

TWENTIETH DAY - FEBRUARY 4, 2010**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION****TWENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 4, 2010

PRAYER

The prayer was offered by Senator Wallman.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Pahls who was excused; and Senators Gay, Loudon, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the nineteenth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 650A. Placed on Select File.

LEGISLATIVE BILL 705. Placed on Select File with amendment.
ER8156

- 1 1. On page 1, strike beginning with "section" in
- 2 line 1 through line 4 and insert "sections 60-3,122, 60-3,123,
- 3 and 60-3,124, Revised Statutes Supplement, 2009; to remove a
- 4 limitation on issuance of Pearl Harbor, prisoner-of-war, and
- 5 disabled veteran license plates as prescribed; and to repeal
- 6 the original sections.".

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORT

Banking, Commerce and Insurance

LEGISLATIVE BILL 730. Placed on General File with amendment.
AM1749

- 1 1. On page 3, after line 17, insert the following new
- 2 subsection:
- 3 "(8) This section provides the exclusive remedy by which
- 4 a person seeking to enforce a judgment against a member or
- 5 transferee may, in the capacity of judgment creditor, satisfy the
- 6 judgment from the judgment debtor's transferable interest."; and
- 7 strike lines 18 through 25 and show the old matter as stricken.
- 8 2. On page 4, strike lines 1 through 12 and show the old
- 9 matter as stricken.

(Signed) Pete Pirsch, Vice Chairperson

MESSAGE FROM THE GOVERNOR

February 1, 2010

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Crime Victim's Reparations Committee:

Candice Batton, 18633 Midway Road, Walton, NE 68461
Brenda Smith, 3310 North 147th Ct., #2309, Omaha, NE 68107

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,
(Signed) Dave Heineman
Governor

Enclosures

GENERAL FILE

LEGISLATIVE BILL 725. Committee AM1630, found on page 376 and considered on page 437, was renewed.

The committee amendment was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 762. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 708. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 806. Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 873. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 667. Title read. Considered.

Committee AM1575, found on page 385, was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 711. Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

COMMITTEE REPORT
Enrollment and Review**LEGISLATIVE BILL 190.** Placed on Final Reading.

ST9070

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, ER8149:

a. On page 1, line 5, "5" has been struck and "6" inserted; and

b. On page 6, line 7, ", and section 59-1608.04, Revised Statutes Cumulative Supplement, 2008, as amended by section 34, Legislative Bill 3, One Hundred First Legislature, First Special Session, 2009; to change and eliminate definitions" has been inserted after "Nebraska"; in line 8 "and individuals released on probation; to require such individuals to pay the costs of such collection" has been inserted after "offenses"; and in line 9 "to provide for transfers from the State Settlement Cash Fund;" has been inserted after the second semicolon.

(Signed) Jeremy Nordquist, Chairperson

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs

Room 1507

Wednesday, February 17, 2010 1:30 p.m.

LR300CA
LR301CA
LR279CA

Friday, February 19, 2010 1:30 p.m.

LR292
LR273

Wednesday, February 24, 2010 1:30 p.m.

LB777
LB852
LB1003

(Signed) Bill Avery, Chairperson

Health and Human Services

Room 1510

Thursday, February 11, 2010 1:30 p.m.

LB992

LB940

(Signed) Tim Gay, Chairperson

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 713. Placed on General File with amendment.
AM1687

- 1 1. Insert the following new section:
2 Sec. 4. Section 79-252, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 79-252 ~~The~~ In lieu of conducting the inspections required
5 by section 79-248, the board of education or school board of
6 any school district may employ regularly licensed physicians to
7 make physical examinations or inspections in lieu of school health
8 inspections required by section 79-248, such inspections.
9 2. On page 2, strike beginning with "No" in line 19
10 through line 25, show as stricken, and insert "A child shall not
11 be required to submit to an inspection required by this section
12 if his or her parent or guardian provides school authorities
13 with a statement signed by a physician, a physician assistant,
14 or an advanced practice registered nurse practicing under and in
15 accordance with his or her respective credentialing act, stating
16 that such child has undergone such required inspection within the
17 past six months. A child shall submit to any required inspection
18 for which such a statement is not received.".
19 3. Renumber the remaining section and amend the repealer
20 accordingly.

(Signed) Greg Adams, Chairperson

Judiciary

LEGISLATIVE BILL 252. Placed on General File with amendment.
AM1761

- 1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 28-101, Revised Statutes Supplement,
4 2009, is amended to read:
5 28-101 Sections 28-101 to 28-1356 and section 2 of this
6 act shall be known and may be cited as the Nebraska Criminal Code.

7 Sec. 2. (1) No person shall knowingly or intentionally
 8 own or possess animal fighting paraphernalia with the intent to
 9 commit a violation of section 28-1005.

10 (2)(a) For purposes of this section, except as
 11 provided in subdivision (b) of this subsection, animal fighting
 12 paraphernalia means equipment, products, and materials of any
 13 kind that are used, intended for use, or designed for use in
 14 the training, preparation, conditioning, or furtherance of the
 15 pitting of an animal against another as defined in section 28-1004.
 16 Animal fighting paraphernalia includes, but is not limited to, the
 17 following:

18 (i) A breaking stick, which means a device designed for
 19 insertion behind the molars of a dog for the purpose of breaking
 20 the dog's grip on another animal or object;

21 (ii) A cat mill, which means a device that rotates around
 22 a central support with one arm designed to secure a dog and one arm
 23 designed to secure a cat, rabbit, or other small animal beyond the
 1 grasp of the dog;

2 (iii) A treadmill, jenni, or hot walker, which means an
 3 exercise device consisting of an endless belt on which the animal
 4 walks or runs without changing place;

5 (iv) A fighting pit, which means a walled area designed
 6 to contain an animal fight;

7 (v) A springpole, which means a biting surface attached
 8 to a stretchable device, suspended at a height sufficient to
 9 prevent a dog from reaching the biting surface while touching the
 10 ground;

11 (vi) Unprescribed veterinary medicine that is a
 12 controlled substance as defined in section 28-401;

13 (vii) A heel, which means any edged or pointed instrument
 14 designed to be attached to the leg of a fowl or other animal;

15 (viii) A boxing glove or muff, which means a fitted
 16 protective covering for the spurs of a fowl; and

17 (ix) Any other instrument commonly used in the
 18 furtherance of pitting an animal against another.

19 (b) Animal fighting paraphernalia does not include
 20 equipment, products, or materials of any kind used by a
 21 veterinarian licensed to practice veterinary medicine and surgery
 22 in this state.

23 (3) Any person violating subsection (1) of this section
 24 is guilty of a Class I misdemeanor.

25 Sec. 3. Section 28-1006, Reissue Revised Statutes of
 26 Nebraska, is amended to read:

27 28-1006 (1) It shall be the duty of the sheriff, a police
 1 officer, or the Nebraska State Patrol to make prompt investigation
 2 of and arrest for any violation of section 28-1005 or section 2 of
 3 this act.

4 (2) Any animal, equipment, device, or other property or
 5 things involved in any violation of section 28-1005 or section 2

6 of this act shall be subject to seizure, and disposition may be
7 made in accordance with the method of disposition directed for
8 contraband in section 29-820.

9 (3) Any animal involved in any violation of section
10 28-1005 or section 2 of this act shall be subject to seizure.
11 Distribution or disposition may be made in such manner as the court
12 may direct. The court may give preference to adoption alternatives
13 through humane societies or comparable institutions and to the
14 protection of such animal's welfare. For a humane society or
15 comparable institution to be considered as an adoption alternative
16 under this subsection, it must first be licensed by the Department
17 of Agriculture as having passed the inspection requirements in the
18 Commercial Dog and Cat Operator Inspection Act and paid the fee
19 for inspection under the act. The court may prohibit an adopting
20 or purchasing party from selling such animal for a period not to
21 exceed one year.

22 (4) In addition to any other sentence given for a
23 violation of section 28-1005 or section 2 of this act, the
24 sentencing court may order the defendant to reimburse a public
25 or private agency for expenses incurred in conjunction with the
26 care, impoundment, or disposal, including adoption, of an animal
27 involved in the violation of ~~such section 28-1005 or section 2~~
1 of this act. Whenever the court believes that such reimbursement
2 may be a proper sentence or the prosecuting attorney requests,
3 the court shall order that the presentence investigation report
4 include documentation regarding the nature and amount of the
5 expenses incurred. The court may order that reimbursement be made
6 immediately, in specified installments, or within a specified
7 period of time, not to exceed five years after the date of
8 judgment.

9 Sec. 4. Section 28-1007, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 28-1007 Sections 28-1004 to 28-1006 and section 2 of this
12 act shall not be construed to amend or in any manner change the
13 authority of the Game and Parks Commission under the Game Law,
14 to prohibit any conduct authorized or permitted in the Game Law,
15 or to prohibit the training of ~~dogs~~ animals for any purpose not
16 prohibited by law.

17 Sec. 5. Section 28-1019, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-1019 (1)(a) If a person is convicted of a Class IV
20 felony under section 28-1005 or 28-1009, the sentencing court shall
21 order such person not to own, possess, or reside with any animal
22 for at least five years after the date of conviction, but such time
23 restriction shall not exceed fifteen years. Any person violating
24 such court order shall be guilty of a Class I misdemeanor.

25 (b) If a person is convicted of a Class I misdemeanor
26 under subdivision (2)(a) of section 28-1009 or section 2 of
27 this act or a Class III misdemeanor under section 28-1010, the

1 sentencing court may order such person not to own, possess,
 2 or reside with any animal after the date of conviction, but
 3 such time restriction, if any, shall not exceed five years. Any
 4 person violating such court order shall be guilty of a Class IV
 5 misdemeanor.

6 (c) Any animal involved in a violation of a court order
 7 under subdivision (a) or (b) of this subsection shall be subject to
 8 seizure by law enforcement.

9 (2) This section shall not apply to any person convicted
 10 under section 28-1005 or 28-1009 or section 2 of this act if a
 11 licensed physician confirms in writing that ownership or possession
 12 of or residence with an animal is essential to the health of such
 13 person.

14 Sec. 6. Original sections 28-1006, 28-1007, and 28-1019,
 15 Reissue Revised Statutes of Nebraska, and section 28-101, Revised
 16 Statutes Supplement, 2009, are repealed.

(Signed) Brad Ashford, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 312. Introduced by Pirsch, 4.

WHEREAS, local fundraising efforts are being held to provide assistance to the earthquake victims in Haiti; and

WHEREAS, St. Vincent de Paul Catholic School in Omaha is allowing students to dress down for a day if they make a donation, with all funds to be donated to the American Red Cross; and

WHEREAS, the Legislature recognizes the importance of Nebraska's local fundraising efforts to help the people of Haiti.

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

1. That the Legislature commends St. Vincent de Paul Catholic School for its fundraising efforts to provide assistance to the earthquake victims in Haiti.

2. That a copy of this resolution be sent to St. Vincent de Paul Catholic School.

Laid over.

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

Batton, Candice - Crime Victim's Reparations Committee - Judiciary

Smith, Brenda - Crime Victim's Reparations Committee - Judiciary

(Signed) John Wightman, Chairperson
Executive Board

MOTION - Print in Journal

Senator Hadley filed the following motion to LB946:
MO79
Withdraw bill.

GENERAL FILE

LEGISLATIVE BILL 797. Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 832. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 911. Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 867. Title read. Considered.

Committee AM1638, found on page 399, was considered.

Pending.

COMMITTEE REPORT

Agriculture

LEGISLATIVE BILL 865. Placed on General File with amendment.
AM1739

- 1 1. On page 2, strike beginning with "conducted" in line
- 2 23 through "request" in line 25.
- 3 2. On page 6, line 7, strike "2003" and insert "2010"; in
- 4 line 15, strike "and"; in line 16 strike the period and insert ";
- 5 and"; and after line 16 insert
- 6 "(7) Commonly accepted practices occurring in conjunction
- 7 with sanctioned rodeos and animal racing and pulling contests.".
- 8 3. On page 8, line 12, strike "(5)" and insert "(6)".
- 9 4. On page 13, line 23, strike "2003", show as stricken,
- 10 and insert "2010".
- 11 5. On page 14, strike lines 1 and 2 and show as stricken;
- 12 in line 3 strike "(6)", show as stricken, and insert "(5)"; in

13 line 11 strike "(7)" and insert "(6)"; in line 16 strike "(8)" and
14 insert "(7)"; and in line 19 strike "(9)" and insert "(8)".

(Signed) Tom Carlson, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Hadley asked unanimous consent to add his name as cointroducer to LB1053. No objections. So ordered.

Senator Coash asked unanimous consent to add his name as cointroducer to LB1068 and LB1073. No objections. So ordered.

Senators Heidemann and Utter asked unanimous consent to add their names as cointroducers to LB1103. No objections. So ordered.

WITHDRAW - Cointroducer

Senator Janssen withdrew his name as cointroducer to LB836.

VISITORS

Visitors to the Chamber were 18 students and sponsors from Rising City; and members of UNL Leadership Groups from across the state.

ADJOURNMENT

At 11:14 a.m., on a motion by Senator Hansen, the Legislature adjourned until 10:00 a.m., Friday, February 5, 2010.

Patrick J. O'Donnell
Clerk of the Legislature