



**Hundredth Legislature - First Session - 2007
Committee Statement
LB 505**

Hearing Date: February 5, 2007
Committee On: Business and Labor

Introducer(s): (Mines)
Title: Change provisions of the Nebraska Wage Payment and Collection Act

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

6	Yes	Senators Cornett, Lathrop, McGill, Rogert, Wallman, White
	No	
	Present, not voting	
1	Absent	Senator Chambers

Proponents:

Senator Mines
Mark Schorr
David Mussman
Peggy Noll
Korby Gilbertson
Allen Beerman
Scott Moore

Representing:

Introducer
Nebraska Chamber of Commerce, Self
West Corporation
Noll Human Resource Services
Nebraska Broadcasters Assoc.
Nebraska Press Assoc.
Nebraska Chamber of Commerce

Opponents:

Michael Dowd

Representing:

AFL-CIO

Neutral:

Representing:

Summary of purpose and/or changes: LB 505 removes the definition of how unpaid commissions are calculated at the time of employee termination and changes the timeframe in which commissions for a terminated employee are paid. The bill also expands the definition of employee to include one who contracts to sell goods or services.

Currently at the time of termination, any commission from a sale, *that has been delivered or is on file*, is considered owed to the employee as wages and is payable at the next regular payday or within two weeks of termination, whichever is sooner. The bill deletes, from within the broader

definition of wages, the language defining what is owed in commissions to the terminated employee.

Furthermore, LB 505 directs the employer to pay unpaid commissions to a terminated employee on the next payday *after* the employer receives payment from the customer for the goods or services that generated the commission. An employer would be required to provide the former employee periodic accountings of any outstanding commissions, until all commissions have been paid or the orders have been returned or canceled.

Section by Section Summary:

Section 1: amends §48-1228 to include section 4 of this act within the Nebraska Wage Payment and Collection Act.

Section 2: Definitional section; amends §48-1229 to include, within the definition of employee, as one who has contracted to sell the goods or services of an employer and to be compensated by commission.

Within the definition of wages, strikes “Wages includes commissions on all orders delivered and all orders on file with the employer at the time of termination of employment less any orders returned or canceled at the time suit is filed.”

Section 3: amends §48-1230 to renumber existing sections; inserts (2) Except as otherwise provided in section 4 of this act; makes technical changes.

Section 4: New Language; when an employee is no longer on the payroll, unpaid commissions are due on the next payday *after* the employer receives payment for the goods or services that generated the commission, *or as agreed to by the parties*. The employer must provide periodic accountings for outstanding commissions until they are paid, not including commissions on returned or canceled orders.

Section 5: Clarification Language; amends §48-1232 in regards to penalties recovered from the employer by striking “placed in a fund to be distributed to the common schools of this state” and inserting clarification language “remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.”

Section 6: Operative date: January 1, 2008.

Section 7: Repeals original sections 48-1228, 48-1229, 48-230 and 48-1232.

Explanation of amendments, if any: The committee amendment allows the employer and the employee to agree as to what shall constitute commissions at the time of employee separation. Barring a previous agreement to the contrary the default language in the statute is reinstated so that wages includes commissions on all orders delivered and all orders on file with the employer at the time of separation of employment less any orders returned or canceled at the time suit is filed.

Finally, the committee amendment would make the new timeframe proposed in this bill for payment of separation commissions mandatory and could not be contracted otherwise.

Senator Abbie Cornett, Chairperson