

## LEGISLATIVE BILL 264

Approved by the Governor March 10, 2011

Introduced by Heidemann, 1.

FOR AN ACT relating to state government; to amend sections 30-241, 81-176, and 81-1108.33, Reissue Revised Statutes of Nebraska, and section 12-1301, Revised Statutes Cumulative Supplement, 2010; to provide requirements for certain acquisitions of real property, structures, or improvements; to repeal the original sections; and to declare an emergency.

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

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

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

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

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

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

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

(b) No revenue from the General Fund shall be remitted to the Nebraska Veteran Cemetery System Endowment Fund. The Legislature shall not appropriate or transfer money from the Nebraska Veteran Cemetery System Endowment Fund for any purpose other than as provided in this section. Any money in the Nebraska Veteran Cemetery System Endowment 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. No portion of the principal of the Nebraska Veteran Cemetery System Endowment Fund shall be expended for any purpose except investment pursuant to this subdivision. All investment earnings from the Nebraska Veteran Cemetery System Endowment Fund shall be credited on a quarterly basis to the Nebraska Veteran Cemetery System Operation Fund.

(3) There is hereby created the Nebraska Veteran Cemetery System Operation Fund. Money in the fund shall be used for the operation, administration, and maintenance of the state veteran cemetery system. 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.

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

(5) The director may make formal application to the federal government regarding financial assistance for the construction of any facility comprising a portion of the state veteran cemetery system located in a county

with a population of more than one hundred thousand persons when sufficient funds have been remitted to the Nebraska Veteran Cemetery System Endowment Fund such that (a) the projected annual earnings from such fund available for transfer to the Nebraska Veteran Cemetery System Operation Fund plus (b) the projected annual value of formal agreements that have been entered into between the state and any political subdivisions or private entities to subsidize or undertake the operation, administration, or maintenance of any of the facilities within the state veteran cemetery system, has a value that is sufficient to fund the operation, administration, and maintenance of any cemetery created pursuant to this subsection.

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

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

(8) The Veteran Cemetery Construction Fund is created. 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.

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

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

30-241 With the exception of lands, money, or other property devised or bequeathed to this state for educational purposes which are controlled by Article VII, section 9, of the Constitution of Nebraska, and except as provided in section 81-1108.33, the Governor, on behalf of the State of Nebraska, is authorized to accept devises of real estate or bequests of personal property, or both, made to the State of Nebraska, or any department or agency thereof, if in his or her judgment, under the terms on which such devise or bequest is made, it is for the best interests of the State of Nebraska to accept the same.

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

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

Sec. 4. Section 81-1108.33, Reissue Revised Statutes of Nebraska, 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 or acquired with the proceeds of donations, gifts, bequests, devises, or grants from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency by 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 or acquisition 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 and any acquisition of real property,

a structure, or an improvement with the proceeds of a donation, gift, bequest, devise, or grant from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency 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 or acquisition. 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, or acquisition 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 and any acquisition of real property, a structure, or an improvement with the proceeds of a donation, gift, bequest, devise, or grant from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency shall be approved by the Governor and Legislature prior to such acquisition. 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, or acquisition along with the Governor.

(c) No construction or other work related to the proposed gift, bequest, ~~or~~ devise, or acquisition 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 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.

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

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