

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 121

Introduced by Bostelman, 23.

Read first time January 06, 2023

Committee: Natural Resources

1 A BILL FOR AN ACT relating to game and parks; to amend sections 37-912,
2 37-913, and 37-914, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to the National Trails System Act and the Cowboy
4 Trail Fund; to repeal the Trail Development Assistance Act; to
5 harmonize provisions; to repeal the original sections; and to
6 outright repeal sections 37-1001, 37-1002, 37-1003, 37-1004,
7 37-1005, 37-1006, 37-1007, and 37-1008, Reissue Revised Statutes of
8 Nebraska.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 37-912, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 37-912 (1) Pursuant to the National Trails System Act, 16 U.S.C.
4 1241 et seq., the Game and Parks Commission is hereby authorized and
5 directed to accept as a gift, when and if offered, from any present or
6 future owner the entire right-of-way of the Chicago and Northwestern
7 Railroad which lies between milepost 83.3 and milepost 404.5 in Nebraska.
8 In the event a portion of the right-of-way continues in actual rail
9 service, the commission is authorized and directed to accept as a gift
10 the remaining section. So long as the integrity of the right-of-way as an
11 interim recreational trail and for future rail use is not disturbed, the
12 commission is authorized to lease and to grant easement rights on the
13 right-of-way. All revenue collected from such leases shall be remitted to
14 the State Treasurer for credit to the Cowboy Trail Fund and shall be used
15 for the development and maintenance of the Cowboy Trail. The commission
16 shall hold the right-of-way for interim trail use as a state recreational
17 trail, to preserve wildlife habitat, and to provide a conservation,
18 communications, utilities, and transportation corridor and for other uses
19 approved by the commission and allowed by the National Trails System Act.
20 The commission shall keep in good repair all crossings over the trail in
21 accordance with its legal obligations, including all the grading,
22 bridges, ditches, and culverts that may be necessary for such crossings
23 within the right-of-way.

24 (2) The right-of-way may be accepted without any further legislative
25 action or approval of the Governor but only if the State of Nebraska is
26 indemnified in a manner satisfactory to the commission against the costs
27 of remedial action and environmental cleanup for conditions arising prior
28 to conveyance to the state and the title is free and clear of all liens
29 and mortgage or deed of trust encumbrances.

30 (3) The commission may accept money from any public or private
31 source for gift-acceptance costs, for the development and maintenance of

1 the trail, or for other uses consistent with the purposes stated in this
2 section. ~~The commission may use funds available in the Trail Development~~
3 ~~Assistance Fund to carry out this section as provided in section 37-1003.~~
4 ~~Any money from the Trail Development Assistance Fund so used shall be~~
5 ~~transferred to the Cowboy Trail Fund.~~

6 (4) The commission may enter into an agreement with any public
7 entity at any time for the development and maintenance of the trail
8 pursuant to this section.

9 (5) This section shall not be construed to limit the power of
10 eminent domain of the state or its agencies or of any political
11 subdivision.

12 Sec. 2. Section 37-913, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 37-913 (1) There is hereby created the Cowboy Trail Fund. Any money
15 in the fund available for investment shall be invested by the state
16 investment officer pursuant to the Nebraska Capital Expansion Act and the
17 Nebraska State Funds Investment Act. Money accepted ~~or transferred~~
18 pursuant to subsection (3) of section 37-912 shall be remitted to the
19 State Treasurer for credit to the fund.

20 (2) The State Treasurer shall transfer one hundred thousand dollars
21 from the Nebraska Youth Conservation Program Fund on March 31, 2016, to
22 the Cowboy Trail Fund. The Game and Parks Commission shall use money
23 transferred to the Cowboy Trail Fund under this subsection for the
24 development of undeveloped portions of the Cowboy Trail but shall not
25 expend any money under this subsection unless the amount is matched both
26 by a public entity and by a private entity for each expenditure.

27 Sec. 3. Section 37-914, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 37-914 (1) Pursuant to the National Trails System Act, and with the
30 consent of the Governor pursuant to section 37-303, the Game and Parks
31 Commission may acquire by gift, devise, or purchase all or any part of a

1 railroad right-of-way in the state proposed to be abandoned for interim
2 trail use. The commission, pursuant to the National Trails System Act,
3 shall hold the right-of-way for one or more of the following uses:

- 4 (a) To provide a state recreational trail open to the public;
- 5 (b) To preserve wildlife habitat;
- 6 (c) To provide a conservation, communications, utilities, and
7 transportation corridor; and
- 8 (d) Other uses approved by the commission.

9 (2) The right-of-way may be acquired only if the State of Nebraska
10 is reasonably protected in a manner satisfactory to the commission for
11 the costs of remedial action and environmental cleanup for conditions
12 arising prior to conveyance to the state and the title is free and clear
13 of all liens and encumbrances.

14 (3) The commission may use funds available by gift, appropriation,
15 ~~the Trail Development Assistance Fund~~, and other appropriate cash funds
16 for uses consistent with those stated in this section and section
17 ~~sections 37-303 and 37-1003~~.

18 (4) As long as the integrity of the right-of-way as an interim
19 recreational trail and future rail use is not disturbed, the commission
20 may lease and grant easement rights on the right-of-way. Any lease or use
21 allowed shall be subject to all prescriptions of the National Trails
22 System Act. All revenue collected from such leases shall be remitted to
23 the State Treasurer for credit to the Cowboy Trail Fund and shall be used
24 for the development and maintenance of the Cowboy Trail~~Development~~
25 ~~Assistance Fund pursuant to sections 37-1003 and 37-1004~~.

26 (5) The commission shall continue to allow all crossings across the
27 right-of-way acquired at the time of acquisition on substantially the
28 same terms and conditions as they existed prior to acquisition unless
29 otherwise agreed between the commission and interested parties.

30 (6) The acquisition of the right-of-way shall be subject to the
31 restoration of rail service. If a proposal for the operation of a

1 railroad is approved by the federal Surface Transportation Board, the
2 right-of-way shall be sold for the market value of the land and
3 improvements and conditioned upon (a) the operation of a railroad along
4 the right-of-way, (b) the grant of an easement to the commission for
5 recreational trail use adjacent to the railroad if such use is feasible,
6 and (c) the return of the right-of-way to the commission if rail service
7 is discontinued.

8 Sec. 4. Original sections 37-912, 37-913, and 37-914, Reissue
9 Revised Statutes of Nebraska, are repealed.

10 Sec. 5. The following sections are outright repealed: Sections
11 37-1001, 37-1002, 37-1003, 37-1004, 37-1005, 37-1006, 37-1007, and
12 37-1008, Reissue Revised Statutes of Nebraska.