

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 252**

Final Reading

Introduced by Cornett, 45; Fischer, 43; Hadley, 37; Larson, 40;  
Smith, 14; Coash, 27.

Read first time January 11, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to cemeteries; to amend section 77-2704.15,  
2 Reissue Revised Statutes of Nebraska, and section 12-101,  
3 Revised Statutes Cumulative Supplement, 2010; to change  
4 provisions relating to Wyuka Cemetery; to exempt  
5 purchases from sales and use taxes as prescribed; to  
6 provide an operative date; to repeal the original  
7 sections; and to declare an emergency.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 12-101, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           12-101 (1) The cemetery in Lincoln, Nebraska, known as  
4 Wyuka Cemetery, is hereby declared to be a public charitable  
5 corporation. The general control and management of the affairs of  
6 such cemetery shall be vested in a board of three trustees until July  
7 1, 2009, and thereafter shall be vested in a board of five trustees.  
8 The trustees shall serve without compensation and shall be a body  
9 corporate to be known as Wyuka Cemetery, with power to sue and be  
10 sued, to contract and to be contracted with, and to acquire, hold,  
11 and convey both real and personal property for all purposes  
12 consistent with the provisions of sections 12-101 to 12-105, and  
13 shall have the power of eminent domain to be exercised in the manner  
14 provided in section 12-201.

15           (2) The trustees of Wyuka Cemetery shall have the power,  
16 by resolution duly adopted by a majority vote, to authorize one of  
17 their number to sign a petition for paving, repaving, curbing,  
18 recurbing, grading, changing grading, guttering, resurfacing,  
19 relaying existing pavement, or otherwise improving any street,  
20 streets, alley, alleys, or public ways or grounds abutting cemetery  
21 property. When such improvements have been ordered, the trustees  
22 shall pay, from funds of the cemetery, such special taxes or  
23 assessments as may be properly determined.

24           (3) The trustees of Wyuka Cemetery shall be appointed by  
25 the Governor of the State of Nebraska at the expiration of each

1 trustee's term of office. The two trustees appointed for their  
2 initial terms of office beginning July 1, 2009, shall be appointed by  
3 the Governor to serve a five-year term and a six-year term,  
4 respectively. Thereafter, each of the five trustees shall be  
5 appointed by the Governor for a term of six years. In the event of a  
6 vacancy occurring among the members of the board, the vacancy shall  
7 be filled by appointment by the Governor, and such appointment shall  
8 continue for the unexpired term.

9 (4) The board of trustees of Wyuka Cemetery shall file  
10 with the ~~Secretary of State, Auditor of Public Accounts,~~ on or before  
11 the second Tuesday in ~~March~~ June of each year, an itemized report of  
12 all the receipts and expenditures in connection with its management  
13 and control of the cemetery.

14 (5) The trustees of Wyuka Cemetery shall have the power  
15 to provide, in their discretion, retirement benefits for present and  
16 future employees of the cemetery, and to establish, participate in,  
17 and administer plans for the benefit of its employees or its  
18 employees and their dependents, which may provide disability,  
19 hospitalization, medical, surgical, accident, sickness and life  
20 insurance coverage, or any one or more coverages, and which shall be  
21 purchased from a corporation or corporations authorized and licensed  
22 by the Department of Insurance.

23 (6)(a) Beginning December 31, 1998, and each December 31  
24 thereafter, the trustees shall file with the Public Employees  
25 Retirement Board an annual report on each retirement plan established

1 pursuant to this section and section 401(a) of the Internal Revenue  
2 Code and shall submit copies of such report to the members of the  
3 Nebraska Retirement Systems Committee of the Legislature. The annual  
4 report shall be in a form prescribed by the Public Employees  
5 Retirement Board and shall contain the following information for each  
6 such retirement plan:

- 7 (i) The number of persons participating in the retirement  
8 plan;
- 9 (ii) The contribution rates of participants in the plan;
- 10 (iii) Plan assets and liabilities;
- 11 (iv) The names and positions of persons administering the  
12 plan;
- 13 (v) The names and positions of persons investing plan  
14 assets;
- 15 (vi) The form and nature of investments;
- 16 (vii) For each defined contribution plan, a full  
17 description of investment policies and options available to plan  
18 participants; and
- 19 (viii) For each defined benefit plan, the levels of  
20 benefits of participants in the plan, the number of members who are  
21 eligible for a benefit, and the total present value of such members'  
22 benefits, as well as the funding sources which will pay for such  
23 benefits.

24 If a plan contains no current active participants, the  
25 trustees may file in place of such report a statement with the Public

1 Employees Retirement Board indicating the number of retirees still  
2 drawing benefits, and the sources and amount of funding for such  
3 benefits.

4 (b) Beginning December 31, 1998, and every four years  
5 thereafter, if such retirement plan is a defined benefit plan, the  
6 trustees shall cause to be prepared a quadrennial report and shall  
7 file the same with the Public Employees Retirement Board and submit  
8 to the members of the Nebraska Retirement Systems Committee of the  
9 Legislature a copy of such report. The report shall consist of a full  
10 actuarial analysis of each such retirement plan established pursuant  
11 to this section. The analysis shall be prepared by an independent  
12 private organization or public entity employing actuaries who are  
13 members in good standing of the American Academy of Actuaries, and  
14 which organization or entity has demonstrated expertise to perform  
15 this type of analysis and is unrelated to any organization offering  
16 investment advice or which provides investment management services to  
17 the retirement plan.

18 Sec. 2. Section 77-2704.15, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 77-2704.15 (1) Sales and use taxes shall not be imposed  
21 on the gross receipts from the sale, lease, or rental of and the  
22 storage, use, or other consumption in this state of purchases by the  
23 state, including public educational institutions recognized or  
24 established under the provisions of Chapter 85, or by any county,  
25 township, city, village, rural or suburban fire protection district,

1 city airport authority, county airport authority, joint airport  
2 authority, drainage district organized under sections 31-401 to  
3 31-450, natural resources district, elected county fair board,  
4 housing agency as defined in section 71-1575 except for purchases for  
5 any commercial operation that does not exclusively benefit the  
6 residents of an affordable housing project, cemetery created under  
7 section 12-101, or joint entity or agency formed to fulfill the  
8 purposes described in the Integrated Solid Waste Management Act by  
9 any combination of two or more counties, townships, cities, or  
10 villages pursuant to the Interlocal Cooperation Act, the Integrated  
11 Solid Waste Management Act, or the Joint Public Agency Act, except  
12 for purchases for use in the business of furnishing gas, water,  
13 electricity, or heat, or by any irrigation or reclamation district,  
14 the irrigation division of any public power and irrigation district,  
15 or public schools or learning communities established under Chapter  
16 79.

17 (2) The appointment of purchasing agents shall be  
18 recognized for the purpose of altering the status of the construction  
19 contractor as the ultimate consumer of building materials which are  
20 physically annexed to the structure and which subsequently belong to  
21 the state or the governmental unit. The appointment of purchasing  
22 agents shall be in writing and occur prior to having any building  
23 materials annexed to real estate in the construction, improvement, or  
24 repair. The contractor who has been appointed as a purchasing agent  
25 may apply for a refund of or use as a credit against a future use tax

1 liability the tax paid on inventory items annexed to real estate in  
2 the construction, improvement, or repair of a project for the state  
3 or a governmental unit.

4 (3) Any governmental unit listed in subsection (1) of  
5 this section, except the state, which enters into a contract of  
6 construction, improvement, or repair upon property annexed to real  
7 estate without first issuing a purchasing agent authorization to a  
8 contractor or repairperson prior to the building materials being  
9 annexed to real estate in the project may apply to the Tax  
10 Commissioner for a refund of any sales and use tax paid by the  
11 contractor or repairperson on the building materials physically  
12 annexed to real estate in the construction, improvement, or repair.

13 Sec. 3. This act becomes operative on July 1, 2011.

14 Sec. 4. Original section 77-2704.15, Reissue Revised  
15 Statutes of Nebraska, and section 12-101, Revised Statutes Cumulative  
16 Supplement, 2010, are repealed.

17 Sec. 5. Since an emergency exists, this act takes effect  
18 when passed and approved according to law.