

NINETEENTH DAY - FEBRUARY 3, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****NINETEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 3, 2009

PRAYER

The prayer was offered by Father Brendan Kelly, Blessed Sacrament Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Avery and Cornett who were excused; and Senators Ashford, Dubas, Heidemann, and Karpisek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighteenth day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 17. Introduced by Utter, 33.

WHEREAS, Grant Eddy has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Grant's community service project involved repairs and maintenance at a local park; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Grant will be recognized for his service to the Boy Scouts of America and will achieve the rank of Eagle Scout on February 8, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Grant Eddy on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Grant Eddy.

Laid over.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 142. Placed on General File with amendment.
AM56

- 1 1. On page 2, strike beginning with "unless" in line 9
- 2 through the period in line 15 and insert "if the brand committee
- 3 has been duly notified of the existence of a lien or security
- 4 interest against livestock owned or thereafter acquired by the
- 5 owner of such brand by the holder of such lien or security
- 6 interest. Written notification from the holder of such lien or
- 7 security interest that the lien or security interest has been
- 8 satisfied or consent from the holder of such lien or security
- 9 interest shall be required in order for the brand committee
- 10 to accept for recording an instrument selling, assigning, or
- 11 transferring such recorded brand.".

LEGISLATIVE BILL 231. Placed on General File with amendment.
AM75

- 1 1. On page 2, line 6, strike "four", show as stricken,
- 2 and insert "five"; in line 10 strike "and" and show as stricken; in
- 3 line 12 after "designee" insert ", and the Director of the Nebraska
- 4 State Historical Society or his or her designee"; and in line 15
- 5 strike ", ex officio".

(Signed) Tom Carlson, Chairperson

NOTICE OF COMMITTEE HEARING

Nebraska Retirement Systems

Room 1525

Wednesday, February 11, 2009 12:10 p.m.

Janis Elliott - Public Employees Retirement Board

LB188

LB366

(Signed) Dave Pankonin, Chairperson

GENERAL FILE

LEGISLATIVE BILL 259. Title read. Considered.

Committee AM4, found on page 311, was adopted with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 5. Title read. Considered.

Senator Campbell offered the following amendment:
AM132

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 37-513, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 37-513 (1) It shall be unlawful to shoot at any wildlife
6 from any highway or roadway, which includes that area of land from
7 the center of the traveled surface to the right-of-way on either
8 side. Any person violating this subsection shall be guilty of a
9 Class III misdemeanor and shall be fined at least fifty dollars.

10 (2)(a) ~~It shall be unlawful to trap any wildlife in~~
11 ~~the county road right of way, except that the commission may~~
12 ~~allow trapping of raptors within the county road right of way in~~
13 ~~accordance with sections 37-497 to 37-4,103. Any county may enact a~~
14 resolution prohibiting the trapping of wildlife in the county road
15 right-of-way.

16 (b) For purposes of this subsection, county road
17 right-of-way means the area which has been designated a part of the
18 county road system and which has not been vacated pursuant to law.

19 Sec. 2. Section 37-614, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 37-614 (1) When a person pleads guilty to or is convicted
22 of any violation listed in this subsection, the court shall, in
23 addition to any other penalty, revoke and require the immediate
1 surrender of all permits to hunt, fish, and harvest fur held by
2 such person and suspend the privilege of such person to hunt,
3 fish, and harvest fur and to purchase such permits for a period
4 of not less than one nor more than three years. The court shall
5 consider the number and severity of the violations of the Game Law
6 in determining the length of the revocation and suspension. The
7 violations shall be:

8 (a) Carelessly or purposely killing or causing injury to
9 livestock with a firearm or bow and arrow;

10 (b) Purposely taking or having in his or her possession
11 a number of game animals, game fish, game birds, or fur-bearing
12 animals exceeding twice the limit established pursuant to section

13 37-314;

14 (c) Taking any species of wildlife protected by the Game
15 Law during a closed season in violation of section 37-502;

16 (d) Resisting or obstructing any officer or any employee
17 of the commission in the discharge of his or her lawful duties in
18 violation of section 37-609; and

19 (e) Being a habitual offender of the Game Law.

20 (2) When a person pleads guilty to or is convicted of any
21 violation listed in this subsection, the court may, in addition to
22 any other penalty, revoke and require the immediate surrender of
23 all permits to hunt, fish, and harvest fur held by such person and
24 suspend the privilege of such person to hunt, fish, and harvest
25 fur and to purchase such permits for a period of not less than
26 one nor more than three years. The court shall consider the number
27 and severity of the violations of the Game Law in determining the
1 length of the revocation and suspension. The violations shall be:

2 (a) Hunting, fishing, or fur harvesting without a permit
3 in violation of section 37-411;

4 (b) Hunting from a vehicle, aircraft, or boat in
5 violation of section 37-513, 37-514, 37-515, 37-535, or 37-538;

6 and

7 ~~(c) Trapping wildlife in the county right-of-way in
8 violation of section 37-513; and~~

9 ~~(d)-(c) Knowingly taking any wildlife on private land
10 without permission in violation of section 37-722.~~

11 (3) When a person pleads guilty to or is convicted of
12 any violation of the Game Law or the rules and regulations of the
13 commission not listed in subsection (1) or (2) of this section, the
14 court may, in addition to any other penalty, revoke and require
15 the immediate surrender of all permits to hunt, fish, and harvest
16 fur held by such person and suspend the privilege of such person
17 to hunt, fish, and harvest fur and to purchase such permits for a
18 period of one year.

19 Sec. 3. Original sections 37-513 and 37-614, Reissue
20 Revised Statutes of Nebraska, are repealed.

21 Sec. 4. Since an emergency exists, this act takes effect
22 when passed and approved according to law.

PRESIDENT SHEEHY PRESIDING

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 105. Placed on Select File with amendment.
ER8012

- 1 1. In lieu of the Langemeier amendment, FA4, strike
- 2 original section 4 and all amendments thereto and insert the

3 following new section:

4 Sec. 4. Section 37-327, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 37-327 (1) The commission shall establish fees for
7 licenses, permits, stamps, bands, registrations, and certificates
8 issued under the Game Law and the State Boat Act and shall
9 establish the fee required by section 37-562 as provided in such
10 law, act, and section. The commission shall not increase any fee
11 more than six percent ~~in any one per year~~, except that if a fee has
12 not been increased by such percentage in ~~a~~ the immediately prior
13 year after 1993, the difference between a six percent increase
14 and the actual percentage increase in such prior year may be
15 added to the percentage increase in ~~a subsequent~~ the following
16 year. Such fees shall be collected and disposed of as provided
17 in such law, act, and section. The commission shall, as provided
18 in such law, act, and section, establish issuance fees to be
19 retained by authorized agents of such licenses, permits, stamps,
20 bands, registrations, and certificates under such law, act, and
21 section. The commission shall establish such fees by the adoption
22 and promulgation of rules and regulations.

23 (2) Prior to establishing any fee, the commission shall,
1 at least thirty days prior to the hearing required in section
2 84-907, make the following information available for public review:

3 (a) The commission's policy on the minimum cash balance
4 to be maintained in the fund in which the revenue from the fee
5 being established is deposited and the justification in support of
6 such policy;

7 (b) Monthly estimates of cash fund revenue, expenditures,
8 and ending balances for the current fiscal year and the following
9 two fiscal years for the fund in which the revenue from the fee
10 being established is deposited. Estimates shall be prepared for
11 both the current fee schedule and the proposed fee schedule; and

12 (c) A statement of the reasons for establishing the fee
13 at the proposed level.

14 (3) The commission may adopt and promulgate rules and
15 regulations to establish fees for expired licenses, permits,
16 stamps, bands, registrations, and certificates issued under the
17 Game Law and the State Boat Act. The commission shall collect the
18 fees and remit them to the State Treasurer for credit to the State
19 Game Fund.

LEGISLATIVE BILL 105A. Placed on Select File.

LEGISLATIVE BILL 189. Placed on Select File.

LEGISLATIVE BILL 74. Placed on Select File.

LEGISLATIVE BILL 87. Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 90. Placed on General File.**LEGISLATIVE BILL 83.** Placed on General File with amendment.
AM96

- 1 1. On page 2, line 23; and page 3, line 2, after
- 2 "held" insert "as a pet, but that is not used for a commercial
- 3 agricultural operation.".
- 4 2. On page 3, line 6, after "member" insert "or any
- 5 domestic animal that is owned, possessed, leased, kept, or held
- 6 as a pet, but that is not used for a commercial agricultural
- 7 operation, by the petitioner or any such family or household
- 8 member".

(Signed) Brad Ashford, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 167. Placed on General File.**LEGISLATIVE BILL 168.** Placed on General File.**LEGISLATIVE BILL 207.** Placed on General File.**LEGISLATIVE BILL 322.** Placed on General File.**LEGISLATIVE BILL 116.** Indefinitely postponed.

(Signed) Pete Pirsch, Vice Chairperson

NOTICE OF COMMITTEE HEARINGS

Natural Resources

Room 1525

Wednesday, February 18, 2009 1:30 p.m.

LB437

LB561

LB568

Thursday, February 19, 2009 1:30 p.m.

Mark Spurgin - Game and Parks Commission

LB471

LB567

LB591

Friday, February 20, 2009 1:30 p.m.

Stephen Lichter - Nebraska Power Review Board

LB535

LB643

Wednesday, February 25, 2009 1:30 p.m.

LB666

Thursday, February 26, 2009 1:30 p.m.

LB651

Friday, February 27, 2009 1:30 p.m.

LB502

LB504

Wednesday, March 4, 2009 1:30 p.m.

LB388

LB582

Wednesday, March 11, 2009 1:30 p.m.

LB439

LB644

(Signed) Chris Langemeier, Chairperson

MOTION - Print in Journal

Senator Howard filed the following motion to LB614:

MO6

Withdraw bill.

GENERAL FILE

LEGISLATIVE BILL 5. The Campbell amendment, AM132, found in this day's Journal, was renewed.

Senator Friend offered the following motion:

MO8

Bracket until June 2, 2009.

Senator Friend moved for a call of the house. The motion prevailed with 40 ayes, 1 nay, and 8 not voting.

Senator Friend requested a roll call vote on his motion to bracket.

Voting in the affirmative, 18:

Adams	Dierks	Haar	Nantkes	Stuthman
Campbell	Friend	Howard	Nordquist	Utter
Cook	Giese	Karpisek	Pankonin	
Council	Gloor	Lathrop	Rogert	

Voting in the negative, 27:

Ashford	Fulton	Janssen	Mello	Wallman
Carlson	Gay	Langemeier	Nelson	White
Christensen	Hadley	Lautenbaugh	Pahls	Wightman
Coash	Hansen	Louden	Pirsch	
Fischer	Harms	McCoy	Schilz	
Flood	Heidemann	McGill	Sullivan	

Excused and not voting, 4:

Avery	Cornett	Dubas	Price
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The Friend motion to bracket failed with 18 ayes, 27 nays, and 4 excused and not voting.

The Chair declared the call raised.

The Campbell amendment, AM132, found in this day's Journal, was renewed.

Senator Campbell moved for a call of the house. The motion prevailed with 40 ayes, 1 nay, and 8 not voting.

The Campbell amendment was adopted with 25 ayes, 17 nays, 4 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Stuthman offered the following motion:

MO7

Indefinitely postpone.

Pending.

NOTICE OF COMMITTEE HEARINGS
Education

Room 1525

Tuesday, February 10, 2009 1:30 p.m.

LB240 (cancel)

(Signed) Greg Adams, Chairperson

Health and Human Services

Room 1510

Wednesday, February 11, 2009 1:30 p.m.

LB371

LB396

LB541

LB610

LB656

Thursday, February 12, 2009 1:30 p.m.

LB27

LB367

LB451

LB511

(Signed) Tim Gay, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Giese asked unanimous consent to add his name as cointroducer to LB449. No objections. So ordered.

Senator Harms asked unanimous consent to add his name as cointroducer to LB520. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB555. No objections. So ordered.

VISITOR

The Doctor of the Day was Dr. Thomas Wolf from Fremont.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Utter, the Legislature adjourned until 9:00 a.m., Wednesday, February 4, 2009.

Patrick J. O'Donnell
Clerk of the Legislature