

E AND R AMENDMENTS TO LB 310

Introduced by Slama, 1, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 77-2906, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           77-2906 (1)(a) ~~{1}~~ Within twelve months after the date on which the  
6 historically significant real property is placed in service, a person  
7 whose application was approved under section 77-2905 shall file a request  
8 for final approval containing all required information with the officer  
9 on a form prescribed by the officer and shall include a fee established  
10 by the officer pursuant to section 77-2907. The officer shall then  
11 determine whether the work substantially conforms to the application  
12 approved under section 77-2905. If the work substantially conforms and no  
13 other significant improvements have been made to the historically  
14 significant real property that do not substantially comply with the  
15 standards, the officer shall approve the request for final approval and  
16 refer the application to the department to determine the amount of  
17 eligible expenditures, calculate the amount of the credit, and issue a  
18 certificate to the person evidencing the credit. If the work does not  
19 substantially conform to the approved application or if other significant  
20 improvements have been made to the historically significant real property  
21 that do not substantially comply with the standards, the officer shall  
22 deny the request for final approval and provide the person with a written  
23 explanation of the decision. The officer shall make a determination on  
24 the request for final approval in writing within thirty days after the  
25 filing of the request. If the officer does not make a determination  
26 within thirty days after the filing of the request, the request shall be  
27 deemed approved and the person may petition the department directly to

1 determine the amount of eligible expenditures, calculate the amount of  
2 the credit, and issue a certificate evidencing the credit.

3 (b) The department shall determine the amount of eligible  
4 expenditures, calculate the amount of the credit, and issue one or more  
5 certificates evidencing the credit within sixty days after referral of  
6 the application to the department by the officer or the filing of a  
7 petition pursuant to subdivision (1)(a) of this section. The person  
8 filing the request for final approval and the department may also agree  
9 to extend the sixty-day period, but such extension shall not exceed an  
10 additional thirty days. If the department does not determine the amount  
11 of eligible expenditures, calculate the amount of the credit, and issue  
12 one or more certificates evidencing the credit within such sixty-day  
13 period or agreed-upon longer period, the credit shall be deemed to have  
14 been issued by the department for the amount requested in such person's  
15 request for final approval, except that such amount shall not exceed one  
16 hundred ten percent of the amount of credits allocated by the officer  
17 under section 77-2905 and such amount shall not increase or decrease the  
18 total amount of credits that may be allocated by the officer under  
19 section 77-2905 in any calendar year.

20 (c) Any denial of a request for final approval by the officer or any  
21 determination of the amount of eligible expenditures or calculation of  
22 the amount of the credit by the department pursuant to this section may  
23 be appealed, and the appeal shall be in accordance with the  
24 Administrative Procedure Act.

25 (2) The department shall divide the credit and issue multiple  
26 certificates to a person who qualifies for the credit upon reasonable  
27 request.

28 (3) In calculating the amount of the credits to be issued pursuant  
29 to this section, the department may issue credits in an amount that  
30 differs from the amount of credits allocated by the officer under section  
31 77-2905 if such credits are supported by eligible expenditures as

1 determined by the department, except that the department shall not issue  
2 credits in an amount exceeding one hundred ten percent of the amount of  
3 credits allocated by the officer under section 77-2905. If the amount of  
4 credits to be issued under this section is more than the amount of  
5 credits allocated by the officer pursuant to section 77-2905, the  
6 department shall notify the officer of the difference and such amount  
7 shall be subtracted from the annual amount available for allocation under  
8 section 77-2905. If the amount of credits to be issued under this section  
9 is less than the amount of credits allocated by the officer pursuant to  
10 section 77-2905, the department shall notify the officer of the  
11 difference and such amount shall be added to the annual amount available  
12 for allocation under section 77-2905.

13 (4) The department shall not issue any certificates for credits  
14 under this section until the recipient of the credit has paid to the  
15 department;

16 (a) A fee equal to one-quarter of one percent of the credit  
17 amount. The department shall remit such fees to the State Treasurer for  
18 credit to the Civic and Community Center Financing Fund; and -

19 (b) A fee equal to six-tenths of one percent of the credit amount.  
20 The department shall remit such fees to the State Treasurer for credit to  
21 the Department of Revenue Enforcement Fund.

22 (5) If the recipient of the credit is (a) a corporation having an  
23 election in effect under subchapter S of the Internal Revenue Code of  
24 1986, as amended, (b) a partnership, or (c) a limited liability company,  
25 the credit may be claimed by the shareholders of the corporation, the  
26 partners of the partnership, or the members of the limited liability  
27 company in the same manner as those shareholders, partners, or members  
28 account for their proportionate shares of the income or losses of the  
29 corporation, partnership, or limited liability company, or as provided in  
30 the bylaws or other executed agreement of the corporation, partnership,  
31 or limited liability company. Credits granted to a partnership, a limited

1 liability company taxed as a partnership, or other multiple owners of  
2 property shall be passed through to the partners, members, or owners,  
3 respectively, on a pro rata basis or pursuant to an executed agreement  
4 among the partners, members, or owners documenting any alternate  
5 distribution method.

6 (6) Subject to section 77-2912, any credit amount that is unused may  
7 be carried forward to subsequent tax years until fully utilized.

8 (7) Credits allowed under this section may be claimed for taxable  
9 years beginning or deemed to begin on or after January 1, 2015, under the  
10 Internal Revenue Code of 1986, as amended.

11 Sec. 2. Section 77-5601, Revised Statutes Supplement, 2019, is  
12 amended to read:

13 77-5601 (1) From August 1, 2004, through October 31, 2004, there  
14 shall be conducted a tax amnesty program with regard to taxes due and  
15 owing that have not been reported to the Department of Revenue. Any  
16 person applying for tax amnesty shall pay all unreported taxes that were  
17 due on or before April 1, 2004. Any person that applies for tax amnesty  
18 and is accepted by the Tax Commissioner shall have any penalties and  
19 interest waived on unreported and delinquent taxes notwithstanding any  
20 other provisions of law to the contrary.

21 (2) To be eligible for the tax amnesty provided by this section, the  
22 person shall apply for amnesty within the amnesty period, file a return  
23 for each taxable period for which the amnesty is requested by December  
24 31, 2004, if no return has been filed, and pay in full all taxes for  
25 which amnesty is sought with the return or within thirty days after the  
26 application if a return was filed prior to the amnesty period. Tax  
27 amnesty shall not be available for any person that is under civil or  
28 criminal audit, investigation, or prosecution for unreported or  
29 delinquent taxes by this state or the United States Government on or  
30 before April 16, 2004.

31 (3) The department shall not seek civil or criminal prosecution

1 against any person for any taxable period for which amnesty has been  
2 granted. The Tax Commissioner shall develop forms for applying for the  
3 tax amnesty program, develop procedures for qualification for tax  
4 amnesty, and conduct a public awareness campaign publicizing the program.

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

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

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

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

1 (d) Ten percent of all proceeds received during each calendar year  
2 due to the contracts entered into pursuant to section 77-367 shall be  
3 deposited in the Department of Revenue Enforcement Fund for purposes of  
4 identifying nonfilers of returns, underreporters, nonpayers of taxes, and  
5 improper or fraudulent payments.

6 (6)(a) The department shall prepare a report by April 1, 2005, and  
7 by February 1 of each year thereafter detailing the results of the tax  
8 amnesty program and the subsequent enforcement efforts. For the report  
9 due April 1, 2005, the report shall include (i) the amount of revenue  
10 obtained as a result of the tax amnesty program broken down by tax  
11 program, (ii) the amount obtained from instate taxpayers and from out-of-  
12 state taxpayers, and (iii) the amount obtained from individual taxpayers  
13 and from business enterprises.

14 (b) For reports due in subsequent years, the report shall include  
15 (i) the number of personnel hired for purposes of subdivision (5)(b) of  
16 this section and their duties, (ii) a description of lists, software,  
17 programming, computer equipment, and other technological methods acquired  
18 and the purposes of each, and (iii) the amount of new revenue obtained as  
19 a result of the new personnel and acquisitions during the prior calendar  
20 year, broken down into the same categories as described in subdivision  
21 (6)(a) of this section.

22 (7) The Department of Revenue Enforcement Fund is created. Transfers  
23 may be made from the Department of Revenue Enforcement Fund to the  
24 General Fund at the direction of the Legislature. The Department of  
25 Revenue Enforcement Fund may receive transfers from the Civic and  
26 Community Center Financing Fund at the direction of the Legislature for  
27 the purpose of administering the Sports Arena Facility Financing  
28 Assistance Act. The Department of Revenue Enforcement Fund shall include  
29 any money credited to the fund (a) under section 77-2703, and such money  
30 shall be used by the Department of Revenue to defray the costs incurred  
31 to implement Laws 2019, LB237, and (b) under the Mechanical Amusement

1 Device Tax Act, and such money shall be used by the department to defray  
2 the costs incurred to implement and enforce Laws 2019, LB538, and any  
3 rules and regulations adopted and promulgated to carry out Laws 2019,  
4 LB538, and (c) under section 77-2906, and such money shall be used by the  
5 Department of Revenue to defray the costs incurred to implement this  
6 legislative bill. Any money in the Department of Revenue Enforcement Fund  
7 available for investment shall be invested by the state investment  
8 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
9 State Funds Investment Act.

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

15 Sec. 3. Original section 77-2906, Reissue Revised Statutes of  
16 Nebraska, and section 77-5601, Revised Statutes Supplement, 2019, are  
17 repealed.

18 2. On page 1, strike beginning with "the" in line 1 through  
19 "section" in line 5 and insert "revenue and taxation; to amend section  
20 77-2906, Reissue Revised Statutes of Nebraska, and section 77-5601,  
21 Revised Statutes Supplement, 2019; to provide deadlines for the  
22 determination of tax credits, change provisions relating to appeals, and  
23 provide a fee under the Nebraska Job Creation and Mainstreet  
24 Revitalization Act; to authorize the use of certain fees for revenue  
25 enforcement; to harmonize provisions; and to repeal the original  
26 sections".