

THIRTY-SEVENTH DAY - MARCH 6, 2019**LEGISLATIVE JOURNAL****ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION****THIRTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 6, 2019

PRAYER

The prayer was offered by Reverend Andrew Gerike, Mt. Calvary Lutheran Church, Omaha.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Scheer presiding.

The roll was called and all members were present except Senators Cavanaugh, Groene, Hilkemann, Hughes, McDonnell, Morfeld, Vargas, Wayne, and Wishart who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-sixth day was approved.

ANNOUNCEMENT(S)

Priority designation(s) received:

Kolowski - LB619
Blood - LB138

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 30, 31, and 32 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 30, 31, and 32.

GENERAL FILE

LEGISLATIVE BILL 339. Title read. Considered.

Senator La Grone offered the following amendment:
AM416

1 1. Insert the following new section:

2 Sec. 2. Section 24-806, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 24-806 (1) Lawyer members and alternate lawyer members of any
5 judicial nominating commission shall be members of the bar of the State
6 of Nebraska and shall reside in the judicial district or area of the
7 state served by the commission except as provided in subsection (2) of
8 this section. Not more than two lawyer members of each commission shall
9 be registered members of the same political party or category, and not
10 more than two alternate lawyer members shall be registered members of the
11 same political party or category. The members of the bar who are
12 registered members of the same political party shall elect the lawyer
13 members and alternate lawyer members to represent that political party on
14 a judicial nominating commission. Nominations for lawyer members of each
15 commission shall be solicited in writing by the Clerk of the Supreme
16 Court from all the lawyers of the district or area served on or before
17 September 1 of each even-numbered year. Nominations of lawyer members
18 shall be made in writing and filed in the office of the Clerk of the
19 Supreme Court on or before October 1 of each even-numbered year. Each
20 nomination of a lawyer member shall be accompanied by a written consent
21 of the nominee to serve as a member of the commission if elected. The
22 nominations shall be solicited and distributed on the ballot by the Clerk
23 of the Supreme Court from the legally recognized political parties and in
24 such a manner as will permit the final selection to be made within the
25 required political party.

26 (2) If solicited nominations are insufficient to provide candidates
27 from the permissible political parties for each vacancy, the Executive
1 Council of the Nebraska State Bar Association, within ten days after the
2 last day for filing nominations, shall nominate additional candidates for
3 the position so that there shall be a qualified candidate for each
4 position. Such candidates need not reside in the judicial district or
5 area served by such judicial nominating commission.

6 (3) The Clerk of the Supreme Court shall mail a ballot with the name
7 of each nominee to ~~all~~ members of the bar of Nebraska of the applicable
8 political party residing in the judicial district or area designating a
9 date at least ten days and not more than fourteen days after the date of
10 such mailing by the Clerk of the Supreme Court when the ballots will be
11 opened and counted. The ballots shall be counted by a board consisting of
12 the Clerk of the Supreme Court, the Secretary of State, and the Attorney
13 General or by alternates designated by any of them to serve in his or her
14 place. The Clerk of the Supreme Court shall insure that the election is
15 so conducted as to maintain the secrecy of the ballot and the validity of
16 the results. The candidate of the required political party receiving the
17 highest number of votes shall be considered as having been elected to the

18 commission. The candidate of the required political party receiving the
 19 next highest number of votes shall be considered as having been elected
 20 an alternate lawyer member of the commission and shall serve as a lawyer
 21 member of the commission in the event of a lawyer member vacancy of the
 22 same political party or category on the commission created either by
 23 resignation or disqualification. In the case of a resignation, an
 24 alternate lawyer member shall continue to serve as a member of the
 25 commission until the term of office of his or her predecessor expires.
 26 (4) In any election when more than one lawyer member of a judicial
 27 nominating commission is to be elected, the nominees shall be submitted
 28 without designation of the term. Each voter shall be instructed to vote
 29 for as many nominees as there are vacancies to be filled. The candidate
 30 receiving the highest number of votes shall be considered as having been
 31 elected for the longest term. The candidate receiving the next highest
 1 number of votes shall be deemed to have been elected for next to the
 2 longest term, and if an alternate lawyer member or members are to be
 3 elected, the candidate or candidates receiving the third and fourth
 4 highest number of votes shall be deemed elected as the alternate lawyer
 5 member or members. In case of ties the determination shall be made by lot
 6 by the counting board.
 7 2. Renumber the remaining section and correct the repealer
 8 accordingly.

Senator La Grone withdrew his amendment.

Pending.

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 8. Placed on Final Reading.
LEGISLATIVE BILL 124. Placed on Final Reading.
LEGISLATIVE BILL 127. Placed on Final Reading.
LEGISLATIVE BILL 139. Placed on Final Reading.
LEGISLATIVE BILL 156. Placed on Final Reading.
LEGISLATIVE BILL 160. Placed on Final Reading.
LEGISLATIVE BILL 195. Placed on Final Reading.
LEGISLATIVE BILL 319. Placed on Final Reading.
LEGISLATIVE BILL 699. Placed on Final Reading.

(Signed) Julie Slama, Chairperson

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 284. Placed on Select File with amendment.

ER44

1 1. On page 1, strike beginning with "adopt" in line 1 through line 3
 2 and insert "amend sections 77-2701.13, 77-2701.16, 77-2701.32, 77-2705,
 3 and 77-2708, Reissue Revised Statutes of Nebraska; to redefine terms; to

4 change sales and use tax provisions relating to certain out-of-state
5 retailers and multivendor marketplace platforms; to require certain
6 retailers to obtain a sales tax permit and collect sales taxes as
7 prescribed; to relieve certain retailers of their obligation to collect
8 sales taxes as prescribed; to provide an operative date; to provide
9 severability; to repeal the original sections; and to declare an
10 emergency."

LEGISLATIVE BILL 318. Placed on Select File.

LEGISLATIVE BILL 443. Placed on Select File.

(Signed) Julie Slama, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Muotri, Alysson R. - Stem Cell Research Advisory Committee - Health and
Human Services

(Signed) Mike Hilgers, Chairperson
Executive Board

BILL ON FIRST READING

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

LEGISLATIVE BILL 130A. Introduced by DeBoer, 10.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to
aid in carrying out the provisions of Legislative Bill 130, One Hundred
Sixth Legislature, First Session, 2019.

NOTICE OF COMMITTEE HEARING(S)

Revenue

Room 1524

Wednesday, March 13, 2019 1:30 p.m.

LB472
LB585
LB707
LB437

Thursday, March 14, 2019 1:30 p.m.

LB315
LB349

LB410
LB456

Friday, March 15, 2019 1:30 p.m.

LB535
LB714
LB724
LB738

(Signed) Lou Ann Linehan, Chairperson

GENERAL FILE

LEGISLATIVE BILL 339. Considered.

SENATOR HUGHES PRESIDING

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 340. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 141. Title read. Considered.

Committee AM145, found on page 537, was offered.

Senator Chambers offered the following amendment to the committee amendment:

FA19

Amend AM145

Page 3, line 2 strike and show as stricken "or" and insert "and"

The Chambers amendment was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

The committee amendment, as amended, was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

SPEAKER SCHEER PRESIDING

LEGISLATIVE BILL 354. Title read. Considered.

Committee AM112, found on page 539, was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 449. Title read. Considered.

Senator Walz offered her amendment, AM349, found on page 617.

The Walz amendment was adopted with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

BILL ON FIRST READING

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

LEGISLATIVE BILL 354A. Introduced by Pansing Brooks, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 354, One Hundred Sixth Legislature, First Session, 2019.

AMENDMENT(S) - Print in Journal

Senator Hilgers filed the following amendment to LB617:

AM549

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

2 sections:

3 Section 1. Section 86-101, Reissue Revised Statutes of Nebraska, is

4 amended to read:

5 86-101 Sections 86-101 to 86-165 and sections 3 to 6 and 11 of this

6 act shall be known and may be cited as the Nebraska Telecommunications

7 Regulation Act.

8 Sec. 2. Section 86-103, Reissue Revised Statutes of Nebraska, is

9 amended to read:

10 86-103 For purposes of the Nebraska Telecommunications Regulation

11 Act, unless the context otherwise requires, the definitions found in

12 sections 86-103.01 to 86-121 and sections 3 to 6 of this act apply.

13 Sec. 3. Competitive local provider means a telecommunications

14 company offering a telecommunications service for which there are

15 alternative services available without regard to the technology employed.

16 Sec. 4. Internet protocol has the same meaning as in section

17 86-1011.

18 Sec. 5. Internet-protocol-enabled service or IP-enabled service
19 means any service, capability, functionality, or application, other than
20 voice over Internet protocol service, which uses Internet protocol or a
21 successor protocol that enables an end user to send or receive a voice,
22 data, or video communication utilizing a broadband connection at the end
23 user's location.

24 Sec. 6. Voice over Internet protocol service means any service that
25 enables real-time, two-way communication originating from or terminating
26 at the user's location using Internet protocol or a successor protocol,
27 that uses a broadband connection from the user's location, that requires
1 Internet-protocol-compatible equipment, and that permits a user to
2 receive a call that originates on the public-switched telephone network
3 and to terminate a call to the public-switched telephone network.

4 Sec. 7. Section 86-123, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 86-123 (1) Except as provided in section 86-124, the ~~The~~ commission
7 shall regulate the quality of telecommunications service provided by
8 telecommunications companies and shall investigate and resolve subscriber
9 complaints concerning quality of telecommunications service, subscriber
10 deposits, and disconnection of telecommunications service. If such a
11 complaint cannot be resolved informally, then, upon petition by the
12 subscriber, the commission shall set the matter for hearing in accordance
13 with the commission's rules and regulations for notice and hearing. The
14 commission may by order grant or deny, in whole or in part, the
15 subscriber's petition or provide such other relief as is reasonable based
16 on the evidence presented at the hearing. Any such order of the
17 commission may be enforced against any telecommunications company as
18 provided in sections 75-140 to 75-144, and such order may be appealed by
19 an interested party. The appeal shall be in accordance with section
20 75-136.

21 (2) Except as provided in section 86-124, the ~~The~~ commission may
22 regulate telecommunications company rates pursuant to sections 86-139 to
23 86-157.

24 (3) The Nebraska Telecommunications Regulation Act shall preempt and
25 prohibit any regulation of a telecommunications company by counties,
26 cities, villages, townships, or any other local governmental entity.

27 Sec. 8. Section 86-124, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 86-124 (1) The commission shall not regulate the following:

30 (a) ~~(1)~~ One-way broadcast or cable television transmission of
31 television or radio signals; ~~and~~

1 (b) ~~(2)~~ Mobile radio services, radio paging services, and wireless
2 telecommunications service; -

3 (c) The rates, terms, conditions, definition, and standards of local
4 exchange telecommunications service provided by a telecommunications
5 company deemed or determined to be a competitive local provider as
6 provided in subsection (2) of section 86-143;

7 (d) Interexchange services;

8 (e) Local exchange telecommunications service or interexchange

9 service provided as a business service; and
10 (f) Internet-protocol-enabled service and voice over Internet
11 protocol service, including rates, service or contract terms, conditions,
12 or requirements for entry for such service.
13 (2) This section shall not affect or modify:
14 (a) The enforcement of criminal or civil laws, including, without
15 limitation, laws concerning consumer protection and unfair or deceptive
16 trade practices which apply generally to the conduct of business;
17 (b) Any entity's obligations or rights or commission authority under
18 section 86-122 and 47 U.S.C. 251 and 252, as such federal sections
19 existed on January 1, 2019, and other federal law and any applicable
20 carrier-to-carrier tariff rates, service quality standards,
21 interconnection agreements, or other obligations for which the commission
22 has jurisdiction under state or federal law;
23 (c) Any requirement to contribute to any fund administered by the
24 commission authorized by the Enhanced Wireless 911 Services Act and the
25 Nebraska Telecommunications Universal Service Fund Act;
26 (d) The eligibility and requirements for the receipt of funds from
27 the Nebraska Telecommunications Universal Service Fund and the rules,
28 regulations, and orders under the Nebraska Telecommunications Universal
29 Service Fund Act or the receipt of funds from the federal universal
30 service fund, regardless of the unregulated status of the provider's
31 service under this section; and
1 (e) Any entity's rights and obligations with respect to (i)
2 registration under section 86-125, (ii) the use of public streets, roads,
3 highways, and rights-of-way, or (iii) a certificate of public convenience
4 and necessity or a permit.
5 (3) Notwithstanding any other provision of the Nebraska
6 Telecommunications Regulation Act, the commission shall retain limited
7 authority with respect to adequacy and quality of service for local
8 exchange telecommunications services determined to be competitive under
9 subdivision (1)(c) of this section and section 86-143. Such authority is
10 limited to nonbinding mediation of disputes between customers and
11 providers.
12 Sec. 9. Section 86-143, Reissue Revised Statutes of Nebraska, is
13 amended to read:
14 86-143 (1)(a) Except as provided in subdivision (b) of this
15 subsection, in an exchange in which local competition exists,
16 telecommunications companies shall file rate lists for each
17 telecommunications service which shall be effective after ten days'
18 notice to the commission.
19 (b) Notwithstanding any other provision of Chapter 86, a
20 telecommunications company shall not be required to file rate lists,
21 tariffs, or contracts for any telecommunications service, including local
22 exchange and interexchange services, provided as a business service. Upon
23 written notice to the commission, a telecommunications company may
24 withdraw any rate list, tariff, or contract not required to be filed
25 under this subdivision if the telecommunications company posts the rates,
26 terms, and conditions of its telecommunications service on the company's

27 web site.

28 (2)(a) A telecommunications company shall be deemed a competitive
29 local provider pursuant to this subsection and its telecommunications
30 services exempt from regulation pursuant to subdivision (1)(c) of section
31 86-124 in any geographic area defined by that company's telephone
1 exchange boundary. (2) Local competition shall be deemed to exist in an
2 exchange if a telecommunications company files an application with the
3 commission requesting a determination as to whether local competition
4 exists in one or more exchanges specified in the application and the
5 commission enters an order after public notice and a hearing which
6 determines that local competition exists in such exchange or exchanges.
7 Notwithstanding any other provision of the Nebraska Telecommunications
8 Regulation Act, the commission may consider any wireless
9 telecommunications service provided in the exchange or exchanges when
10 determining whether local competition exists.

11 (b) A telecommunications company shall be deemed a competitive local
12 provider in a telephone exchange if it files a verified statement with
13 the commission that one of the following conditions exists with respect
14 to the exchange designated by the telecommunications company in its
15 verified statement: (i) The number of active residential local exchange
16 telecommunications subscribers it then serves constitutes fifty percent
17 or less of the total number of households, as determined by the United
18 States Bureau of the Census or other federal agency, located in the
19 exchange or (ii) at least sixty percent of the total number of
20 households, as determined by the United States Bureau of the Census or
21 other federal agency, in the exchange can choose voice service
22 communications capability from among two or more other unaffiliated
23 providers. Within ninety days after receipt of the telecommunication
24 company's verified statement, the commission shall review the information
25 provided in the verified statement, and upon failure of the commission
26 within ninety days after receipt of the verified statement to determine
27 that both of the conditions in subdivisions (2)(b)(i) and (ii) of this
28 section are not met, the telecommunications company that filed the
29 verified statement shall be deemed a competitive local provider in the
30 exchange designated in its verified statement. Notwithstanding any other
31 provision of the Nebraska Telecommunications Regulation Act, in
1 determining whether at least sixty percent of the total number of
2 households, as determined by the United States Bureau of the Census or
3 other federal agency, in an exchange can choose voice service
4 communications capability from among two or more other unaffiliated
5 providers, the commission shall include the availability of all types of
6 voice communications service offered by unaffiliated providers,
7 regardless of the technology employed and the regulatory classification
8 of such other providers under state or federal law, including, without
9 limitation, wireless service, satellite service, and voice over Internet
10 protocol service in the exchange.
11 (3) Notwithstanding anything in Chapter 75 or Chapter 86 to the
12 contrary, no exchange in which the incumbent telecommunications company
13 has been deemed a competitive local provider pursuant to subsection (2)

14 of this section shall receive support for voice services under any high-
15 cost program of the Nebraska Telecommunications Universal Service Act.
16 The commission shall reallocate any support for voice services previously
17 accruing to an exchange in which the incumbent telecommunications company
18 has been deemed a competitive local provider to the high-cost program for
19 redistribution to telecommunications companies, including the incumbent
20 telecommunications company, for the deployment of advanced services in
21 unserved rural areas of the state. Only that portion of support that the
22 commission has allocated to ongoing expenses to an exchange deemed
23 competitive shall be subject to reallocation. The amount of support to be
24 reallocated shall be the original amount geographically allocated by the
25 commission to the exchange as adjusted to reflect the change in the
26 original amount of total annual support received by the incumbent
27 telecommunications company compared to the total annual support for
28 ongoing expenses received by the telecommunications company immediately
29 prior to the date it is deemed a local competitive provider, while
30 ensuring that the exchange's proportion of support for ongoing expenses
31 is the same as the proportion of total support the exchange originally
1 received. The notice of the hearing on the telecommunications company's
2 application shall be given once each week for two consecutive weeks in a
3 newspaper of general circulation in the affected area and shall state
4 that a determination of local competition may result in the freeing of
5 the telecommunications company from rate regulation by the commission.
6 The notice of the hearing on the commission's motion shall be sent to the
7 telecommunications company by certified mail, return receipt requested,
8 and notice of such hearing shall be published in a newspaper of general
9 circulation in the exchange area. The hearing on the commission's motion
10 shall be held no sooner than ten days after the receipt of notice by the
11 telecommunications company.
12 (4) The commission may, on its own motion at any time after a
13 determination as to whether local competition exists, reexamine and
14 redetermine the determination after notice and a hearing on the issue.
15 Sec. 10. Section 86-144, Reissue Revised Statutes of Nebraska, is
16 amended to read:
17 86-144 In exchanges in which the incumbent telecommunications
18 company has not been deemed a competitive local provider pursuant to
19 subsection (2) or (3) of section 86-143 (1)(a) Except as provided in
20 subdivision (b) of this subsection, in an exchange in which local
21 competition does not exist, telecommunications companies shall file rate
22 lists which, for all telecommunications service not exempt from
23 commission regulation by section 86-124. The rate lists except for basic
24 local exchange rates, shall be effective after ten days' notice to the
25 commission. (b) Notwithstanding any other provision of Chapter 86, a
26 telecommunications company shall not be required to file rate lists,
27 tariffs, or contracts for any telecommunications service, including local
28 exchange and interexchange services, provided as a business service. Upon
29 written notice to the commission, a telecommunications company may
30 withdraw any rate list, tariff, or contract not required to be filed
31 under this section subdivision if the telecommunications company posts

1 the rates, terms, and conditions of its telecommunications service on the
2 company's web site.
3 ~~(2) In an exchange in which local competition does not exist, basic~~
4 ~~local exchange rates may be increased by a telecommunications company~~
5 ~~only after ninety days' notice to all affected subscribers. Such notice~~
6 ~~of increase shall include (a) the reasons for the rate increase, (b) a~~
7 ~~description of the affected telecommunications service, (c) an~~
8 ~~explanation of the right of the subscriber to petition the commission for~~
9 ~~a public hearing on the rate increase, (d) a list of exchanges which are~~
10 ~~affected by the proposed rate increase, and (e) the dates, times, and~~
11 ~~places for the public informational meetings required by this section.~~
12 ~~(3) A telecommunications company which proposes to increase its~~
13 ~~basic local exchange rates shall hold at least one public informational~~
14 ~~meeting in each public service commissioner district as established by~~
15 ~~section 75-101.01 in which there is an exchange affected by the proposed~~
16 ~~rate increase.~~
17 Sec. 11. Nothing in the Nebraska Telecommunications Regulation Act
18 as amended by this legislative bill shall be construed to affect sections
19 86-133 and 86-134 or the commission's oversight authority over 911
20 service.
21 Sec. 12. Original sections 86-101, 86-103, 86-123, 86-124, 86-143,
22 and 86-144, Reissue Revised Statutes of Nebraska, are repealed.
23 Sec. 13. The following sections are outright repealed: Sections
24 86-145, 86-146, 86-147, and 86-148, Reissue Revised Statutes of Nebraska.

MESSAGE(S) FROM THE GOVERNOR

March 6, 2019

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1, 2, 3, 12e, 33e, 33Ae, 49, 67, 77, and 79e were received in my office on February 28, 2019.

These bills were signed and delivered to the Secretary of State on March 6, 2019.

(Signed) Sincerely,
Pete Ricketts
Governor

AMENDMENT(S) - Print in Journal

Senator Bolz filed the following amendment to LB481:

AM614

1 1. Strike original section 1 and insert the following new section:

2 Section 1. The Department of Health and Human Services shall

3 administer the Federal Title X Program in accordance with applicable

4 federal regulations in existence as of the effective date of this act.

UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Senator Wayne name added to LB104.

Senator B. Hansen name added to LB304.

Senator Cavanaugh name added to LB518.

VISITOR(S)

Visitors to the Chamber were students and sponsors from Heritage Elementary School, Bennington; Will Kathrein from Omaha; students and teacher from Lincoln Northeast High School; students from Pershing Elementary School, Lexington; students from Waverly Middle School; and members from the Civic Nebraska Leadership Academy.

The Doctor of the Day was Dr. Gilbert Head from Elkhorn.

ADJOURNMENT

At 11:42 a.m., on a motion by Senator Hilgers, the Legislature adjourned until 9:00 a.m., Thursday, March 7, 2019.

Patrick J. O'Donnell
Clerk of the Legislature