

AMENDMENTS TO LB 223

Introduced by Revenue

1           1. Insert the following new section:

2           Sec. 12. Section 77-2753, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           77-2753 ~~(1)~~ (1)(a) Every employer and payor maintaining  
5 an office or transacting business within this state and making  
6 payment of any wages or other payments as defined in subsection  
7 (5) of this section which are taxable under the Nebraska Revenue  
8 Act of 1967 to any individual shall deduct and withhold from  
9 such wages for each payroll period and from such payments a tax  
10 computed in such manner as to result, so far as practicable, in  
11 withholding from the employee's wages and payments to the payee  
12 during each calendar year an amount substantially equivalent to the  
13 tax reasonably estimated to be due from the employee or payee under  
14 such act with respect to the amount of such wages and payments  
15 included in his or her taxable income during the calendar year. The  
16 method of determining the amount to be withheld shall be prescribed  
17 by rules and regulations of the Tax Commissioner. Such rules and  
18 regulations may allow withholding to be computed at a percentage  
19 of the federal withholding for gambling winnings or supplemental  
20 payments, including bonuses, commissions, overtime pay, and sales  
21 awards which are not paid at the same time as other wages. Any  
22 withholding tables prescribed by the Tax Commissioner shall be  
23 provided to the budget division of the Department of Administrative

1 Services and the Legislative Fiscal Analyst for review at least  
2 sixty days before the tables become effective.

3 (b) Notwithstanding the amount of federal withholding or  
4 the rules and regulations of the Department of Revenue determining  
5 the amount of withholding, every employer and payor employing  
6 twenty-five or more employees shall withhold at least three  
7 percent of the gross wages minus tax qualified deductions of  
8 each employee unless the employee provides satisfactory evidence  
9 that a lesser amount of withholding is justified in the employee's  
10 particular circumstances. Such satisfactory evidence may include  
11 birth certificates or social security information for dependents  
12 or other evidence that reasonably assures the employer that the  
13 employee is not improperly or fraudulently evading or defeating the  
14 income tax by reducing or eliminating withholding.

15 (2) (a) Every payor who is either (i) making a payment or  
16 payments in excess of five thousand dollars or (ii) maintaining  
17 an office or transacting business within this state and making  
18 a payment or payments related to such business in excess of six  
19 hundred dollars, and such payment or payments are for personal  
20 services performed or to be performed substantially within this  
21 state, to a nonresident individual, other than an employee, who  
22 is not subject to withholding on such payment under the Internal  
23 Revenue Code or a corporation, partnership, or limited liability  
24 company described in subdivision (c) of this subsection, shall  
25 be deemed an employer, and the individual performing the personal  
26 services shall be deemed an employee for the purposes of this  
27 section. The payor shall deduct and withhold from such payments

1 the percentage of such payments prescribed in subdivision (b) of  
2 this subsection. If the individual performing the personal services  
3 provides the payor with a statement of the expenses reasonably  
4 related to the personal services, the total payment or payments may  
5 be reduced by the total expenses before computing the amount to  
6 deduct and withhold, except that such reduction shall not be more  
7 than fifty percent of such payment or payments.

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

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

23 (d) The withholding required by this subsection shall  
24 not apply to any payment to a nonresident alien, corporation,  
25 partnership, or limited liability company if such individual,  
26 shareholder, partner, or member provides the payor with a statement  
27 that the income earned is not subject to tax because of a treaty

1 obligation of the United States.

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

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

23           (5) Wages and other payments subject to withholding shall  
24 mean payments that are subject to withholding under the Internal  
25 Revenue Code of 1986 and are (a) payments made by employers to  
26 employees, except such payments subject to 26 U.S.C. 3406, (b)  
27 payments of gambling winnings, or (c) pension or annuity payments

1 when the recipient has requested the payor to withhold from such  
2 payments.

3 2. On page 47, line 16, after "matrix" insert "or".

4 3. On page 51, lines 3 and 12, strike "the" and insert  
5 "overstated as a"; and in line 22 after "(4)" insert "If any  
6 taxpayer, with intent to evade or defeat any income tax imposed by  
7 the Nebraska Revenue Act of 1967 or the payment thereof, claims an  
8 excessive number of exemptions or in any other manner overstates  
9 the amount of withholding, he or she shall be guilty of a Class II  
10 misdemeanor.".

11 4. On page 55, after line 21 insert the following new  
12 subsection:

13 "(14) If any employer or payor employing twenty-five or  
14 more employees who is required to withhold and pay over income tax  
15 imposed by the Nebraska Revenue Act of 1967 fails to either (a)  
16 withhold at least three percent of the wages of any employee or (b)  
17 obtain satisfactory evidence from the employee justifying a lower  
18 withholding amount as required by subdivision (1)(b) of section  
19 77-2753, the Tax Commissioner may impose, assess, and collect a  
20 penalty of not more than one thousand dollars per violation.".

21 5. On page 57, strike line 8 and insert

22 "(3) Livestock means all animals, including cattle,  
23 horses, sheep, goats, hogs, chickens, turkeys, and other species of  
24 game birds and animals raised and produced subject to permit and  
25 regulation by the Game and Parks Commission or the Department of  
26 Agriculture;".

27 6. On page 93, line 5, after the last comma insert

1 "77-2753,".

2           7. Correct the operative date section so that the section  
3 added by this amendment becomes operative on January 1, 2008.

4           8. Renumber the remaining sections and correct internal  
5 references accordingly.