

E & R AMENDMENTS TO LB 753

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

3 "Section 1. Section 48-1229, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 48-1229. For purposes of the Nebraska Wage Payment and
6 Collection Act, unless the context otherwise requires:

7 (1) Employer ~~shall mean~~ means the state or any
8 individual, partnership, limited liability company, association,
9 joint-stock company, trust, corporation, political subdivision, or
10 personal representative of the estate of a deceased individual, or
11 the receiver, trustee, or successor thereof, within or without the
12 state, employing any person within the state as an employee; ~~7~~
13 ~~except that employer shall not be construed to include the state;~~

14 (2) Employee ~~shall mean~~ means any individual permitted to
15 work by an employer pursuant to an employment relationship or who
16 has contracted to sell the goods of an employer and to be
17 compensated by commission. Services performed by an individual for
18 an employer shall be deemed to be employment, unless it is shown
19 that (a) such individual has been and will continue to be free from
20 control or direction over the performance of such services, both
21 under his or her contract of service and in fact, (b) such service
22 is either outside the usual course of business for which such
23 service is performed or such service is performed outside of all
24 the places of business of the enterprise for which such service is

1 performed, and (c) such individual is customarily engaged in an
2 independently established trade, occupation, profession, or
3 business. This subdivision is not intended to be a codification of
4 the common law and shall be considered complete as written;

5 (3) Fringe benefits ~~shall include~~ includes sick and
6 vacation leave plans, disability income protection plans,
7 retirement, pension, or profit-sharing plans, health and accident
8 benefit plans, and any other employee benefit plans or benefit
9 programs regardless of whether the employee participates in such
10 plans or programs; and

11 (4) Wages ~~shall mean~~ means compensation for labor or
12 services rendered by an employee, including fringe benefits, when
13 previously agreed to and conditions stipulated have been met by the
14 employee, whether the amount is determined on a time, task, fee,
15 commission, or other basis. Wages ~~shall include~~ includes
16 commissions on all orders delivered and all orders on file with the
17 employer at the time of termination of employment less any orders
18 returned or canceled at the time suit is filed.

19 Sec. 2. Original section 48-1229, Reissue Revised
20 Statutes of Nebraska, is repealed.".