

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 642**

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. 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 Fees for services, reimbursements, costs incurred by the department,  
6 or other remuneration may be funded from the amount of tax, penalty,  
7 or interest actually collected and shall be paid only after the  
8 amount is collected. The Legislature intends to appropriate an amount  
9 from the tax, penalty, and interest actually collected, not to exceed  
10 the amount collected, which is sufficient to pay for services,  
11 reimbursements, costs incurred by the department, or other  
12 remuneration pursuant to this section. Vendors entering into a  
13 contract with the department pursuant to this section are subject to  
14 the requirements and penalties of the confidentiality laws of this  
15 state regarding tax information. Contracts under this section are not  
16 subject to sections 73-201 to 73-204.

17           Ten percent of all proceeds received during each calendar  
18 year due to the contracts entered into pursuant to this section shall  
19 be deposited in the Department of Revenue Enforcement Fund for the  
20 purpose of identifying nonfilers, underreporters, and nonpayers.

21           The Tax Commissioner shall report annually to the Revenue  
22 Committee of the Legislature and Appropriations Committee of the  
23 Legislature on the amount of dollars generated during the previous  
24 fiscal year pursuant to this section.

25           Sec. 2. Section 77-5601, Revised Statutes Cumulative

1 Supplement, 2010, is amended to read:

2           77-5601 (1) From August 1, 2004, through October 31,  
3 2004, there shall be conducted a tax amnesty program with regard to  
4 taxes due and owing that have not been reported to the Department of  
5 Revenue. Any person applying for tax amnesty shall pay all unreported  
6 taxes that were due on or before April 1, 2004. Any person that  
7 applies for tax amnesty and is accepted by the Tax Commissioner shall  
8 have any penalties and interest waived on unreported and delinquent  
9 taxes notwithstanding any other provisions of law to the contrary.

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

20           (3) The department shall not seek civil or criminal  
21 prosecution against any person for any taxable period for which  
22 amnesty has been granted. The Tax Commissioner shall develop forms  
23 for applying for the tax amnesty program, develop procedures for  
24 qualification for tax amnesty, and conduct a public awareness  
25 campaign publicizing the program.

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

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

21           (b) For fiscal year 2005-06, all proceeds in the  
22 Department of Revenue Enforcement Fund shall be appropriated to the  
23 department for purposes of employing investigators, agents, and  
24 auditors and otherwise increasing personnel for enforcement of the  
25 Nebraska Revenue Act of 1967. For fiscal year 2005-06, all proceeds

1 in the Department of Revenue Enforcement Technology Fund shall be  
2 appropriated to the department for the purposes of acquiring lists,  
3 software, programming, computer equipment, and other technological  
4 methods for enforcing the act.

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

13 (d) Ten percent of all proceeds received during each  
14 calendar year due to the contracts entered into pursuant to section 1  
15 of this act shall be deposited in the Department of Revenue  
16 Enforcement Fund for the purpose of identifying nonfilers,  
17 underreporters, and nonpayers of taxes.

18 (6)(a) The department shall prepare a report by April 1,  
19 2005, and by February 1 of each year thereafter detailing the results  
20 of the tax amnesty program and the subsequent enforcement efforts.  
21 For the report due April 1, 2005, the report shall include (i) the  
22 amount of revenue obtained as a result of the tax amnesty program  
23 broken down by tax program, (ii) the amount obtained from instate  
24 taxpayers and from out-of-state taxpayers, and (iii) the amount  
25 obtained from individual taxpayers and from business enterprises.

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

10                   (7) The Department of Revenue Enforcement Fund and the  
11 Department of Revenue Enforcement Technology Fund are created.  
12 Transfers may be made from the Department of Revenue Enforcement Fund  
13 to the General Fund at the direction of the Legislature. The  
14 Department of Revenue Enforcement Fund may receive transfers from the  
15 Local Civic, Cultural, and Convention Center Financing Fund at the  
16 direction of the Legislature for the purpose of administering the  
17 Sports Arena Facility Financing Assistance Act. Any money in the  
18 Department of Revenue Enforcement Fund and the Department of Revenue  
19 Enforcement Technology Fund available for investment shall be  
20 invested by the state investment officer pursuant to the Nebraska  
21 Capital Expansion Act and the Nebraska State Funds Investment Act.  
22 The Department of Revenue Enforcement Technology Fund shall terminate  
23 on July 1, 2006. Any unobligated money in the fund at that time shall  
24 be deposited in the General Fund.

25                   (8) For purposes of this section, taxes mean any taxes

1 collected by the department, including, but not limited to state and  
2 local sales and use taxes, individual and corporate income taxes,  
3 financial institutions deposit taxes, motor vehicle fuel, diesel  
4 fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and  
5 charitable gaming taxes.

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

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