

EIGHTEENTH DAY - FEBRUARY 4, 2013**LEGISLATIVE JOURNAL****ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION****EIGHTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 4, 2013

PRAYER

The prayer was offered by Father Ernesto Medina, St. Martha's Episcopal Church, Papillion.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Adams presiding.

The roll was called and all members were present except Senators B. Harr and Scheer who were excused; and Senators Lautenbaugh and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventeenth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 279. Placed on Select File with amendment.
ER4

- 1 1. On page 5, line 6, after the second "Islands" insert
- 2 an underscored comma.

LEGISLATIVE BILL 290. Placed on Select File.

LEGISLATIVE BILL 173. Placed on Select File.

LEGISLATIVE BILL 39. Placed on Select File.

LEGISLATIVE BILL 21. Placed on Select File.

(Signed) John Murante, Chairperson

COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 210. Placed on General File with amendment. AM100

- 1 1. On page 3, line 7, strike "(A)" and insert "(1)";
 2 in line 9 strike "(B)" and insert "(2)"; in lines 10 and 15,
 3 after the second occurrence of "institution" insert "or by an
 4 agricultural input supplier or a representative of an agricultural
 5 input supplier"; in line 11 strike "(C)" and insert "(3)"; after
 6 line 12 insert the following new subsection:
 7 "(b) An affidavit filed under subsection (a) shall
 8 include any pertinent information that the office of the Secretary
 9 of State may reasonably require."; in line 13 strike "(b)" and
 10 insert "(c)"; in lines 16 and 24 strike "(c)" and insert "(d)"; in
 11 line 20 strike "(f) and (g)" and insert "(g) and (h)"; and in line
 12 23 strike "(d)" and insert "(e)".
 13 2. On page 4, in lines 5 and 16, strike "(e)" and insert
 14 "(f)"; in line 7 strike "(c)" and insert "(d)"; strike beginning
 15 with the first comma in line 7 through the comma in line 8; and in
 16 line 8 after "action" insert "within twenty business days after the
 17 termination statement is filed"; and in line 16 strike "(f)" and
 18 insert "(g)".
 19 3. On page 5, line 9, strike "(g)" and insert "(h)"; in
 20 line 10 strike "(e)" and insert "(f)"; in line 16, strike "(f)" and
 21 insert "(g)"; in line 21 strike "(h)" and insert "(i)" and strike
 22 "(i)" and insert "(j)"; and in line 23 strike "(g)" and insert
 23 "(h)".
 1 4. On page 6, line 1, strike "(i)" and insert "(j)"; in
 2 line 2 strike "(c)" and insert "(d)"; in line 3 strike "(g)" and
 3 insert "(h)"; in line 8 strike "(j)" and insert "(k)"; in line 13
 4 strike "(k)" and insert "(l)"; in line 17 strike "(l)" and insert
 5 "(m)"; and in line 19 strike "(m)" and insert "(n)" and strike ",
 6 financial" and insert "
 7 (1) Agricultural input supplier means a person regularly
 8 in the business of extending credit to agricultural producers; and
 9 (2) Financial".

(Signed) Mike Gloor, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 40. Placed on General File.

LEGISLATIVE BILL 137. Placed on General File.

LEGISLATIVE BILL 78. Placed on General File with amendment. AM104 is available in the Bill Room.

(Signed) Bill Avery, Chairperson

NOTICE OF COMMITTEE HEARINGS
Banking, Commerce and Insurance

Room 1507

Monday, February 11, 2013 1:30 p.m.

LB80
LB316
LB133

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

LB239
LB479
LB655

Tuesday, February 19, 2013 1:30 p.m.

LB384
LB568
LB59

Monday, February 25, 2013 1:30 p.m.

LB92
LB312
LB614

Tuesday, February 26, 2013 1:30 p.m.

LB218
LB397
LB505
LB71

Monday, March 4, 2013 1:30 p.m.

LB168
LB442
LB621

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

LB205
LB228
LB523

(Signed) Mike Gloor, Chairperson

General Affairs

Room 1510

Monday, February 11, 2013 1:30 p.m.

LB73
LB590
LR41CA
LB642

(Signed) Russ Karpisek, Chairperson

Judiciary

Room 1113

Wednesday, February 13, 2013 1:30 p.m.

LB284
LB461
LB551
LB169
LB482

Thursday, February 14, 2013 1:30 p.m.

LB412
LB280
LB233
LB607
LB611

(Signed) Brad Ashford, Chairperson

AMENDMENT - Print in Journal

Senator McCoy filed the following amendment to LB72:
AM108

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 81-885.21, Revised Statutes Cumulative
- 4 Supplement, 2012, is amended to read:
- 5 81-885.21 (1) Each broker other than an inactive broker
- 6 shall maintain in a bank, savings bank, building and loan
- 7 association, or savings and loan association a separate, insured
- 8 checking account in this state in his or her name or the name
- 9 under which he or she does business which shall be designated a

10 trust account in which all downpayments, earnest money deposits,
11 or other trust funds received by him or her, his or her associate
12 brokers, or his or her salespersons on behalf of his or her
13 principal or any other person shall be deposited and remain until
14 the transaction is closed or otherwise terminated unless all
15 parties having an interest in the funds have agreed otherwise in
16 writing. Until July 1, ~~2014, 2017~~, such trust account may be either
17 an interest-bearing or a non-interest-bearing account. Any broker
18 using an interest-bearing account ~~and, if interest bearing,~~ shall
19 comply with subsection (7) of this section. On and after July
20 1, ~~2014, 2017~~, such trust account shall be a non-interest-bearing
21 account.

22 (2) Each broker shall notify the commission of the
23 name of the bank, savings bank, building and loan association,
1 or savings and loan association in which the trust account is
2 maintained and also the name of the account on forms provided
3 therefor.

4 (3) Each broker shall authorize the commission to examine
5 such trust account by a duly authorized representative of the
6 commission. Such examination shall be made annually or at such time
7 as the commission may direct.

8 (4) A broker may maintain more than one trust account in
9 his or her name or the name under which he or she does business if
10 the commission is advised of such account as required in subsection
11 (2) of this section.

12 (5) In the event a branch office maintains a separate
13 trust account, a separate bookkeeping system shall be maintained in
14 the branch office.

15 (6) A broker shall not be entitled to any part of the
16 earnest money or other money paid to him or her or the entity
17 under which he or she does business in connection with any real
18 estate transaction as part or all of his or her compensation
19 or consideration until the transaction has been consummated or
20 terminated.

21 (7) If the trust account is an interest-bearing account,
22 as authorized under subsection (1) of this section, the interest
23 from the interest-bearing account may only be distributed or
24 otherwise accrue only to nonprofit organizations that promote
25 housing in Nebraska and that are exempt from the payment of federal
26 income taxes. A broker may use an interest-bearing account for
27 a transaction only if the use of such account for purposes of
1 promoting housing in Nebraska has been approved by all parties
2 whose money will be deposited into such account. The commission
3 may further define policies and procedures for the processing of
4 and distributions from interest-bearing trust accounts by rule and
5 regulation.

6 Sec. 2. Original section 81-885.21, Revised Statutes
7 Cumulative Supplement, 2012, is repealed.

COMMITTEE REPORT

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Sean Conway - Nebraska Accountability and Disclosure Commission

Aye: 8 Avery, Bloomfield, Karpisek, Lautenbaugh, Murante, Price, Scheer, Wallman. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Bill Avery, Chairperson

MOTIONS - Approve Appointments

Senator Dubas moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 328:

Motor Vehicle Industry Licensing Board

Paul Gerber
Ricky Pearson
Angela Quinn
Jeff Scherer

Voting in the affirmative, 39:

Adams	Coash	Hansen	Lathrop	Schumacher
Avery	Conrad	Harms	McCoy	Seiler
Bloomfield	Cook	Howard	McGill	Smith
Bolz	Crawford	Johnson	Mello	Sullivan
Brasch	Davis	Karpisek	Nelson	Wallman
Campbell	Dubas	Kintner	Nordquist	Watermeier
Carlson	Gloor	Kolowski	Pirsch	Wightman
Christensen	Haar, K.	Krist	Schilz	

Voting in the negative, 0.

Present and not voting, 5:

Ashford	Chambers	Hadley	Larson	Murante
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Excused and not voting, 5:

Harr, B.	Janssen	Lautenbaugh	Price	Scheer
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The appointments were confirmed with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

Senator Dubas moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 329:

Department of Motor Vehicles
Rhonda Lahm, Director

Voting in the affirmative, 38:

Adams	Coash	Hansen	Lathrop	Seiler
Avery	Conrad	Harms	McCoy	Smith
Bloomfield	Cook	Howard	McGill	Sullivan
Bolz	Crawford	Johnson	Mello	Wallman
Brasch	Davis	Karpisek	Murante	Watermeier
Campbell	Dubas	Kintner	Nordquist	Wightman
Carlson	Gloor	Kolowski	Pirsch	
Chambers	Haar, K.	Krist	Schilz	

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Hadley	Nelson
Christensen	Larson	Schumacher

Excused and not voting, 5:

Harr, B.	Janssen	Lautenbaugh	Price	Scheer
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The appointment was confirmed with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 20. Read. Considered.

LR20 was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR20.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR43 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR43.

NOTICE OF COMMITTEE HEARINGS

Nebraska Retirement Systems

Room 1525

Tuesday, February 12, 2013 12:00 p.m.

LB229

LB305

LB306

Monday, February 25, 2013 9:00 a.m.

Elaine Stuhr - Public Employees Retirement Board

John Conley - Nebraska Investment Council

(Signed) Jeremy Nordquist, Chairperson

AMENDMENT - Print in Journal

Senator K. Haar filed the following amendment to LB91:
AM105

- 1 1. Strike section 3 and insert the following new
- 2 sections:
- 3 Sec. 3. Section 81-3528, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-3528 (1) The practice or offer to practice for others
- 6 of geology by individuals licensed under the Geologists Regulation
- 7 Act through an organization is permitted if the criteria for
- 8 organizational practice established by the board are met and the
- 9 organization has been issued a certificate of authorization by the
- 10 board. All technical submissions by an organization involving the
- 11 practice of geology when issued or filed for public record shall be
- 12 dated and bear the ~~signature and seal~~ of the licensed geologist who
- 13 prepared the submission or under whose immediate direction it was
- 14 prepared.
- 15 (2) An organization desiring a certificate of
- 16 authorization shall file with the board an application, using the
- 17 form provided by the board, which also contains a list of the names
- 18 and addresses of all officers of the organization, duly licensed to

19 practice geology in the state through the organization. Any change
20 in the list of officers during the certificate period shall be
21 designated on the same form and filed with the board within thirty
22 days after the effective date of the change. If the requirements
23 of this section are met, the board shall issue a certificate of

1 authorization to the organization and the organization may contract
2 for and collect fees for furnishing professional services.

3 (3) The Geologists Regulation Act shall not prevent an
4 organization from performing professional services for itself.

5 (4) An organization is not relieved of its responsibility
6 for the conduct or acts of its agents, employees, officers,
7 or partners by reason of its compliance with this section. An
8 individual practicing geology is not relieved of his or her
9 responsibility for services performed by reason of employment or
10 any other relationship with an organization holding a certificate
11 of authorization.

12 (5) Commencing one year after January 1, 1999, the
13 Secretary of State shall not issue a certificate of authority
14 to an applicant or a registration of name to a foreign firm
15 to an organization which includes among the objectives for which
16 it is established geology or any modification or derivation of
17 geology, unless the board has issued the applicant a certificate
18 of authorization or a letter indicating the eligibility of
19 the applicant to receive a certificate of authorization. The
20 organization shall supply the certificate or letter with its
21 application for incorporation or licensure.

22 (6) Commencing one year after January 1, 1999, the
23 Secretary of State shall not register any trade name or service
24 mark which includes the words professional geologist, or any
25 modification or derivative of such word, in its firm name or
26 logotype except to those organizations holding a certificate of
27 authorization issued by the board.

1 (7) The certificate of authorization shall be renewed
2 periodically as required by the board.

3 (8) A geologist who renders occasional, part-time, or
4 consulting services to or for an organization may not for purposes
5 of this section be designated as being responsible for the
6 professional activities of the organization.

7 Sec. 4. Section 81-3529, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-3529 (1) The board shall issue to any applicant
10 who, on the basis of education, experience, and examination, if
11 required pursuant to section 81-3539, has met the requirements
12 of the Geologists Regulation Act a certificate of licensure
13 giving the licensed geologist proper authority to carry out the
14 prerogatives of the act. The certificate of licensure shall carry
15 the designation Licensed Professional Geologist. The certificate of
16 licensure shall give the full name of the licensee and the license
17 number and shall be signed by the chairperson of the board and the

18 secretary of the board.

19 (2) The certificate shall be prima facie evidence
20 that the person is entitled to all rights, privileges, and
21 responsibilities of a professional geologist while the certificate
22 of licensure remains unrevoked and unexpired.

23 (3)(a) Each licensee authorized to practice geology must
24 obtain a seal. ~~It shall be unlawful for a licensee to affix
25 his or her seal and signature or to permit his or her seal and
26 signature to be affixed to any document after the expiration of the
27 certificate of licensure or for the purpose of aiding or abetting~~
1 ~~any other person to evade or attempt to evade any provisions of~~
2 ~~the act. The design of the seal shall be determined by the board.~~
3 The following information shall be on the seal: State of Nebraska;
4 licensee's name; licensee's license number; and the words Licensed
5 Professional Geologist.

6 (b) ~~The seal may be a rubber stamp or may be generated
7 electronically. Whenever the seal is applied, the licensee's
8 written signature and the date shall be across the seal. No further
9 words or wording are required. Electronic signatures applied to
10 electronic seals shall be protected with an electronic revision
11 approval system. Documents without electronic revision approval
12 system protection that are transmitted electronically to a client
13 or a governmental agency shall have the seal removed from the file.~~
14 The electronic media shall have the following inserted in lieu of
15 the seal, signature, and date: The board may adopt and promulgate
16 rules and regulations for application of the seal.

17 ~~This document was originally issued and sealed by (name
18 of sealer), (license number), on (date of sealing). This media
19 should not be considered a certified document.~~

20 (c) ~~The seal, signature, and the date of its placement~~
21 ~~shall be placed on all technical submissions and calculations~~
22 ~~whenever presented to a client or any public or governmental~~
23 ~~agency. It shall be unlawful for a licensee to affix his or her~~
24 ~~seal or to permit his or her seal to be affixed to any document~~
25 ~~after the expiration of the certificate or for the purpose of~~
26 ~~aiding or abetting any other person to evade or attempt to evade~~
27 ~~the act.~~

1 (d) ~~The seal, signature, and date shall be placed on~~
2 ~~all originals, copies, tracings, or other reproducible documents~~
3 ~~in such a manner that the seal, signature, and date will be~~
4 ~~reproduced. The application of the licensee's seal and signature~~
5 ~~shall constitute certification that the work was done by the~~
6 ~~licensee or under the licensee's control. In the case of multiple~~
7 ~~sealings, the first or title page shall be sealed, signed, and~~
8 ~~dated by all involved. In addition, each sheet shall be sealed,~~
9 ~~signed, and dated by the licensee responsible for each sheet. In~~
10 ~~the case of an organization, each sheet shall be sealed, signed,~~
11 ~~and dated by the licensee involved. The geologist in responsible~~
12 ~~charge shall sign, seal, and date the title or first sheet.~~

13 (e) In the case of a temporary permit issued to a
 14 licensee of another state, the licensee shall use his or her
 15 state of licensure seal and shall affix his or her signature and
 16 temporary permit to all his or her work.

17 ~~(f) The design of the seal shall be determined by the~~
 18 ~~board. The following information shall be on the seal: State of~~
 19 ~~Nebraska; licensee's name; licensee's license number; and the words~~
 20 ~~Professional Geologist.~~

21 ~~(g)-(4)~~ The board shall issue to any applicant who, in
 22 the opinion of the board, has met the requirements of the act,
 23 an enrollment card as geologist-intern which indicates that his
 24 or her name has been recorded as such in the board office. The
 25 geologist-intern enrollment card does not authorize the holder to
 26 practice as a professional geologist.

27 Sec. 5. Section 81-3530, Reissue Revised Statutes of
 1 Nebraska, is amended to read:

2 81-3530 (1) A professional geologist shall only use affix
 3 his or her seal and signature when he or she was in responsible
 4 charge of the work, ~~being stamped.~~

5 (2) A professional geologist shall use affix his or her
 6 seal and signature on geologic reports, documents, maps, plans,
 7 logs, and sections, or other public records offered to the public
 8 and prepared or issued by or under the direct supervision of the
 9 professional geologist.

10 2. On page 13, line 17, strike "81-3529" and insert
 11 "81-3528, 81-3529, 81-3530".

12 3. Renumber the remaining sections accordingly.

SENATOR KRIST PRESIDING

GENERAL FILE

LEGISLATIVE BILL 147. Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 213. Title read. Considered.

Senator Schumacher offered the following amendment:

FA2

On page 5, line 18 after "banking" strike "or incidental to such business".

Senator Schumacher withdrew his amendment.

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

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 24. Placed on General File.

LEGISLATIVE BILL 28. Placed on General File.

LEGISLATIVE BILL 29. Placed on General File.

LEGISLATIVE BILL 36. Placed on General File with amendment.
AM42

- 1 1. Insert the following new section:
- 2 Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

(Signed) Galen Hadley, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary

Room 1113

Friday, February 8, 2013 1:30 p.m.

LB360 (cancel)

(Signed) Brad Ashford, Chairperson

Transportation and Telecommunications

Room 1113

Monday, February 11, 2013 1:30 p.m.

LB10
LB189
LB118

(Signed) Annette Dubas, Chairperson

Urban Affairs

Room 1510

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

LB208
LB404
LB529
LR29CA

(Signed) Amanda McGill, Chairperson

MOTION - Print in Journal

Senator Karpisek filed the following motion to LB360:

MO6

Withdraw bill.

UNANIMOUS CONSENT - Add Cointroducers

Senator Karpisek asked unanimous consent to add his name as cointroducer to LB5. No objections. So ordered.

Senator Cook asked unanimous consent to add her name as cointroducer to LB484. No objections. So ordered.

VISITORS

Visitors to the Chamber were 30 FCCLA (Family Career Community Leaders of America) members from across the state; and 12 Home Instead Senior Care franchise owners from across the state.

ADJOURNMENT

At 11:51 a.m., on a motion by Senator McCoy, the Legislature adjourned until 9:00 a.m., Tuesday, February 5, 2013.

Patrick J. O'Donnell
Clerk of the Legislature

