

**FORTY-FIFTH DAY - MARCH 14, 2011****LEGISLATIVE JOURNAL****ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 14, 2011

**PRAYER**

The prayer was offered by Reverend Darin Corder, Bennet Community Church, Bennet.

**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 Senators Christensen and Council who were excused; and Senators Campbell, Carlson, B. Harr, Heidemann, and Louden who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fourth day was approved.

**ANNOUNCEMENT**

Speaker Flood designates LBs 137, 156, 226, 289, 316, 337, 360, 385, 390, 400, 404, 449, 465, 468, 500, 512, 535, 541, 589, 590, 628, 665, 669, 673, and 684 as Speaker priority bills.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 98, 99, and 100 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 98, 99, and 100.

**GENERAL FILE**

**LEGISLATIVE BILL 389A.** Title read. Considered.

Senator Cornett offered the following amendment:

AM765

- 1 1. On page 2, line 1, strike "\$85,075" and insert
- 2 "\$62,000".

The Cornett amendment was adopted with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 524.** Title read. Considered.

Committee AM340, found on page 608, was considered.

Senator McGill renewed her amendment, AM697, found on page 812, to the committee amendment.

The McGill amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

The committee amendment, as amended, was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 342.** Placed on Select File with amendment.

ER50

- 1 1. On page 1, strike beginning with "section" in line 1
- 2 through line 4 and insert "sections 31-409 and 31-409.02, Reissue
- 3 Revised Statutes of Nebraska; to change provisions relating to
- 4 the hours of and notice requirements for annual elections as
- 5 prescribed; and to repeal the original sections."

**LEGISLATIVE BILL 366.** Placed on Select File with amendment.

ER51

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 81-15,175, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-15,175 (1) The board may make an annual allocation

6 each fiscal year from the Nebraska Environmental Trust Fund to  
7 the Nebraska Environmental Endowment Fund as provided in section  
8 81-15,174.01. The board shall make annual allocations from the  
9 Nebraska Environmental Trust Fund and may make annual allocations  
10 each fiscal year from the Nebraska Environmental Endowment Fund  
11 for projects which conform to the environmental categories of the  
12 board established pursuant to section 81-15,176 and to the extent  
13 the board determines those projects to have merit. The board  
14 shall establish a calendar annually for receiving and evaluating  
15 proposals and awarding grants. To evaluate the economic, financial,  
16 and technical feasibility of proposals, the board may establish  
17 subcommittees, request or contract for assistance, or establish  
18 advisory groups. Private citizens serving on advisory groups shall  
19 be reimbursed for their actual and necessary expenses pursuant to  
20 sections 81-1174 to 81-1177.

21 (2) The board shall establish rating systems for ranking  
22 proposals which meet the board's environmental categories and other  
23 criteria. The rating systems shall include, but not be limited to,  
1 the following considerations:

2 (a) Conformance with categories established pursuant to  
3 section 81-15,176;

4 (b) Amount of funds committed from other funding sources;

5 (c) Encouragement of public-private partnerships;

6 (d) Geographic mix of projects over time;

7 (e) Cost-effectiveness and economic impact;

8 (f) Direct environmental impact; and

9 (g) Environmental benefit to the general public and the  
10 long-term nature of such public benefit.

11 (3) The board may establish a subcommittee to rate grant  
12 applications. If the board uses a subcommittee, the meetings of  
13 such subcommittee shall be subject to the Open Meetings Act. The  
14 subcommittee shall (a) use the rating systems established by the  
15 board under subsection (2) of this section, (b) assign a numeric  
16 value to each rating criterion, combine these values into a total  
17 score for each application, and rank the applications by the total  
18 scores, (c) recommend an amount of funding for each application,  
19 which amount may be more or less than the requested amount, and  
20 (d) submit the ranked list and recommended funding to the board  
21 for its approval or disapproval. ~~A motion to deviate from the~~  
22 ~~subcommittee's recommendations must specify the reason for doing so~~  
23 ~~and be adopted with an affirmative vote of not fewer than eight~~  
24 ~~members of the board.~~

(4) The board may commit funds to multiyear projects,  
26 subject to available funds and appropriations. No commitment shall  
27 exceed three years without formal action by the board to renew the  
1 grant or contract. Multiyear commitments may be exempt from the  
2 rating process except for the initial application and requests to  
3 renew the commitment.

4 (5) The board shall adopt and promulgate rules and  
5 regulations and publish guidelines governing allocations from the  
6 fund. Such rules and regulations shall include, but not be limited  
7 to, rules and regulations providing for a public hearing on the  
8 proposed projects and funding and providing that the board shall  
9 make no decision on the proposed projects and funding until at  
10 least thirty days after such public hearing. The board shall  
11 conduct annual reviews of existing projects for compliance with  
12 project goals and grant requirements.

13 (6) Every five years the board may evaluate the long-term  
14 effects of the projects it funds. The evaluation may assess  
15 a sample of such projects. The board may hire an independent  
16 consultant to conduct the evaluation and may report the evaluation  
17 findings to the Legislature and the Governor.

18 Sec. 2. Section 84-1409, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 84-1409 For purposes of the Open Meetings Act, unless the  
21 context otherwise requires:

22 (1)(a) Public body means (i) governing bodies of  
23 all political subdivisions of the State of Nebraska, (ii)  
24 governing bodies of all agencies, created by the Constitution of  
25 Nebraska, statute, or otherwise pursuant to law, of the executive  
26 department of the State of Nebraska, (iii) all independent boards,  
27 commissions, bureaus, committees, councils, subunits, or any other  
1 bodies created by the Constitution of Nebraska, statute, or  
2 otherwise pursuant to law, (iv) all study or advisory committees  
3 of the executive department of the State of Nebraska whether  
4 having continuing existence or appointed as special committees with  
5 limited existence, (v) advisory committees of the bodies referred  
6 to in subdivisions (i), (ii), and (iii) of this subdivision, and  
7 (vi) instrumentalities exercising essentially public functions; and

8 (b) Public body does not include (i) subcommittees  
9 of such bodies unless a quorum of the public body attends a  
10 subcommittee meeting or unless such subcommittees are holding  
11 hearings, making policy, or taking formal action on behalf of  
12 their parent body, except that all meetings of any subcommittee  
13 established under section 81-15,175 are subject to the Open  
14 Meetings Act, and (ii) entities conducting judicial proceedings  
15 unless a court or other judicial body is exercising rulemaking  
16 authority, deliberating, or deciding upon the issuance of  
17 administrative orders;

18 (2) Meeting means all regular, special, or called  
19 meetings, formal or informal, of any public body for the purposes  
20 of briefing, discussion of public business, formation of tentative  
21 policy, or the taking of any action of the public body; and

22 (3) Videoconferencing means conducting a meeting  
23 involving participants at two or more locations through the use of  
24 audio-video equipment which allows participants at each location  
25 to hear and see each meeting participant at each other location,

26 including public input. Interaction between meeting participants  
 27 shall be possible at all meeting locations.

1 Sec. 3. Original sections 81-15,175 and 84-1409, Reissue  
 2 Revised Statutes of Nebraska, are repealed.

3 2. On page 1, strike beginning with "Act" in line 1  
 4 through line 5 and insert "Board; to amend sections 81-15,175  
 5 and 84-1409, Reissue Revised Statutes of Nebraska; to change  
 6 provisions relating to subcommittee recommendations and procedures  
 7 for projects and funding; to provide for applicability of the Open  
 8 Meetings Act; and to repeal the original sections."

**LEGISLATIVE BILL 255.** Placed on Select File.

**LEGISLATIVE BILL 259.** Placed on Select File.

**LEGISLATIVE BILL 45.** Placed on Select File with amendment.  
 ER52

1 1. On page 3, line 15, after "81-3415" insert an  
 2 underscored comma; and in line 16 strike "and" and show as  
 3 stricken and after "~~81-3449~~" insert an underscored comma.

4 2. On page 13, lines 15 and 18, strike "from" and show as  
 5 stricken.

(Signed) Tyson Larson, Chairperson

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 237.** Placed on Final Reading.

(Signed) Tyson Larson, Chairperson

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 387A.** Introduced by Hadley, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 387, One Hundred Second Legislature, First Session, 2011; and to reduce appropriations.

**COMMITTEE REPORTS**

Judiciary

**LEGISLATIVE BILL 80.** Placed on General File with amendment.  
 AM289

1 1. On page 3, line 3, after "may" insert "approve the  
 2 plan."

**LEGISLATIVE BILL 137.** Placed on General File with amendment.  
AM735

1 1. Strike the original sections and insert the following  
2 new sections:

3 Section 1. Section 29-3001, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 29-3001 (1) A prisoner in custody under sentence and  
6 claiming a right to be released on the ground that there was such  
7 a denial or infringement of the rights of the prisoner as to render  
8 the judgment void or voidable under the Constitution of this state  
9 or the Constitution of the United States, may file a verified  
10 motion ~~at any time~~ in the court which imposed such sentence,  
11 stating the grounds relied upon, and asking the court to vacate or  
12 set aside the sentence.

13 (2) Unless the motion and the files and records of the  
14 case show to the satisfaction of the court that the prisoner is  
15 entitled to no relief, the court shall cause notice thereof to  
16 be served on the county attorney, grant a prompt hearing thereon,  
17 determine the issues and make findings of fact and conclusions of  
18 law with respect thereto. If the court finds that there was such a  
19 denial or infringement of the rights of the prisoner as to render  
20 the judgment void or voidable under the Constitution of this state  
21 or the Constitution of the United States, the court shall vacate  
22 and set aside the judgment and shall discharge the prisoner or  
23 resentence him or grant a new trial as may appear appropriate.

1 Proceedings under the provisions of sections 29-3001 to 29-3004  
2 shall be civil in nature. Costs shall be taxed as in habeas corpus  
3 cases.

4 (3) A court may entertain and determine such motion  
5 without requiring the production of the prisoner, whether or not a  
6 hearing is held. Testimony of the prisoner or other witnesses may  
7 be offered by deposition. The court need not entertain a second  
8 motion or successive motions for similar relief on behalf of the  
9 same prisoner.

10 (4) A one-year period of limitation shall apply to the  
11 filing of a verified motion for postconviction relief. The one-year  
12 limitation period shall run from the later of:

13 (a) The date the judgment of conviction became final by  
14 the conclusion of a direct appeal or the expiration of the time for  
15 filing a direct appeal;

16 (b) The date on which the factual predicate of the  
17 constitutional claim or claims alleged could have been discovered  
18 through the exercise of due diligence;

19 (c) The date on which an impediment created by state  
20 action, in violation of the Constitution of the United States or  
21 the Constitution of Nebraska or any law of this state, is removed,  
22 if the prisoner was prevented from filing a verified motion by such  
23 state action;

24 (d) The date on which a constitutional claim asserted was  
 25 initially recognized by the Supreme Court of the United States or  
 26 the Nebraska Supreme Court, if the newly recognized right has been  
 27 made applicable retroactively to cases on postconviction collateral  
 1 review; or

2 (e) The effective date of this act.

3 Sec. 2. Original section 29-3001, Reissue Revised

4 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 463.** Placed on General File with amendment.  
 AM754 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

**NOTICE OF COMMITTEE HEARING**

Natural Resources

Room 1525

Wednesday, March 23, 2011 1:00 p.m.

Stan Clouse - Nebraska Natural Resources Commission

(Signed) Chris Langemeier, Chairperson

**AMENDMENTS - Print in Journal**

Senator Cornett filed the following amendment to LB389:  
 AM762

(Amendments to E & R amendments, ER43)

- 1 1. On page 1, line 8, after "Family" insert "member".
- 2 2. On page 3, lines 23 and 27; page 5, lines 3, 4, and
- 3 14; page 6, lines 6 and 7; page 7, line 27; page 8, line 1; page
- 4 9, lines 6, 8, and 17; and page 11, line 15, before "investment"
- 5 insert "qualified".
- 6 3. On page 4, lines 9, 12, 14, 17, and 19, strike
- 7 "fund" and insert "pass-through entity"; and in line 25 strike
- 8 "Investments in the" and insert "A qualified".
- 9 4. On page 5, line 8, strike "taxable" and insert
- 10 "calendar"; in line 12 strike "investors" and insert "individuals,
- 11 trusts, or pass-through entities"; and in lines 21, 24, and 26
- 12 strike "investor" and insert "individual, trust, or pass-through
- 13 entity".
- 14 5. On page 6, line 2, strike "investor who" and insert
- 15 "individual, trust, or pass-through entity which".
- 16 6. On page 6, line 17; page 7, lines 11 and 17; and page
- 17 8, lines 1, 12, 20, and 21, before "credit" insert "tax".
- 18 7. On page 6, lines 22, 24, and 26; page 7, lines 2, 9,
- 19 and 25; page 8, lines 4, 13, 14, and 23; page 9, line 1; and page

- 20 10, line 20, before all occurrences of "credits" insert "tax".
- 21 8. On page 7, line 2, strike "taxable" and insert
- 22 "calendar"; in line 9 strike "over all taxable years"; and in line
- 1 16 strike "member of the family" and insert "family member".
- 2 9. On page 8, line 21, after "investor" insert "or
- 3 qualified fund".
- 4 10. On page 9, line 1, strike "taxable year in which" and
- 5 insert "date"; in line 9 strike "an" and insert "a qualified"; and
- 6 in line 15 after "following" insert "calendar".
- 7 11. On page 11, line 1, strike "distribution" and insert
- 8 "allocation"; and in line 18 after "project" insert "under the
- 9 Angel Investment Tax Credit Act".

Senator K. Haar filed the following amendment to LB283:  
AM615

- 1 1. On page 12, after line 21 insert the following new
- 2 subsection:
- 3 "(14) Before a school board approves an energy efficiency
- 4 project to be funded pursuant to this section, such school board
- 5 shall generate an Energy Star efficiency rating on any school
- 6 building involved in the proposed energy efficiency project using
- 7 the Environmental Protection Agency's free online tool, Portfolio
- 8 Manager. If the energy efficiency project is approved and funded
- 9 pursuant to this section, such school board shall also maintain an
- 10 up-to-date Energy Star efficiency rating using Portfolio Manager on
- 11 such school building during the term of any bonds issued for such
- 12 energy efficiency project.".

## GENERAL FILE

**LEGISLATIVE BILL 297.** Title read. Considered.

Senator Flood offered the following amendment:  
AM749

- 1 1. On page 6, line 8, after "events" insert "and a
- 2 library".

The Flood amendment was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 490.** Title read. Considered.

Committee AM595, found on page 689, was considered.



Senator Karpisek offered the following amendment to the committee amendment:

AM760

(Amendments to Standing Committee amendments, AM595)

- 1 1. On page 6, line 27, strike "four million" and insert
- 2 "one million six hundred thousand".

Pending.

## COMMITTEE REPORTS

### Revenue

**LEGISLATIVE BILL 106.** Placed on General File with amendment.  
AM731

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. For purposes of sections 13-318 to 13-326,
- 4 public safety services means crime prevention, offender detention,
- 5 and police services.
- 6 Sec. 2. Section 13-318, Reissue Revised Statutes of
- 7 Nebraska, is amended to read:
- 8 13-318 (1) Any county and any municipalities ~~and fire~~
- 9 ~~protection districts~~ within the county may provide for the joint
- 10 financing and operation of public safety services pursuant to an
- 11 agreement under the Interlocal Cooperation Act or Joint Public
- 12 Agency Act.
- 13 (2) Joint public safety services shall be operated by a
- 14 public safety commission consisting of at least three members who
- 15 represent the county and the participating municipalities ~~and fire~~
- 16 ~~protection districts~~ as provided in the agreement. Only elected
- 17 officials are eligible to serve on the commission. ~~In counties~~
- 18 ~~with more than one hundred thousand inhabitants, the county~~
- 19 ~~and participating municipalities and fire protection districts~~
- 20 ~~may appoint a separate fire protection and emergency services~~
- 21 ~~commission of at least three members to operate or coordinate fire~~
- 22 ~~protection or emergency services in the county and participating~~
- 23 ~~municipalities and fire protection districts. If the public safety~~
- 1 ~~services to be provided include fire protection, at least one~~
- 2 ~~representative of each fire protection district shall be a member~~
- 3 ~~of the commission.~~ The commission may employ officers and other
- 4 employees necessary to carry out its duties and responsibilities
- 5 for public safety services ~~or fire protection or emergency services~~
- 6 and may enter into contracts, acquire and dispose of property,
- 7 and receive funds appropriated to it by the county and any
- 8 participating municipality, ~~or fire protection district,~~ granted or
- 9 appropriated to it by the state or federal government or an agency
- 10 thereof, given to it by any individual, or collected from the
- 11 sales and use tax authorized by section 13-319. ~~If fire protection~~
- 12 ~~services or emergency services are to be provided, the commission~~

13 ~~shall appoint an individual trained in fire protection or emergency~~  
 14 ~~services with at least five years of experience in providing such~~  
 15 ~~services who shall coordinate fire protection and financing of the~~  
 16 ~~services in the county. The individual shall serve at the pleasure~~  
 17 ~~of the commission. The commission shall have other powers as are~~  
 18 ~~granted to the county and any of the participating municipalities~~  
 19 ~~or fire protection districts acting independently except as limited~~  
 20 ~~by the agreement.~~

21 Sec. 3. Original section 13-318, Reissue Revised Statutes  
 22 of Nebraska, is repealed.

**LEGISLATIVE BILL 682.** Placed on General File with amendment.  
 AM626

1 1. Strike the original sections and insert the following  
 2 new sections:

3 Section 1. Sections 1 to 11 of this act shall be known  
 4 and may be cited as the Sewer Infrastructure Assistance Act.

5 Sec. 2. (1) The Legislature finds that municipalities of  
 6 the state face an urgent need to construct, upgrade, redevelop,  
 7 and replace sewer infrastructure facilities to reduce combined  
 8 sewer overflow. By providing sewer facilities, municipalities  
 9 provide the building blocks for economic development. Not only  
 10 does the investment in infrastructure generate an immediate stream  
 11 of economic activity, it also lays the groundwork for private  
 12 investment that will use the facilities so provided. Municipalities  
 13 currently are in critical need of assistance in providing these  
 14 facilities. Municipalities are limited in their ability to finance  
 15 major infrastructure projects and are generally required by federal  
 16 regulation to follow a cost-of-service user fee system to fund  
 17 wastewater operations and maintenance costs including replacement.  
 18 Additionally, many alternate financing options contain statutory  
 19 budget and tax levy restrictions. In order to minimize the burden  
 20 on property taxpayers in Nebraska, the Legislature finds that it  
 21 is fair and equitable to encourage the use of fees for services to  
 22 finance major infrastructure projects.

23 (2) The Legislature determines that it is in the public  
 1 interest to assist municipalities by establishing a fund to provide  
 2 funds to municipalities to be used to replace and redevelop sewer  
 3 infrastructure facilities to reduce combined sewer overflow.

4 (3) In order that the state may receive long-term  
 5 economic and fiscal benefits from such facilities, a need exists  
 6 to provide state assistance to municipalities endeavoring to  
 7 construct, acquire, substantially reconstruct, expand, operate,  
 8 improve, or equip such facilities.

9 (4) Therefore, it is deemed to be in the best interest  
 10 of the state and its municipalities that the state assist  
 11 municipalities in financing the construction, acquisition,  
 12 substantial reconstruction, expansion, operation, improvement, or  
 13 equipping of sewer infrastructure facilities.

14 (5) The amount of state assistance under the Sewer  
15 Infrastructure Assistance Act shall be limited to the state sales  
16 tax revenue collected by municipalities on the increase in monthly  
17 sewer use fees on and after July 1, 2013, attributable to combined  
18 sewer overflow projects.

19 Sec. 3. For purposes of the Sewer Infrastructure  
20 Assistance Act:

21 (1) Board means a board consisting of the Director  
22 of Environmental Quality, the chief executive officer of the  
23 Department of Health and Human Services, and the State Fire  
24 Marshal;

25 (2) Bond means a general obligation bond, redevelopment  
26 bond, lease-purchase bond, revenue bond, or combination of any  
27 such bonds and a loan from the Wastewater Treatment Facilities  
1 Construction Loan Fund;

2 (3) Combined sewer overflow project means a municipal  
3 project to reduce overflows from a combined sewer system pursuant  
4 to a long-term control plan approved by the Department of  
5 Environmental Quality;

6 (4) Eligible facility means any facility that is  
7 constructed or installed pursuant to an approved long-term control  
8 plan;

9 (5) General obligation bond means any bond or refunding  
10 bond issued by a municipality and which is payable from the  
11 proceeds of an ad valorem tax; and

12 (6) Revenue bond means any bond or refunding bond issued  
13 by a municipality which is not payable from the proceeds of an ad  
14 valorem tax.

15 Sec. 4. Any municipality that has acquired, constructed,  
16 improved, or equipped or has approved a general obligation bond  
17 issue or revenue bond issue to acquire, construct, improve, or  
18 equip eligible facilities may apply to the board for state  
19 assistance. The state assistance shall only be used (1) to  
20 repay the debt borrowed through one or more issues of bonds  
21 to be expended by the municipality to acquire, construct, improve,  
22 and equip eligible facilities until repayment in full of the  
23 amounts expended or borrowed by the municipality, including the  
24 principal of and interest on bonds, for eligible facilities and  
25 (2) to pay amounts to be expended by the municipality without  
26 the issuance of bonds to acquire, construct, improve, and equip  
27 eligible facilities.

1 Sec. 5. (1) All applications for state assistance under  
2 the Sewer Infrastructure Assistance Act shall be in writing and  
3 shall include a certified copy of the approving action of the  
4 governing body of the applicant describing the proposed eligible  
5 facility.

6 (2) The application shall contain:

7 (a) A description of the proposed financing of the  
8 eligible facility, including the estimated principal and interest

9 requirements for bonds proposed to be issued in connection with the  
10 eligible facility or, if no bonds are to be issued, a description  
11 of the costs of the eligible facility; and

12 (b) Any other project information deemed appropriate by  
13 the board.

14 (3) Upon receiving an application for state assistance,  
15 the board shall review the application and notify the applicant of  
16 any additional information needed for a proper evaluation of the  
17 application.

18 Sec. 6. (1) After consideration of the application and  
19 determination that the application conforms to all requirements  
20 for eligibility for state assistance under the Sewer Infrastructure  
21 Assistance Act, the board shall issue a finding that the combined  
22 sewer overflow project described in the application is eligible for  
23 state assistance.

24 (2) If the board finds that the project described in  
25 the application is an eligible facility, the application shall be  
26 approved.

27 (3) A majority of the board members constitutes a quorum  
1 for the purpose of conducting business. All actions of the board  
2 shall be by a majority vote of all the board members.

3 Sec. 7. If an application is approved, the Tax  
4 Commissioner shall:

5 (1) Audit or review audits of the sewer use fees  
6 collected by the municipality to determine the state sales tax  
7 revenue and local option sales tax revenue collected by the  
8 municipality on the increase in monthly sewer use fees on and after  
9 July 1, 2013, attributable to the combined sewer overflow project;  
10 and

11 (2) Certify annually the amount of such state sales tax  
12 revenue collected by the municipality on such increased fees to the  
13 State Treasurer.

14 Sec. 8. (1) The Sewer Infrastructure Fund is created.  
15 Upon the annual certification under section 7 of this act, the  
16 State Treasurer shall transfer the amount certified from the  
17 General Fund to the Sewer Infrastructure Fund. Any money in the  
18 fund available for investment shall be invested by the state  
19 investment officer pursuant to the Nebraska Capital Expansion Act  
20 and the Nebraska State Funds Investment Act.

21 (2) The board shall distribute from the fund to any  
22 municipality for which an application for state assistance under  
23 the Sewer Infrastructure Assistance Act has been approved an  
24 amount not to exceed the lesser of the total cost of acquiring,  
25 constructing, improving, or equipping the eligible facility or  
26 the total state sales tax revenue collected by the municipality  
27 on the increase in monthly sewer use fees on and after July 1,  
1 2013, attributable to the combined sewer overflow project. The  
2 distribution shall be conditioned upon the municipality using the  
3 local option sales tax revenue collected on the increase in monthly

4 sewer use fees attributable to the combined sewer overflow project  
 5 for the same purposes as permitted for the funds distributed under  
 6 this section notwithstanding any terms or conditions set forth  
 7 in the resolution proposing the local option sales tax. Funds  
 8 distributed under this section shall be used only to assist with  
 9 the costs of acquiring, constructing, improving, or equipping the  
 10 eligible facilities, including any financing costs, shall be kept  
 11 in a separate fund, and shall not be used to fund the general  
 12 operations of the municipality.

13 (3) State assistance to the applicant shall no longer  
 14 be available upon the retirement of the bonds issued to acquire,  
 15 construct, improve, or equip the eligible facility or any  
 16 subsequent bonds that refunded the original issue, or if bonds  
 17 are not issued, upon payment of the cost to acquire, construct,  
 18 improve, or equip the eligible facility or when state assistance  
 19 reaches the amount determined under subsection (2) of this section,  
 20 whichever comes first.

21 Sec. 9. The applicant may issue from time to time its  
 22 bonds and refunding bonds to finance and refinance the acquisition,  
 23 construction, improvement, and equipping of eligible facilities and  
 24 appurtenant public facilities that are a part of the same project.  
 25 The bonds may be sold by the applicant in such manner and for such  
 26 price as the applicant deems appropriate.

27 Sec. 10. The Department of Revenue shall submit an annual  
 1 report to the Legislature on or before August 1 of each year which  
 2 includes, but is not limited to, a description of the demand for  
 3 state assistance under the Sewer Infrastructure Assistance Act, a  
 4 list of the recipients and amounts of state assistance awarded  
 5 pursuant to the act in the previous fiscal year, the status of each  
 6 project awarded state assistance, and an estimate of the number of  
 7 jobs created or sustained by each such project. The department may  
 8 require recipients of financial assistance to provide reports to  
 9 enable the department to fulfill the requirements of this section.

10 Sec. 11. The Department of Revenue may adopt and  
 11 promulgate rules and regulations to carry out the Sewer  
 12 Infrastructure Assistance Act.

(Signed) Abbie Cornett, Chairperson

Health and Human Services

**LEGISLATIVE BILL 265.** Placed on General File.

**LEGISLATIVE BILL 406.** Placed on General File.

**LEGISLATIVE BILL 534.** Indefinitely postponed.

(Signed) Kathy Campbell, Chairperson

**AMENDMENTS - Print in Journal**

Senator Avery filed the following amendment to LB490:

AM759

(Amendments to Standing Committee amendments, AM595)

- 1 1. Strike sections 3 to 6, 8, and 10 and insert the
- 2 following new section:
- 3 Sec. 4. This act becomes operative on January 1, 2012.
- 4 2. Renumber the remaining sections accordingly.

Senator McCoy filed the following amendment to LB490:

AM778

(Amendments to Standing Committee amendments, AM595)

- 1 1. On page 6, line 27, strike "four" and insert "ten".

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Howard asked unanimous consent to add her name as cointroducer to LB558. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Leron Peters from Omaha; Mark Batt from Utica; El Siebert from Omaha; 15 twelfth-grade students and teacher from Hildreth-Wilcox High School, Wilcox; and 52 fifth-grade students, teachers, and sponsors from Fremont Bellfield Elementary, Fremont.

The Doctor of the Day was Dr. Paul Paulman from Omaha.

**ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Pankonin, the Legislature adjourned until 9:00 a.m., Tuesday, March 15, 2011.

Patrick J. O'Donnell  
Clerk of the Legislature