

SIXTIETH DAY - APRIL 16, 2019**LEGISLATIVE JOURNAL****ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION****SIXTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 16, 2019

PRAYER

The prayer was offered by Pastor Rodney Hinrichs, missionary with Reaching the Unreached, Lincoln.

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 Senator Hughes who was excused; and Senators Groene, Linehan, Morfeld, Pansing Brooks, and Wayne who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-ninth day was approved.

GENERAL FILE

LEGISLATIVE BILL 693. Title read. Considered.

Senator Halloran offered his amendment, AM305, found on page 526.

Senator Hunt offered the following amendment to the Halloran amendment:
AM1289

(Amendments to AM305)

1 1. On page 1, line 13, strike "or"; and in line 15 after
2 "manipulation" insert "; or
3 (c) To any provider of telecommunications services, broadband
4 services, or Internet services, as those terms are defined in section
5 86-593, if such provider is acting in a manner that is authorized or
6 required by federal law".

Senator Chambers moved for a call of the house. The motion prevailed with 21 ayes, 8 nays, and 20 not voting.

Senator Chambers requested a roll call vote on the Hunt amendment.

Voting in the affirmative, 29:

Albrecht	DeBoer	Howard	McDonnell	Stinner
Arch	Dorn	Hunt	Morfeld	Vargas
Blood	Friesen	Kolowski	Murman	Walz
Brandt	Gragert	Kolterman	Pansing Brooks	Williams
Cavanaugh	Hansen, M.	Lindstrom	Quick	Wishart
Crawford	Hilkemann	McCollister	Scheer	

Voting in the negative, 11:

Bostelman	Clements	Hilgers	Moser
Brewer	Erdman	Lathrop	Slama
Briese	Halloran	Low	

Present and not voting, 6:

Chambers	Groene	La Grone
Geist	Hansen, B.	Linehan

Excused and not voting, 3:

Bolz	Hughes	Wayne
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The Hunt amendment was adopted with 29 ayes, 11 nays, 6 present and not voting, and 3 excused and not voting.

The Halloran amendment, as amended, was adopted with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Chambers requested a record vote on the advancement of the bill.

Voting in the affirmative, 40:

Albrecht	Crawford	Halloran	Kolterman	Pansing Brooks
Arch	DeBoer	Hansen, B.	La Grone	Scheer
Blood	Dorn	Hansen, M.	Linehan	Slama
Bostelman	Erdman	Hilgers	Low	Stinner
Brandt	Friesen	Hilkemann	McCollister	Vargas
Brewer	Geist	Howard	McDonnell	Walz
Briese	Gragert	Hunt	Moser	Williams
Clements	Groene	Kolowski	Murman	Wishart

Voting in the negative, 1:

Chambers

Present and not voting, 5:

Cavanaugh Lathrop Lindstrom Morfeld Quick

Excused and not voting, 3:

Bolz Hughes Wayne

Advanced to Enrollment and Review Initial with 40 ayes, 1 nay, 5 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 237. Title read. Considered.

Committee AM676, found on page 872, was offered.

Senator Crawford withdrew her amendment, AM943, found on page 976.

Senator Crawford offered her amendment, AM1319, found on page 1177, to the committee amendment.

The Crawford amendment was adopted with 33 ayes, 2 nays, 12 present and not voting, and 2 excused and not voting.

The committee amendment, as amended, was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Senator Albrecht offered the following amendment:

FA47

On page 6, line 22 change seventy-five percent with "50% (fifty percent)" and on page 6, line 23 change twenty-five percent with "50% (fifty percent)".

Pending.

UNANIMOUS CONSENT - Add Cointroducer(s)

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

Senator Slama name added to LB693.

Senator Blood name added to LB693.

VISITOR(S)

Visitors to the Chamber were students from Pawnee City Elementary School; students from Pine Creek Elementary School, Bennington; students from Shelby-Rising City Public Schools; members of UNO's Young Southeast Asian Leaders Initiative from 11 different Southeast Asian

countries; students from Stoddard Elementary School, Beatrice; and students from Diller-Odell Elementary School.

RECESS

At 11:47 a.m., on a motion by Senator Walz, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Scheer presiding.

ROLL CALL

The roll was called and all members were present except Senators Blood and Hughes who were excused; and Senators Bolz, Briese, Clements, B. Hansen, Morfeld, and Stinner who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 237. Senator Albrecht renewed her amendment, FA47, found in this day's Journal.

SENATOR WILLIAMS PRESIDING

Senator Erdman moved for a call of the house. The motion prevailed with 24 ayes, 4 nays, and 21 not voting.

The Albrecht amendment lost with 21 ayes, 6 nays, 12 present and not voting, and 10 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 6 nays, 8 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 237A. Title read. Considered.

Senator Crawford offered her amendment, AM1320, found on page 1177.

The Crawford amendment was adopted with 26 ayes, 6 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 5 nays, 14 present and not voting, and 4 excused and not voting.

AMENDMENT(S) - Print in Journal

Senator Friesen filed the following amendment to LB356:
AM1325

(Amendments to AM1167)

- 1 1. On page 34, line 3; and page 36, line 22, after "tons" insert "or
- 2 a commercial truck or truck-tractor with a gross weight of five tons or
- 3 over".
- 4 2. On page 35, line 8, strike "other than the vehicle" and insert
- 5 "or trailer other than the motor vehicle or trailer"; and in lines 9 and
- 6 11 strike "vehicle" and insert "motor vehicle or trailer".
- 7 3. On page 36, line 24, after the period insert "The license plates
- 8 shall be issued upon payment of the license fee described in subsection
- 9 (2) of this section".
- 10 4. On page 36, line 30; and page 39, line 16, strike "them" and
- 11 insert "such fees".
- 12 5. On page 37, lines 15, 21, and 24; and page 39, lines 1 and 2,
- 13 strike "or trailer" and insert ", trailer, or semitrailer".
- 14 6. On page 38, after line 4, insert the following new subsection:
- 15 "(5) If the cost of manufacturing Prostate Cancer Awareness Plates
- 16 at any time exceeds the amount charged for license plates pursuant to
- 17 section 60-3.102, any money to be credited to the University of Nebraska
- 18 Medical Center for the Nebraska Prostate Cancer Research Program shall
- 19 instead be credited first to the Highway Trust Fund in an amount equal to
- 20 the difference between the manufacturing costs of Prostate Cancer
- 21 Awareness Plates and the amount charged pursuant to section 60-3.102 with
- 22 respect to such plates and the remainder shall be credited to the
- 23 University of Nebraska Medical Center for the Nebraska Prostate Cancer
- 24 Research Program".

GENERAL FILE

LEGISLATIVE BILL 496. Title read. Considered.

Committee AM787, found on page 891, was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Senator Wayne withdrew his amendment, AM750, found on page 873.

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

COMMITTEE REPORT(S)

Enrollment and Review

LEGISLATIVE BILL 138. Placed on Select File with amendment.
ER86 is available in the Bill Room.

(Signed) Julie Slama, Chairperson

GENERAL FILE

LEGISLATIVE BILL 375. Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 610. Title read. Considered.

Committee AM917, found on page 982, was offered.

Senator Wishart offered the following amendment to the committee amendment:

AM1365

(Amendments to Standing Committee amendments, AM917)

1 1. Insert the following new section:

2 Sec. 10. (1) Beginning January 1, 2022, there is hereby established
3 the College Savings Plan Low-Income Matching Scholarship Program. The
4 purpose of the program is to encourage contributions to accounts
5 established under the Nebraska educational savings plan trust for the
6 benefit of individuals with limited means. The State Treasurer shall
7 implement and administer the program.

8 (2) A participant shall be eligible for the program if the
9 beneficiary for whom contributions are made is part of a family whose
10 household income for the most recently completed taxable year is not more
11 than two hundred fifty percent of the federal poverty level.

12 (3) Applications for participation in the program shall be submitted
13 to the State Treasurer on forms prescribed by the State Treasurer. If the
14 requirements of subsection (2) of this section are met, the State
15 Treasurer shall approve the application and notify the applicant of the
16 approval. The State Treasurer may approve applications until the annual
17 limit provided in subsection (7) of this section has been reached.

18 (4) Any participant who is approved for the program under subsection
19 (3) of this section must resubmit an application each year thereafter and
20 be reappraised in order to continue participation in the program.

21 (5) If a participant is approved for the program, any contribution
22 made by such participant under the program shall be matched with
23 scholarship funds provided by the State of Nebraska. The matching
24 scholarship shall be equal to:

25 (a) One hundred percent of the participant's contribution if the
26 beneficiary for whom the contribution is made is part of a family whose
1 household income for the most recently completed taxable year is more
2 than two hundred percent of the federal poverty level but not more than
3 two hundred fifty percent of the federal poverty level, not to exceed one
4 thousand dollars annually; or

5 (b) Two hundred percent of the participant's contribution if the
6 beneficiary for whom the contribution is made is part of a family whose
7 household income for the most recently completed taxable year is not more

- 8 than two hundred percent of the federal poverty level, not to exceed one
 9 thousand dollars annually.
 10 (6) Between January 1 and January 31 of each year, the State
 11 Treasurer shall transfer from the General Fund to the College Savings
 12 Incentive Cash Fund the amount necessary to meet the matching obligations
 13 of this section for the preceding calendar year, minus the amount of any
 14 private contributions received pursuant to subsection (1) of section 8 of
 15 this act during the preceding calendar year. The State Treasurer shall
 16 then transfer from the College Savings Incentive Cash Fund to the College
 17 Savings Plan Program Fund the amount necessary to meet the matching
 18 obligations of this section for the preceding calendar year. Such amount
 19 shall be deposited into the appropriate accounts of the participants
 20 making contributions under the program.
 21 (7) The State Treasurer may approve a total of two hundred fifty
 22 thousand dollars of scholarships each calendar year under the College
 23 Savings Plan Low-Income Matching Scholarship Program.
 24 2. On page 1, line 10; page 6, line 17; page 10, line 26; page 11,
 25 line 31; page 12, line 30; page 13, line 18; page 14, lines 6 and 7; page
 26 16, lines 1 and 26; and page 18, line 2, strike "and 9" and insert "to
 27 10".
 28 3. On page 11, line 14, strike "or", show as stricken, and insert an
 29 underscored comma; and in line 17 after "entity" insert ", or (c) a
 30 distribution from an account to pay the costs of attending kindergarten
 31 through grade twelve".
 1 4. On page 18, line 12, after "act" insert "and to provide matching
 2 scholarships under the College Savings Plan Low-Income Matching
 3 Scholarship Program established in section 10 of this act. The State
 4 Treasurer shall accept contributions from any private individual or
 5 entity and shall credit all such contributions received to the College
 6 Savings Incentive Cash Fund for the purpose of providing an ongoing
 7 source of funding for the College Savings Plan Low-Income Matching
 8 Scholarship Program".
 9 5. Renumber the remaining section accordingly.

Senator Wishart moved for a call of the house. The motion prevailed with 24 ayes, 3 nays, and 22 not voting.

The Wishart amendment was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Senator Linehan withdrew her amendment, AM481, found on page 775.

Senator Lindstrom withdrew his amendment, AM701, found on page 813.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 550. Title read. Considered.

Committee AM530, found on page 946, was offered.

Senator Vargas offered the following amendment to the committee amendment:

AM1373

(Amendments to Standing Committee amendments, AM530)

1 1. On page 1, line 3, strike "any tax or fee related to" and insert
 2 "an occupation tax on"; in lines 5, 10, 14 and 15, 16, 17, and 18, strike
 3 "or fee"; and in line 18 after the period insert "This section applies to
 4 any occupation tax in existence on the effective date of this act and to
 5 any occupation tax which is set to begin on or after such date. For any
 6 occupation tax in existence on the effective date of this act, the
 7 municipality shall suspend collection of the tax until it has been
 8 approved by the voters in accordance with this section.".

SPEAKER SCHEER PRESIDING

Senator Wayne offered the following motion:

MO65

Bracket until June 6, 2019.

Pending.

AMENDMENT(S) - Print in Journal

Senator Brewer filed the following amendment to LB155:

AM1380

1 1. Strike the original sections and insert the following new
 2 sections:
 3 Section 1. Section 70-1014.02, Reissue Revised Statutes of Nebraska,
 4 is amended to read:
 5 70-1014.02 (1) The Legislature finds that:
 6 (a) Nebraska has the authority as a sovereign state to protect its
 7 land, natural resources, and cultural resources for economic and
 8 aesthetic purposes for the benefit of its residents and future
 9 generations by regulation of energy generation projects;
 10 (b) The unique terrain and ecology of the Nebraska Sandhills provide
 11 an irreplaceable habitat for millions of migratory birds and other
 12 wildlife every year and serve as the home to numerous ranchers and
 13 farmers;
 14 (c) The grasslands of the Nebraska Sandhills and other natural
 15 resources in Nebraska will become increasingly valuable, both
 16 economically and strategically, as the demand for food and energy
 17 increases; and

18 (d) The Nebraska Sandhills are home to priceless archaeological
19 sites of historical and cultural significance to American Indians.
20 ~~(2)(a)~~ ~~(1)(a)~~ A privately developed renewable energy generation
21 facility that meets the requirements of this section is exempt from
22 sections 70-1012 to 70-1014.01 if no less than thirty days prior to the
23 commencement of construction the owner of the facility:
24 (i) Notifies the board in writing of its intent to commence
25 construction of a privately developed renewable energy generation
26 facility;
27 (ii) Certifies to the board that the facility will meet the
1 requirements for a privately developed renewable energy generation
2 facility;
3 (iii) Certifies to the board that the private electric supplier will
4 (A) comply with any decommissioning requirements adopted by the local
5 governmental entities having jurisdiction over the privately developed
6 renewable energy generation facility and (B) except as otherwise provided
7 in subdivision (b) of this subsection, submit a decommissioning plan to
8 the board obligating the private electric supplier to bear all costs of
9 decommissioning the privately developed renewable energy generation
10 facility and requiring that the private electric supplier post a security
11 bond or other instrument, no later than the tenth year following
12 commercial operation, securing the costs of decommissioning the facility
13 and provide a copy of the bond or instrument to the board;
14 (iv) Certifies to the board that the private electric supplier has
15 entered into or prior to commencing construction will enter into a joint
16 transmission development agreement pursuant to subdivision (c) of this
17 subsection with the electric supplier owning the transmission facilities
18 of sixty thousand volts or greater to which the privately developed
19 renewable energy generation facility will interconnect; and
20 (v) Certifies to the board that the private electric supplier has
21 consulted with the Game and Parks Commission to identify potential
22 measures to avoid, minimize, and mitigate impacts to species identified
23 under subsection (1) or (2) of section 37-806 during the project planning
24 and design phases, if possible, but in no event later than the
25 commencement of construction.
26 (b) The board may bring an action in the name of the State of
27 Nebraska for failure to comply with subdivision (a)(iii)(B) of this
28 subsection. Subdivision (a)(iii)(B) of this subsection does not apply if
29 a local government entity with the authority to create requirements for
30 decommissioning has enacted decommissioning requirements for the
31 applicable jurisdiction.
1 (c) The joint transmission development agreement shall address
2 construction, ownership, operation, and maintenance of such additions or
3 upgrades to the transmission facilities as required for the privately
4 developed renewable energy generation facility. The joint transmission
5 development agreement shall be negotiated and executed contemporaneously
6 with the generator interconnection agreement or other directives of the
7 applicable regional transmission organization with jurisdiction over the
8 addition or upgrade of transmission, upon terms consistent with prudent

9 electric utility practices for the interconnection of renewable
10 generation facilities, the electric supplier's reasonable transmission
11 interconnection requirements, and applicable transmission design and
12 construction standards. The electric supplier shall have the right to
13 purchase and own transmission facilities as set forth in the joint
14 transmission development agreement. The private electric supplier of the
15 privately developed renewable energy generation facility shall have the
16 right to construct any necessary facilities or improvements set forth in
17 the joint transmission development agreement pursuant to the standards
18 set forth in the agreement at the private electric supplier's cost.

19 ~~(3)~~ ~~(2)~~ Within ten days after receipt of a written notice complying
20 with subsection ~~(2)~~ ~~(1)~~ of this section, the executive director of the
21 board shall issue a written acknowledgment that the privately developed
22 renewable energy generation facility is exempt from sections 70-1012 to
23 70-1014.01.

24 ~~(4)~~ ~~(3)~~ The exemption allowed under this section for a privately
25 developed renewable energy generation facility shall extend to and exempt
26 all private electric suppliers owning any interest in the facility,
27 including any successor private electric supplier which subsequently
28 acquires any interest in the facility.

29 ~~(5)~~ ~~(4)~~ No property owned, used, or operated as part of a privately
30 developed renewable energy generation facility shall be subject to
31 eminent domain by a consumer-owned electric supplier operating in the
1 State of Nebraska. Nothing in this section shall be construed to grant
2 the power of eminent domain to a private electric supplier or limit the
3 rights of any entity to acquire any public, municipal, or utility right-
4 of-way across property owned, used, or operated as part of a privately
5 developed renewable energy generation facility as long as the right-of-
6 way does not prevent the operation of or access to the privately
7 developed renewable energy generation facility.

8 ~~(6)~~ ~~(5)~~ Only a consumer-owned electric supplier operating in the
9 State of Nebraska may exercise eminent domain authority to acquire the
10 land rights necessary for the construction of transmission lines and
11 related facilities. ~~There is a rebuttable presumption that the~~ ~~The~~
12 exercise of eminent domain to provide needed transmission lines and
13 related facilities for a privately developed renewable energy generation
14 facility is a public use.

15 ~~(7)~~ ~~(6)~~ Nothing in this section shall be construed to authorize a
16 private electric supplier to sell or deliver electricity at retail in
17 Nebraska.

18 ~~(8)~~ ~~(7)~~ Nothing in this section shall be construed to limit the
19 authority of or require a consumer-owned electric supplier operating in
20 the State of Nebraska to enter into a joint agreement with a private
21 electric supplier to develop, construct, and jointly own a privately
22 developed renewable energy generation facility.

23 Sec. 2. Section 70-1015, Reissue Revised Statutes of Nebraska, is
24 amended to read:
25 70-1015 (1) If any supplier violates Chapter 70, article 10, by
26 either (a) commencing the construction or finalizing or attempting to

27 finalize the acquisition of any generation facilities, any transmission
28 lines, or any related facilities without first providing notice or
29 obtaining board approval, whichever is required, or (b) serving or
30 attempting to serve at retail any customers located in Nebraska or any
31 wholesale customers in violation of section 70-1002.02, such
1 construction, acquisition, or service of such customers shall be enjoined
2 in an action brought in the name of the State of Nebraska until such
3 supplier has complied with Chapter 70, article 10.

4 (2) If the executive director of the board determines that a private
5 electric supplier commenced construction of a privately developed
6 renewable energy generation facility less than thirty days prior to
7 providing the notice required in subdivision ~~(2)(a)~~ ~~(1)(a)~~ of section
8 70-1014.02, the executive director shall send notice via certified mail
9 to the private electric supplier, informing it of the determination that
10 the private electric supplier is in violation of such subdivision and is
11 subject to a fine in the amount of five hundred dollars. The private
12 electric supplier shall have twenty days from the date on which the
13 notice is received in which to submit the notice described in such
14 subdivision and to pay the fine. Within ten days after the private
15 electric supplier submits a notice compliant with ~~the provisions of~~
16 subsection ~~(2)~~ ~~(1)~~ of section 70-1014.02 and payment of the fine, the
17 executive director of the board shall issue the written acknowledgment
18 described in subsection ~~(3)~~ ~~(2)~~ of section 70-1014.02. If the private
19 electric supplier fails to submit a notice compliant with ~~the provisions~~
20 ~~of~~ subsection ~~(2)~~ ~~(1)~~ of section 70-1014.02 and pay the fine within
21 twenty days after the date on which the private electric supplier
22 receives the notice from the executive director of the board, the private
23 electric supplier shall immediately cease construction or operation of
24 the privately developed renewable energy generation facility.

25 (3) If the private electric supplier disputes that construction was
26 commenced less than thirty days prior to submitting the written notice
27 required by subdivision ~~(2)(a)~~ ~~(1)(a)~~ of section 70-1014.02, the private
28 electric supplier may request a hearing before the board. Such request
29 shall be submitted within twenty days after the private electric supplier
30 receives the notice sent by the executive director pursuant to subsection
31 ~~(3)~~ ~~(2)~~ of this section. If the private electric supplier does not accept
1 the certified mail sent pursuant to such subsection, the executive
2 director shall send a second notice to the private electric supplier by
3 first-class United States mail. The private electric supplier may submit
4 a request for hearing within twenty days after the date on which the
5 second notice was mailed.

6 (4) Upon receipt of a request for hearing, the board shall set a
7 hearing date. Such hearing shall be held within sixty days after such
8 receipt. The board shall provide to the private electric supplier written
9 notice of the hearing at least twenty days prior to the date of the
10 hearing. The board or its hearing officer may grant continuances upon
11 good cause shown or upon the request of the private electric supplier.
12 Timely filing of a request for hearing by a private electric supplier
13 shall stay any further enforcement under this section until the board

14 issues an order pursuant to subsection ~~(6)~~ (5) of this section or the
 15 request for hearing is withdrawn.
 16 (5) The board shall issue a written decision within sixty days after
 17 conclusion of the hearing. All costs of the hearing shall be paid by the
 18 private electric supplier if (a) the board determines that the private
 19 electric supplier commenced construction of the privately developed
 20 renewable energy generation facility less than thirty days prior to
 21 submitting the written notice required pursuant to subsection ~~(2)~~ (1) of
 22 section 70-1014.02 or (b) the private electric supplier withdraws its
 23 request for hearing prior to the board issuing its decision.
 24 (6) A private electric supplier which the board finds to be in
 25 violation of the requirements of subsection ~~(2)~~ (1) of section 70-1014.02
 26 shall either (a) pay the fine described in this section and submit a
 27 notice compliant with ~~the provisions of~~ subsection ~~(2)~~ (1) of section
 28 70-1014.02 or (b) immediately cease construction or operation of the
 29 privately developed renewable energy generation facility.
 30 Sec. 3. Original sections 70-1014.02 and 70-1015, Reissue Revised
 31 Statutes of Nebraska, are repealed.

VISITOR(S)

Visitors to the Chamber were Speaker Scheer's neice, Anna Stech, and great-nieces, Sophie and Abby Stech; Marlin Seeman and Eric Melcher, Mayor and City Administrator of Aurora; students from Stoddard Elementary School, Beatrice; and students from Cody Elementary School, North Platte.

The Doctor of the Day was Dr. Chris Snyder from Omaha.

ADJOURNMENT

At 4:48 p.m., on a motion by Senator Dorn, the Legislature adjourned until 9:00 a.m., Wednesday, April 17, 2019.

Patrick J. O'Donnell
 Clerk of the Legislature