility enhancements, ~~including conducting or providing financial support for studies of facility conditions of the Nebraska State Fairgrounds and needs as well as other facility planning activities-~~ including new construction and other capital improvements and other enhancements to and upon any exhibition facility utilized as the location of the Nebraska State Fair. Expenditures from the fund shall not be limited to the amount appropriated. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 5. The Nebraska State Fair Relocation Cash Fund is created. The State Treasurer shall credit to the fund such money as is transferred to the fund by the Legislature or donated as gifts, bequests, or other contributions to such fund from public or private entities. The fund shall be expended by the Nebraska State Fair Board to provide funding to assist in the construction and improvement of capital facilities necessary to develop a location suitable for the operation of the Nebraska State Fair. Expenditures from the fund shall not be limited to the amount appropriated. The money in the fund shall not be subject to any fiscal year or biennium limitation requiring reappropriation of the unexpended balance at the end of the fiscal year or biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. (1) Upon completion of the conditions specified in subsection (2) of this section, the Director of Administrative Services shall, on or before December 31, 2009, transfer by warranty deed the site and tract of land in Lancaster County known as the Nebraska State Fairgrounds, to the Board of Regents of the University of Nebraska. Such transfer shall occur notwithstanding sections 72-811 to 72-818 or any other provision of law.

(2) The transfer described in subsection (1) of this section shall be contingent upon:

(a) Funds for the purpose of carrying out subsection (4) of section 2-101 having been provided by or on behalf of the University of Nebraska in a total amount of no less than twenty-one million five hundred thousand dollars in cash or legally binding commitments. Such funds may be provided over time, but they shall in cumulative increments equal at least seven million five hundred thousand dollars by October 1, 2008, fourteen million five hundred thousand dollars by February 1, 2009, and twenty-one million five hundred thousand dollars by July 1, 2009;

(b) The University of Nebraska providing a master plan and business plan to carry out the master plan for the Innovation Campus to the Department of Administrative Services and to the Clerk of the Legislature on or before December 1, 2009, and a commitment to provide on or before December 1 of each year thereafter an annual update of the master plan and business plan to the Clerk of the Legislature; and

(c) Funds for the purpose of carrying out subsection (4) of section 2-101 having been provided by or on behalf of the city of Grand Island in a total amount of no less than eight million five hundred thousand dollars in cash or legally binding commitments. Such funds may be provided over time, but they shall in cumulative increments equal at least three million dollars by

October 1, 2008, six million dollars by February 1, 2009, and eight million five hundred thousand dollars by July 1, 2009.

(3) The University of Nebraska and the city of Grand Island shall provide certification to the Department of Administrative Services on October 1, 2008, February 1, 2009, and July 1, 2009, of all funds provided to carry out subsection (4) of section 2-101. All amounts as certified in subdivisions (2) (a) and (c) of this section shall be held and expended as determined by agreement between the Hall County Livestock Improvement Association and the Nebraska State Fair Board.

(4) (a) The Nebraska State Fair shall be relocated to the city of Grand Island pursuant to subsection (4) of section 2-101 contingent upon completion of the conditions specified in subsection (2) of this section.

(b) The Nebraska State Fair Board shall be responsible for any remaining costs associated with site improvements for relocating the Nebraska State Fair, not to exceed seven million dollars.

(c) On or before December 31, 2009, the Nebraska State Fair Board shall provide written release or other written instrument acceptable to the State Building Administrator in consultation with the President of the University of Nebraska in connection with the transfer of the Nebraska State Fairgrounds to the Board of Regents.

Sec. 7. Section 2-258, Reissue Revised Statutes of Nebraska, is amended to read:

2-258 The money raised by the operational tax levy authorized in section 2-257 shall be used for the purpose of paying premiums and for permanent improvements for such fair, for the purpose of purchasing the necessary fair supplies, advertising, and the paying of necessary labor in connection therewith, and for other necessary expenses for the operation of the fair. ~~In counties having a population of more than sixty thousand inhabitants but not more than three hundred fifty thousand inhabitants, and also containing a city of the primary class, In the county in which the Nebraska State Fair is located,~~ the money so raised may be used for permanent improvements on the state and county fairgrounds of Nebraska State Fairgrounds, or for leasing, contracting for, or in any manner acquiring use of fairground facilities for such ~~fair.~~ fairs.

Sec. 8. Section 81-1108.33, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-1108.33 (1) It is the intent of the Legislature that the state will not assume responsibility for the substandard construction, repair, or maintenance of, or for the excessive maintenance or repair costs for, real property, structures, or improvements which will be made available by gift, bequest, or devise to any state agency, board, or commission. Therefore, prior to any construction, repair, or maintenance work on such real property, structure, or improvement, the state building division and the Task Force for Building Renewal shall review the plans, specifications, other construction or repair documents, and potential maintenance requirements as a requirement for acceptance by the state of such real property, structure, or improvement.

(2) (a) Any gift of, bequest of, or devise of (i) real property, (ii) a structure, or (iii) an improvement proposed to be made available to any state agency, board, or commission shall be reviewed by the state building division and the Task Force for Building Renewal pursuant to sections 81-176, 81-1108.15, and 81-1114. Such review shall include any potential matching of state funds, any plans, specifications, and other construction or repair documents reviewed pursuant to subsection (1) of this section, and any potential maintenance requirements as a condition of acceptance. Subsequent to such review, the state building division and the task force shall submit a report to the Governor, the Committee on Building Maintenance, and the Legislative Fiscal Analyst including a summary of the review of the plans, specifications, and other construction or repair documents and potential maintenance requirements and outlining the terms and conditions of the proposed gift, bequest, or devise along with its recommendation.

(b) Any proposed gift of, bequest of, or devise of (i) real property, (ii) a structure, or (iii) an improvement in excess of ten thousand dollars shall be approved by the Governor and the Legislature prior to acceptance. If the Legislature is not in session, the Executive Board of the Legislative Council, after recommendation by the Committee on Building Maintenance, may approve such gift, bequest, or devise along with the Governor.

(c) No construction or other work related to the proposed gift, bequest, or devise shall be initiated prior to receiving the approval required by this section.

(3) For purposes of this section, gift of, bequest of, or devise of (a) real property, (b) a structure, or (c) an improvement shall include,

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

(4) This section shall not apply to ~~(a) the University of Nebraska or any Nebraska state college, since these agencies are subject to and participate in statewide facilities planning developed by the Coordinating Commission for Postsecondary Education pursuant to the Coordinating Commission for Postsecondary Education Act, or (b) improvements or structures on Nebraska State Fairgrounds property reviewed and approved pursuant to section 2-104.01.~~

Sec. 9. Section 84-612, Revised Statutes Supplement, 2007, is amended to read:

84-612 (1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(3) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer such amounts not to exceed seven million seven hundred fifty-three thousand two hundred sixty-three dollars in total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2003, and June 30, 2007.

(4) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsection (3) of this section from the General Fund to the Cash Reserve Fund on or before June 30, 2008.

(5) In addition to receiving transfers from other funds, the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(6) On June 15, 2007, the State Treasurer shall transfer fifteen million six hundred seventy-four thousand one hundred seven dollars from the Cash Reserve Fund to the General Fund.

(7) On June 16, 2008, the State Treasurer shall transfer seventeen million nine hundred thirty-one thousand thirty dollars from the Cash Reserve Fund to the General Fund.

(8) On June 15, 2009, the State Treasurer shall transfer four million nine hundred ninety thousand five hundred five dollars from the Cash Reserve Fund to the General Fund.

(9) On or before June 16, 2008, the State Treasurer, at the direction of the budget administrator, shall transfer fifty million dollars from the Cash Reserve Fund to the General Fund.

(10) On or before June 16, 2009, the State Treasurer, at the direction of the budget administrator, shall transfer fifty million dollars from the Cash Reserve Fund to the General Fund.

(11) From the effective date of an endowment agreement as defined in subdivision (3)(c) of section 79-1101 until June 30, 2007, forty million dollars of the Cash Reserve Fund shall be deemed to constitute the Early Childhood Education Endowment Fund. Such funds shall remain part of the Cash Reserve Fund for all purposes, except that the interest earned on such forty million dollars shall accrue as provided in section 84-613.

(12) The State Treasurer, at the direction of the budget administrator, shall transfer such amounts, as certified by the Director of Administrative Services, for employee health insurance claims and expenses, not to exceed twelve million dollars in total from the Cash Reserve Fund to the State Employees Insurance Fund between May 1, 2007, and June 30, 2011.

(13) On July 9, 2007, the State Treasurer shall transfer twelve million dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund.

(14) On July 9, 2007, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section 81-1201.21.

(15) On July 7, 2008, the State Treasurer shall transfer five

million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section 81-1201.21.

(16) On or before August 1, 2007, the State Treasurer, at the direction of the budget administrator, shall transfer seventy-five million dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund.

(17) On or before June 30, 2009, the State Treasurer shall transfer nine million five hundred ninety thousand dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund.

(18) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsection (12) of this section from the appropriate health insurance accounts of the State Employees Insurance Fund in such amounts as certified by the Director of Administrative Services to the Cash Reserve Fund on or before June 30, 2011.

(19) On July 9, 2007, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Microenterprise Development Cash Fund.

(20) On July 9, 2007, the State Treasurer shall transfer two hundred fifty thousand dollars from the Cash Reserve Fund to the Building Entrepreneurial Communities Cash Fund.

(21) On July 7, 2008, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Microenterprise Development Cash Fund.

(22) On July 7, 2008, the State Treasurer shall transfer two hundred fifty thousand dollars from the Cash Reserve Fund to the Building Entrepreneurial Communities Cash Fund.

(23) On the operative date of this section the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Nebraska State Fair Relocation Cash Fund.

Sec. 10. Sections 3 and 12 of this act become operative on January 1, 2009. Sections 8, 13, and 14 of this act become operative on December 31, 2009. The other sections of this act become operative on their effective date.

Sec. 11. Original section 2-258, Reissue Revised Statutes of Nebraska, sections 2-101 and 2-101.01, Revised Statutes Cumulative Supplement, 2006, and sections 2-108 and 84-612, Revised Statutes Supplement, 2007, are repealed.

Sec. 12. Original section 2-103, Revised Statutes Cumulative Supplement, 2006, is repealed.

Sec. 13. Original section 81-1108.33, Revised Statutes Cumulative Supplement, 2006, is repealed.

Sec. 14. The following sections are outright repealed: Sections 2-104, 2-104.01, and 2-106, Revised Statutes Cumulative Supplement, 2006.