

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -  
2008**

**COMMITTEE STATEMENT**

**LB1001**

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**Hearing Date:** February 07, 2008

**Committee On:** Revenue

**Introducer(s):** (White)

**Title:** Adopt the Low-Income Home Energy Conservation Act and provide for a sales and use tax exemption

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**Roll Call Vote - Final Committee Action:**

Placed on General File with Amendments

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**Vote Results:**

7 Yes	Senators Burling, Cornett, Janssen, Langemeier, Preister, Raikes and White
0 No	
1 Absent	Senator Dierks
0 Present, not voting	

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**Proponents:**

Senator Tom White  
Tom Richards  
Marc Nichols  
Kenneth C. Winston  
Jill Becker  
John K. Hansen

**Representing:**

Introducer  
Omaha Public Power District  
Omaha Public Power District  
Nebraska Chapter, Sierra Club  
Aquila Networks  
Nebraska Farmers Union

**Opponents:**

None

**Representing:**

**Neutral:**

None

**Representing:**

**Summary of purpose and/or change:**

LB 1001 would allow electric utilities to opt into a program for providing grants for low-income Nebraska residents to make energy-saving improvements to their homes. The fund created for the grants would consist of 20 percent of the sales and use tax received from the utility matched dollar for dollar from the utility's own funds. Low income would be defined as less than 150 percent of the federal poverty level.

LB 1001 would also exempt from sales tax the energy-saving improvements that are funded by the program.

Section by section summary

Section 1 would name the act the Low-Income Home Energy Conservation Act.

Section 2 would state legislative findings, declaring that funding energy conservation for low income people serves a public purpose.

Section 3 would provide definitions. "Eligible energy conservation improvements" would mean a device, method, or equipment to reduce energy consumption or increase efficiency, including insulation weather stripping, furnace efficiency modifications, or thermostat or lighting controls. "Eligible entity" would mean an electric utility that provides matching funds. "Eligible person" would mean any Nebraska resident with a household income that is less than 150 percent of the federal poverty level.

Section 4 would create the Energy Conservation Improvement Fund to be administered by the Department of Revenue. It is to consist of 20 percent of sales tax received from an electric utility that provides matching funds and the matching funds from the utility. Whether that means taxes paid by the utility, or remitted by the utility, or both, is unclear. The utility is to match this 20 percent figure with an equal amount if it chooses to participate in the program.

Section 5 would allow the electric utility that has provided the matching funds to establish and administer a grant program for eligible persons to make eligible energy conservation improvements to his or her residence. The utility would be required to verify that the improvements have been made.

Section 6 would allow the utility to contract with any qualified third party to make the eligibility determinations for grants. This could be for purposes of determining both low-income eligibility and the eligibility of the improvement.

Section 7 would require the Department of Revenue to return any unused matching funds to the participating utility on or after February 1<sup>st</sup> of each year. The utility could also elect to leave the matching funds in the fund for purposes of making more grants.

Section 8 would require annual reporting of the grants by the utility.

Section 9 would allow the Department of Revenue to adopt rules and regulations.

Section 10 would amend section 77-2701.16, the definition of “gross receipts” for sales tax purposes to exclude receipts from an eligible energy conservation improvement from the sales tax base.

Section 11 would amend section 77-27,132 to distribute 20 percent of the sales and use tax received from an eligible utility to the Energy Conservation Improvement Fund.

Section 12 would repeal the original section and section 13 would declare an emergency.

**Explanation of amendments, if any:**

The Committee amendments would combine and clarify the provisions of LB 1001 which allows electricity suppliers to opt into a program for providing grants for low-income Nebraska residents to make energy-saving improvements to their homes, and eliminate the sales tax exemption for such projects. The amendments also add provisions from LB 1175, adding a new withholding requirement for any business making payments of more than \$600 for construction services to persons that are not employees.

**Section by section summary of the bill as amended**

Section 1 would name the act the Low-Income Home Energy Conservation Act.

Section 2 would state legislative findings, declaring that funding energy conservation for low income people serves a public purpose.

Section 3 would provide definitions. "Eligible energy conservation improvements" would mean a device, method, or equipment to reduce energy consumption or increase efficiency, including insulation weather stripping, furnace efficiency modifications, or thermostat or lighting controls. "Eligible entity" would mean an electric utility that provides matching funds. "Eligible person" would mean any Nebraska resident with a household income that is less than 150 percent of the federal poverty level.

Section 4 would create the Energy Conservation Improvement Fund to be administered by the Department of Revenue. There is to be a sub account for each eligible entity providing matching funds for an eligible conservation improvement program. The Fund and the respective sub account is to consist of a designated portion of the sales tax collected by the eligible entity from customers, not to exceed five percent of the total taxes remitted in the period, plus an equal amount of matching funds.

The Department of Revenue is to develop a form to be attached to the sales tax return to designate a portion of remitted sales tax and pay the matching funds. Section 4 would be rewritten entirely by the Committee amendment.

Section 5 would allow the electric utility that has provided the matching funds to establish and administer a grant program for eligible persons to make eligible energy conservation improvements to his or her residence. The utility would be required to verify that the improvements have been made. The utility may require the eligible person to pay for a portion of the cost not to exceed twenty percent by adding an amount to the monthly bill.

Section 6 would allow the utility to contract with any qualified third party to make the eligibility determinations for grants. This could be for purposes of determining both low-income eligibility and the eligibility of the improvement.

Section 7 would require annual reporting of the grants by the utility.

Section 8 would allow the Department of Revenue to adopt rules and regulations to carry out its responsibilities under the Low-Income Home Energy Conservation Act.

Section 9 would amend the income tax withholding statute (section 77-2753), to add a new withholding requirement for any contractor making payments of more than \$600 for construction services to a contractor or a person that is not an employee. The withholding would be five percent. This requirement would not apply if the payee shows that any income that is earned would not be subject to income tax because of a treaty obligation of the United States, or that the payor determines that the payee is a

contractor that is registered under the Contractor Registration Act. Sections 9 through 13 are from original LB 1175.

Sections 10, 11, & 12 would amend sections 77-3102, 77-3104, and 77-3105 to add references to withholding from contractors in these three sections of the nonresident contractor registration act.

Section 13 would amend section 77-3106 to require contractors to withhold from subcontractors an amount sufficient to guarantee that all taxes including unemployment taxes and the withholding required by section 9 are paid. Failure to comply or obtain clearance from the Department of Revenue renders such contractor liable for the amount of the bond that is required of such subcontractors under section 77-3104. The current requirement is that the liability is for the taxes owed by the subcontractor.

This withholding requirement shall not apply if the payee shows that any income that is earned would not be subject to income tax because of a treaty obligation of the United States, or that the payor determines that the payee is a contractor that is registered under the Contractor Registration Act.

Section 14 would provide an operative date of October 1, 2008.

Section 15 would repeal the original sections.

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Senator Ray Janssen, Chairperson