

**TWENTY-SECOND DAY - FEBRUARY 8, 2013****LEGISLATIVE JOURNAL****ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION****TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 8, 2013

**PRAYER**

The prayer was offered by Reverend Dr. E. Scott Jones, First Central Congregational Church, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Carlson presiding.

The roll was called and all members were present except Senators Davis and Kintner who were excused; and Senators Conrad, Karpisek, Lautenbaugh, and Schilz who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-first day was approved.

**COMMITTEE REPORTS**

Transportation and Telecommunications

**LEGISLATIVE BILL 398.** Placed on General File.

(Signed) Annette Dubas, Chairperson

Executive Board

**LEGISLATIVE RESOLUTION 1CA.** Indefinitely postponed.

**LEGISLATIVE RESOLUTION 31.** Reported to the Legislature for further consideration.

(Signed) John Wightman, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Agriculture

Room 2102

Tuesday, March 5, 2013 1:30 p.m.

LB287

LB288

LB636

Tuesday, March 12, 2013 1:30 p.m.

LB339

(Signed) Ken Schilz, Chairperson

Nebraska Retirement Systems

Room 1525

Wednesday, February 20, 2013 12:00 p.m.

LB321

LB263

Thursday, February 28, 2013 12:00 p.m.

LB138

LB77

Tuesday, March 5, 2013 12:00 p.m.

LB552

LB594

Wednesday, March 27, 2013 12:00 p.m.

Presentation of Annual Reports: Nebraska Public Employees Retirement  
Systems and Nebraska Investment Council

(Signed) Jeremy Nordquist, Chairperson

**CONFLICT OF INTEREST STATEMENT**

Pursuant to Rule 1, Sec. 19, Senator Sullivan has filed a Potential Conflict of Interest Statement under the Nebraska Political Accountability and Disclosure Act. The statement is on file in the Clerk of the Legislature's Office.

## REPORTS

Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website at:  
<http://www.nebraskalegislature.gov/agencies/view.php>

### REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 7, 2013, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
 Clerk of the Legislature

Bromm, Curt of Bromm & Associates, LLC  
 Omaha Steel  
 Bruning, Deonne  
 Windstream Communications  
 Courtney, Robert M. (deceased)  
 AARP (Withdrawn 02/01/2013)  
 Evans, Ian  
 Home Depot, The  
 O'Hara Lindsay & Associates, Inc.  
 Experian Information Solutions, Inc.  
 Peetz & Company  
 GeneSeek, a Neogen Corporation Company  
 Lozier Corporation  
 Phillips Manufacturing Co.  
 Peters, William E.  
 Railway Supply Institute  
 Reiser, Richard S.  
 Werner Enterprises, Inc. and Subsidiaries  
 Whitaker, George  
 CNH Case New Holland, Inc.

### MOTIONS - Approve Appointments

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 384:

Board of Emergency Medical Services  
 Gary (Randy) Boldt  
 Michael Miller

Voting in the affirmative, 31:

Adams	Cook	Johnson	Nelson	Wallman
Avery	Crawford	Kolowski	Pirsch	Watermeier
Bloomfield	Gloor	Krist	Scheer	Wightman
Bolz	Hadley	Larson	Schumacher	
Brasch	Hansen	Lathrop	Seiler	
Campbell	Harms	McGill	Smith	
Carlson	Howard	Murante	Sullivan	

Voting in the negative, 0.

Present and not voting, 12:

Ashford	Coash	Harr, B.	Mello
Chambers	Dubas	Janssen	Nordquist
Christensen	Haar, K.	McCoy	Price

Excused and not voting, 6:

Conrad	Karpisek	Lautenbaugh
Davis	Kintner	Schilz

The appointments were confirmed with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Senator Campbell moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 384:

Foster Care Advisory Committee  
 Sheree Keely  
 Craig Timm

Voting in the affirmative, 30:

Adams	Carlson	Haar, K.	Kolowski	Schumacher
Avery	Christensen	Hadley	Krist	Seiler
Bloomfield	Conrad	Hansen	Lathrop	Smith
Bolz	Cook	Harms	McGill	Sullivan
Brasch	Crawford	Howard	Pirsch	Wallman
Campbell	Gloor	Johnson	Scheer	Watermeier

Voting in the negative, 0.

Present and not voting, 12:

Ashford	Harr, B.	McCoy	Nordquist
Chambers	Janssen	Mello	Price
Coash	Larson	Nelson	Wightman

Excused and not voting, 7:

Davis	Karpisek	Lautenbaugh	Schilz
Dubas	Kintner	Murante	

The appointments were confirmed with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 7.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 156.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 225.** Title read. Considered.

Committee AM90, found on page 363, was adopted with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

### ANNOUNCEMENT

The Chair announced February 9 is Senator Smith's birthday.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 250.** Placed on Select File with amendment.  
ER5

- 1 1. On page 11, line 9, strike "subsection" and insert
- 2 "subsections".

**LEGISLATIVE BILL 67.** Placed on Select File with amendment.  
ER8 is available in the Bill Room.

**LEGISLATIVE BILL 164.** Placed on Select File.

**LEGISLATIVE BILL 210.** Placed on Select File with amendment.  
ER7

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 1-101, Uniform Commercial Code,

4 Revised Statutes Cumulative Supplement, 2012, is amended to read:

5 1-101 Short titles.

6 (a) Sections 1-101 to 10-103 and section 4 of this act

7 may be cited as the Uniform Commercial Code.

8 (b) This article may be cited as Uniform Commercial

9 Code-General Provisions.

10 Sec. 2. Section 9-101, Uniform Commercial Code, Reissue

11 Revised Statutes of Nebraska, is amended to read:

12 9-101 Short title.

13 This article and section 4 of this act may be cited as

14 Uniform Commercial Code - Secured Transactions.

15 Sec. 3. Section 9-510, Uniform Commercial Code, Reissue

16 Revised Statutes of Nebraska, is amended to read:

17 9-510 Effectiveness of filed record.

18 (a) A filed record is effective only to the extent that  
19 it was filed by a person that may file it under section 9-509 or by  
20 the filing office under section 9-513A.

21 (b) A record authorized by one secured party of record  
22 does not affect the financing statement with respect to another  
23 secured party of record.

1 (c) A continuation statement that is not filed within the  
2 six-month period prescribed by section 9-515(d) is ineffective.

3 Sec. 4. The Uniform Commercial Code is amended by adding  
4 new section:

5 9-513A Unauthorized financing statement filings;  
6 procedures; remedies.

7 (a) An individual personally, or as a representative  
8 of an organization, may file in the filing office a notarized  
9 affidavit, signed under penalty of perjury, that identifies a filed  
10 financing statement and states that:

11 (1) the individual or organization is identified as a  
12 debtor in the financing statement;

13 (2) the financing statement was not filed by a financial  
14 institution or a representative of a financial institution or by an  
15 agricultural input supplier or a representative of an agricultural  
16 input supplier; and

17 (3) the financing statement was filed by a person not  
18 entitled to do so under section 9-509, 9-708, or 9-808.

19 (b) An affidavit filed under subsection (a) shall include  
20 any pertinent information that the office of the Secretary of State  
21 may reasonably require.

22 (c) An affidavit may not be filed under subsection

23 (a) with respect to a financing statement filed by a financial  
24 institution or a representative of a financial institution or by an  
25 agricultural input supplier or a representative of an agricultural  
26 input supplier.

27 (d) If an affidavit is filed under subsection (a), the  
1 filing office may file a termination statement with respect to the  
2 financing statement identified in the affidavit. The termination

3 statement must indicate that it was filed pursuant to this section.  
4 Except as provided in subsections (g) and (h), a termination  
5 statement filed under this subsection shall take effect thirty days  
6 after it is filed.

7 (e) On the same day that the filing office files a  
8 termination statement under subsection (d), it shall send to each  
9 secured party of record identified in the financing statement a  
10 notice advising the secured party of record that the termination  
11 statement has been filed. The notice shall be sent by certified  
12 mail, return receipt requested, to the mailing address provided for  
13 the secured party of record.

14 (f) A secured party of record identified in a financing  
15 statement as to which a termination statement has been filed under  
16 subsection (d) may bring an action within twenty business days  
17 after the termination statement is filed against the individual who  
18 filed the affidavit under subsection (a) seeking a determination as  
19 to whether the financing statement was filed by a person entitled  
20 to do so under section 9-509, 9-708, or 9-808. An action under this  
21 subsection shall have priority on the court's calendar and shall  
22 proceed by expedited hearing. The action shall be brought in the  
23 district court of the county where the filing office in which the  
24 financing statement was filed is located.

25 (g) In an action brought pursuant to subsection (f), a  
26 court may, in appropriate circumstances, order preliminary relief,  
27 including, but not limited to, an order precluding the termination  
1 statement from taking effect or directing a party to take action  
2 to prevent the termination statement from taking effect. If the  
3 court issues such an order and the filing office receives a  
4 certified copy of the order before the termination statement  
5 takes effect, the termination statement shall not take effect  
6 and the filing office shall promptly file an amendment to the  
7 financing statement that indicates that an order has prevented the  
8 termination statement from taking effect. If such an order ceases  
9 to be effective by reason of a subsequent order or a final judgment  
10 of the court or by an order issued by another court and the filing  
11 office receives a certified copy of the subsequent judgment or  
12 order, the termination statement shall become immediately effective  
13 upon receipt of the certified copy and the filing office shall  
14 promptly file an amendment to the financing statement indicating  
15 that the termination statement is effective.

16 (h) If a court determines in an action brought pursuant  
17 to subsection (f) that the financing statement was filed by a  
18 person entitled to do so under section 9-509, 9-708, or 9-808 and  
19 the filing office receives a certified copy of the court's final  
20 judgment or order before the termination statement takes effect,  
21 the termination statement shall not take effect and the filing  
22 office shall remove the termination statement and any amendments  
23 filed under subsection (g) from the files. If the filing office  
24 receives the certified copy after the termination statement takes

25 effect and within thirty days after the final judgment or order was  
26 entered, the filing office shall promptly file an amendment to the  
27 financing statement that indicates that the financing statement has  
1 been reinstated.

2 (i) Except as provided in subsection (j), upon the filing  
3 of an amendment reinstating a financing statement under subsection  
4 (h) the effectiveness of the financing statement is retroactively  
5 reinstated and the financing statement shall be considered never to  
6 have been ineffective against all persons and for all purposes.

7 (j) A financing statement whose effectiveness was  
8 terminated under subsection (d) and has been reinstated under  
9 subsection (h) shall not be effective as against a person that  
10 purchased the collateral in good faith between the time the  
11 termination statement was filed and the time of the filing of the  
12 amendment reinstating the financing statement, to the extent that  
13 the person gave new value in reliance on the termination statement.

14 (k) The filing office shall not charge a fee for the  
15 filing of an affidavit or a termination statement under this  
16 section. The filing office shall not return any fee paid for filing  
17 the financing statement identified in the affidavit, whether or not  
18 the financing statement is subsequently reinstated.

19 (l) Neither the filing office nor any of its employees  
20 shall be subject to liability for the termination or amendment of a  
21 financing statement in the lawful performance of the duties of the  
22 filing office under this section.

23 (m) The Secretary of State shall adopt and make available  
24 a form of affidavit for use under this section.

25 (n) For purposes of this section:

26 (1) Agricultural input supplier means a person regularly  
27 in the business of extending credit to agricultural producers; and

1 (2) Financial institution means a person that is in  
2 the business of extending credit or servicing loans, including  
3 acquiring, purchasing, selling, brokering, or other extensions  
4 of credit and where applicable, holds whatever license, charter,  
5 or registration that is required to engage in such business.  
6 The term includes banks, savings associations, building and loan  
7 associations, consumer and commercial finance companies, industrial  
8 banks, industrial loan companies, insurance companies, investment  
9 companies, installment sellers, mortgage servicers, sales finance  
10 companies, and leasing companies.

11 Sec. 5. Original sections 9-101 and 9-510, Uniform  
12 Commercial Code, Reissue Revised Statutes of Nebraska, and section  
13 1-101, Uniform Commercial Code, Revised Statutes Cumulative  
14 Supplement, 2012, are repealed.

**LEGISLATIVE BILL 40.** Placed on Select File.



**LEGISLATIVE BILL 137.** Placed on Select File with amendment.  
ER6

- 1 1. On page 3, line 22, strike "purpose" and insert
- 2 "purposes".

**LEGISLATIVE BILL 207A.** Placed on Select File.

**LEGISLATIVE BILL 78.** Placed on Select File with amendment.  
ER12

- 1 1. In the Standing Committee amendments, AM104, on page
- 2 16, line 10, after "Nebraska" insert a comma.
- 3 2. On page 1, strike beginning with "2-945.01" in
- 4 line 1 through line 17 and insert "54-1158, 54-1161, 54-1162,
- 5 54-1163, 54-1165, 54-1168, 54-1169, 54-1170, 54-1172, 81-1201.01,
- 6 81-1201.02, 81-1201.03, 81-1361, 81-1368, 81-3607, and 81-3609,
- 7 Reissue Revised Statutes of Nebraska, and sections 81-1201.18,
- 8 81-12,149, 81-12,150, 81-12,155, and 81-12,164, Revised Statutes
- 9 Cumulative Supplement, 2012; to eliminate Nebraska State Airline
- 10 Authority, the Livestock Auction Market Board, the Athletic
- 11 Advisory Committee, the Affirmative Action Committee, the Rural
- 12 Development Commission, and the Economic Development Commission;
- 13 to change and provide powers and duties; to harmonize provisions;
- 14 to repeal the original sections; and to outright repeal sections
- 15 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160, 81-1201.05, 81-1201.06,
- 16 81-1363, 81-1364, 81-1365, 81-1366, 81-3601, 81-3603, and 81-3604,
- 17 Reissue Revised Statutes of Nebraska, and sections 81-8,139.01,
- 18 81-1201.04, 81-3602, and 81-3605, Revised Statutes Cumulative
- 19 Supplement, 2012".
- 20 3. On page 2, strike lines 1 and 2.

**LEGISLATIVE BILL 24.** Placed on Select File.

**LEGISLATIVE BILL 28.** Placed on Select File.

**LEGISLATIVE BILL 29.** Placed on Select File with amendment.  
ER9

- 1 1. On page 1, strike beginning with "provide" in line
- 2 3 through the second semicolon in line 6 and insert "change
- 3 provisions relating to tax lists; to provide a duty for county
- 4 treasurers relating to recording tax assessments and collections;
- 5 to eliminate provisions relating to tax lists and a controlling
- 6 account;".

**LEGISLATIVE BILL 36.** Placed on Select File with amendment.  
ER10

- 1 1. On page 1, line 3, strike "and"; and in line 4 after
- 2 "section" insert "; and to declare an emergency".

**LEGISLATIVE BILL 254.** Placed on Select File.

**LEGISLATIVE BILL 408.** Placed on Select File with amendment.  
ER13

- 1 1. On page 1, line 5, after the semicolon insert "to
- 2 delete obsolete provisions;".

**LEGISLATIVE BILL 135.** Placed on Select File with amendment.  
ER11

- 1 1. On page 1, line 1, strike "85-1506" and insert
- 2 "85-1512"; and strike beginning with "change" in line 2 through the
- 3 semicolon in line 4 and insert "prohibit employment of a member
- 4 of the board of governors by the community college area he or she
- 5 serves;".

**LEGISLATIVE BILL 252.** Placed on Select File.

(Signed) John Murante, Chairperson

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 52.** Introduced by Price, 3; K. Haar, 21; Krist, 10; Smith, 14.

WHEREAS, engineers plan, design, and implement engineering works that propel the nation's economy, enhance our quality of life, and safeguard America's infrastructure; and

WHEREAS, engineers face the major technological challenges of our time - from rebuilding towns devastated by natural disasters to designing an information superhighway that will speed our country into the twenty-first century. Engineers have used their scientific and technical knowledge and skills in creative and innovative ways to fulfill society's needs; and

WHEREAS, engineers are encouraging our young math and science students to realize the practical power of their knowledge; and

WHEREAS, Nebraska will look more than ever to engineers and their knowledge and skills to bridge the gap between science, theory, and practical application to meet the challenges of the future; and

WHEREAS, National Engineers Week was founded in 1951 and is celebrated at the time of George Washington's birthday, who himself was a military engineer and surveyor.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the contributions and achievements of Nebraska's engineers and that the week of February 17th through the 23rd, 2013, be recognized as Engineers Week in Nebraska.

2. That a copy of this resolution be sent to the American Council of Engineering Companies of Nebraska.

Laid over.

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 52.** Placed on General File with amendment.  
AM157

- 1 1. On page 3, strike line 1 and insert "department,
- 2 except that the department shall only use voluntary participation
- 3 by committed persons for any labor services arranged with a
- 4 charitable, fraternal, or nonprofit corporation.".

(Signed) Brad Ashford, Chairperson

**MESSAGES FROM THE GOVERNOR**

February 7, 2013

Mr. President, Speaker Adams  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Adams and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Boiler Safety Code Advisory Board:

Charles Cole, 3651 F Street, Otoe, NE 68417  
Kurt Eberspacher, 4332 W. McKelvie Rd., Lincoln, NE 68524  
Martin Kasl, 6700 Ridge Point Rd., Lincoln, NE 68512  
Kenneth Stewart, 16039 Orchard Circle, Omaha, NE 68135

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

February 7, 2013

Mr. President, Speaker Adams and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President, Speaker Adams and Members of the Legislature:

Please withdraw the appointment of Rhonda Lahm to the Public Employees Retirement Board. Her recent appointment as the Director of the Nebraska Department of Motor Vehicles makes her ineligible to serve at this time.

Contingent upon your approval, the following individual is being appointed to the Public Employees Retirement Board:

Darrell E. Fisher, 510 W. Chancellor Drive, Lincoln, NE 68521

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### **GENERAL FILE**

**LEGISLATIVE BILL 180.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 311.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 211.** Title read. Considered.

Committee AM67, found on page 369, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Senator K. Haar offered his amendment, AM124, found on page 387.

### **SENATOR COASH PRESIDING**

Senator K. Haar withdrew his amendment.

Advanced to Enrollment and Review Initial with 34 ayes, 1 nay, 9 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 70.** Title read. Considered.

Committee AM44, found on page 369, was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 31.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 295.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

**RESOLUTION****LEGISLATIVE RESOLUTION 53.** Introduced by B. Harr, 8.

WHEREAS, Saint Bernard Catholic School will be celebrating its one hundredth anniversary on February 9, 2013; and

WHEREAS, Saint Bernard Catholic School will become the fourth Catholic elementary school in Omaha to celebrate its centennial anniversary; and

WHEREAS, Saint Bernard Catholic School initiated programs such as Individually Guided Education, the use of educational television, and an individually paced science program in the junior high school. Saint Bernard Catholic School was also an early leader in all-day kindergarten and the popular Discipline With Purpose program; and

WHEREAS, Saint Bernard Catholic School has had a legacy of Teacher of the Year award winners, including Arlene Winkler, Ann Adkins, Marcia Regan, Helen Peyton, and Margie Galles; and

WHEREAS, Saint Bernard Catholic School currently is a Rule 10 school accredited with the State Department of Education.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Saint Bernard Catholic School on its one hundredth anniversary.

2. That a copy of this resolution be sent to Saint Bernard Catholic School and its principal, James Daro, Jr.

Laid over.

**UNANIMOUS CONSENT - Room Change**

Senator Schilz asked unanimous consent that the Agriculture Committee conduct its hearing on Tuesday, February 19, 2013, in Room 1524 instead of Room 2102. No objections. So ordered.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB78, LB180, LB225, and LB80. No objections. So ordered.

Senator Johnson asked unanimous consent to add his name as cointroducer to LR29CA. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Tiffany Mytty-Klein from Papillion; members of CADRE Project from UNO and Metro-Omaha districts: Bennington PS, Elkhorn PS, Council Bluffs Community Schools, Millard PS, Papillion La Vista PS, and Springfield Platteview PS; and 25 members of Nebraska State Bar Association Leadership Academy from across the state.

The Doctor of the Day was Dr. Denae Torpey from Bellevue.

**ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Conrad, the Legislature adjourned until 10:00 a.m., Monday, February 11, 2013.

Patrick J. O'Donnell  
Clerk of the Legislature