

EIGHTEENTH DAY - FEBRUARY 2, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****EIGHTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 2, 2009

PRAYER

The prayer was offered by Pastor Fred Richart, First United Methodist Church, Auburn.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Avery who was excused; and Senators Christensen and Cornett who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventeenth day was approved.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LR 12 and 13 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 12 and 13.

GENERAL FILE

LEGISLATIVE BILL 158. Title read. Considered.

Committee AM48, found on page 303, was considered.

Pending.

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 184. Placed on General File.

LEGISLATIVE BILL 379. Placed on General File.

(Signed) Chris Langemeier, Chairperson

NOTICE OF COMMITTEE HEARINGS

Education

Room 1525

Monday, February 9, 2009 1:30 p.m.

LB221

LB215

LB578

LB545

Tuesday, February 10, 2009 1:30 p.m.

LB240

LB364

LB654

(Signed) Greg Adams, Chairperson

Urban Affairs

Room 1510

Tuesday, February 10, 2009 1:30 p.m.

LB467

LB526

LB647

Tuesday, February 17, 2009 1:30 p.m.

LB174

LB360

LB470

Tuesday, February 24, 2009 1:30 p.m.

LB633

LB381

LB525

Tuesday, March 3, 2009 1:30 p.m.

LB562

LB658

Tuesday, March 10, 2009 1:30 p.m.

LB495

LB524

(Signed) Mike Friend, Chairperson

Revenue

Room 1524

Wednesday, February 11, 2009 1:30 p.m.

LB171 (cancel)

LB555 (cancel)

(Signed) Abbie Cornett, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 16. Introduced by Karpisek, 32.

WHEREAS, Houston Volk, of Troop 270 in Friend, has achieved the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his community service project Houston cleaned, painted, and organized a room in the Friend Library that will be used to store family genealogy, old photographs, records, and memorabilia. The room is called the Heritage Room; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Houston Volk on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Houston Volk.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 158. Committee AM48, found on page 303 and considered in this day's Journal, was renewed.

SENATOR LANGEMEIER PRESIDING**PRESIDENT SHEEHY PRESIDING**

The committee amendment was adopted with 36 ayes, 1 nay, 8 present and not voting, and 4 excused and not voting.

Senator White moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator White requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 26:

Adams	Gay	Lautenbaugh	Pahls	Wallman
Ashford	Giese	McGill	Pankonin	White
Cook	Haar	Mello	Pirsch	
Cornett	Howard	Nantkes	Price	
Flood	Karpisek	Nelson	Rogert	
Fulton	Lathrop	Nordquist	Sullivan	

Voting in the negative, 16:

Campbell	Fischer	Harms	McCoy
Carlson	Gloor	Heidemann	Schilz
Coash	Hadley	Janssen	Utter
Council	Hansen	Louden	Wightman

Present and not voting, 3:

Christensen	Dierks	Stuthman
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Excused and not voting, 4:

Avery	Dubas	Friend	Langemeier
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Advanced to Enrollment and Review Initial with 26 ayes, 16 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORT
Revenue

LEGISLATIVE BILL 165. Placed on General File with amendment.
AM121

1 1. Strike original section 9 and insert the following new
2 sections:
3 Sec. 12. Section 77-2715.07, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:
5 77-2715.07 (1) There shall be allowed to qualified
6 resident individuals as a nonrefundable credit against the income
7 tax imposed by the Nebraska Revenue Act of 1967:
8 (a) A credit equal to the federal credit allowed under
9 section 22 of the Internal Revenue Code; and
10 (b) A credit for taxes paid to another state as provided
11 in section 77-2730.
12 (2) There shall be allowed to qualified resident
13 individuals against the income tax imposed by the Nebraska Revenue
14 Act of 1967:

15 (a) For returns filed reporting federal adjusted
16 gross incomes of greater than twenty-nine thousand dollars, a
17 nonrefundable credit equal to twenty-five percent of the federal
18 credit allowed under section 21 of the Internal Revenue Code of
19 1986, as amended;

20 (b) For returns filed reporting federal adjusted gross
21 income of twenty-nine thousand dollars or less, a refundable credit
22 equal to a percentage of the federal credit allowable under section
23 21 of the Internal Revenue Code of 1986, as amended, whether or
1 not the federal credit was limited by the federal tax liability.
2 The percentage of the federal credit shall be one hundred percent
3 for incomes not greater than twenty-two thousand dollars, and
4 the percentage shall be reduced by ten percent for each one
5 thousand dollars, or fraction thereof, by which the reported
6 federal adjusted gross income exceeds twenty-two thousand dollars;

7 ~~(c) A refundable credit for individuals who qualify for~~
8 ~~an income tax credit as an owner of agricultural assets under the~~
9 ~~Beginning Farmer Tax Credit Act for all taxable years beginning or~~
10 ~~deemed to begin on or after January 1, 2001, under the Internal~~
11 ~~Revenue Code of 1986, as amended; and a refundable credit as~~
12 ~~provided in section 77-5209.01 for individuals who qualify for an~~
13 ~~income tax credit as a qualified beginning farmer or livestock~~
14 ~~producer under the Beginning Farmer Tax Credit Act for all taxable~~
15 ~~years beginning or deemed to begin on or after January 1, 2006,~~
16 ~~under the Internal Revenue Code of 1986, as amended;~~

17 (d) A refundable credit for individuals who qualify for
18 an income tax credit under the Nebraska Advantage Microenterprise
19 Tax Credit Act or the Nebraska Advantage Research and Development
20 Act; and

21 (e) A refundable credit equal to ten percent of the

22 federal credit allowed under section 32 of the Internal Revenue
23 Code of 1986, as amended.

24 (3) There shall be allowed to all individuals as a
25 nonrefundable credit against the income tax imposed by the Nebraska
26 Revenue Act of 1967:

27 (a) A credit for personal exemptions allowed under
1 section 77-2716.01;

2 (b) A credit for contributions to certified community
3 betterment programs as provided in the Community Development
4 Assistance Act. Each partner, each shareholder of an electing
5 subchapter S corporation, each beneficiary of an estate or trust,
6 or each member of a limited liability company shall report his or
7 her share of the credit in the same manner and proportion as he
8 or she reports the partnership, subchapter S corporation, estate,
9 trust, or limited liability company income; and

10 (c) A credit for investment in a biodiesel facility as
11 provided in section 77-27,236.

12 (4) There shall be allowed as a credit against the income
13 tax imposed by the Nebraska Revenue Act of 1967:

14 (a) A credit to all resident estates and trusts for taxes
15 paid to another state as provided in section 77-2730; ~~and~~

16 (b) A credit to all estates and trusts for contributions
17 to certified community betterment programs as provided in the
18 Community Development Assistance Act; ~~and-~~

19 (c) A refundable credit for individuals who qualify for
20 an income tax credit as an owner of agricultural assets under the
21 Beginning Farmer Tax Credit Act for all taxable years beginning
22 or deemed to begin on or after January 1, 2009, under the
23 Internal Revenue Code of 1986, as amended. The credit allowed
24 for each partner, shareholder, member, or beneficiary of a
25 partnership, corporation, limited liability company, or estate
26 or trust qualifying for an income tax credit as an owner of
27 agricultural assets under the Beginning Farmer Tax Credit Act
1 shall be equal to the partner's, shareholder's, member's, or
2 beneficiary's portion of the amount of tax credit distributed
3 pursuant to subsection (4) of section 77-5211.

4 (5)(a) For all taxable years beginning on or after
5 January 1, 2007, and before January 1, 2009, under the Internal
6 Revenue Code of 1986, as amended, there shall be allowed to each
7 partner, shareholder, member, or beneficiary of a partnership,
8 subchapter S corporation, limited liability company, or estate or
9 trust a nonrefundable credit against the income tax imposed by
10 the Nebraska Revenue Act of 1967 equal to fifty percent of the
11 partner's, shareholder's, member's, or beneficiary's portion of the
12 amount of franchise tax paid to the state under sections 77-3801 to
13 77-3807 by a financial institution.

14 (b) For all taxable years beginning on or after January
15 1, 2009, under the Internal Revenue Code of 1986, as amended,
16 there shall be allowed to each partner, shareholder, member, or

17 beneficiary of a partnership, subchapter S corporation, limited
18 liability company, or estate or trust a nonrefundable credit
19 against the income tax imposed by the Nebraska Revenue Act of 1967
20 equal to the partner's, shareholder's, member's, or beneficiary's
21 portion of the amount of franchise tax paid to the state under
22 sections 77-3801 to 77-3807 by a financial institution.

23 (c) Each partner, shareholder, member, or beneficiary
24 shall report his or her share of the credit in the same manner
25 and proportion as he or she reports the partnership, subchapter S
26 corporation, limited liability company, or estate or trust income.
27 If any partner, shareholder, member, or beneficiary cannot fully
1 utilize the credit for that year, the credit may not be carried
2 forward or back.

3 Sec. 13. Section 77-2761, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2761 An income tax return with respect to the income
6 tax imposed by the provisions of the Nebraska Revenue Act of 1967
7 shall be made by the following:

8 (1) Every resident individual who is required to file a
9 federal income tax return for the taxable year;

10 (2) Every nonresident individual who has income from
11 sources in this state;

12 (3) Every resident estate or trust which is required to
13 file a federal income tax return except a simple trust not required
14 to file under subsection (2) of section 77-2717;

15 (4) Every nonresident estate or trust which has taxable
16 income from sources within this state;

17 (5) Every corporation or any other entity taxed as a
18 corporation under the Internal Revenue Code which is required
19 to file a federal income tax return except the small business
20 corporations not required to file under subsection ~~(6)~~(7) of
21 section 77-2734.01;

22 (6) Every limited liability company having one or more
23 nonresident members or with taxable income derived from sources
24 outside the state except the limited liability companies not
25 required to file under subsection ~~(6)~~(7) of section 77-2734.01;
26 and

27 (7) Every partnership having one or more nonresident
1 partners or with taxable income derived from sources outside the
2 state.

3 Sec. 15. Section 77-5211, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 77-5211 (1) Except as otherwise disallowed under
6 subsection (5) of this section, an owner of agricultural assets
7 shall be allowed a credit to be applied against the state income
8 tax liability of such owner for agricultural assets rented on a
9 rental agreement basis, including cash rent of agricultural assets
10 or cash equivalent of a share-rent rental, to qualified beginning
11 farmers or livestock producers. Such asset shall be rented at

12 prevailing community rates as determined by the board.

13 (2) The credit allowed shall be for renting agricultural
14 assets used for farming or livestock production. Such credit
15 shall be granted by the Department of Revenue only after approval
16 and certification by the board and a written three-year rental
17 agreement for such assets is entered into between an owner of
18 agricultural assets and a qualified beginning farmer or livestock
19 producer. An owner of agricultural assets or qualified beginning
20 farmer or livestock producer may terminate such agreement for
21 reasonable cause upon approval by the board. If an agreement is
22 terminated without fault on the part of the owner of agricultural
23 assets as determined by the board, the tax credit shall not be
24 retroactively disallowed. If an agreement is terminated with fault
25 on the part of the owner of agricultural assets as determined by
26 the board, any prior tax credits claimed by such owner shall be
27 disallowed and recaptured and shall be immediately due and payable
1 to the State of Nebraska.

2 (3) A credit may be granted to an owner of agricultural
3 assets for renting agricultural assets, including cash rent of
4 agricultural assets or cash equivalent of a share-rent agreement,
5 to any qualified beginning farmer or livestock producer for a
6 period of three years. An owner of agricultural assets shall not be
7 eligible for further credits under the Beginning Farmer Tax Credit
8 Act unless the rental agreement is terminated prior to the end of
9 the three-year period through no fault of the owner of agricultural
10 assets. If the board finds that such a termination was not the
11 fault of the owner of agricultural assets, it may approve the owner
12 for credits arising from a subsequent qualifying rental agreement
13 with a different qualified beginning farmer or livestock producer.

14 (4) Any credit allowable to a partnership, a corporation,
15 a ~~syndicate~~, limited liability company, or an estate or trust
16 may be distributed to the partners, members, shareholders, or
17 beneficiaries. Any credit distributed shall be distributed in the
18 same manner as income is distributed.

19 (5) The credit allowed under this section shall not be
20 allowed to an owner of agricultural assets for a rental agreement
21 with a beginning farmer or livestock producer who is a relative,
22 as defined in section 36-702, of the owner of agricultural assets
23 or of a partner, member, shareholder, or trustee of the owner
24 of agricultural assets unless the rental agreement is included in
25 a written succession plan. Such succession plan shall be in the
26 form of a written contract or other instrument legally binding the
27 parties to a process and timetable for the transfer of agricultural
1 assets from the owner of agricultural assets to the beginning
2 farmer or livestock producer. The succession plan shall provide
3 for the transfer of assets to be completed within a period of
4 no longer than thirty years, except that when the asset to be
5 transferred is land owned by an individual, the period of transfer
6 may be for a period up to the date of death of the owner. The

7 owner of agricultural assets shall be allowed the credit provided
 8 for qualified rental agreements under this section if the board
 9 certifies the plan as providing a reasonable manner and probability
 10 of successful transfer.

11 Sec. 19. Original section 77-2761, Reissue Revised
 12 Statutes of Nebraska, and sections 77-2715.07 and 77-5211, Revised
 13 Statutes Cumulative Supplement, 2008, are repealed.

14 2. On page 10, lines 15 through 17, strike the new matter
 15 and insert "ancillary services, except for conference bridging
 16 services, and intrastate telecommunications services, except for
 17 value-added, nonvoice data service".

18 3. On page 14, strike beginning with "If" in line 13
 19 through line 23 and show the old matter as stricken.

20 4. On page 20, line 20, strike the new matter; and in
 21 line 22 strike "is", show as stricken, and insert "and ancillary
 22 services are".

23 5. On page 24, line 11, after "service" insert "or a
 24 sale of a prepaid wireless calling service"; in lines 13 and 14
 25 strike beginning with "mobile" through "telecommunications", show
 26 as stricken, and insert "a prepaid wireless calling".

27 6. On page 58, line 8, strike "77-2704.12,".

1 7. Correct the operative date section so that the
 2 sections added by this amendment become operative on their
 3 effective date with the emergency clause.

4 8. Renumber the remaining sections and correct internal
 5 references accordingly.

(Signed) Abbie Cornett, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 31. Placed on Final Reading.
 ST9003

The following changes, required to be reported for publication in the
 Journal, have been made:

1. On page 7, lines 18 and 23, "subsection" has been struck, shown as
 stricken, and "section" inserted.

2. On page 12, line 13, "accounts" has been struck and "accountants"
 inserted.

3. On page 25, line 19, the stricken matter has been reinstated.

4. On page 27, lines 15 and 16, the comma has been struck; and in line 15
 "or" has been inserted after "accountant".

LEGISLATIVE BILL 62. Placed on Final Reading.

LEGISLATIVE BILL 91. Placed on Final Reading.
 ST9004

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 2, line 6, the comma has been struck.

LEGISLATIVE BILL 154. Placed on Final Reading.

ST9002

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, ER8005, on page 1, line 3, after "38-2888," insert "38-2889,".

LEGISLATIVE BILL 179. Placed on Final Reading.

LEGISLATIVE BILL 180. Placed on Final Reading.

LEGISLATIVE BILL 196. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

NOTICE OF COMMITTEE HEARINGS

Revenue

Room 1524

Wednesday, February 18, 2009 1:30 p.m.

LB171 (reschedule)

LB555 (reschedule)

LB670

LB121

Thursday, February 19, 2009 1:30 p.m.

LB480

LB420

LB460

LB485

Friday, February 20, 2009 1:30 p.m.

LB13

LB270

LB271

Wednesday, February 25, 2009 1:30 p.m.

LB536

LB421

LB138

LB264

Thursday, February 26, 2009 1:30 p.m.

LB212
LB213
LB553
LB580

Friday, February 27, 2009 1:30 p.m.

LB59
LB357
LB67
LB447

Wednesday, March 4, 2009 1:30 p.m.

LB57
LB65
LB233
LB9

Thursday, March 5, 2009 1:30 p.m.

LB58
LB234
LB632
LB539
LB455

Wednesday, March 11, 2009 1:30 p.m.

LB161
LB127
LB296
LB570

Thursday, March 12, 2009 1:30 p.m.

LB336
LB210
LB466
LB587

Wednesday, March 18, 2009 1:30 p.m.

LB249
LB186
LB640

Thursday, March 19, 2009 1:30 p.m.

LB615
LB616
LB617
LB618
LB559

Friday, March 20, 2009 1:30 p.m.

LB385
LB386

Wednesday, March 25, 2009 1:30 p.m.

LB380
LB294
LB474
LB308

Thursday, March 26, 2009 1:30 p.m.

LB521
LB418
LB469

(Signed) Abbie Cornett, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Cook asked unanimous consent to add her name as cointroducer to LB306. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB449. No objections. So ordered.

VISITORS

Visitors to the Chamber were Mary Nutting from Ericson and Michael Nutting from Creighton; and Family and Consumer Science teachers and students from across the state.

The Doctor of the Day was Dr. Eric Thomsen from Beatrice.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator Dierks, the Legislature adjourned until 9:00 a.m., Tuesday, February 3, 2009.

Patrick J. O'Donnell
Clerk of the Legislature