

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.