

LEGISLATIVE BILL 251

Approved by the Governor February 14, 1989

Introduced by Natural Resources Committee, Schmit, 23,
Chairperson; Weihing, 48; Smith, 33;
Beck, 8; Elmer, 38; Morrissey, 1;
R. Johnson, 34

AN ACT relating to the Game Law; to amend section 37-102, Reissue Revised Statutes of Nebraska, 1943; to state intent; to define terms; to authorize the creation of the Nebraska Natural Areas Register; to provide criteria; to provide procedures; to provide powers and duties for the Game and Parks Commission; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 37-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-102. This act and sections 2 to 9 of this act shall be known and may be cited as the Game Law.

Sec. 2. The Legislature hereby finds and declares that the protection of natural diversity promotes the quality of life for Nebraska residents and their descendents and the protection of natural areas maintains species and their genetic diversity for economic development and human benefit. The Legislature further finds and declares that specific knowledge of the status and location of natural heritage resources and their recognition can prevent needless conflict with economic development and voluntary cooperation of landowners is an effective and cost-efficient means to protect significant natural resources.

Sec. 3. For purposes of sections 2 to 9 of this act:

(1) Commission shall mean the Game and Parks Commission;

(2) Natural area shall mean an area of land or water, whether publicly or privately owned, which retains to some degree its primeval character, though it need not be completely natural and undisturbed, or has natural flora, fauna, or ecological features of scientific or educational interest;

(3) Participating cooperators shall mean any

nonprofit conservation organizations or public agencies which enter into agreements pursuant to section 6 of this act; and

(4) Register shall mean the Nebraska Natural Areas Register created pursuant to sections 4 to 8 of this act.

Sec. 4. The commission shall create and maintain a state register of those natural areas which possess significant natural heritage resources which shall be known as the Nebraska Natural Areas Register. The commission shall adopt and promulgate policies, rules, and regulations to carry out the registration of natural areas. The natural areas included in the register shall substantially satisfy at least one of the following criteria:

(1) The natural area shall possess an exemplary or rare plant community maintaining itself under prevailing natural conditions typical of Nebraska;

(2) The natural area shall be a habitat supporting a rare, threatened, or endangered species, a species in need of conservation, or other animal or plant species of concern;

(3) The natural area shall support a relict flora or fauna persisting from an earlier period; or

(4) The natural area shall serve as a seasonal haven for concentrations of birds or other animals.

Natural areas which are candidates for inclusion in the register shall be identified by the commission based on available evidence and standards prescribed by the commission. Interested parties may propose possible natural areas to the commission for review of the national and statewide significance of their natural heritage features. Natural areas which meet the established standards may be considered as eligible for the register.

Sec. 5. At least once each year, the commission shall meet with interested parties to review the status, distribution, and significance of the animal and plant species and natural areas within Nebraska. After completing the review, the sites may be nominated for inclusion in the register and submitted with nomination documents for consideration by the commission. Nomination of natural areas for inclusion in the register shall be based on one or more of the following priorities:

(1) Rareness of the natural heritage features on a national, statewide, or ecological region scale;

(2) Excellence and completeness of the natural heritage features found in the natural area;

(3) Degree to which a natural area or its natural heritage features are threatened with incompatible use;

(4) Degree of protection afforded to similar features elsewhere in the state or ecological region; and

(5) Viability of the natural features in the natural area.

Following approval of nominated natural areas by the commission, the natural area shall be added to the register. No privately owned lands may be nominated for registration without prior notice to the owner or registered without voluntary consent of the owner.

Sec. 6. The commission may enter into contracts, memoranda of understanding, or cooperative agreements with the participating cooperators to jointly conduct or act as the agent for the commission in landowner contact and other operations relating to the register.

Sec. 7. The commission and participating cooperators may provide to the owners of registered natural areas:

(1) Recognition for their participation in the register by appropriate publicity and the presentation of certificates or plaques;

(2) Advice on the proper management of the registered natural area to protect the biological features for which the area was registered; and

(3) Assistance in management or monitoring activities to maintain the natural heritage features of the registered natural area. Such activities may include, but shall not be limited to, taking a census of the population, vegetation control, and prescribed burning.

Sec. 8. A voluntary agreement between a landowner and the commission or the participating cooperators to register a natural area shall not affect a landowner's property rights or use of the land. The landowner may withdraw from the agreement by notifying the commission. No state or local governmental agency may require landowner consent to the agreement as a condition of any permit or penalize any landowner in any way for failure to give or for withdrawal of such consent.

Sec. 9. The maintenance of a registered natural area in its natural state is hereby declared to be the highest, best, and most important use of the natural area. No entity of local or state government may undertake any activities or use the registered

natural area in any way that would negatively impact the values of the natural area without first conducting a public hearing on such negative impact and filing with the Director of the Game and Parks Commission a statement justifying the negative impact on the natural area of such activities or use.

Sec. 10. That original section 37-102, Reissue Revised Statutes of Nebraska, 1943, is repealed.