

AMENDMENTS TO LB 1001

Introduced by Revenue.

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

3 Section 1. Sections 1 to 8 of this act shall be known and
4 may be cited as the Low-Income Home Energy Conservation Act.

5 Sec. 2. The Legislature finds and declares that:

6 (1) Many residents of this state find it difficult to pay
7 for the cost of heating, cooling, and lighting their homes;

8 (2) Energy conservation helps to maintain affordable
9 energy bills, reduces the amount of money spent on imported energy
10 sources, lessens the need for new power plants and other energy
11 infrastructure, and helps mitigate the impact of energy generation
12 on the environment; and

13 (3) It serves a public purpose to provide funding to
14 eligible persons for eligible energy conservation improvements in
15 accordance with the Low-Income Home Energy Conservation Act.

16 Sec. 3. For purposes of the Low-Income Home Energy
17 Conservation Act:

18 (1) Department means the Department of Revenue;

19 (2) Eligible energy conservation grant means a grant
20 paid to an eligible person for an eligible energy conservation
21 improvement;

22 (3) Eligible energy conservation improvement means a
23 device, a method, equipment, or material that reduces consumption

1 of or increases efficiency in the use of electricity or natural gas
2 for a residence owned by an eligible person, including, but not
3 limited to, insulation and ventilation, storm or thermal doors or
4 windows, awnings, caulking and weatherstripping, furnace efficiency
5 modifications, thermostat or lighting controls, replacement or
6 modification of lighting fixtures or bulbs to increase the energy
7 efficiency of the home's lighting system, and systems to turn off
8 or vary the delivery of energy;

9 (4) Eligible entity means an entity providing matching
10 funds pursuant to section 4 of this act and which is a public
11 power district organized under Chapter 70, article 6, an electric
12 cooperative corporation organized under Chapter 70, article 7, a
13 rural public power district organized under Chapter 70, article 8,
14 a joint entity organized under the Interlocal Cooperation Act, or
15 a municipality; and

16 (5) Eligible person means any resident of Nebraska who
17 owns his or her residence and whose household income is at or
18 below one hundred fifty percent of the federal poverty level, as
19 determined in accordance with the act.

20 Sec. 4. (1) The Energy Conservation Improvement Fund is
21 created. there shall be a separate subaccount within the fund for
22 each eligible entity remitting matching funds and administering
23 a program of eligible energy conservation improvements. The fund
24 shall be administered by the department. Funds shall be remitted
25 by the department to the State Treasurer for deposit in the proper
26 subaccount of the fund from sales taxes and matching funds remitted
27 by the eligible entity as provided in subsection (2) of this

1 section.

2 (2) Any eligible entity may designate sales taxes
3 collected from customers, not to exceed five percent of the total
4 amount of sales taxes collected in any one time period, for deposit
5 in the subaccount of the fund for that eligible entity. Any such
6 designation shall be accompanied by an equal amount of matching
7 funds from the eligible entity.

8 (3) The department shall adopt a form to (a) designate
9 part of the sales tax to be remitted for administering a program
10 of eligible energy conservation improvements and (b) remit the
11 matching funds. The form is to be submitted with the sales and use
12 tax return of the eligible entity.

13 (4) Any money in the fund available for investment
14 shall be invested by the state investment officer pursuant to
15 the Nebraska Capital Expansion Act and the Nebraska State Funds
16 Investment Act.

17 Sec. 5. (1) An eligible entity that has remitted matching
18 funds to the department as provided in section 4 of this act may
19 establish and administer a program of eligible energy conservation
20 grants.

21 (2) The program shall provide for eligible energy
22 conservation grants from the Energy Conservation Improvement Fund
23 to eligible persons for installing eligible energy conservation
24 improvements, upon certification by the eligible entity that it
25 has approved an eligible energy conservation improvement for the
26 residence of the eligible person. The eligible entity shall verify
27 the purchase and installation of the eligible energy conservation

1 improvement at the eligible person's residence.

2 (3) The eligible entity may require the qualified person
3 to pay for a share of the cost of the eligible energy conservation
4 improvement, not to exceed twenty percent of the total cost. The
5 share of the cost to be paid by the qualified person may be
6 recovered by the eligible entity in monthly installments after
7 completion of the eligible energy conservation improvement by
8 adding an amount to the qualified person's electrical bill.

9 Sec. 6. An eligible entity may contract with any
10 qualified person, agency, or business entity to make eligibility
11 determinations for eligible energy conservation grants under the
12 Low-Income Home Energy Conservation Act.

13 Sec. 7. Beginning April 1, 2009, and annually on or
14 before that date thereafter, each eligible entity administering
15 a program for eligible energy conservation grants under the
16 Low-Income Home Energy Conservation Act shall submit to the
17 department a report describing each eligible energy conservation
18 grant made by the eligible entity during the preceding calendar
19 year and the eligible energy conservation improvement for which
20 each such grant was made.

21 Sec. 8. The department may adopt and promulgate rules
22 and regulations to carry out its duties under the Low-Income Home
23 Energy Conservation Act.

24 Sec. 9. Section 77-2753, Revised Statutes Supplement,
25 2007, is amended to read:

26 77-2753 (1)(a) Every employer and payor maintaining an
27 office or transacting business within this state and making payment

1 of any wages or other payments as defined in subsection (5) of this
2 section which are taxable under the Nebraska Revenue Act of 1967
3 to any individual shall deduct and withhold from such wages for
4 each payroll period and from such payments a tax computed in such
5 manner as to result, so far as practicable, in withholding from
6 the employee's wages and payments to the payee during each calendar
7 year an amount substantially equivalent to the tax reasonably
8 estimated to be due from the employee or payee under such act
9 with respect to the amount of such wages and payments included in
10 his or her taxable income during the calendar year. The method of
11 determining the amount to be withheld shall be prescribed by rules
12 and regulations of the Tax Commissioner. Such rules and regulations
13 may allow withholding to be computed at a percentage of the
14 federal withholding or at a comparable flat percentage for gambling
15 winnings or supplemental payments, including bonuses, commissions,
16 overtime pay, and sales awards which are not paid at the same
17 time as other wages, or payments to independent contractors. Any
18 withholding tables prescribed by the Tax Commissioner shall be
19 provided to the budget division of the Department of Administrative
20 Services and the Legislative Fiscal Analyst for review at least
21 sixty days before the tables become effective.

22 (b) Notwithstanding the amount of federal withholding or
23 the rules and regulations of the Department of Revenue determining
24 the amount of withholding, every employer and payor employing
25 twenty-five or more employees shall withhold at least three
26 percent of the gross wages minus tax qualified deductions of
27 each employee unless the employee provides satisfactory evidence

1 that a lesser amount of withholding is justified in the employee's
2 particular circumstances. Such satisfactory evidence may include
3 birth certificates or social security information for dependents
4 or other evidence that reasonably assures the employer that the
5 employee is not improperly or fraudulently evading or defeating the
6 income tax by reducing or eliminating withholding.

7 (2) (a) Every payor who is either (i) making a payment or
8 payments in excess of five thousand dollars or (ii) maintaining
9 an office or transacting business within this state and making
10 a payment or payments related to such business in excess of six
11 hundred dollars, and such payment or payments are for personal
12 services performed or to be performed substantially within this
13 state, to a nonresident individual, other than an employee, who
14 is not subject to withholding on such payment under the Internal
15 Revenue Code or a corporation, partnership, or limited liability
16 company described in subdivision (c) of this subsection, shall
17 be deemed an employer, and the individual performing the personal
18 services shall be deemed an employee for the purposes of this
19 section. The payor shall deduct and withhold from such payments
20 the percentage of such payments prescribed in subdivision (b) of
21 this subsection. If the individual performing the personal services
22 provides the payor with a statement of the expenses reasonably
23 related to the personal services, the total payment or payments may
24 be reduced by the total expenses before computing the amount to
25 deduct and withhold, except that such reduction shall not be more
26 than fifty percent of such payment or payments.

27 (b) For any payment or payments for the same service,

1 award, or purse that totals less than twenty-eight thousand
2 dollars, the percentage deducted from such payment or payments
3 pursuant to this subsection shall be four percent, and for all
4 other payments, the percentage shall be six percent.

5 (c) For any corporation, partnership, or limited
6 liability company that receives compensation for personal services
7 in this state and of which all or substantially all of the
8 shareholders, partners, or members are the individuals performing
9 the personal services, including, but not limited to, individual
10 athletes, entertainers, performers, or public speakers performing
11 such personal services, such compensation shall be deemed wages of
12 the individuals performing the personal services and subject to
13 the income tax imposed on individuals by the Nebraska Revenue Act
14 of 1967.

15 (d) The withholding required by this subsection shall
16 not apply to any payment to a nonresident alien, corporation,
17 partnership, or limited liability company if such individual,
18 shareholder, partner, or member provides the payor with a statement
19 that the income earned is not subject to tax because of a treaty
20 obligation of the United States or if such payment is subject to
21 withholding under subsection (3) of this section.

22 (3) (a) Every contractor who is maintaining an office
23 or transacting business within this state and making a payment
24 or payments related to such business in excess of six hundred
25 dollars, and such payment or payments are for construction services
26 performed or to be performed substantially within this state, to
27 any contractor or any person that is not an employee shall deduct

1 and withhold five percent of such payments.

2 (b) The withholding required by this subsection shall
3 not apply to any payment made to (i) a person that provides the
4 payor with a statement that the income earned is not subject to
5 tax because of a treaty obligation of the United States or (ii)
6 a contractor when the payor contractor determines that the payee
7 contractor is registered under the Contractor Registration Act.

8 (c) For purposes of this subsection:

9 (i) Construction services means services that are
10 provided by a contractor; and

11 (ii) Contractor has the same meaning as in section
12 77-3101.

13 ~~(3)~~ (4) The Tax Commissioner may enter into agreements
14 with the tax departments of other states, which require income
15 tax to be withheld from the payment of wages, salaries, and
16 such other payments, so as to govern the amounts to be withheld
17 from the wages and salaries of and other payments to residents
18 of such states. Such agreements may provide for recognition of
19 anticipated tax credits in determining the amounts to be withheld
20 and, under rules and regulations adopted and promulgated by the Tax
21 Commissioner, may relieve employers and payors in this state from
22 withholding income tax on wages, salaries, and such other payments
23 paid to nonresident employees and payees. The agreements authorized
24 by this subsection shall be subject to the condition that the
25 tax department of such other states grant similar treatment to
26 residents of this state.

27 ~~(4)~~ (5) The Tax Commissioner shall enter into an

1 agreement with the United States Office of Personnel Management
2 for the withholding of income tax imposed on individuals by the
3 Nebraska Revenue Act of 1967 on civil service annuity payments for
4 those recipients who voluntarily request withholding. The agreement
5 shall be pursuant to 5 U.S.C. 8345 and the rules and regulations
6 adopted and promulgated by the Tax Commissioner.

7 ~~(5)~~ (6) Wages and other payments subject to withholding
8 shall mean payments that are subject to withholding under the
9 Internal Revenue Code of 1986 and are (a) payments made by
10 employers to employees, except such payments subject to 26 U.S.C.
11 3406, (b) payments of gambling winnings, ~~or~~ (c) pension or annuity
12 payments when the recipient has requested the payor to withhold
13 from such payments, or (d) payments to independent contractors.

14 Sec. 10. Section 77-3102, Revised Statutes Supplement,
15 2007, is amended to read:

16 77-3102 (1) In order that the State of Nebraska and
17 the political subdivisions thereof may receive all taxes due in
18 every instance, including contributions due under the Employment
19 Security Law and any withholding required under the Nebraska
20 Revenue Act of 1967, contractors who are nonresidents of this
21 state, desiring to engage in, prosecute, follow, or carry on the
22 business of contracting within this state shall register with the
23 Tax Commissioner.

24 (2) Each contract to which a nonresident contractor is a
25 party shall be registered with the Tax Commissioner, except that
26 if the total contract price or compensation to be received is
27 less than ten thousand dollars, the Tax Commissioner may waive the

1 requirements of this subsection.

2 Sec. 11. Section 77-3104, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-3104 Every contractor required to register under the
5 provisions of sections 77-3101 to 77-3112 shall, before entering
6 into the performance of any contract or contracts in this state
7 either (1) execute and file with the Tax Commissioner a good and
8 valid bond issued by a surety company authorized to do business in
9 this state, or with sufficient sureties to be approved by the Tax
10 Commissioner, conditioned that all taxes, including contributions
11 under the Employment Security Law and any withholding required
12 under the Nebraska Revenue Act of 1967, which may accrue to the
13 State of Nebraska and all taxes which may accrue to the political
14 subdivisions thereof on account of the execution and performance
15 of such contract or contracts, will be paid when due, and the
16 execution and filing of such bond shall be a condition precedent
17 to commencing work on any contract in the State of Nebraska, or
18 (2) such other form of assurance of such performance as shall be
19 acceptable to the Tax Commissioner.

20 Sec. 12. Section 77-3105, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-3105 Every contractor required to register any
23 contract or contracts, under the provisions of sections 77-3101 to
24 77-3112, shall, for each such contract and before entering into
25 the performance of such contract or contracts, execute and file
26 with the Tax Commissioner either (1) a good and valid bond issued
27 by a surety company authorized to do business in this state, or

1 with sufficient sureties to be approved by the Tax Commissioner,
2 conditioned that all taxes, including contributions due under the
3 Employment Security Law and any withholding required under the
4 Nebraska Revenue Act of 1967, which may accrue to the State of
5 Nebraska and the political subdivisions thereof on account of the
6 execution and performance of such contract or contracts, will be
7 paid when due, and the execution and filing of such bond shall be
8 a condition precedent to commencing work on any contract in the
9 State of Nebraska, or (2) such other form of assurance of such
10 performance as shall be acceptable to the Tax Commissioner. Bonds
11 filed pursuant to this section shall be subject to the following
12 conditions:

13 (1) The Tax Commissioner may, at his or her discretion,
14 allow the execution and filing of one bond to be sufficient for
15 commencing performance of all such contracts. Such ~~÷ PROVIDED,~~
16 ~~that such~~ bond shall be conditioned as provided in this section
17 with respect to all contracts to be performed during the current
18 calendar year and shall be in the sum of not less than five
19 thousand dollars;

20 (2) If at any time the Tax Commissioner shall determine
21 that the amount of any bond is not sufficient to cover the tax
22 liabilities accruing to the State of Nebraska or the political
23 subdivisions thereof for the current calendar year, the Tax
24 Commissioner shall require such bond to be increased in such
25 sum as the Tax Commissioner may determine to be proper;

26 (3) When any nonresident contractor shall have fully
27 performed the contracts registered by him or her and shall have

1 made payments of all taxes, including contributions due under
2 the Employment Security Law and any withholding required under
3 the Nebraska Revenue Act of 1967, which accrued to the State of
4 Nebraska and the political subdivisions thereof on account of the
5 execution and performance of such contracts, the bond or bonds may
6 be released by the Tax Commissioner; and

7 (4) Any bond or bonds required in this section are in
8 addition to, separate, and distinct from all bonds required under
9 the provisions of section 77-3104.

10 Sec. 13. Section 77-3106, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-3106 (1) Any contractor, who contracts with any
13 subcontractor who is or shall become subject to the provisions
14 of sections 77-3101 to 77-3112, shall withhold sufficient money
15 on such contract or contracts to guarantee that all taxes,
16 including contributions due under the Employment Security Law
17 and any withholding required under the Nebraska Revenue Act of
18 1967, which may accrue to the State of Nebraska and all taxes
19 which may accrue to the political subdivisions thereof on account
20 of the execution and performance of such contract or contracts,
21 will be paid when due. Failure to comply with the provisions of
22 this section or to release such withholding to the subcontractor
23 without a clearance from the Department of Revenue shall render
24 such contractor directly liable ~~for such taxes, contributions,~~
25 ~~penalties, and interest due from such subcontractors,~~ for the
26 amount of bond that the subcontractor was required to provide
27 under section 77-3104 and the Tax Commissioner shall have all the

1 remedies of collection against such contractor under the provisions
2 of sections 77-3101 to 77-3112 as though the services in question
3 were performed directly by such contractor.

4 (2) The withholding required by this section shall not
5 apply to any payment made to (a) a person that provides the payor
6 with a statement that the income earned is not subject to income
7 tax because of a treaty obligation of the United States or (b)
8 a contractor when the payor contractor determines that the payee
9 contractor is registered under the Contractor Registration Act.

10 Sec. 14. This act becomes operative on October 1, 2008.

11 Sec. 15. Original sections 77-3104, 77-3105, and 77-3106,
12 Reissue Revised Statutes of Nebraska, and sections 77-2753 and
13 77-3102, Revised Statutes Supplement, 2007, are repealed.