

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 642
Final Reading

Introduced by Cornett, 45.

Read first time January 19, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-5601, Revised Statutes Cumulative Supplement, 2010; to
3 authorize the Department of Revenue to enter into certain
4 contracts for products and services; to harmonize
5 provisions; to repeal the original section; and to
6 declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The Department of Revenue may contract to
2 procure products and services to develop, deploy, or administer
3 systems or programs which identify nonfilers of returns,
4 underreporters, or nonpayers of taxes administered by the department
5 or improper or fraudulent payments made through programs administered
6 by the department. Fees for services, reimbursements, costs incurred
7 by the department, or other remuneration may be funded from the
8 amount of tax, penalty, interest, or other recovery actually
9 collected and shall be paid only after the amount is collected. The
10 Legislature intends to appropriate an amount from the tax, penalty,
11 interest, and other recovery actually collected, not to exceed the
12 amount collected, which is sufficient to pay for services,
13 reimbursements, costs incurred by the department, or other
14 remuneration pursuant to this section. Vendors entering into a
15 contract with the department pursuant to this section are subject to
16 the requirements and penalties of the confidentiality laws of this
17 state regarding tax information.

18 (2) Ten percent of all proceeds received during each
19 calendar year due to the contracts entered into pursuant to this
20 section shall be deposited in the Department of Revenue Enforcement
21 Fund for purposes of identifying nonfilers, underreporters,
22 nonpayers, and improper or fraudulent payments.

23 (3) The Tax Commissioner shall report annually to the
24 Revenue Committee of the Legislature and Appropriations Committee of
25 the Legislature on the amount of dollars generated during the

1 previous fiscal year pursuant to this section.

2 Sec. 2. Section 77-5601, Revised Statutes Cumulative
3 Supplement, 2010, is amended to read:

4 77-5601 (1) From August 1, 2004, through October 31,
5 2004, there shall be conducted a tax amnesty program with regard to
6 taxes due and owing that have not been reported to the Department of
7 Revenue. Any person applying for tax amnesty shall pay all unreported
8 taxes that were due on or before April 1, 2004. Any person that
9 applies for tax amnesty and is accepted by the Tax Commissioner shall
10 have any penalties and interest waived on unreported and delinquent
11 taxes notwithstanding any other provisions of law to the contrary.

12 (2) To be eligible for the tax amnesty provided by this
13 section, the person shall apply for amnesty within the amnesty
14 period, file a return for each taxable period for which the amnesty
15 is requested by December 31, 2004, if no return has been filed, and
16 pay in full all taxes for which amnesty is sought with the return or
17 within thirty days after the application if a return was filed prior
18 to the amnesty period. Tax amnesty shall not be available for any
19 person that is under civil or criminal audit, investigation, or
20 prosecution for unreported or delinquent taxes by this state or the
21 United States Government on or before April 16, 2004.

22 (3) The department shall not seek civil or criminal
23 prosecution against any person for any taxable period for which
24 amnesty has been granted. The Tax Commissioner shall develop forms
25 for applying for the tax amnesty program, develop procedures for

1 qualification for tax amnesty, and conduct a public awareness
2 campaign publicizing the program.

3 (4) If a person elects to participate in the amnesty
4 program, the election shall constitute an express and irrevocable
5 relinquishment of all administrative and judicial rights to challenge
6 the imposition of the tax or its amount. Nothing in this section
7 shall prohibit the department from adjusting a return as a result of
8 any state or federal audit.

9 (5)(a) Except for any local option sales tax collected
10 and returned to the appropriate municipality and any motor vehicle
11 fuel, diesel fuel, and compressed fuel taxes, which shall be
12 deposited in the Highway Trust Fund or Highway Allocation Fund as
13 provided by law, no less than eighty percent of all revenue received
14 pursuant to the tax amnesty program shall be deposited in the General
15 Fund; ten percent, not to exceed five hundred thousand dollars, shall
16 be deposited in the Department of Revenue Enforcement Fund; and ten
17 percent, not to exceed five hundred thousand dollars, shall be
18 deposited in the Department of Revenue Enforcement Technology Fund.
19 Any amount that would otherwise be deposited in the Department of
20 Revenue Enforcement Fund or the Department of Revenue Enforcement
21 Technology Fund that is in excess of the five-hundred-thousand-dollar
22 limitation shall be deposited in the General Fund.

23 (b) For fiscal year 2005-06, all proceeds in the
24 Department of Revenue Enforcement Fund shall be appropriated to the
25 department for purposes of employing investigators, agents, and

1 auditors and otherwise increasing personnel for enforcement of the
2 Nebraska Revenue Act of 1967. For fiscal year 2005-06, all proceeds
3 in the Department of Revenue Enforcement Technology Fund shall be
4 appropriated to the department for the purposes of acquiring lists,
5 software, programming, computer equipment, and other technological
6 methods for enforcing the act.

7 (c) For fiscal years after fiscal year 2005-06, twenty
8 percent of all proceeds received during the previous calendar year
9 due to the efforts of auditors and investigators hired pursuant to
10 subdivision (5)(b) of this section, not to exceed seven hundred fifty
11 thousand dollars, shall be deposited in the Department of Revenue
12 Enforcement Fund for purposes of employing investigators and auditors
13 or continuing such employment for purposes of increasing enforcement
14 of the act.

15 (d) Ten percent of all proceeds received during each
16 calendar year due to the contracts entered into pursuant to section 1
17 of this act shall be deposited in the Department of Revenue
18 Enforcement Fund for purposes of identifying nonfilers of returns,
19 underreporters, nonpayers of taxes, and improper or fraudulent
20 payments.

21 (6)(a) The department shall prepare a report by April 1,
22 2005, and by February 1 of each year thereafter detailing the results
23 of the tax amnesty program and the subsequent enforcement efforts.
24 For the report due April 1, 2005, the report shall include (i) the
25 amount of revenue obtained as a result of the tax amnesty program

1 broken down by tax program, (ii) the amount obtained from instate
2 taxpayers and from out-of-state taxpayers, and (iii) the amount
3 obtained from individual taxpayers and from business enterprises.

4 (b) For reports due in subsequent years, the report shall
5 include (i) the number of personnel hired for purposes of subdivision
6 (5)(b) of this section and their duties, (ii) a description of lists,
7 software, programming, computer equipment, and other technological
8 methods acquired pursuant to such subdivision and the purposes of
9 each, and (iii) the amount of new revenue obtained as a result of the
10 new personnel and acquisitions during the prior calendar year, broken
11 down into the same categories as described in subdivision (6)(a) of
12 this section.

13 (7) The Department of Revenue Enforcement Fund and the
14 Department of Revenue Enforcement Technology Fund are created.
15 Transfers may be made from the Department of Revenue Enforcement Fund
16 to the General Fund at the direction of the Legislature. The
17 Department of Revenue Enforcement Fund may receive transfers from the
18 Local Civic, Cultural, and Convention Center Financing Fund at the
19 direction of the Legislature for the purpose of administering the
20 Sports Arena Facility Financing Assistance Act. Any money in the
21 Department of Revenue Enforcement Fund and the Department of Revenue
22 Enforcement Technology Fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska
24 Capital Expansion Act and the Nebraska State Funds Investment Act.
25 The Department of Revenue Enforcement Technology Fund shall terminate

1 on July 1, 2006. Any unobligated money in the fund at that time shall
2 be deposited in the General Fund.

3 (8) For purposes of this section, taxes mean any taxes
4 collected by the department, including, but not limited to state and
5 local sales and use taxes, individual and corporate income taxes,
6 financial institutions deposit taxes, motor vehicle fuel, diesel
7 fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and
8 charitable gaming taxes.

9 Sec. 3. Original section 77-5601, Revised Statutes
10 Cumulative Supplement, 2010, is repealed.

11 Sec. 4. Since an emergency exists, this act takes effect
12 when passed and approved according to law.