

E AND R AMENDMENTS TO LB 1001

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following 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 power
11 district organized under Chapter 70, article 6, a rural public
12 power district organized under Chapter 70, article 8, an electric
13 cooperative corporation organized under the Electric Cooperative
14 Corporation Act, a joint entity organized under the Interlocal
15 Cooperation Act, or 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,
19 as determined in accordance with the Low-Income Home Energy
20 Conservation Act.

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

1 by the eligible entity as provided in subsection (2) of this
2 section.

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

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

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

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

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

1 the purchase and installation of the eligible energy conservation
2 improvement at the eligible person's residence.

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

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

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

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

25 Sec. 9. Section 77-2753, Revised Statutes Supplement,
26 2007, is amended to read:

27 77-2753 (1)(a) Every employer and payor maintaining an

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

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

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

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

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

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

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

23 (3) (a) Every contractor who is maintaining an office
24 or transacting business within this state and making a payment
25 or payments related to such business in excess of six hundred
26 dollars, and such payment or payments are for construction services
27 performed within this state, to any contractor or any person that

1 is not an employee shall deduct and withhold five percent of such
2 payments.

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

9 (c) The Department of Revenue shall create a data base of
10 contractors who are licensed, granted a permit, or registered under
11 the Nebraska Revenue Act of 1967 or under section 77-3102. The data
12 base shall be accessible on the web site of the department.

13 (d) Any contractor who determines that a contractor is
14 in the data base is relieved from liability for withholding under
15 either this subsection or section 77-3106 for any future payments
16 on a contract in existence at the time the determination is made.

17 (e) Withholding required by this subsection shall be
18 considered to be withholding of income tax for purposes of the
19 Nebraska Revenue Act of 1967.

20 (f) For purposes of this subsection:

21 (i) Construction services means services that are
22 provided as a contractor; and

23 (ii) Contractor has the same meaning as in section
24 77-3101.

25 ~~(3)~~ (4) The Tax Commissioner may enter into agreements
26 with the tax departments of other states, which require income
27 tax to be withheld from the payment of wages, salaries, and

1 such other payments, so as to govern the amounts to be withheld
2 from the wages and salaries of and other payments to residents
3 of such states. Such agreements may provide for recognition of
4 anticipated tax credits in determining the amounts to be withheld
5 and, under rules and regulations adopted and promulgated by the Tax
6 Commissioner, may relieve employers and payors in this state from
7 withholding income tax on wages, salaries, and such other payments
8 paid to nonresident employees and payees. The agreements authorized
9 by this subsection shall be subject to the condition that the
10 tax department of such other states grant similar treatment to
11 residents of this state.

12 ~~(4)~~ (5) The Tax Commissioner shall enter into an
13 agreement with the United States Office of Personnel Management
14 for the withholding of income tax imposed on individuals by the
15 Nebraska Revenue Act of 1967 on civil service annuity payments for
16 those recipients who voluntarily request withholding. The agreement
17 shall be pursuant to 5 U.S.C. 8345 and the rules and regulations
18 adopted and promulgated by the Tax Commissioner.

19 ~~(5)~~ (6) Wages and other payments subject to withholding
20 shall mean payments that are subject to withholding under the
21 Internal Revenue Code of 1986 and are (a) payments made by
22 employers to employees, except such payments subject to 26 U.S.C.
23 3406, (b) payments of gambling winnings, ~~or~~ (c) pension or annuity
24 payments when the recipient has requested the payor to withhold
25 from such payments, or (d) payments to independent contractors.

26 Sec. 10. Section 77-3102, Revised Statutes Supplement,
27 2007, is amended to read:

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

9 (2) Each contract to which a nonresident contractor is a
10 party shall be registered with the Tax Commissioner, except that
11 if the total contract price or compensation to be received is
12 less than ten thousand dollars, the Tax Commissioner may waive the
13 requirements of this subsection.

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

16 77-3104 Every contractor required to register under the
17 provisions of sections 77-3101 to 77-3112 shall, before entering
18 into the performance of any contract or contracts in this state,
19 ~~either~~ ~~(1)~~ execute and file with the Tax Commissioner either (1)
20 a good and valid bond issued by a surety company authorized to do
21 business in this state, or with sufficient sureties to be approved
22 by the Tax Commissioner, conditioned that all taxes, including
23 contributions under the Employment Security Law and any withholding
24 required under the Nebraska Revenue Act of 1967, which may accrue
25 to the State of Nebraska and all taxes which may accrue to the
26 political subdivisions thereof on account of the execution and
27 performance of such contract or contracts, will be paid when due,

1 and the execution and filing of such bond shall be a condition
2 precedent to commencing work on any contract in the State of
3 Nebraska, or (2) such other form of assurance of such performance
4 as shall be acceptable to the Tax Commissioner.

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

7 77-3105 (1) Every contractor required to register any
8 contract or contracts~~7~~ under the provisions of sections 77-3101 to
9 77-3112~~7~~ shall, for each such contract and before entering into the
10 performance of such contract or contracts, execute and file with
11 the Tax Commissioner either ~~(1)~~ (a) a good and valid bond issued
12 by a surety company authorized to do business in this state, or
13 with sufficient sureties to be approved by the Tax Commissioner,
14 conditioned that all taxes, including contributions due under the
15 Employment Security Law and any withholding required under the
16 Nebraska Revenue Act of 1967, which may accrue to the State of
17 Nebraska and the political subdivisions thereof on account of the
18 execution and performance of such contract or contracts, will be
19 paid when due, and the execution and filing of such bond shall be
20 a condition precedent to commencing work on any contract in the
21 State of Nebraska, or ~~(2)~~ (b) such other form of assurance of such
22 performance as shall be acceptable to the Tax Commissioner.

23 (2) Bonds filed pursuant to this section shall be subject
24 to the following conditions:

25 ~~(1)~~ (a) The Tax Commissioner may, at his or her
26 discretion, allow the execution and filing of one bond to be
27 sufficient for commencing performance of all such contracts. Such +

1 ~~PROVIDED~~, that such bond shall be conditioned as provided in this
2 section with respect to all contracts to be performed during the
3 current calendar year and shall be in the sum of not less than five
4 thousand dollars;

5 ~~(2)~~ (b) If at any time the Tax Commissioner shall
6 determine that the amount of any bond is not sufficient to cover
7 the tax liabilities accruing to the State of Nebraska or the
8 political subdivisions thereof for the current calendar year, the
9 Tax Commissioner shall require such bond to be increased in such
10 sum as the Tax Commissioner may determine to be proper;

11 ~~(3)~~ (c) When any nonresident contractor shall have fully
12 performed the contracts registered by him or her and shall have
13 made payments of all taxes, including contributions due under
14 the Employment Security Law and any withholding required under
15 the Nebraska Revenue Act of 1967, which accrued to the State of
16 Nebraska and the political subdivisions thereof on account of the
17 execution and performance of such contracts, the bond or bonds may
18 be released by the Tax Commissioner; and

19 ~~(4)~~ (d) Any bond or bonds required in this section are in
20 addition to, separate, and distinct from all bonds required under
21 the provisions of section 77-3104.

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

24 77-3106 (1) Any contractor~~7~~ who contracts with any
25 subcontractor who is or shall become subject to the provisions
26 of sections 77-3101 to 77-3112~~7~~ shall withhold sufficient money on
27 such contract or contracts to guarantee that all taxes, including

1 contributions due under the Employment Security Law and any
2 withholding required under the Nebraska Revenue Act of 1967, which
3 may accrue to the State of Nebraska and all taxes which may accrue
4 to the political subdivisions thereof on account of the execution
5 and performance of such contract or contracts, will be paid
6 when due. Failure to comply with the provisions of this section
7 or to obtain a clearance from the Department of Revenue prior
8 to releasing such withholding to the subcontractor shall render
9 such contractor directly liable ~~for such taxes, contributions,~~
10 ~~penalties,~~ and interest due from such subcontractors, for the
11 amount of bond that the subcontractor was required to provide
12 under section 77-3104, and the Tax Commissioner shall have all the
13 remedies of collection against such contractor under the provisions
14 of sections 77-3101 to 77-3112 as though the services in question
15 were performed directly by such contractor.

16 (2) The withholding required by this section shall not
17 apply to any payment made to (a) a person that provides the
18 payor with a statement that the income earned is not subject to
19 income tax because of a treaty obligation of the United States,
20 (b) a contractor when the payor contractor determines that the
21 payee contractor is in the data base required by subsection (3) of
22 section 77-2753, or (c) a contractor when the payor contractor has
23 withheld from the payment under subsection (3) of section 77-2753.

24 Sec. 14. Sections 1, 2, 3, 4, 5, 6, 7, 8, and 14 of this
25 act become operative on October 1, 2008. Sections 9, 10, 11, 12,
26 13, and 15 of this act become operative on January 1, 2009.

27 Sec. 15. Original sections 77-3104, 77-3105, and 77-3106,

1 Reissue Revised Statutes of Nebraska, and sections 77-2753 and
2 77-3102, Revised Statutes Supplement, 2007, are repealed.

3 2. On page 1, strike lines 2 through 6 and insert
4 "sections 77-3104, 77-3105, and 77-3106, Reissue Revised Statutes
5 of Nebraska, and sections 77-2753 and 77-3102, Revised Statutes
6 Supplement, 2007; to adopt the Low-Income Home Energy Conservation
7 Act; to change provisions relating to income tax withholding; to
8 harmonize provisions; to provide operative dates; and to repeal the
9 original sections."