

LEGISLATIVE BILL 1205

Approved by the Governor April 12, 1996

Introduced by Bromm, 23; Bernard-Stevens, 42; Coordsen, 32; Elmer, 44; Hillman, 48; Jensen, 20; Jones, 43; Kristensen, 37; Matzke, 47; Pirsch, 10; Schellpeper, 18; Schrock, 38; Stuhr, 24; Wickersham, 49; Witek, 31; Bohlke, 33; Hartnett, 45; Engel, 17

AN ACT relating to educational lands; to amend sections 72-240.26, 72-258, and 72-259, Reissue Revised Statutes of Nebraska; to require the Board of Educational Lands and Funds to develop a plan for the sale of educational lands; to provide a restriction on such sales; to require the state investment officer to prepare a plan for investment of the sale proceeds; to change provisions relating to a report, the procedure for sales of educational lands, and the disposition of proceeds; to define a term; to harmonize provisions; to provide severability; and to repeal the original sections.

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

Section 1. (1) The Board of Educational Lands and Funds shall prepare a plan for the sale of educational lands over which the board has general management and control on the effective date of this act. The plan shall be submitted to the Education Committee of the Legislature on or before December 1, 1996. The plan shall provide for the sale of enough of the total of the educational lands by January 1, 2008, to result in one-fourth of the value of the school trust permanent portfolio being invested by the board in real property located within the State of Nebraska and the remaining three-fourths of the value of the school trust permanent portfolio being invested by the state investment officer. The plan shall be implemented beginning on July 1, 1997. In no case shall the plan or any part of it be executed if such execution violates the fiduciary duties of the board.

(2) Any sale under this section shall not include mineral rights.

(3) The state investment officer shall prepare a plan for investment of the funds derived from the sale of educational lands under the board's plan developed under this section. The state investment officer's plan shall be submitted to the Education Committee of the Legislature on or before December 1, 1996. The plan shall include estimated returns for the invested funds.

(4) For purposes of this section, value of the school trust permanent portfolio means the total fair market value of the educational lands and of all stocks, bonds, and other assets comprising the permanent school fund.

Sec. 2. Section 72-240.26, Reissue Revised Statutes of Nebraska, is amended to read:

72-240.26. The board and the Nebraska Investment Council shall jointly report annually to the Clerk of the Legislature, and such report shall contain anticipated future actions by the board as well as actions already taken. The board's portion of the report shall include, with reference to each tract of land sold pursuant to section 1 of this act: (1) The legal description; (2) the unique characteristics of the land being sold; (3) the appraised value; (4) the sale price; (5) the amount of funds received in the calendar year covered by the report from the sale; (6) the disposition of the funds; (7) the total number of acres of any unsold educational lands remaining under the general management and control of the board by county; and (8) the total appraised value of unsold land. The council's portion of the report shall include a cost-benefit analysis which considers the land being sold versus the anticipated investment potential of proceeds resulting from the sale. The cost-benefit analysis model used shall be consistent with the standards of the investment industry at the time of the proposed sale. Each member of the Legislature shall receive a copy of such report by making a request for it to the chairperson of the board.

Sec. 3. Section 72-258, Reissue Revised Statutes of Nebraska, is amended to read:

72-258. Such Educational land shall be offered for sale, at public auction, by a representative of the Board of Educational Lands and Funds, and sold at not less than either the appraised value, or the fair market value to the highest bidder. The appraised value for sales purposes as provided in section 72-257 shall be the starting bid price. Notice of such sale and the time and place where the same will be held shall be given by publication three consecutive weeks in some legal newspaper published in the county where the

tracts of land or the lots are located or, in case no legal newspaper is published in ~~said~~ the county, then in some legal newspaper of general circulation therein. The proof of such publication shall be made by the affidavit of the publisher, ~~foreman~~ or principal clerk of such newspaper or by some other person knowing about the same, and shall be filed in the office of the ~~board.~~ When Board of Educational Lands and Funds, PROVIDED, when the land consists of an undivided interest in realty, an action to partition may be maintained in the same manner as provided by law for the partition of real property among several joint owners. All notices of sale shall be posted in the office of the Board of Educational Lands and Funds board. The board may arrange for such commercial advertising of land sales as it deems in the best interest of the state. The sale shall be subject to confirmation by the board that the requirements of this section have been met. Settlement shall be made by paying cash of not less than twenty percent of the purchase price at the time of sale and the balance shall be payable in cash within ninety days ~~of~~ after the date of sale. If the person submitting the high bid for the land fails to pay the balance of the purchase price and complete the sale within ninety days his or her rights under the sale, including the twenty percent downpayment, shall be forfeited by the board and a new sale shall be authorized.

Sec. 4. Section 72-259, Reissue Revised Statutes of Nebraska, is amended to read:

72-259. (1) The Board of Educational Lands and Funds shall deposit the proceeds of such the sales of educational lands shall be deposited by the Board of Educational Lands and Funds with the State Treasurer for the benefit of the various funds as provided in this section.

(2) The proceeds of the sales of common school and saline educational lands shall be deposited with the State Treasurer for the benefit of the permanent school fund of the state.

(3) The proceeds of the sales of university educational trust lands shall be deposited with the State Treasurer for the benefit of the Permanent Endowment Fund referred to in section 85-123.

(4) The proceeds of the sales of state college educational trust lands shall be deposited with the State Treasurer for the benefit of the endowment fund referred to in section 85-317. permanent school fund of the state.

Sec. 5. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 6. Original sections 72-240.26, 72-258, and 72-259, Reissue Revised Statutes of Nebraska, are repealed.