

**FIFTY-EIGHTH DAY - APRIL 10, 2012****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION****FIFTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 10, 2012

**PRAYER**

The prayer was offered by Father Lloyd Gnirk, St. John the Evangelist Catholic Church and President Emeritus at Roncalli Catholic High School, Valley.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Cornett and Council who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-seventh day was approved.

**MESSAGES FROM THE GOVERNOR**

April 5, 2012

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 310, 391e, 536, 782, 810, 863, 902e, 965, 985e, 985Ae, 995e, 1039, and 1130 were received in my office on March 30, 2012.

These bills were signed and delivered to the Secretary of State on April 5, 2012.

Sincerely,  
(Signed) Dave Heineman  
Governor

April 6, 2012

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 711, 751e, 751Ae, 799, 824e, 834, 842, 845e, 858, 867e, 870, 882, 907, 916e, 933, 962, 963e, 983, 1079e, and 1079Ae were received in my office on April 2, 2012.

These bills were signed and delivered to the Secretary of State on April 6, 2012.

Sincerely,  
(Signed) Dave Heineman  
Governor

April 9, 2012

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 949e, 949Ae, 961e, 996, and 1104 were received in my office on April 3, 2012.

These bills were signed and delivered to the Secretary of State on April 9, 2012.

Sincerely,  
(Signed) Dave Heineman  
Governor

April 9, 2012

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

Dear Mr. President and Members of the Legislature:

I am returning LB 806 & LB 806A without my signature and with my objections.

The legislation proposes to create a new form of gambling by authorizing, for the first time in Nebraska's history, wagering on historic horse races. The bill defines a historic horse race as a form of racing that creates a parimutuel pool from wagers placed on races that have previously been held. In other words, there is no live horse race involved in this form of new betting. Rather, players wager on previously-run races on electronic gaming machines. The replay of an entire race does not even need to be completed in order to constitute a horse race under the bill.

LB 806 is problematic in several respects. First, it is not at all clear whether this form of wagering is permissible under Article III, Section 24 of the Nebraska Constitution which permits betting on the results of horse races, wherever run, either in or out of Nebraska, by the parimutuel method when conducted in a licensed racetrack enclosure.

This provision is authorized by Nebraska voters as an exception to the general prohibition against gambling in our state; however, this exception has always been construed to apply to live horse racing, not to slot-machine betting on past races. Effectively, LB 806 reads meaning into the Constitution by allowing betting on horse races not only wherever they occur but also "whenever" they were run.

Another concern with the bill is the improper delegation of legislative authority. Section 1 of the bill terminates all historic horse racing licenses after four years unless the State Racing Commission determines that a racetrack enclosure has been constructed in Lancaster County AND that racetrack enclosures have a specified increase in either the number of days of live horse racing or an increase in the purse at the racetrack enclosure compared to its 2011 purse. Under these provisions, the Legislature is authorizing historic horse racing but making the future of this form of gambling contingent upon a determination of an executive branch agency's interpretation of specified events.

Finally, the provision of LB 806 that attempts to allow the law to remain in effect for one year after a court of competent jurisdiction finds that the bill constitutes Class III gaming under the federal Indian Gaming Regulatory Act is improper. If a court rules that LB 806 constitutes Class III gaming, which is not allowed under our Constitution, then the bill would be immediately invalid. I am concerned about this bill's attempt to have the historic horse racing provisions extend for one year beyond the court's order.

This legislation contradicts the spirit of the live horse racing provisions enacted by the voters in the Nebraska Constitution and expands gambling beyond what has currently been authorized.

For these reasons, I respectfully urge you to sustain my vetoes of LB 806 & LB 806A.

Sincerely,  
(Signed) Dave Heineman  
Governor

## RESOLUTION

**LEGISLATIVE RESOLUTION 631.** Introduced by Flood, 19.

WHEREAS, Nebraska Educational Telecommunications (NET) has an outstanding history of covering Nebraska legislative activities for the benefit and education of Nebraska residents; and

WHEREAS, this coverage began in 1955 with a weekly show called "Your Unicameral" in which several senators were interviewed each week on pending legislation; and

WHEREAS, during the 1970s, a half-hour show called "Legislative Review" summarized each day's legislative action, and legislative committee hearings began to be broadcast; and

WHEREAS, in 1980, gavel-to-gavel coverage of the Legislature was initiated, giving Nebraska residents incredible access to their Legislature; and

WHEREAS, today NET streams live coverage from the main legislative chamber and seven committee hearing rooms, allowing Nebraskans to stay in touch with their Legislature from anywhere with an Internet connection. In 2011, Nebraska residents utilized this live streaming to watch more than 1,800,000 minutes of coverage.

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

1. That the Legislature recognizes and thanks NET for its long history of legislative coverage and for its efforts to keep Nebraskans informed and connected to their Legislature.

2. That a copy of this resolution be sent to NET.

Laid over.

## RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, and 624 were adopted.

## SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, and 624.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 793.**

A BILL FOR AN ACT relating to civil procedure; to limit frivolous civil actions filed by prisoners as prescribed; and to provide a duty for the Revisor of Statutes.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Adams	Cornett	Harr, B.	Lautenbaugh	Schilz
Ashford	Dubas	Heidemann	Louden	Schumacher
Avery	Fischer	Howard	McCoy	Seiler
Bloomfield	Flood	Janssen	McGill	Smith
Brasch	Fulton	Karpisek	Mello	Sullivan
Campbell	Gloor	Krist	Nelson	Wallman
Carlson	Haar, K.	Lambert	Nordquist	Wightman
Christensen	Hadley	Langemeier	Pahls	
Coash	Hansen	Larson	Pirsch	
Cook	Harms	Lathrop	Price	

Voting in the negative, 1:

Conrad

Excused and not voting, 1:

Council

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 793A.**

A BILL FOR AN ACT relating to appropriations; to amend Laws 2011, LB374, section 158; to appropriate funds to aid in carrying out the provisions of Legislative Bill 793, One Hundred Second Legislature, Second Session, 2012; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Adams	Cook	Harms	Lathrop	Price
Ashford	Cornett	Harr, B.	Lautenbaugh	Schilz
Avery	Dubas	Heidemann	Louden	Schumacher
Bloomfield	Fischer	Howard	McCoy	Seiler
Brasch	Flood	Janssen	McGill	Smith
Campbell	Fulton	Karpisek	Mello	Sullivan
Carlson	Gloor	Krist	Nelson	Wallman
Christensen	Haar, K.	Lambert	Nordquist	Wightman
Coash	Hadley	Langemeier	Pahls	
Conrad	Hansen	Larson	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

Council

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 979.**

A BILL FOR AN ACT relating to the Nebraska Pickle Card Lottery Act; to amend section 9-326, Reissue Revised Statutes of Nebraska; to change provisions relating to requirements for licensure; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 48:

Adams	Cook	Harms	Lathrop	Price
Ashford	Cornett	Harr, B.	Lautenbaugh	Schilz
Avery	Dubas	Heidemann	Louden	Schumacher
Bloomfield	Fischer	Howard	McCoy	Seiler
Brasch	Flood	Janssen	McGill	Smith
Campbell	Fulton	Karpisek	Mello	Sullivan
Carlson	Gloor	Krist	Nelson	Wallman
Christensen	Haar, K.	Lambert	Nordquist	Wightman
Coash	Hadley	Langemeier	Pahls	
Conrad	Hansen	Larson	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

Council

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB1082 with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 1082.** With Emergency Clause.

A BILL FOR AN ACT relating to retirement; to amend sections 16-1001, 16-1002, 16-1003, 16-1004, 16-1005, 16-1006, 16-1007, 16-1009, 16-1010, 16-1012, 16-1013, 16-1014, 16-1016, 16-1019, and 16-1038, Reissue Revised Statutes of Nebraska, section 18-1723, Revised Statutes Cumulative Supplement, 2010, and section 16-1017, Revised Statutes Supplement, 2011; to name the Police Officers Retirement Act; to redefine terms; to change provisions relating to employee and employer contributions and vesting; to change provisions relating to administration of police officer and firefighter retirement systems as prescribed; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Adams	Cook	Harms	Lathrop	Price
Ashford	Cornett	Harr, B.	Lautenbaugh	Schilz
Avery	Dubas	Heidemann	Louden	Schumacher
Bloomfield	Fischer	Howard	McCoy	Seiler
Brasch	Flood	Janssen	McGill	Smith
Campbell	Fulton	Karpisek	Mello	Sullivan
Carlson	Gloor	Krist	Nelson	Wallman
Christensen	Haar, K.	Lambert	Nordquist	Wightman
Coash	Hadley	Langemeier	Pahls	
Conrad	Hansen	Larson	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

Council

A constitutional two-thirds majority having voted in the affirmative, the bill

was declared passed with the emergency clause and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 793, 793A, 979, and 1082.

### **WITHDRAW - Amendment to LB807**

Senator Lautenbaugh withdrew his amendment, AM2789, found on page 1509, to LB807.

### **MOTION - Return LB807 to Select File**

Senator Lautenbaugh moved to return LB807 to Select File for the following specific amendment:

AM2790

- 1 1. Strike FA72.
- 2 2. In the Lautenbaugh amendment, AM2089, on page 1,
- 3 strike lines 13 through 16 and insert
- 4 "(4) A permitholder convicted of a violation of section
- 5 69-2441 that occurred on property owned by the state or any
- 6 political subdivision of the state may also have his or her permit
- 7 revoked. A permitholder convicted of a violation of section 69-2441
- 8 that did not occur on property owned by the state or any political
- 9 subdivision of the state shall not have his or her permit revoked
- 10 for a first offense but may have his or her permit revoked for any
- 11 second or subsequent offense.".
- 12 3. In the Lautenbaugh amendment, AM2692, strike section
- 13 5.
- 14 4. In the Lautenbaugh amendment, AM2692, on page 3, line
- 15 4, after "69-2433" insert "except as provided in subsection (4)
- 16 of section 69-2443".

The Lautenbaugh motion to return prevailed with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 807.** The Lautenbaugh specific amendment, AM2790, found in this day's Journal, was adopted with 45 ayes, 1 nay, and 3 present and not voting.

Advanced to Enrollment and Review for Engrossment.

### **PROPOSED RULES CHANGE**

Senator Lautenbaugh renewed the proposed rules change, found on page 1124, to Rule 3, Sec. 2.



The proposed rules change was adopted with 43 ayes, 0 nays, and 6 present and not voting.

### EASE

The Legislature was at ease from 10:33 a.m. until 10:55 a.m.

### SENATOR CHRISTENSEN PRESIDING

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 632.** Introduced by Cook, 13.

WHEREAS, the Omaha Central High Eagles girls' basketball team won the 2012 Class A Girls' State Basketball Championship in the final seconds of the game with a 36-35 win over Lincoln Southeast High School; and

WHEREAS, the victory gave Omaha Central its third championship and first since 1984; and

WHEREAS, the Eagles have become a model for competing at a high level each season; and

WHEREAS, the Eagles' motto is "Teamwork will make the dream work."

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

1. That the Legislature congratulates the Omaha Central High Eagles on winning the 2012 Class A Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Eagles and their head coach, Tom Lee.

Laid over.

**LEGISLATIVE RESOLUTION 633.** Introduced by Fulton, 29.

WHEREAS, Sophia Wennstedt, a student at Lincoln Southeast High School, was one of sixteen Nebraska students to earn a score of 36 on the ACT test; and

WHEREAS, earning a score of 36 on the ACT test is achieved by fewer than one-tenth of one percent of all students nationally; and

WHEREAS, Miss Wennstedt's academic achievement provides an example of excellence to students of Lincoln Southeast High School and students throughout Nebraska; and

WHEREAS, Miss Wennstedt's achievement is a testament to the quality of public education in the city of Lincoln and the value of familial involvement in the education of Nebraska's youth.

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

1. That the Legislature congratulates Sophia Wennstedt on her achievements.
2. That a copy of this resolution be sent to Sophia Wennstedt.

Laid over.

**LEGISLATIVE RESOLUTION 634.** Introduced by Fulton, 29.

WHEREAS, the Lincoln Southeast High School boys' tennis team won the 2011 Class A Boys' State Tennis Championship by defeating defending state champion Creighton Preparatory School, 45-42; and

WHEREAS, the championship was the first team championship for the Knights since 2000 and the fourth such championship under Coach Tim Tidball; and

WHEREAS, the Knights' doubles teams led by sophomore Danny Clare, juniors Matthew Strasburger and Andrew Plamann, and senior Jack Rodenburg each finished second; and

WHEREAS, Rodrigo Amaral placed third in singles; and

WHEREAS, the achievements of the 2011 Lincoln Southeast boys' tennis team are a source of pride for the students, faculty, and alumni of Lincoln Southeast High School and the residents of Lincoln.

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

1. That the Legislature congratulates Coach Tim Tidball and the members of the Knights boys' tennis team on their collective and individual achievements.
2. That a copy of this resolution be sent to Lincoln Southeast High School.

Laid over.

**LEGISLATIVE RESOLUTION 635.** Introduced by Fulton, 29.

WHEREAS, the Lincoln Southeast High School football team won the 2011 Class A State Football Championship, defeating Omaha Burke High School 21-9; and

WHEREAS, the championship was the ninth state championship in Lincoln Southeast school history and the first since 2002; and

WHEREAS, the state championship win was the culmination of a remarkable twelve-win season led by first-year head coach Ryan Gottula; and

WHEREAS, the achievements of the 2011 Lincoln Southeast football team are a source of pride for the students, faculty, and alumni of Lincoln Southeast High School and the residents of Lincoln.

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

1. That the Legislature congratulates Head Coach Ryan Gottula and the members of the Lincoln Southeast Knights football team on their collective and individual achievements.

2. That a copy of this resolution be sent to Lincoln Southeast High School.

Laid over.

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on April 10, 2012, at 10:32 a.m. were the following: LBs 793, 793A, 979, and 1082e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

### **COMMITTEE REPORT** Enrollment and Review

**LEGISLATIVE BILL 807.** Placed on Final Reading.

ST106

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

1. In the Lautenbaugh amendment, AM2692, sections 2, 3, and 4 have been renumbered as sections 3, 4, and 5, respectively.

2. In the Lautenbaugh amendment, AM2030, section 2 and all amendments thereto have been struck and the following new section inserted:

Sec. 7. Original sections 29-820, 69-2435, 69-2436, 69-2439, and 69-2443, Reissue Revised Statutes of Nebraska, and section 69-2433, Revised Statutes Supplement, 2011, are repealed.

3. On page 1, the matter beginning with "the" in line 1 through line 4 and all amendments thereto have been struck and "firearms; to amend sections 29-820, 69-2435, 69-2436, 69-2439, and 69-2443, Reissue Revised Statutes of Nebraska, and section 69-2433, Revised Statutes Supplement, 2011; to change provisions relating to the disposition of firearms seized or held by a law enforcement agency; to change application requirements for concealed handgun permits as prescribed; to change provisions relating to revocation of concealed handgun permits for certain violations; to harmonize provisions; to repeal the original sections; and to declare an emergency." inserted.

(Signed) Tyson Larson, Chairperson

### **VISITORS**

Visitors to the Chamber were 12 fourth-grade students and teacher from Faith Christian School, Kearney.

The Doctor of the Day was Dr. Dorothy Zink from Omaha.

**ADJOURNMENT**

At 10:56 a.m., on a motion by Senator Hadley, the Legislature adjourned until 1:30 p.m., Wednesday, April 11, 2012.

Patrick J. O'Donnell  
Clerk of the Legislature