

LEGISLATIVE BILL 998

Approved by the Governor April 2, 2024

Introduced by Conrad, 46.

A BILL FOR AN ACT relating to state government; to amend sections 12-1301, 81-176, and 81-1108.33, Reissue Revised Statutes of Nebraska, and section 81-1213.04, Revised Statutes Supplement, 2023; to adopt the State Acceptance of Gifts Act; to change and eliminate provisions relating to acceptance of gifts; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 30-241, 30-242, and 30-243, Reissue Revised Statutes of Nebraska.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 7 of this act shall be known and may be cited as the State Acceptance of Gifts Act.

Sec. 2. The purpose of the State Acceptance of Gifts Act is to provide a procedure for accepting proposed gifts to the state so that the state does not assume responsibility for excessive costs or unnecessary obligations relating to such gifts.

Sec. 3. For purposes of the State Acceptance of Gifts Act:

(1) Donor means (a) an individual, trustee, personal representative, or other legal representative of an individual or an organization, (b) any organization, corporation, foundation, or other entity, and (c) a nonfederal governmental agency;

(2) Gift means a voluntary transfer by any means, including a grant, bequest, or devise, of real property or tangible or intangible personal property, including money, by a donor to a state agency without full compensation;

(3) Real property means any estate or interest in land, including all buildings, fixtures, and improvements thereon and all rights-of-way, easements, rents, issues, profits, income, tenements, hereditaments, privileges, and appurtenances thereunto belonging, used, or enjoyed with such land, or any part thereof, except leases for a term not exceeding one year; and

(4) State agency means any agency, board, or commission of this state, excluding (a) the University of Nebraska, (b) the Nebraska state colleges, and (c) any agency, board, or commission of this state with statutory authority to accept gifts, to the extent of the authority granted.

Sec. 4. (1) Any gift made available to the State of Nebraska for any purpose or purposes, together with the income from such gift, shall be allocated to the state agency designated by the donor or, if no state agency is designated by the donor, shall be used in accordance with Article VII, section 9, of the Constitution of Nebraska.

(2) Acceptance of a gift shall be subject to approval by the receiving state agency and any additional requirements provided in the State Acceptance of Gifts Act. A gift accepted subject to terms or conditions shall be held subject to those terms or conditions.

Sec. 5. 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 any state agency, board, or commission or real property or structures acquired by any state agency, board, or commission with the proceeds of donations, gifts, bequests, devises, or grants from individuals, organizations, corporations, foundations, or similar entities or from nonfederal governmental agencies. Therefore, any such gift, bequest, devise, or acquisition of such real property, structure, or improvement shall be reviewed and approved as provided in this section as a requirement for acceptance or acquisition by the state of such real property, structure, or improvement.~~

~~(1) (2)(a) Any gift of, bequest of, or devise of real property with a value in excess of two hundred fifty thousand dollars which is a structure, or an improvement proposed to be made to a available to any state agency, board, or commission in excess of ten thousand dollars and any acquisition of real property which will be made by a state agency using gifts of money, if the combined total of such gifts of money exceeds or structures with the proceeds of donations, gifts, bequests, devises, or grants from individuals, organizations, corporations, foundations, or similar entities or from nonfederal governmental agencies, if the combined proceeds of such donations, gifts, bequests, devises, or grants exceed two hundred fifty thousand dollars, 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, 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. The report shall include including a summary of the review of the plans, specifications, and other construction or repair documents and potential maintenance requirements, shall outline and outlining the terms and conditions of the proposed gift, bequest, devise, or acquisition, and shall include a along with its recommendation. The report submitted to the committee and the Legislative Fiscal Analyst shall be submitted electronically.

~~(b)(i) Any proposed gift of, bequest of, or devise of real property, a structure, or an improvement in excess of ten thousand dollars shall be approved by the Governor and the Legislature prior to acceptance.~~

~~(ii) Any acquisition of real property or structures with the proceeds of donations, gifts, bequests, devises, or grants from individuals, organizations, corporations, foundations, or similar entities or from nonfederal governmental agencies, if the combined proceeds of such donations, gifts, bequests, devises, or grants exceed two hundred fifty thousand dollars, shall be approved by the Governor and Legislature prior to such acquisition.~~

(2) Any gift of real property or acquisition of real property that is subject to review under subsection (1) of this section shall be approved by the Governor and the Legislature prior to acceptance or acquisition. (iii) 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, devise, or acquisition along with the Governor.

~~(3) (c) No construction, repair, maintenance, or other work related to the proposed gift, bequest, devise, or acquisition shall be initiated prior to receiving the review and approval required by this section.~~

(4) If an acquisition of real property has been approved pursuant to this section, gifts of tangible or intangible personal property or money funding the acquisition, in whole or in part, do not require approval pursuant to sections 6 and 7 of this act.

~~(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. 6. Any gift of tangible or intangible personal property with a fair market value of more than ten thousand dollars, except money, shall be approved by the Governor prior to acceptance, except that such approval shall not be required for gifts of tangible or intangible personal property described in subsection (4) of section 5 of this act.

Sec. 7. (1) Any gift of money in excess of ten thousand dollars shall be approved by the Governor prior to acceptance, except that such approval shall not be required for:

(a) Gifts of money described in subsection (4) of section 5 of this act;
or

(b) Gifts of money that are being made for the purpose of providing matching funds required by state or federal law.

(2) At the discretion of the budget administrator of the budget division of the Department of Administrative Services and the Accounting Administrator of the Department of Administrative Services, expenditures of funds from any gift of money may be made through any existing cash fund, revolving fund, or trust fund. If an appropriate fund does not exist, the Accounting Administrator may create a fund as provided in section 81-1111.04.

Sec. 8. Section 12-1301, Reissue Revised Statutes of Nebraska, is amended to read:

12-1301 (1)(a) The Director of Veterans' Affairs shall establish and operate a state veteran cemetery system. The system shall consist of a facility in the city of Grand Island, subject to subdivision (b) of this subsection, and may include a facility in Box Butte 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 5 of this act 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 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.

(b) Beginning on August 7, 2020, the Director of Veterans' Affairs shall negotiate with the city of Grand Island to acquire an exclusive option for the transfer of title to the former Nebraska Veterans' Memorial Cemetery in the

city of Grand Island and land adjacent to the cemetery, as identified in the required program statement, owned by the city of Grand Island. After being granted funding assistance from the National Cemetery Administration, the director shall accept from the city of Grand Island, at no cost, title to the real estate described in this subdivision in order to establish a state cemetery for veterans. The director shall prepare an initial program statement and make a request to the Legislature for funding as required by section 81-1108.41. The expenses of the initial program statement shall be paid from the Nebraska Veteran Cemetery System Operation Fund.

(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. The fund may be used for the expenses of the initial program statement under subdivision (1)(b) of this section. 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 of Veterans' Affairs 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. 9. 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 or structures by any state agency using gifts of money, board, or commission with the proceeds of donations, gifts, bequests, devises, or grants from individuals, organizations, corporations, foundations, or similar entities or from nonfederal governmental agencies, if the combined proceeds of such donations, gifts, bequests, devises, or grants exceed two hundred fifty thousand dollars, pursuant to section 5 of this act 81-1108.33. The task force shall submit a report of its findings and recommendations to the Committee on Building Maintenance. For purposes of this section, the terms gift and state agency have the same meanings as in section 3 of this act.~~

Sec. 10. Section 81-1213.04, Revised Statutes Supplement, 2023, is amended to read:

81-1213.04 (1) For purposes of this section:

(a) Department means the Department of Economic Development;

(b) Director means the Director of Economic Development;

(c) Eligible grantee means a nonprofit organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code of 1986; and

(d) Eligible location means a location on or contiguous to the location of a youth outdoor education camp that is located west of the one hundredth meridian where youth outdoor education camp facilities were destroyed by a natural or manmade disaster that occurred after January 1, 2022.

(2)(a) An eligible grantee may apply to the department for a grant for ten million dollars for the uses described in subsection (4) of this section at an eligible location.

(b) The department shall award one grant for ten million dollars to an eligible grantee if:

(i) The eligible grantee completes a feasibility study for the intended use of the grant and presents such completed feasibility study to the director on or before June 30, 2024; and

(ii) The director finds that the results of the completed feasibility study demonstrate the viability of the project and approves such completed feasibility study.

(3) The grantee shall receive grant money on a dollar-for-dollar matching basis from the department, which may be released in multiple stages, at any time within ten years after being awarded the grant, if the applicant provides documentation to the department that matching funds have been received in the amount requested for release and that the grant money is being used to complete the project in conformity with the approved feasibility study. At the end of the ten-year allowable grant period, if any grant money was not spent in conformity with the approved feasibility study or if any unmatched grant money was erroneously awarded to the grantee, the grantee shall remit such grant money to the State Treasurer for credit to the Youth Outdoor Education Innovation Fund. The matching funds may include any money, real estate subject to section ~~5 of this act 81-1108.33~~, in-kind donation, private or public grant, gift, endowment raised to sustain the uses described in subsection (4) of this section, expense for a feasibility study, or planning cost.

(4) The grant may be used to pay for:

(a) Construction of physical structures;

(b) Construction of year-round facilities, including lodging, conference, and meeting facilities, and related infrastructure, to generate local and regional economic development;

(c) Equipment that will be used for construction and maintenance of physical structures, facilities, and infrastructure described in this subsection; and

(d) Infrastructure necessary to ensure accessibility to the physical structures and facilities by the public.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 11. This act becomes operative on July 1, 2025.

Sec. 12. Original sections 12-1301, 81-176, and 81-1108.33, Reissue Revised Statutes of Nebraska, and section 81-1213.04, Revised Statutes Supplement, 2023, are repealed.

Sec. 13. The following sections are outright repealed: Sections 30-241, 30-242, and 30-243, Reissue Revised Statutes of Nebraska.