

THE NEBRASKA LEGISLATURE'S
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UPDATE

Senators override two vetoes, adjourn



Sen. Kathy Campbell explained that LB599 will prevent costly illnesses among future Nebraska babies.



Sen. Brad Ashford urged senators to give cities the authority to make their own funding decisions.

Low-income prenatal care program approved

A gubernatorial veto was overridden April 18 on a bill that will establish a program to offer prenatal services to low-income women in Nebraska regardless of immigration status.

Under LB599, introduced by Lincoln Sen. Kathy Campbell, the state Department of Health and Human Services is required to establish a program under the Children's Health Insurance Program (CHIP) solely for the unborn children of mothers who are ineligible for coverage under Medicaid.

Eligibility for service will be determined using an income budgetary methodology of no greater than 185 percent of the federal poverty guideline.

The bill requires the department, within 30 days of passage of LB599, to seek federal approval of a state plan amendment

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Cities can increase sales taxes with voter approval

Senators narrowly overrode a veto April 18 of a bill that allows additional local option sales taxes but makes them subject to supermajority approval of the local city council as well as voters. The bill was first debated in 2011 and was carried over from last session.

LB357, introduced by Omaha Sen. Brad Ashford, allows local option sales taxes to be levied at 1.75 percent and 2 percent, with 75 percent approval of members of a municipality's governing body. The proposal then would be submitted to voters for approval.

Current law permits cities to impose a local option sales tax of 0.5 percent, 1 percent or 1.5 percent with voter approval.

Senators had passed the bill April 5 on a 30-15 vote. In his veto letter, Gov. Dave Heineman said the bill would allow cities to levy taxes up to an additional 33 percent

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Low-income prenatal care program approved

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or waiver for Nebraska's program.

Senators had passed LB599 April 11 on a 31-15 vote and the bill subsequently was vetoed by Gov. Dave Heineman.

In his veto message, the governor said he opposed the bill because it would provide prenatal care to illegal immigrants at the expense of Nebraska taxpayers. He said the annual \$2.5 million cost to fund the program should be spent on other state priorities.

The governor also expressed concern that the bill would make Nebraska a "sanctuary" for illegal immigrants seeking prenatal care.

"LB599 would utilize ... state and federal tax dollars to provide free prenatal care to illegal immigrants who

are knowingly and willingly breaking both the immigration and employment laws," Heineman said. "This is wrong and fundamentally unfair."

Campbell said tax dollars would be expended regardless of the bill's passage, but that LB599 would ensure that future Nebraska citizens would be born healthy and could help prevent costly stays in neo-natal intensive care units.

Omaha Sen. Jeremy Nordquist supported the override motion, calling the bill a "moral imperative." He said unborn children - not illegal immigrant parents - would suffer if the veto were sustained.

"I think the injustice is that when prenatal care is denied we know that

it's the baby that bears the full cost of that decision," he said. "That is the injustice that this bill will correct."

Lincoln Sen. Tony Fulton opposed the override motion, saying charities and religious organizations have filled the need sufficiently since suspension of the state's prenatal program two years ago. Those organizations should be encouraged to continue in that role, he said, rather than using taxpayer funding.

"I think there is an opportunity here for the faith community and the private sector to step up," he said.

Lawmakers voted 30-16 to override the governor's veto and enact LB599 into law. Thirty votes are needed to override a veto. ■

Cities can increase sales taxes with voter approval

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more than what is currently levied.

"That is an excessive burden upon Nebraskans at this time in our current economy," he wrote.

Ashford filed a motion to override the veto, saying the bill will empower cities to fund economic development.

"We need to trust our communities and public officials to put forward a plan for their cities," Ashford said.

Omaha Sen. Steve Lathrop supported the motion to override, saying cities need some source of revenue after recent cuts in state aid.

"We've not only taken money away from the cities, but we are getting unfunded mandates from the federal and state [governments]," Lathrop said. "We have no way to pay for it."

Fullerton Sen. Annette Dubas opposed the motion, saying a potential increase in sales tax also would place a burden on those living outside city

limits. She said farmers must buy necessary equipment and supplies in cities that could be subject to the sales tax.

"You're forcing people to pay a sales tax that they are unable to vote on," Dubas said. "We're creating a playing field that is not level for all citizens."

Senators voted 30-17 to override the governor's veto.

The bill requires that cities of the metropolitan and primary classes designate proceeds from any increased sales tax revenue to projects completed under interlocal agreements. Omaha is the state's only metropolitan class city and Lincoln is the state's only primary class city.

Increased sales tax revenue in cities of the metropolitan class must be used to:

- reduce existing taxes with the first 0.25 percent of additional revenue;
- fund public infrastructure projects with the next 0.125 percent

of additional revenue; and

- fund projects under interlocal agreements with the next 0.125 percent of additional revenue.

For cities of the primary class, the first 15 percent of additional tax revenue must be dedicated to funding nonpublic infrastructure projects under interlocal agreements. The remaining proceeds will be designated for public infrastructure projects.

Cities of the first class, second class and villages will dedicate all increased sales tax revenue to funding public infrastructure projects.

If a city votes to increase the local option sales tax, it will be subject to a 10-year sunset date. If the increased revenue has been dedicated to paying bonds incurred for an infrastructure project, the tax will terminate once the bonds have been paid. ■

102nd Legislature adjourns

The second session of the 102nd Legislature adjourned early evening April 18 after narrowly overriding gubernatorial vetoes of bills authorizing local-option sales taxes and establishing a prenatal program for low-income women. Two other vetoes – authorizing historic horse racing and school-based health centers – were sustained.

As is customary, senators serving their last session were asked to speak about the experience of serving in the Nebraska Unicameral. Nine senators are leaving the Legislature due to term limits, among them Norfolk Sen. Mike Flood, who has served as speaker since 2006.

Flood acknowledged the contentious nature of the issues lawmakers grappled with on the final day of the session.

“I really like soft landings for legislative sessions,” he said. “On this one we foamed the runway – but any landing you walk away from is a good landing.”

Calling the session “exceptional,” Flood applauded senators for providing tax relief to citizens while funding



From left: Sens. Deb Fischer, Beau McCoy, Mike Flood and Chris Langemeier on the last day of session.

several University of Nebraska projects, including a veterinary diagnostic center and a cancer center in Omaha.

“We delivered a budget that is reasonable and balanced,” he said.

Flood also praised fellow lawmakers for adhering to the principles of nonpartisanship and cooperation that he said were essential to addressing the issues contained in the 247 bills passed this session.

“I feel like we addressed the state’s priorities, and we did it in a way that respects each other and our people,” Flood said.

Chairpersons of several key legislative committees are among the term-limited senators ending their service in the Legislature this year.

Bellevue Sen. Abbie Cornett was elected chairperson of the Business and Labor Committee in 2006 and

became chairperson of the Revenue Committee in 2008. She said one learns quickly as a lawmaker that Nebraska is more diverse than it appears. Chairing the Revenue Committee brought contact with a wide range of citizens, she said, and taught her that decisions made at the Capitol impact the entire state.

“Nebraska doesn’t end at the metro area borders,” she said.

Sen. Deb Fischer of Valentine echoed that sentiment. Chairperson of the Transportation and Telecommunications Committee since 2006, Fischer said the gravity of the impact senators have was clear to her when she saw her name on the voting board for the first time.

“All of the sudden it hits you,” Fischer said. “Every time you vote it affects someone’s life in the state.”

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102nd Legislature adjourns

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She encouraged fellow senators to bear in mind the far-reaching impact of their work.

“We’re sometimes parochial in serving our districts,” she said, “but I challenge each of you to look at the broader picture, to look at the state as a whole.”

Elk Creek Sen. Lavon Heidemann, who served as chairperson of the Appropriations Committee since 2006, was succinct in summing up his legislative career.

“It’s been a good trip for a south-east Nebraska farm boy,” he said.

Heidemann also said he wasn’t concerned about the experience that the 2004 class of senators take with them as they depart.

“You’ll be fine,” he said. “I’m convinced that there are a lot of good people left here to take our places.”

Sen. Chris Langemeier of Schuyler agreed, noting the importance of long-serving staff in the Legislature. Chairperson of the Natural Resources Committee since 2008, Langemeier said staff members are key to a successful committee.

“The reality is that we couldn’t do this job without the people in this building,” he said.

Banking, Commerce and Insurance Committee chairperson Rich Pahls of Boys Town said his background as a school administrator was helpful when he took over the committee in 2006. Managing a school and managing a committee are similar tasks, he said.

“We addressed the state’s priorities, and we did it in a way that respects each other and our people.”

-- Speaker Mike Flood

“We’re all kids at heart,” Pahls said. “We just happen to be taller.”

Omaha Sen. Gwen Howard, also elected in 2004, focused her time in the Legislature on the state’s child welfare system. She encouraged fellow senators to maintain oversight of



Senators applaud Sen. Mike Flood (seated), thanking him for his service as Speaker of the Legislature.

health and human service provision in the state.

“I ask you to be vigilant and to continue your compassion,” she said.

Calling himself “just a cowboy from the Sandhills,” Sen. LeRoy Louden of Ellsworth said he was proud of his legislative efforts on behalf of economic development in rural Nebraska. In spite of his achievements, Louden said he was eager to return to the family ranch.

“I look forward to corralling cattle instead of votes,” he said.

Departing senators spoke of the sacrifice made by their families that allowed them to serve, and Lincoln Sen. Tony Fulton was no exception. Appointed to the Legislature in 2007, Fulton said senators spend a great deal of time at the Capitol, missing valuable hours with their families.

When constituents offer to pray for him, Fulton said, he asks them to include his wife.

“She is just as much a servant of the



Sen. LeRoy Louden is congratulated by his colleagues after delivering his farewell remarks.

people of Nebraska as I am,” he said.

In his closing remarks, Flood said he also looks forward to having more time to spend with his wife and young children.

“Something really good is about to happen in my life,” he said.

The first session of the 103rd Legislature is scheduled to convene Jan. 9, 2013. ■

UNICAMERAL YOUTH LEGISLATURE



High school students who want to learn what it’s like to be a senator in the Nebraska Legislature are encouraged to register for the 2012 Unicameral Youth Legislature, which will convene June 10-13.

The Unicameral Youth Legislature is a four-day legislative simulation conducted at the State Capitol Building and coordinated by the Clerk’s Office of the Nebraska Legislature. Student senators will sponsor bills, conduct committee hearings, debate legislation and discover the unique process of the nation’s only unicameral.

Students will learn about the inner

workings of the Legislature directly from senators, staff and lobbyists. Bills will be based on legislation considered during the current legislative session.

Registration forms can be obtained from the Legislature’s Unicameral Youth Legislature page: www.nebraskalegislature.gov/education/unicamyouth.php The registration deadline is May 15.

The Unicameral Youth Legislature is organized by University of Nebraska 4-H and has been supported by AmeriCorp VISTA, the Nebraska Cooperative Extension and the Southeast Research and Extension Center.

DEPARTING SENATORS



Sen. Abbie Cornett
District 45, Bellevue



Sen. Deb Fischer
District 43, Valentine



Sen. Mike Flood
District 19, Norfolk



Sen. Tony Fulton
District 29, Lincoln



Sen. Lavon Heidemann
District 1, Elk Creek



Sen. Gwen Howard
District 9, Omaha



Sen. Chris Langemeier
District 23, Schuyler



Sen. LeRoy Loudon
District 49, Ellsworth



Sen. Rich Pahls
District 31, Boys Town

Education

Veto of school-based health center bill sustained

The governor's veto of a bill that would provide grant funding for school-based health centers was sustained after a motion to override the veto failed April 18.

LB1020, introduced by Omaha Sen. Jeremy Nordquist, would have created the Coordinated School Health Program to award \$200,000 in competitive grants to school districts to help fund school-based health centers.

School districts would have been required to match grant funds by 50 percent. Medically underserved areas would have been given priority. The funds could have been used only for capital construction and startup costs for school-based health centers.

Senators had passed the bill April 5 on a 26-15 vote. In his veto letter, Gov. Dave Heineman said the bill would inappropriately use funds designated for education to provide health care.

Nordquist filed the motion to override the governor's veto saying that a child's health is directly tied to educational outcomes. He also said that the fund dedicated to education has been amended repeatedly in the past to allow for innovations.

"This fund has been changed 26 times in the past to allow for innovations to increase educational outcomes," Nordquist said. "Research shows that school-based health centers lead to a reduction in absenteeism and tardiness, an increased likelihood to stay in school and a reduction in Medicaid expenditures."

An attempt to override the gover-



Sen. Jeremy Nordquist

nor's veto failed on a 27-21 vote. Thirty votes were needed.

Omaha Sen. Brenda Council filed a motion to reconsider the vote. She said the welfare of children should be a priority for the Legislature.

"We're allowing the veto to stand on a bill that would address the needs of kids who need medical care," Council said. "Are we willing to jeopardize the health and academic success of our young people for a small amount of money?"

York Sen. Greg Adams opposed the motion to reconsider, saying the language of the bill does not specify that funds be used for providing health care services.

"This bill is for capital construction, not health services," Adams said. "Is this really the direction we want to go?"

The motion to reconsider the vote failed on a 27-22 vote and the veto was sustained.

General Affairs

Changes to pickle card licensure passed

The state's Pickle Card Lottery Act was updated by a bill passed by the Legislature April 10.

Currently, nonprofit organizations must wait five years from the date of incorporation to qualify for a pickle card license. Volunteer fire companies, as well as volunteer first aid, rescue, ambulance and emergency squads are exempted from the five-year waiting period.

LB979, introduced by Plattsmouth Sen. Paul Lambert, extends the exemption to any nonprofit organization whose



Sen. R. Paul Lambert

primary purpose is to support a volunteer fire company, first aid, rescue, ambulance or emergency squad.

Senators passed the bill on a 48-0 vote.

Government, Military & Veterans Affairs

Fee increase for recording documents passed

Senators passed a bill April 11 that increases the fees required for recording documents - such as deeds, mortgages and wills - with the register of deeds.

LB14, introduced last session by Lexington Sen. John Wightman, increases the fee for recording documents with the register of deeds from \$5 per page to \$10 for the first page and \$6 for each additional page.

The adjustment increases by \$2.50 the fee for recording the first page of a document and by 50 cents for any additional pages. One half of the additional funds generated by the increase are designated to fund the preservation, maintenance and modernization of public records in the register of deed's office.

The increase eliminates the current 50-cent indexing fee for each lot or section for the first five indexes.

The bill also increases the uniform fee associated with recording documents pursuant to the Uniform Federal Lien Registration Act, payable to the Nebraska Secretary of State, from \$6 to two times the fee required for recording instruments with the register of deeds.



Sen. John Wightman

The uniform fee will continue to be split evenly between the secretary of state and each designated county in the filing.

LB14 becomes operative Jan. 1, 2013 and all fee increases included in the bill will sunset Jan. 1, 2018. The bill passed on a 39-9 vote.

Judiciary

Bill restricting frivolous lawsuits by inmates approved

A bill aimed at restricting frivolous lawsuits filed by inmates at public expense was given final approval April 10.

Under LB793, introduced by Omaha Sen. Scott Lautenbaugh, an inmate who previously has filed three civil lawsuits deemed by a court to be frivolous is prohibited from filing a civil case at the public's expense. An inmate may continue to file civil suits at his or her personal expense.

Exceptions to the rule include criminal appeals and cases in which an inmate is in danger of bodily harm. The "three-strike rule" will apply only to lawsuits filed after the law takes effect.

The bill passed on a 47-1 vote.

Veto of pari-mutuel wagering on historic horse races sustained

Senators declined to override a gubernatorial veto April 18 of a bill that would have authorized the state Racing Commission to license and regulate pari-mutuel wagering on historic horse races.

An historic horse race creates a pari-mutuel pool via instant racing terminals from wagers placed on a previously held race at a licensed racetrack.

Lawmakers had passed LB806,

introduced by Omaha Sen. Scott Lautenbaugh, April 5 on a vote of 26-18. The bill subsequently was vetoed by Gov. Dave Heineman.



Sen. Scott Lautenbaugh

The bill would have established a Historic Horse Racing Distribution Fund comprising taxes collected from the races and licensing fees, which would be \$1,000 per machine.

Half of the fund's proceeds would be credited to the Racing Commissions Cash Fund to be used for programs that facilitate equine therapy for youth and veterans and the other half would be directed to the Compulsive Gambler's Assistance Fund.

Under the bill, historic horse racing would end if it were found by a court to allow any additional Class III gaming as defined in the federal Indian Gaming Regulatory Act.

Authority to license and regulate historic horse racing also would terminate if specific criteria were not met within four years of continuous use of instant racing terminals, including:

- construction of a race track enclosure in a county that contains a city of the primary class;
- a 25 percent increase in purses compared to 2011; and
- a 30 percent increase in the number of live horse racing days at tracks with instant racing terminals in counties other than Douglas, or a 40 percent increase in Douglas County.

In his veto message, the governor said LB806 represents an unconstitutional expansion of gambling in the state.

Heineman said that while the Nebraska Constitution permits betting on the results of horse races by the

pari-mutuel method when conducted in a licensed racetrack enclosure, this exception to the general prohibition on gambling in the state does not apply to "slot-machine betting" on past races.

Lautenbaugh said the bill simply would allow a struggling industry to help itself through innovation.

"This is not expanded gambling," he said. "This is a technological upgrade for horse racing, plain and simple."

Ogallala Sen. Ken Schilz supported the motion to override the governor's veto, saying the bill would maintain jobs and a long tradition of horse racing in Nebraska. He said questions of constitutionality should be settled elsewhere.

"If there is a question with the courts, let the courts figure it out," he said.

Sen. Bill Avery of Lincoln opposed the override motion, saying the bill would not be enough to save an industry that has lost its appeal. He said previous legislative efforts to support horse racing in Nebraska have fallen short and suggested LB806 would as well.

"This is not the kind of help they need," he said. "[This bill] will not save the industry."

Scottsbluff Sen. John Harms also opposed the override effort, saying the bill would illegally expand gambling in the state. While acknowledging the struggle of people in the horse racing industry, he said the state's constitutional prohibition is clear.

"I'm not against horse racing," he said. "I'm against the expansion of gambling."

Senators voted 28-20 on the motion to override, two votes short of the number required.

Lautenbaugh then filed a motion to reconsider that vote, saying lawmakers should think twice about the jobs

that would be saved by supporting the horse racing industry.

“This is about jobs. Not hypothetical jobs ... but ones that are here right now,” he said.

The motion to reconsider failed on a 29-20 vote and the governor’s veto of LB806 was sustained.

Exceptions to concealed carry permit process passed

A person will be disqualified from receiving a concealed carry permit for convictions, rather than criminal charges, under a bill passed by the Legislature April 18.

Currently, the permit application of a person with any “violations of law” can be rejected on that basis alone. LB807, introduced by Omaha Sen. Scott Lautenbaugh, clarifies the statute to refer to convictions instead of violations of law.

A hunting and fishing violation will not immediately disqualify a person unless he or she has been charged with:

- hunting from an aircraft;
- shooting from a highway; or
- possessing a loaded weapon on a highway.

The bill also clarifies language with regard to automatic revocation of permits. A permit holder convicted of a violation that occurred on property owned by the state or any political subdivision may have his or her permit revoked. If the violation did not occur on property owned by the state or political subdivision will not have his or her permit revoked but may face revocation for any second or subsequent offense.

The bill incorporated provisions of LB538, which originally was introduced by Sen. Russ Karpisek. These provisions require that a firearm taken by a law enforcement agency for

safekeeping but not used to commit a crime must be returned to its owner without a court order.

Senators passed the bill on a 48-1 vote.

Natural Resources

Mountain lion hunting, deer donation approved

Mountain lion hunting permits will be available to Nebraska residents under a bill passed by the Legislature April 11.

LB928, introduced by Ellsworth Sen. LeRoy Loudon, authorizes the state Game and Parks Commission to issue permits by random drawing to eligible applicants. Any person seeking a permit will pay a \$25 application fee. A limited number of permits will be issued to nonresidents through an auction process.



Sen. LeRoy Loudon

The bill also allows hunters to harvest and donate deer to a food-assistance program for people in need. Under the program, hunters may donate field-dressed deer to meat processors that have contracted with the state. Processors will be compensated for their participation in the program.

Senators passed the bill on a 49-0 vote.

Owners of nonirrigated land to receive tax refunds

Landowners along the Republican River are eligible for occupation tax refunds under a bill passed by the Legislature April 11.

Currently, natural resource districts with integrated management plans can levy occupation taxes on irrigated

lands. Owners of nonirrigated land can have their land certified as nonirrigated by March 1 each year to receive an exemption from the tax.

LB1125, introduced by Imperial Sen. Mark Christensen, allows landowners with non-irrigated land to receive a refund of incorrectly levied taxes.



Sen. Mark Christensen

Under the bill, any acre that is enrolled in a local, state or federal temporary irrigation retirement program that prohibits the application of irrigation water is exempt from the occupation tax levied during that year.

Any landowner that has been incorrectly taxed may present evidence to the natural resource district of nonirrigation within 12 months after the tax has been levied. If the occupation tax has been levied and paid within the previous year, the landowner is not eligible for an exemption.

The tax refund has a sunset date of Oct 1, 2012.

Senators passed the bill on a 49-0 vote.

Oil pipeline regulation bill passes

Lawmakers passed a bill April 11 related to oil pipeline routing in Nebraska.

LB1161, sponsored by Papillion Sen. Jim Smith, would make changes to law enacted during a November 2011 special session called by Gov. Dave Heineman to regulate oil pipeline routing in Nebraska.



Sen. Jim Smith

Under LB1161, a pipeline carrier wishing to construct a major oil pipeline in Nebraska after the effective date

of the bill must apply for approval from the governor under the provisions of LB4 passed during the special session.

The governor may approve the application or refer it to the Public Service Commission (PSC) for further review under the Major Oil Pipeline Siting Act.

Among other provisions, the bill also requires:

- that a carrier's eminent domain rights be terminated if they remain unused two years after approval of a pipeline application;
- the PSC to make public any documents or records relating to a major oil pipeline unless federal law provides otherwise;
- the state Department of Environmental Quality (DEQ) to hold at least one public hearing on an application under review by the department; and
- a carrier to reimburse DEQ for

the cost of an evaluation within 60 days after notification of the cost.

It is estimated that, under the bill's provisions, DEQ will be reimbursed \$2 million in fiscal year 2012-13 for work done on a supplemental environmental impact study for TransCanada's proposed Keystone XL pipeline.

The bill passed on a 44-5 vote and takes effect immediately.

Retirement

Increase in police officer retirement contributions approved

Lawmakers passed a bill April 10 that increases retirement contribution rates for police officers in first class cities.

LB1082, introduced by Wilber

Sen. Russ Karpisek, increased the minimum contribution rate to 6.5 percent of an officer's salary beginning Oct. 1, 2013. The contribution will increase to 7 percent on Oct. 1, 2015.



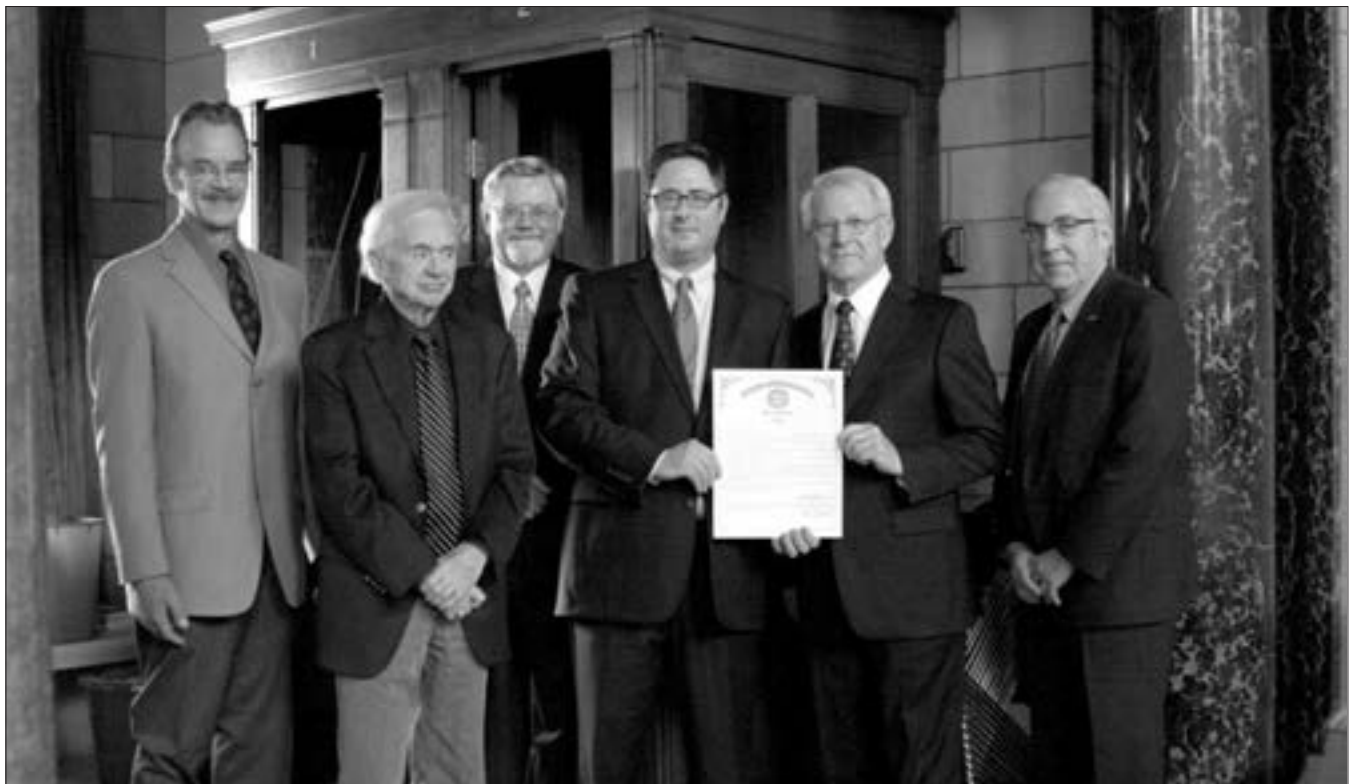
Sen. Russ Karpisek

The bill also changes the vesting schedule for officers in first class cities to the following:

- 40 percent after two years of service;
- 60 percent after four years of service;
- 80 percent after five years of service; and
- 100 percent after seven years of service.

All officers will be 100 percent vested upon reaching age 60.

LB1082 passed on a 48-0 vote and takes effect immediately. ■



Sen. Mike Flood (fourth from left) presented representatives from Nebraska Educational Telecommunications with a copy of LR631, a resolution adopted by the Legislature to recognize the work NET has done since the 1950s to bring legislative coverage to Nebraska citizens.

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