

TWENTY-SECOND DAY - FEBRUARY 6, 2012**LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION****TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 6, 2012

PRAYER

The prayer was offered by Senator Lambert.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Conrad who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-first day was approved.

COMMITTEE REPORT

Banking, Commerce and Insurance

LEGISLATIVE BILL 965. Placed on General File.

(Signed) Rich Pahls, Chairperson

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

Room 1507

Tuesday, February 21, 2012 1:30 p.m.

LB835

LB838

Room 1507

Tuesday, February 14, 2012 1:30 p.m.

Catherine D. Lang - Department of Economic Development

(Signed) Rich Pahls, Chairperson

AMENDMENT - Print in Journal

Senator Langemeier filed the following amendment to LR40CA:
AM1871

(Amendments to Final Reading copy)

- 1 1. On page 1, line 10, after "regulations" insert
- 2 "regarding participation and".

MESSAGE FROM THE GOVERNOR

February 6, 2012

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

Dear Mr. President, Speaker Flood and Senators:

This letter is to inform you that the request for confirmation of the appointment of Karen Davis as a member of the Coordinating Commission for Postsecondary Education is respectfully withdrawn.

Sincerely,
(Signed) Dave Heineman
Governor

GENERAL FILE**LEGISLATIVE BILL 646.** Title read. Considered.

Senator Howard offered the following amendment:
AM1875

- 1 1. On page 2, line 6, after the period insert "The
- 2 amendment of this section by this legislative bill shall not be
- 3 construed to modify or expand or authorize the modification or
- 4 expansion of the scope of practice of any licensure classifications
- 5 established pursuant to section 38-1217.".

The Howard amendment was adopted with 29 ayes, 0 nays, 19 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 1 nay, 19 present and not voting, and 1 excused and not voting.

ANNOUNCEMENT

The Chair announced today is Senators Adams' and Wallman's birthdays.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 536. Placed on Select File with amendment.
ER171

- 1 1. On page 1, line 2, after the first comma insert
- 2 "76-214, 76-215,".

LEGISLATIVE BILL 269. Placed on Select File.

LEGISLATIVE BILL 828. Placed on Select File with amendment.
ER172 is available in the Bill Room.

LEGISLATIVE BILL 725. Placed on Select File.

LEGISLATIVE BILL 470. Placed on Select File.

LEGISLATIVE BILL 879. Placed on Select File.

(Signed) Tyson Larson, Chairperson

COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 806. Placed on General File with amendment.
AM1852

- 1 1. Strike original sections 2, 3, 4, and 6 and insert the
- 2 following new sections:
- 3 Sec. 2. (1) For purposes of licensure and regulation
- 4 pursuant to subdivision (7) of section 2-1203.01, historic
- 5 horserace means a form of horserace that creates a parimutuel pool
- 6 from wagers placed on a horserace previously held.
- 7 (2) The commission may adopt and promulgate rules and
- 8 regulations to implement subdivision (7) of section 2-1203.01.
- 9 (3) As part of the regulation under subdivision (7)
- 10 of section 2-1203.01, the commission shall require enough of the
- 11 historic horserace to be televised so as to maintain the integrity
- 12 of such horserace before another wager takes place or before
- 13 beginning another historic horserace.
- 14 (4) As part of the regulation under subdivision (7) of
- 15 section 2-1203.01, the commission shall impose an initial, one-time
- 16 licensing fee of one thousand dollars for each machine used for
- 17 parimutuel wagering on historic horseraces. The commission shall

18 remit the fees to the State Treasurer for credit to the Historic
 19 Horseracing Distribution Fund.

20 Sec. 3. (1) In lieu of any other tax imposed under
 21 sections 2-1201 to 2-1242 on a licensed racetrack enclosure and in
 22 lieu of any other tax otherwise applicable to parimutuel wagering,
 23 (a) there is hereby imposed a tax on the gross sum wagered by the
 1 parimutuel method at each licensed racetrack enclosure on historic
 2 horseraces at a rate of one percent of the first one hundred
 3 million dollars collected from wagering on historic horseraces
 4 at the licensed racetrack enclosure, one and one-half percent of
 5 the second one hundred million dollars collected from wagering
 6 on historic horseraces at the licensed racetrack enclosure, and
 7 two percent on all additional money collected from wagering on
 8 historic horseraces and (b)(i) if the racetrack enclosure is not
 9 located within the corporate limits of a city, the licensee of the
 10 racetrack enclosure shall remit one-tenth of one percent of the
 11 gross sum wagered under this section to the county treasurer of
 12 the county in which the racetrack enclosure is located for credit
 13 to the county general fund, and (ii) if the racetrack enclosure
 14 is located within the corporate limits of a city, the licensee of
 15 the racetrack enclosure shall remit five hundredths of one percent
 16 of the gross sum wagered to such county treasurer for credit to
 17 the county general fund and five hundredths of one percent of the
 18 gross sum wagered to the city treasurer of the city in which the
 19 racetrack enclosure is located for credit to the city general fund.

20 (2) A return as required by the Tax Commissioner shall
 21 be filed for a racetrack enclosure for each month during which
 22 wagers on historic horseraces are accepted at the enclosure. The
 23 return shall be filed with and the tax due pursuant to subdivision
 24 (1)(a) of this section shall be paid to the Department of Revenue
 25 on the tenth day of the month following receipt of the tax. The Tax
 26 Commissioner shall remit all revenue collected or received from the
 27 tax imposed under subdivision (1)(a) of this section to the State
 1 Treasurer for credit to the Historic Horseracing Distribution Fund.

2 Sec. 4. (1) The Historic Horseracing Distribution Fund
 3 is hereby created in the Department of Revenue. All costs for
 4 administration of the fund shall be paid from such fund.

5 (2) All receipts in the Historic Horseracing Distribution
 6 Fund in excess of the amounts sufficient to cover the costs of
 7 administration shall be distributed as follows:

8 (a) One-half of all such receipts shall be credited to
 9 the Racing Commission's Cash Fund to be used by the State Racing
 10 Commission for equitable treatment of equine species; and

11 (b) One-half of all such receipts shall be credited to
 12 the Compulsive Gamblers Assistance Fund.

13 (3) Any money in the Historic Horseracing Distribution
 14 Fund available for investment shall be invested by the state
 15 investment officer pursuant to the Nebraska Capital Expansion Act
 16 and the Nebraska State Funds Investment Act.

17 Sec. 6. Section 2-1222, Reissue Revised Statutes of
 18 Nebraska, is amended to read:
 19 2-1222 (1) There is hereby created the Racing
 20 Commission's Cash Fund from which shall be appropriated such
 21 amounts as are available therefrom and as shall be considered
 22 incident to the administration of the State Racing Commission's
 23 office and for purposes of equitable treatment of equine species as
 24 provided in subsection (3) of this section.

25 (2) The fund shall contain all license fees and gross
 26 receipt taxes collected by the commission as provided under
 27 sections 2-1203, 2-1203.01, 2-1208, and 2-1242 but shall not
 1 include taxes collected pursuant to section 2-1208.01, and such
 2 fees and taxes collected shall be remitted to the State Treasurer
 3 for credit to the Racing Commission's Cash Fund.

4 (3) The amount transferred to the fund under section 4 of
 5 this act shall be used by the State Racing Commission for equitable
 6 treatment of equine species.

7 (4) Any money in the fund available for investment
 8 shall be invested by the state investment officer pursuant to
 9 the Nebraska Capital Expansion Act and the Nebraska State Funds
 10 Investment Act.

11 Sec. 7. Original sections 2-1203.01, 2-1215, and 2-1222,
 12 Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Brad Ashford, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 766. Placed on General File.

LEGISLATIVE BILL 779. Placed on General File.

LEGISLATIVE BILL 719. Placed on General File with amendment.
 AM1842

- 1 1. Strike original section 6.
- 2 2. On page 38, line 17, strike "81-118.01,".
- 3 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 735. Placed on General File with amendment.
 AM1769

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 84-1411, Revised Statutes Cumulative
- 4 Supplement, 2010, is amended to read:
- 5 84-1411 (1) Each public body shall give reasonable
- 6 advance publicized notice of the time and place of each meeting
- 7 by a method designated by each public body and recorded in its
- 8 minutes. Such notice shall be transmitted to all members of the
- 9 public body and to the public. Such notice shall contain an
- 10 agenda of subjects known at the time of the publicized notice

11 or a statement that the agenda, which shall be kept continually
 12 current, shall be readily available for public inspection at the
 13 principal office of the public body during normal business hours.
 14 Agenda items shall be sufficiently descriptive to give the public
 15 reasonable notice of the matters to be considered at the meeting.
 16 Except for items of an emergency nature, the agenda shall not
 17 be altered later than (a) twenty-four hours before the scheduled
 18 commencement of the meeting or (b) forty-eight hours before the
 19 scheduled commencement of a meeting of a city council or village
 20 board scheduled outside the corporate limits of the municipality.
 21 The public body shall have the right to modify the agenda to
 22 include items of an emergency nature only at such public meeting.

23 (2) A meeting of a state agency, state board, state
 1 commission, state council, or state committee, of an advisory
 2 committee of any such state entity, of an organization created
 3 under the Interlocal Cooperation Act, the Joint Public Agency
 4 Act, or the Municipal Cooperative Financing Act, of the governing
 5 body of a public power district having a chartered territory
 6 of more than ~~fifty counties~~ one county in this state, of the
 7 governing body of a public power and irrigation district having
 8 a chartered territory of more than one county in this state, of
 9 a board of an educational service unit, ~~or~~ of the governing body
 10 of a risk management pool or its advisory committees organized
 11 in accordance with the Intergovernmental Risk Management Act,
 12 or of a community college board of governors may be held
 13 by means of videoconferencing or, in the case of the Judicial
 14 Resources Commission in those cases specified in section 24-1204,
 15 by telephone conference, if:

- 16 (a) Reasonable advance publicized notice is given;
- 17 (b) Reasonable arrangements are made to accommodate the
 18 public's right to attend, hear, and speak at the meeting, including
 19 seating, recordation by audio or visual recording devices, and
 20 a reasonable opportunity for input such as public comment or
 21 questions to at least the same extent as would be provided if
 22 videoconferencing or telephone conferencing was not used;
- 23 (c) At least one copy of all documents being considered
 24 is available to the public at each site of the videoconference or
 25 telephone conference;
- 26 (d) At least one member of the state entity, advisory
 27 committee, board, or governing body is present at each site of the
 1 videoconference or telephone conference; and
- 2 (e) No more than one-half of the state entity's, advisory
 3 committee's, board's, or governing body's meetings in a calendar
 4 year are held by videoconference or telephone conference.
- 5 Videoconferencing, telephone conferencing, or
 6 conferencing by other electronic communication shall not be used
 7 to circumvent any of the public government purposes established
 8 in the Open Meetings Act.

9 (3) A meeting of a board of an educational service unit,
10 of the governing body of an entity formed under the Interlocal
11 Cooperation Act, the Joint Public Agency Act, or the Municipal
12 Cooperative Financing Act, ~~or~~ of the governing body of a risk
13 management pool or its advisory committees organized in accordance
14 with the Intergovernmental Risk Management Act, of a community
15 college board of governors, of the governing body of a public power
16 district, or of the governing body of a public power and irrigation
17 district may be held by telephone conference call if:

18 (a) The territory represented by the educational service
19 unit, community college board of governors, public power district,
20 public power and irrigation district, or member public agencies of
21 the entity or pool covers more than one county;

22 (b) Reasonable advance publicized notice is given
23 which identifies each telephone conference location at which an
24 educational service unit board member, a member of a community
25 college board of governors, a member of the governing body of a
26 public power district, a member of the governing body of a public
27 power and irrigation district, or a member of the entity's or
1 pool's governing body will be present;

2 (c) All telephone conference meeting sites identified in
3 the notice are located within public buildings used by members
4 of the educational service unit board, community college board of
5 governors, governing body of the public power district, governing
6 body of the public power and irrigation district, or entity or pool
7 or at a place which will accommodate the anticipated audience;

8 (d) Reasonable arrangements are made to accommodate the
9 public's right to attend, hear, and speak at the meeting, including
10 seating, recordation by audio recording devices, and a reasonable
11 opportunity for input such as public comment or questions to
12 at least the same extent as would be provided if a telephone
13 conference call was not used;

14 (e) At least one copy of all documents being considered
15 is available to the public at each site of the telephone conference
16 call;

17 (f) At least one member of the educational service unit
18 board, community college board of governors, governing body of
19 the public power district, governing body of the public power and
20 irrigation district, or governing body of the entity or pool is
21 present at each site of the telephone conference call identified in
22 the public notice;

23 (g) The telephone conference call lasts no more than one
24 hour; and

25 (h) No more than one-half of the board's, governing
26 body's, entity's, or pool's meetings in a calendar year are held
27 by telephone conference call, except that a governing body of a
1 risk management pool that meets at least quarterly and the advisory
2 committees of the governing body may each hold more than one-half
3 of its meetings by telephone conference call if the governing

4 body's quarterly meetings are not held by telephone conference call
 5 or videoconferencing.
 6 Nothing in this subsection shall prevent the
 7 participation of consultants, members of the press, and
 8 other nonmembers of the governing body at sites not identified in
 9 the public notice. Telephone conference calls, emails, faxes, or
 10 other electronic communication shall not be used to circumvent any
 11 of the public government purposes established in the Open Meetings
 12 Act.

13 (4) The secretary or other designee of each public body
 14 shall maintain a list of the news media requesting notification
 15 of meetings and shall make reasonable efforts to provide advance
 16 notification to them of the time and place of each meeting and the
 17 subjects to be discussed at that meeting.

18 (5) When it is necessary to hold an emergency meeting
 19 without reasonable advance public notice, the nature of the
 20 emergency shall be stated in the minutes and any formal action
 21 taken in such meeting shall pertain only to the emergency.
 22 Such emergency meetings may be held by means of electronic or
 23 telecommunication equipment. The provisions of subsection (4)
 24 of this section shall be complied with in conducting emergency
 25 meetings. Complete minutes of such emergency meetings specifying
 26 the nature of the emergency and any formal action taken at the
 27 meeting shall be made available to the public by no later than the
 1 end of the next regular business day.

2 (6) A public body may allow a member of the public or
 3 any other witness other than a member of the public body to appear
 4 before the public body by means of video or telecommunications
 5 equipment.

6 Sec. 2. Original section 84-1411, Revised Statutes
 7 Cumulative Supplement, 2010, is repealed.

(Signed) Bill Avery, Chairperson

Revenue

LEGISLATIVE BILL 1118. Placed on General File.

LEGISLATIVE BILL 818. Placed on General File with amendment.
 AM1846

1 1. On page 2, line 16, after "acquired" insert "or held".

(Signed) Abbie Cornett, Chairperson

RESOLUTIONS**LEGISLATIVE RESOLUTION 390.** Introduced by Seiler, 33.

WHEREAS, Michael Shelton, Troop 200, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Michael has learned, been tested on, and been recognized for various scouting skills; 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; and

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

WHEREAS, Michael, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

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

Laid over.

LEGISLATIVE RESOLUTION 391. Introduced by Seiler, 33.

WHEREAS, Cameron David Brei, Troop 207, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Cameron has learned, been tested on, and been recognized for various scouting skills; 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; and

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

WHEREAS, Cameron, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

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

Laid over.

LEGISLATIVE RESOLUTION 392. Introduced by Seiler, 33.

WHEREAS, Logan Klein, Troop 207, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Logan has learned, been tested on, and been recognized for various scouting skills; 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; and

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

WHEREAS, Logan, through his hard work and perseverance, has joined other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

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

Laid over.

ANNOUNCEMENT

Pursuant to Rule 8, Sec. 3, the Appropriations Committee presented its preliminary report on February 6, 2012, summarizing the recommended appropriations for the following biennium.

ANNOUNCEMENT

Senator K. Haar designates LB947 as his priority bill.

SENATOR ADAMS PRESIDING**GENERAL FILE**

LEGISLATIVE BILL 540. Title read. Considered.

Committee AM1719, found on page 322, was considered.

Senator Fulton offered the following amendment to the committee amendment:

AM1859

(Amendments to Standing Committee amendments, AM1719)

- 1 1. On page 1, line 1, strike "page 7, line 4" and
- 2 insert "page 4, line 7"; and in line 3 after "services" insert
- 3 "or to promote elective abortion services. The department shall
- 4 ensure that any funds received under this subsection shall not
- 5 be spent or used in any way to contract with any entity that
- 6 performs or promotes elective abortion services or with any entity
- 7 that affiliates with any entity that performs or promotes elective
- 8 abortions".

SPEAKER FLOOD PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 382, 383, 384, and 385 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 382, 383, 384, and 385.

AMENDMENTS - Print in Journal

Senator Schilz filed the following amendment to LB391:
AM1831

(Amendments to E & R amendments, ER159)

- 1 1. On page 2, line 2, after "Nebraska" insert "Field";
- 2 in line 5 after "Service" insert "of the University of Nebraska
- 3 Institute of Agriculture and Natural Resources"; in line 8 after
- 4 "Unit" insert "of the University of Nebraska"; and in line 17 after
- 5 "Service" insert "of the United States Department of the Interior".
- 6 2. On page 3, line 16; and page 4, line 4, after "plan"

7 insert "required under section 4 of this act".

8 3. On page 4, line 16, strike "2014" and insert "2015".

Senator Schilz filed the following amendment to LB391:
AM1830

(Amendments to E & R amendments, ER159)

- 1 1. On page 2, line 2, strike "The Nature Conservancy,
- 2 Nebraska Office" and insert "An electric generating utility"; in
- 3 line 21 strike "and"; and in line 22 after "Survey" insert "; and
- 4 (e) The Nature Conservancy, Nebraska Field Office".

COMMITTEE REPORT

Revenue

LEGISLATIVE BILL 489. Placed on General File with amendment.
AM1612 is available in the Bill Room.

(Signed) Abbie Cornett, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Council asked unanimous consent to add her name as cointroducer to LB540. No objections. So ordered.

VISITORS

Visitors to the Chamber were 30 FCCLA students from across Nebraska; and former Senator Arnie Stuthman from Platte Center.

The Doctor of the Day was Dr. Matt Bogard from Omaha.

ADJOURNMENT

At 11:55 a.m., on a motion by Senator Harms, the Legislature adjourned until 9:00 a.m., Tuesday, February 7, 2012.

Patrick J. O'Donnell
Clerk of the Legislature