

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 121**

Introduced by Bostelman, 23.

Read first time January 06, 2023

Committee:

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.