

THIRTY-NINTH DAY - MARCH 3, 2011**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION****THIRTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 3, 2011

PRAYER

The prayer was offered by Pastor Bobby Loud, Believers Fellowship Church, Omaha.

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 Christensen, Coash, Cornett, Dubas, Karpisek, and Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-eighth day was approved.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 22. Placed on Select File with amendment.
ER40

- 1 1. Strike original section 2 and all amendments thereto
- 2 and insert the following new section:
- 3 Sec. 2. (1) The Legislature finds that:
- 4 (a) In the federal Patient Protection and Affordable
- 5 Care Act, Public Law 111-148, federal tax dollars are routed
- 6 via affordability credits to qualified health insurance plans
- 7 offered through a health insurance exchange created under the act,
- 8 including plans that provide coverage for abortion;
- 9 (b) Federal funding for health insurance plans that
- 10 cover abortions is prohibited by the federal statutory restriction
- 11 commonly known as the Hyde Amendment and the Federal Employees
- 12 Health Benefits Program established under Chapter 89 of Title 5 of
- 13 the United States Code, as amended;

14 (c) Section 1303 of the federal Patient Protection and
 15 Affordable Care Act explicitly permits each state to pass laws
 16 prohibiting qualified health insurance plans offered through a
 17 health insurance exchange created under the act in such state from
 18 offering abortion coverage. Such section allows a state to prohibit
 19 the use of public funds to subsidize health insurance plans that
 20 cover abortions within the state;

21 (d) The laws of the State of Nebraska provide that group
 22 health insurance plans or health maintenance agreements paid for
 23 with public funds shall not cover abortion unless necessary to
 1 prevent the death of the woman;

2 (e) Rust v. Sullivan, 500 U.S. 173 (1991), states that
 3 it is permissible for a state to engage in unequal subsidization
 4 of abortion and other medical services to encourage alternative
 5 activity deemed in the public interest; and

6 (f) A majority of the citizens of the State of Nebraska,
 7 like other Americans, oppose the use of public funds, both federal
 8 and state, to pay for abortions.

9 (2) Based on the findings in subsection (1) of
 10 this section, it is the purpose of the Mandate Opt-Out and
 11 Insurance Coverage Clarification Act to affirmatively opt out of
 12 allowing qualified health insurance plans that cover abortions
 13 to participate in health insurance exchanges within the State of
 14 Nebraska. Further, it is also the purpose of the act to limit the
 15 coverage of abortion in all health insurance plans, contracts, or
 16 policies delivered or issued for delivery in the State of Nebraska.

(Signed) Tyson Larson, Chairperson

AMENDMENT - Print in Journal

Senator Dubas filed the following amendment to LB62:
 AM611

(Amendments to Final Reading copy)

1 1. On page 2, line 11, after the period insert "If a
 2 county officer challenges the board's decision, the county officer
 3 and the board shall undergo mediation, and the county officer shall
 4 not challenge the board's decision in court unless the mediator has
 5 concluded that further efforts would not result in resolution of
 6 the issue. The costs of mediation shall be shared by the county
 7 board and the county officer.".

ANNOUNCEMENT

Senator Hadley designates LB431 as his priority bill.

COMMITTEE REPORT
Education

LEGISLATIVE BILL 548. Indefinitely postponed.

(Signed) Greg Adams, Chairperson

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR80 was adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR80.

SELECT FILE

LEGISLATIVE BILL 284. Considered.

Advanced to Enrollment and Review for Engrossment.

GENERAL FILE

LEGISLATIVE BILL 543. Senator Nordquist renewed his amendment, AM540, found on page 670 and considered on page 697.

Senator Conrad moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 5 nays, and 19 not voting.

The Nordquist amendment was adopted with 25 ayes, 8 nays, 14 present and not voting, and 2 excused and not voting.

Senator Harms withdrew his amendment, AM573, found on page 673.

Senator Cook moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Cook requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 35:

Adams	Conrad	Gloor	Karpisek	Nordquist
Ashford	Cook	Haar, K.	Krist	Pankonin
Avery	Cornett	Hadley	Larson	Pirsch
Brasch	Council	Hansen	Lathrop	Schumacher
Campbell	Dubas	Harms	Louden	Sullivan
Carlson	Flood	Harr, B.	McGill	Wallman
Coash	Fulton	Howard	Mello	Wightman

Voting in the negative, 2:

Bloomfield Christensen

Present and not voting, 9:

Fischer	Janssen	McCoy	Schilz	Utter
Heidemann	Langemeier	Nelson	Smith	

Excused and not voting, 3:

Lautenbaugh Pahls Price

Advanced to Enrollment and Review Initial with 35 ayes, 2 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

AMENDMENT - Print in Journal

Senator Karpisek filed the following amendment to LB256:
AM597

1 1. Strike original section 2 and insert the following new
2 sections:
3 Sec. 2. Section 2-1205, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 2-1205 If the commission is satisfied that its rules and
6 regulations and all provisions of sections 2-1201 to 2-1218 have
7 been and will be complied with, it may issue a license for a period
8 of not more than one year. The license shall set forth the name
9 of the licensee, the place where the races or race meetings are
10 to be held, and the time and number of days during which racing
11 may be conducted by such licensee. Any such license issued shall
12 not be transferable or assignable. The commission shall have the
13 power to revoke any license issued at any time for good cause upon
14 reasonable notice and hearing. No license shall be granted to any
15 corporation or association except upon the express condition that
16 it shall not, by any lease, contract, understanding, or arrangement
17 of whatever kind or nature, grant, assign, or turn over to any

18 person, corporation, or association the operation or management of
19 any racing or race meeting licensed under such sections or of the
20 parimutuel system of wagering described in section 2-1207 or in
21 any manner permit any person, corporation, or association other
22 than the licensee to have any share, percentage, or proportion of
23 the money received for admissions to the racing or race meeting
1 or from the operation of the parimutuel system; and any violation
2 of such conditions shall authorize and require the commission
3 immediately to revoke such license. Notwithstanding the provisions
4 of this section to the contrary, an existing racetrack licensee may
5 contract with another licensee under sections 2-1201 to 2-1218 to
6 conduct a live race meeting on its behalf.

7 Sec. 3. Section 2-1226, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 2-1226 Any racetrack issued a license under sections
10 2-1201 to 2-1223 which operates at least one live race meet
11 during each calendar year except as provided in section 2-1228 or
12 contracts for a live race meet as authorized under section 2-1205
13 may apply to the commission for a simulcast facility license. An
14 application for such license shall be in such form as may be
15 prescribed by the commission and shall contain such information,
16 material, or evidence as the commission may require. Any racetrack
17 issued a simulcast facility license may display the simulcast of a
18 horserace on which parimutuel wagering shall be allowed.

19 Sec. 4. Section 2-1228, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 2-1228 (1) Any racetrack issued a license under sections
22 2-1201 to 2-1223 ~~(1)-(a)~~ conducting primarily quarterhorse races
23 in the year immediately preceding the year for which application
24 is made, regardless of the total number of days of live
25 racing conducted in such year, ~~or (2)-(b)~~ conducting primarily
26 thoroughbred horseraces in the year immediately preceding the year
27 for which application is made which conducted live racing on at
1 least seventy percent of the days for which it was authorized
2 to conduct live racing in 1988 unless the commission determines
3 that such racetrack licensee was unable to conduct live racing on
4 the required number of days due to factors beyond its control,
5 including, but not limited to, fire, earthquake, tornado, or
6 other natural disaster, or (c) contracting for a live race meet
7 as authorized under section 2-1205, may apply to the commission
8 for an interstate simulcast facility license. An application for
9 such license shall be in a form prescribed by the commission
10 and shall contain such information, material, or evidence as the
11 commission may require. Any racetrack licensee issued an interstate
12 simulcast facility license may conduct the interstate simulcast
13 of any horserace permitted under its license, and parimutuel
14 wagering shall be allowed on such horserace. The commission
15 shall not authorize interstate simulcasting for any racetrack
16 licensee pursuant to sections 2-1201 to 2-1223 unless all of the

17 thoroughbred racetracks together applied for and received authority
 18 to conduct at least one hundred eighty live racing days in the
 19 calendar year in which the application is made.

20 (2) If any racetrack licensee, other than a racetrack
 21 licensee contracting for a live race meet as authorized under
 22 section 2-1205, conducts live racing for less than seventy percent
 23 of the days assigned such racetrack licensee in 1988, (a) such
 24 racetrack licensee shall be precluded from conducting interstate
 25 simulcasts and (b) the number of live racing days conducted
 26 by such racetrack licensee shall be subtracted from an amount
 27 equal to seventy percent of all the days assigned such racetrack
 1 licensee in 1988 and the amount remaining shall be deducted
 2 from the one-hundred-eighty-day total required by this section.
 3 If any racetrack licensee ceases to conduct live racing, other
 4 than a racetrack licensee contracting for a live race meet as
 5 authorized under section 2-1205, seventy percent of the days
 6 assigned such racetrack licensee in 1988 shall be deducted from the
 7 one-hundred-eighty-day total required by this section.

8 Sec. 5. Original sections 2-1205, 2-1226, and 2-1228,
 9 Reissue Revised Statutes of Nebraska, and section 2-1201, Revised
 10 Statutes Cumulative Supplement, 2010, are repealed.

11 2. Renumber the remaining section accordingly.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 372. Placed on General File.

LEGISLATIVE BILL 544. Placed on General File.

(Signed) Greg Adams, Chairperson

Executive Board

LEGISLATIVE BILL 611. Indefinitely postponed.

(Signed) John Wightman, Chairperson

Natural Resources

LEGISLATIVE BILL 229. Placed on General File with amendment.
 AM281

- 1 1. On page 2, strike beginning with "Transfers" in line 5
- 2 through the period in line 6 and show as stricken; and in line 19
- 3 strike "and", show as stricken, and insert "or".

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Ginger S. Willson - Director, State Energy Office

Aye: 8 Senators Carlson, Christensen, Dubas, Haar, Langemeier, McCoy, Schilz, Smith. Nay: 0. Absent: 0. Present and not voting: 0.

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Mark Pinkerton - Game and Parks Commission

Aye: 8 Senators Carlson, Christensen, Dubas, Haar, Langemeier, McCoy, Schilz, Smith. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Chris Langemeier, Chairperson

ANNOUNCEMENTS

Senator Dubas designates LB297 as her priority bill.

Senator Gloor designates LB546 as his priority bill.

COMMITTEE REPORT Enrollment and Review

LEGISLATIVE BILL 284. Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

GENERAL FILE

LEGISLATIVE BILL 34. Title read. Considered.

SENATOR GLOOR PRESIDING

Committee AM201, found on page 535, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 51. Title read. Considered.

Committee AM79, found on page 536, was considered.

Senator Cook renewed her motion, MO14, found on page 628, to recommit to committee.

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Sankey, David - Superintendent, Nebraska State Patrol - Government, Military and Veterans Affairs

(Signed) John Wightman, Chairperson
Executive Board

AMENDMENTS - Print in Journal

Senator Cornett filed the following amendment to LB389:
AM614

- 1 1. Strike original sections 15 and 17 and all amendments
- 2 thereto and insert the following new sections:
- 3 Sec. 15. Sections 12, 13, and 16 of this act become
- 4 operative for all taxable years beginning or deemed to begin on or
- 5 after January 1, 2011, under the Internal Revenue Code of 1986, as
- 6 amended. Sections 14, 15, 18, and 19 of this act become operative
- 7 on July 1, 2011. The other sections of this act become operative on
- 8 September 1, 2011.
- 9 Sec. 17. Original section 49-801.01, Reissue Revised
- 10 Statutes of Nebraska, is repealed.
- 11 Sec. 18. Original section 77-27,187.02, Reissue Revised
- 12 Statutes of Nebraska, is repealed.
- 13 Sec. 19. Since an emergency exists, this act takes effect
- 14 when passed and approved according to law.
- 15 2. On page 7, line 16, strike "A" and insert "For taxable
- 16 years beginning or deemed to begin on or after January 1, 2011,
- 17 under the Internal Revenue Code of 1986, as amended, a".

Senator Cornett filed the following amendment to LB81:
AM620

(Amendments to Final Reading copy)

- 1 1. On page 3, line 19, after "used" insert "or stored".
- 2 2. On page 5, line 6, after "used" insert "or stored".

MOTION - Print in Journal

Senator Langemeier filed the following motion to LB389:
MO16
Indefinitely postpone.

VISITORS

Visitors to the Chamber were Kenny Zoeller from Seward; 18 eleventh- and twelfth-grade students and teachers from Omaha; 50 fourth-grade students, teachers, and sponsors from Trinity Christian School, Omaha; Senator Carlson's wife, Margo Carlson, from Holdrege and Kerrie Rosheim from Axtell; and 4 tenth- through twelfth-grade students, teacher, and sponsor from West Point-Beemer Public Schools, West Point.

The Doctor of the Day was Dr. David Minnick from Broken Bow.

ADJOURNMENT

At 11:56 a.m., on a motion by Senator Fischer, the Legislature adjourned until 9:00 a.m., Friday, March 4, 2011.

Patrick J. O'Donnell
Clerk of the Legislature

