

THE NEBRASKA LEGISLATURE'S  
WEEKLY PUBLICATION

## UPDATE

## Water compact issue clears first round

The Legislature voted 38-1 April 11 to give first-round legislative approval to a proposal intended to address the state's need to comply with an interstate water compact.

The proposal is laid out in a version of **LB 701** as rewritten by the Natural Resources Committee. LB 701 was originally introduced by Imperial Sen. Mark Christensen.

Christensen said the state has to comply with an interstate compact with Kansas and Colorado that allocates the water that flows through the Republican River basin. Currently, Nebraska is approximately 136,000 acre feet of water short of compliance, he said.

Without action by the Legislature, Christensen said, irrigators face the possibility of the issue going back to court. If a judge were to order a shut-down of irrigators' water use, there would be a negative economic impact on southwest Nebraska, he said.

LB 701 would allow lawmakers to address the issue with some measure of local control, he added.

"LB 701 allows the basin to basically take control of its destiny," Christensen said.

Speaker Mike Flood said taking no action would only make the situation worse.

"It's a pay now or pay later process," Flood said. "The cost of inaction is too great."

Ellsworth Sen. LeRoy Loudon, the committee's chairperson, believes the problems affecting the Republican River basin are solvable.

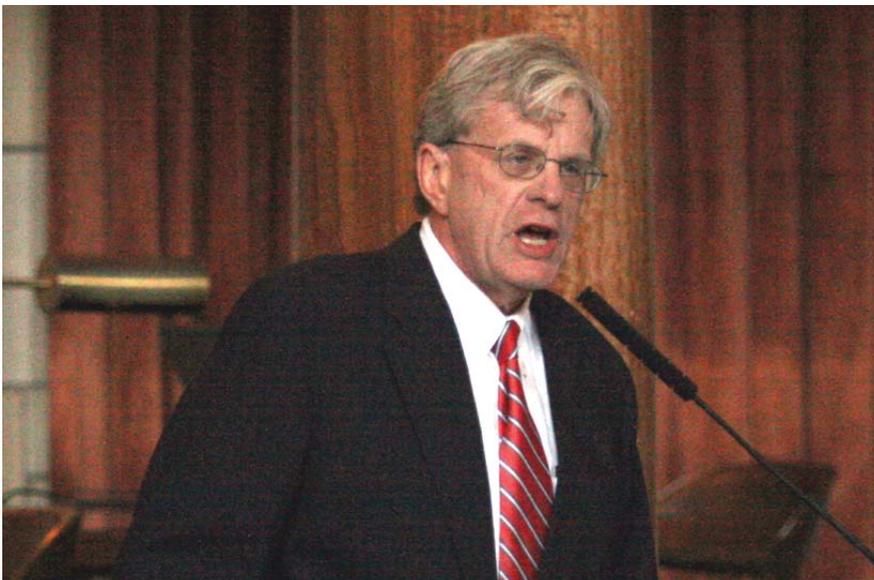
"Now, we're at a point where we need decisive action," he said.

Sen. Gail Kopplin of Gretna said he would support the bill in some form, but called LB 701 "an elastic bandage being placed over the band-aids used in the past."

Kopplin, who had introduced legislation to prohibit further drilling of water wells, said the committee's proposal would address issues related to the compact, but would not give the state's aquifers the time needed to recharge.

(CONTINUED ON PAGE 3)

## Second death penalty proposal fails to advance



Sen. Brad Ashford

A Judiciary Committee proposal that would have changed the state's death penalty law was rejected by the Legislature April 12.

The committee amendment to **LB 377**, a bill originally intended to reallocate district court judgeships, failed to advance to select file by two votes. The amendment would have deemed the death penalty appropriate only when necessary to protect society against a person who is found to pose a present and substantial risk to the lives of others who could not be controlled reasonably and effectively by institutional security measures.

The proposal also would have required those sentenced to life to

(CONTINUED ON PAGE 6)

## INSIDE:

- Uniform Licensing Act debated
- Limited cooperative association bill advanced
- Meet Senator McGill
- Weekly Review

# ISSUES UPFRONT.....

## Banking, Commerce and Insurance

### Limited cooperative association bill advanced

A bill proposing a new type of business organization in Nebraska was given first-round legislative approval April 11.

**LB 368**, sponsored by Bayard Sen. Philip Erdman, would permit the formation of a business structure known as a limited cooperative association.

Traditional cooperative businesses limit participation to patron members who use the services of the cooperative by buying from or selling to the cooperative. State and federal laws applicable to traditional cooperatives restrict their ability to seek investment capital to fund start up costs, expansion or other activities that require equity capital.

A limited cooperative association combines the elements of traditional cooperatives with the ability to raise investment capital. Investor members could earn a return on their investment without participating in the association as a patron member.

The bill sets forth various requirements and regulations governing the formation and existence of limited cooperative associations. Among those requirements, the bill would restrict the allocation of voting control and distribution of profits between patron participants and investor participants.

Banking, Commerce and Insurance Committee amendments adopted on a 35-0 vote would restrict the ability of a limited cooperative association to extend credit or issue

bonds.

According to Erdman, five other states – Wyoming, Minnesota, Iowa, Wisconsin and Tennessee – currently have similar acts.

Erdman described the limited cooperative association as a “limited liability company with a cooperative component.” Potential benefits offered by limited cooperative associations include making value added ventures attractive to investors and creating agricultural opportunities in traditionally non-agricultural areas, he said.

LB 368 was advanced to select file on a 38-0 vote.



Sen. Philip Erdman

## Health and Human Services

### Health care credentialing debated

Lawmakers debated a bill April 13 that would update the licensing and credentialing of health care professionals.

**LB 463**, introduced by Kearney Sen. Joel Johnson, is a recodification of the Uniform Licensing Law and adopts the Uniform Credentialing Act. The bill pertains to all health care professions and occupations credentialed by the state Department of Health and Human Services.

The bill clarifies the requirements necessary to obtain, renew or reinstate a license or voluntarily surrender a license. It also outlines behavior that would constitute grounds for disciplinary action and the processes for filing a complaint for violation of the law, including investigations, confidentiality and the process for imposing disciplinary action.

Lastly, LB 463 would define the types of disciplinary action that



Sen. Joel Johnson

can be imposed when a violation is found.

The bill would not change existing requirements for obtaining a license, nor would it change the scope of practice for any regulated profession, occupation or entity. The bill would go into effect on Dec. 1, 2008.

Johnson said the bill deals with 39 health care professions and occupations. Despite the bill’s length, he said it is a technical bill that merely restates existing statute in a more comprehensive and unified way.

He compared the current statutes to a house that has been renovated and added to over several years that needs to be rebuilt to have a better floor plan.

“Hundreds, if not thousands, of people have worked on this bill” over the last several years, he said.

A Health and Human Services Committee amendment, adopted 34-0, makes technical changes to the bill and reinstates the existing opportunity for persons to apply for reinstatement of a revoked credential two years after the date of revocation.

Omaha Sen. Ernie Chambers invoked a rarely used legislative procedure for general file debate stating that “(a) bill will not be read section by section unless requested by a member of the Legislature.”

This rule requires that, upon a senator’s request, each section of the bill be individually discussed after being read aloud by the clerk. The bill contains 1,318 sections comprising 1,053 pages.

Chambers introduced several technical amendments that he said would make the bill more understandable to the reader.

“This language is not just for the agencies,” he said. “It is for the public.”

Senators adopted one technical amendment 26-0 and adjourned before taking further votes.



# A CLOSER LOOK.....

## Water compact issue clears first round

(CONTINUED FROM PAGE 3)

The Christensen amendment was adopted 36-0. The local funding portion of the committee amendments also was adopted 36-0.

### State funding

The other funding mechanism identified in LB 701 involves state funding.

For the current fiscal year, \$3 million would be appropriated to the state Department of Natural Resources to negotiate surface water rights in the Bostwick Irrigation District.

A Water Resources Cash Fund would be created and administered by the department to comply with interstate water compacts and conserve water in NRDs with over or fully appropriated river basins. The fund also would provide for a statewide assessment of short and long-term water management activities and funding needs.

The proposal would transfer \$2.7 million annually from the state's general fund to the Water Resources Cash Fund through fiscal year 2018-19. NRDs could access money from the fund with a 40 percent match requirement. A \$3 million appropriation would be made in each of FY2007-08 and FY2008-09 to allow the department to expend the general fund transfers.

The bill also would require a transfer of unexpended funds from the Ethanol Production Incentive Cash Fund to the water fund at the end of 2012. As amended, the bill would impose a three-fifths cent per bushel or hundredweight excise tax on corn or grain sorghum

sold between 2012 and 2019 that would be deposited into the Water Resources Cash Fund.

Elk Creek Sen. Lavon Heidemann, chairperson of the Appropriations Committee, said his panel has advanced LB 420 with a proposed six-cent increase in the state's cigarette tax. That proposal, as advanced by the Appropriations Committee, would send three cents of the increase to the Water Resources Cash Fund to cover the additional spending suggested in LB 701. Two cents would be used for storm water management in urban areas and the remaining one cent would go toward agricultural research.

Some senators questioned the sources of the state funding. Lincoln Sen. DiAnna Schimek said that while solving the storm water issues in the urban areas is critical, cigarette tax revenues have typically been dedicated to health issues, not water issues.

Wilber Sen. Russ Karpisek questioned the use of corn checkoffs to fund the proposal in the future. Doing so would unfairly impact dryland farmers, he said.

"If we're all using water, let's all try to help out and not put the brunt of it on one group of people in the state," Karpisek said.

The Natural Resources Committee's original proposal would have imposed a half-cent corn checkoff for water resources beginning in 2012. Omaha Sen. Ernie Chambers offered an amendment that would have increased the proposal's corn checkoff fee from one-half cent to 1.5 cents. That amendment was rejected on a 0-30 vote. However, a compromise

amendment offered by Loudon to increase the future checkoff fee to three-fifths of 1 cent was adopted on a 30-3 vote.

Lincoln Sen. DiAnna Schimek offered an amendment that would have obligated \$2.5 million of state funds for storm water management. However, she withdrew the amendment after having discussions about addressing storm water management funding as part of the state budget.

The state funding portion of the committee amendment was adopted 39-0.

### Regulatory issues

As amended, LB 701 would allow NRDs to impose an immediate temporary stay on the construction of any new water wells or the addition of irrigated acres. The stay could last 180 days without prior notice or a public hearing, but a public hearing would be required within that 180 days.

NRDs and the department would be required to estimate the maximum amount of water that may be annually available from stream flow to comply with interstate water compacts.

The bill also would expand the definition of a water well to include any excavation made for any initial purpose that is used for irrigation.

The amended bill includes provisions from **LB 295**, originally sponsored by Loudon, which was a Natural Resources Department clean-up bill.

The regulatory portion of the committee amendment was adopted 35-0.

# A CLOSER LOOK.....

## Vegetation management

Finally, the amended LB 701 includes provisions from **LB 458**, a bill sponsored by Carlson that proposes the creation of a vegetation removal program.

The program would initiate the removal of vegetation along fully or over appropriated rivers, basins and subbasins to conserve water supplies.

It would be overseen by a task force that would include one surface water project representative from each fully or over appropriated river basin, one riparian landowner from each of the state's congressional districts and representatives from:

- the departments of Natural Resources, Agriculture and Environmental Quality;
- the governor's office;
- the Legislature;

- the state forester's office;
- the state Game and Parks Commission;
- the University of Nebraska;
- the Nebraska Association of Resources Districts; and
- the Nebraska Weed Control Association.

Lincoln Sen. Bill Avery offered an amendment that would add a representative of the Environmental Trust Fund to the task force. The amendment was adopted on a 29-8 vote.

The task force would develop vegetation management plans and submit a preliminary report to the governor and the Legislature by Dec. 15, 2007. After submitting a final report, the task force would disband on June 30, 2009.

The proposal calls for an appropriation of \$2 million annually for the management of vegetation.

Carlson said some species can consume up to 200 gallons of water per day. He estimated that if even 10 percent of the vegetation in the Republican River basin were cleared, the state could save as much as 10,000 acre feet of water annually.

Bellevue Sen. Don Preister offered, and later withdrew, an amendment that would have prohibited the use of chemicals as part of the vegetation management program until all other feasible management practices have been considered or exhausted.

The vegetation management portion of the committee amendment was adopted 39-2.

Christensen and Flood both cited a list of issues, including those raised by the Preister amendment, that are being considered as possible amendments to LB 701 during select file consideration.

## CAPITOL SNAPSHOT



*Grade-school students on a tour of the Capitol Building lie on the floor of the rotunda to get a good look at the dome and chandelier above.*

# A CLOSER LOOK.....

## Second death penalty proposal stalls

(CONTINUED FROM FRONT PAGE)

make restitution to the victim's estate for the pain and suffering inflicted upon their victim, the cost of medical expenses incurred by the victim prior to death and the cost of funeral and burial expenses.

Omaha Sen. Brad Ashford said the committee amendment was developed in response to input he received from several senators after the failed vote on **LB 476**, a bill introduced by Omaha Sen. Ernie Chambers that would eliminate the state's death penalty. That bill failed to advance from general file by a single vote 11 days earlier.

After that vote, Ashford said, several senators told him they could support a bill that would instead

reserve the death penalty for cases in which the safety of the public could not be ensured by the inmate's life imprisonment without parole.

Ashford said he was compelled to bring a proposal to consider this option because, while he began his political career as a supporter of the death penalty, he is now convinced that it is not uniformly imposed.

"Why would we impose the death penalty if it is arbitrary?" he asked.

The case against the death penalty is too strong for the Legislature to not readdress the issue, he said. Because it is inconsistently and unfairly applied, it does not serve as an effective deterrent to violent crime, he said.

"To me, this is a discussion about ideas," Ashford said. "This idea has been talked about for 30 years, and sometimes ideas move over into the category of truth."

Norfolk Sen. Mike Flood said that the new language measuring an inmate's future danger would prove difficult to prosecute.

"That's next to impossible, because you're basically guessing what this inmate is capable of in the future," Flood said.

The proposal would force a jury to decide whether the state's executive branch of government can ensure public safety by confining an inmate, he said, which would be very complicated to determine.

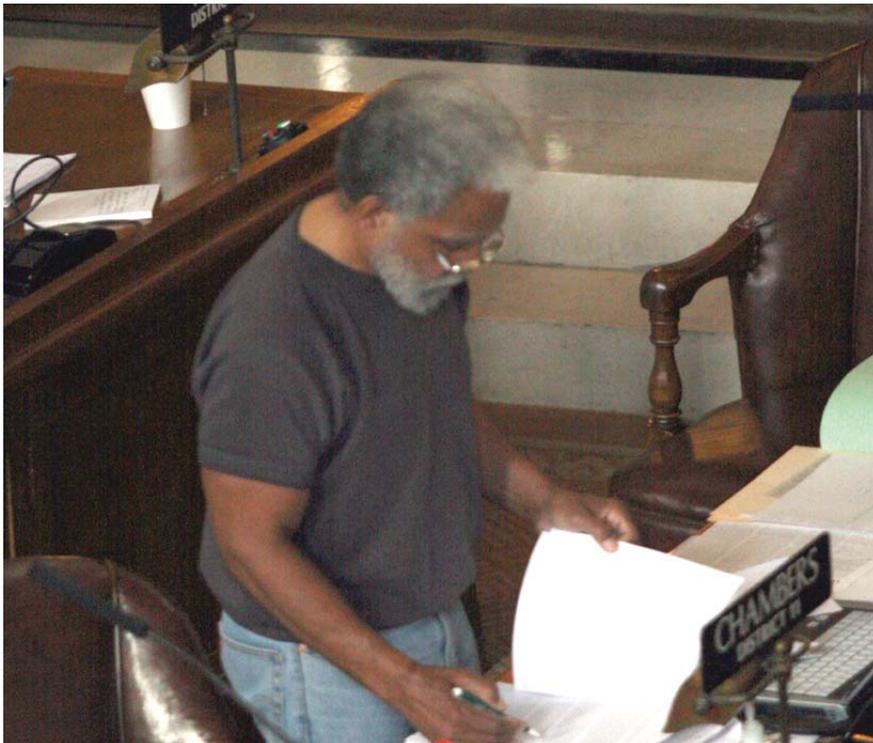
"In my opinion, in practice, this is a repeal of the death penalty in Nebraska," he said.

Omaha Sen. Tom White explained that the state's legal system relies on these predictions every day when deciding whether an offender should be jailed from society or released back into the public.

"That is no different from what we have asked of judges for hundreds of years," he said.

White said the proposal to uphold the death penalty only for those who are a threat to public safety was akin to allowing a police officer to kill a person who is holding a hostage at gunpoint. The state should retain the same right when convicting a member of a terrorist or criminal network who may continue to issue orders to murder while incarcerated, White said.

Others on trial for murder who have a history of escape, trying to kill guards or are serial killers with



Sen. Ernie Chambers studies the Judiciary Committee amendment to LB 377.

# A CLOSER **LOOK**.....

a compulsion to kill would also be likely candidates for the death penalty under the proposed bill, he said.

“We are morally entitled to kill only when it is necessary to protect innocent life,” he said. “Our law does not conform to that.”

White predicted that the current law is in danger of being found unconstitutional because Nebraska is the only state in the nation that uses an electric chair. Adopting the proposal would preserve the state’s death penalty going forward, he said.

Sen. Russ Karpisek of Wilber questioned how a jury could determine that anyone who had committed murder would be unlikely to kill someone else.

“If you ask me, we would have assumed that they wouldn’t kill the first time,” he said.

If someone took the life of a family member or friend, he’d probably want that person to get a death sentence, he said.

“Retribution? Probably. But you know the consequences when you do something,” Karpisek said. “I don’t think the state started this. Once the murders stop, so will ours.”

A Chambers technical amendment was adopted 42-0, but the committee amendments failed on a 23-25 vote.

LB 377 remains on general file in its original form.

## Legislative information available to the public

The Unicameral Information Office produces several informational brochures and booklets about the Nebraska Legislature. All the publications below are free and may be obtained from the Clerk of the Legislature’s Office, State Capitol, Room 2018, P.O. Box 94604, Lincoln, NE 68509-4604. The Information Office phone number is (402) 471-2788.

### A Look at Your Unicameral

Booklet that includes a history of the Unicameral, the steps of how a bill becomes law, photos and addresses of state senators, a list of the duties of a state senator, descriptions of legislative support offices, a description of the legislative chamber and a glossary of legislative terms.

### 2007 Nebraska Legislature:

#### Unicameral Membership and Committees

Brochure listing all senators by district, their home addresses and phone numbers, and their Capitol room numbers and phone numbers. Also lists the members of all legislative committees and indicates when and where the committees regularly meet.

#### Public Hearing Testimony in the Nebraska Legislature

Brochure outlining the procedures for testifying at a public hearing on legislation being considered by committees.

#### The Nebraska Unicameral: A Citizen’s Legislature

Brochure exploring the nation’s only unicameral legislature. Also identifies ways that citizens can become involved in the process.

#### Unicam Kids Student Guide

Booklet targeted to grade-school students that provides information about the Legislature and incorporates puzzles and questions to test students’ knowledge. Includes photos of state senators, a description of how a bill becomes law, maps of legislative districts and a glossary of legislative terms.

# MEET THE SENATORS

## McGill trades TV camera for legislative seat



Amanda McGill poses with her colleagues at the news anchor desk of Lincoln's KOLN/KGIN television station during her tenure as a broadcast reporter.

**A**manda McGill hadn't intended to run for office.

It was a late decision to enter the race for the 26th legislative district seat. So how exactly did the 27-year-old former broadcast journalist end up as a Nebraska state lawmaker?

Part of McGill's experience at Millard North High School and the University of Nebraska-Lincoln was her involvement in speech competition. Once in college, she studied broadcast journalism and political science.

"I've always had an interest in government, but wanted to get at it as a reporter," she said.

Her first foray into professional broadcasting came at KCAU-TV in Sioux City, Iowa. While working there in 2003, she was assigned to cover the Democratic presidential caucuses in Iowa. Those caucuses

attracted considerable national attention and provided her the opportunity to meet several of the presidential candidates.

"It reinvigorated how much I love politics and government in the first place."

She moved back to Lincoln, a larger television market, to accept a position at KOLN/KGIN-TV with reporting and anchoring duties. But, eventually, she wanted to get more involved.

"I found that I desired more involvement in the issues that affect people's lives, rather than telling the stories," she said.

So McGill left broadcasting with the idea of helping other candidates for public office. Instead, she was talked into seeking a legislative seat herself.

The rest, you know. McGill won her election in November 2006 as

the youngest member of a historic class of 22 new Nebraska lawmakers, the first after the imposition of legislative term limits.

McGill's time outside of her legislative duties is spent on widely varying interests.

She said she has begun "re-reading" books, and has a particular interest in the World War II era. She specifically noted the romanticism of that era as compared with today's world.

"It was such a different world in the 40s from what it is now," she said. "I really enjoy reading about it."

McGill said it was much easier to discern between good and evil during that period in our country's history.

"The lines are so much more blurry," she said.

Her taste in movies might surprise some, she said. She prefers science fiction and action movies.

"I can't wait for Spiderman 3 to come out," she confessed.

Her community involvement includes her work with the Junior League program that helps refugees assimilate in Lincoln.

"They're coming in with language barriers," McGill said. "They need to know how to go about getting appropriate services."

She said she may also pursue renewing her involvement with high school speech competition by volunteering to help at a local high school in the near future.

"It's so important to support young people in activities that help them to be successful in the future."

# WEEKLY REVIEW

A REVIEW OF LEGISLATIVE ACTION TAKEN TUESDAY, APRIL 10, 2007, THROUGH FRIDAY, APRIL 13, 2007

## Banking, Commerce and Insurance

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
368	ERDMAN	Adopt the Nebraska Limited Cooperative Association Act	Advanced to Select File

## Education

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
219	DIERKS	Change requirements for freeholder petitions	Placed on Select File

## Government, Military, Veterans Affairs

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
198	SCHIMEK	Change requirements for campaign messages	Placed on Final Reading
232	DUBAS	Change the Building Entrepreneurial Communities Act	Placed on Final Reading

## Health & Human Services

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
369	ERDMAN	Redefine mental health practice for licensure of mental health practitioners	Placed on General File
399	JOHNSON	Adopt the Perfusion Practice Act	Placed on General File
482	JOHNSON	Provide for the coverage of qualifying autism services under the Medical Assistance Act	Placed on General File

## Judiciary

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
8	PREISTER	Increase penalty for accumulation of junk	Placed on General File
107	PEDERSEN	Create a deputy public counsel for institutions and facilities operated by the Department of Health and Human Services	Placed on General File
382	PAHLS	Change provisions relating to notaries public	Placed on General File
457	HANSEN	Require a caregiver information form for foster care proceedings	Placed on Final Reading
564	FRIEND	Change provisions relating to tort claims with respect to recreational liability	Placed on Select File
580	PREISTER	Change provisions relating to tobacco product manufacturers	Placed on General File
674	LATHROP	Prohibit use of social security numbers by employers as prescribed and provide a penalty	Placed on General File

# WEEKLY REVIEW

A REVIEW OF LEGISLATIVE ACTION TAKEN TUESDAY, APRIL 10, 2007, THROUGH FRIDAY, APRIL 13, 2007

## Natural Resources

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
636	NATURAL RESOURCES	Exempt certain entities from sealed bidding requirements	Signed by Governor
677	DUBAS	Change inspection requirements and late fees under the Livestock Waste Management Act	Signed by Governor
701	CHRISTENSEN	Adopt a river basin administration committee	Advanced to Select File

## Retirement

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
508	PAHLS	Change provisions of the Judges Retirement Act and the School Employees Retirement Act	Placed on General File
596	KOPPLIN	Change retirement benefits and annuity payments for school employees	Placed on Select File

## Revenue

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
334	DIERKS	Provide for merger of Department of Property Assessment and Taxation and Department of Revenue and change property tax provisions	Placed on Select File
338	GAY	Change income tax deductions for the Nebraska educational savings plan trust	Placed on Final Reading
502	MINES	Change inheritance tax provisions	Placed on Final Reading
537	SCHIMEK	Authorize the collection and dissemination of motor fuel tax on land held in trust for Indian tribes	Signed by Governor

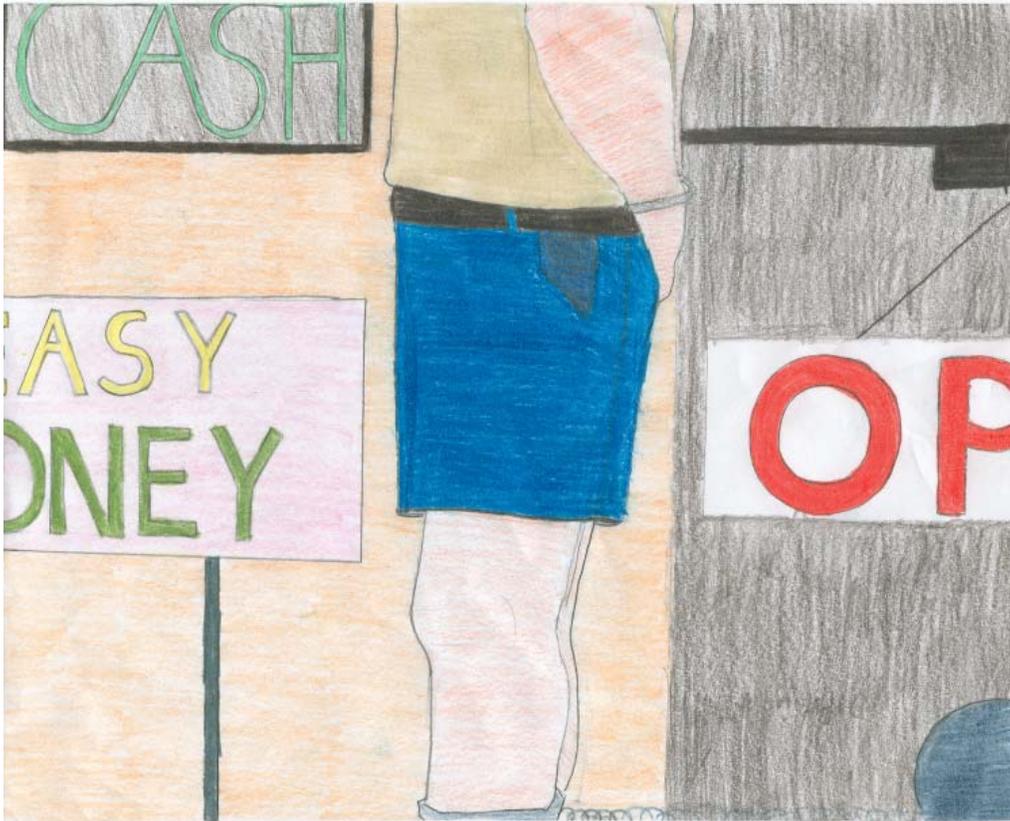
## Transportation and Telecommunications

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
415	HARMS	Change provisions relating to provisional operator's permits and other operator's licenses and permits	Placed on Final Reading

## Urban Affairs

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
562	ADAMS	Change provisions relating to the Community Development Law	Placed on Final Reading

# IF I COULD MAKE A LAW



Caroline A. Friedman, age 10, Columbian Elementary, Omaha. "Desperate and poor people shouldn't have to pay as much in interest."

## STUDENT ART SERIES

To commemorate the 100th Nebraska Legislature, fourth- through sixth-grade students throughout the state were invited to submit artwork depicting a law they would propose if they were a senator.

Selected entries will be published in each edition of this session's Unicameral Update and also will be posted on the Legislature's website at [nebraskalegislature.gov/web/public/learning/makealaw](http://nebraskalegislature.gov/web/public/learning/makealaw).

Published entries were selected by Larry Starr, director of social science education at the state Department of Education, Karen Janovy, curator of education for the University of Nebraska-Lincoln's Sheldon Memorial Art Gallery and Heidi Uhing, civic learning coordinator for the Nebraska Legislature. The top three entries will be published in the last three issues this session.

## UNICAMERALUPDATE

The Unicameral Update is a free, weekly newsletter offered during the legislative session covering actions taken in committees and on the floor of the Legislature.

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Clerk of the Legislature  
Patrick J. O'Donnell

Editor  
Mitchell S. McCartney

Contributors  
Lauren Adams  
Kate Heltzel  
Connie Pritchard  
Heidi Uhing

Assistance provided by

Clerk of the Legislature's Office  
Legislative Bill Room  
Legislative committee clerks  
Legislative committee legal counsels  
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# UNICAMERAL UPDATE

## CLERK OF THE LEGISLATURE

Patrick J. O'Donnell  
Room 2018, State Capitol  
Lincoln, NE 68509-4604

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