

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 761

Introduced by Mello, 5.

Read first time January 09, 2014

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections 77-367
2 and 77-5601, Revised Statutes Cumulative Supplement,
3 2012; to change provisions relating to Department of
4 Revenue contracts for finding nonpayers of taxes; to
5 provide for a tax amnesty program; to eliminate obsolete
6 provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-367, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-367 (1) The Department of Revenue:

4 ~~may~~ (a) May enter into a contract to procure products and
5 services to develop, deploy, or administer systems or programs which
6 identify nonfilers of returns, underreporters, or nonpayers of taxes
7 administered by the department or improper or fraudulent payments
8 made through programs administered by the department; and -

9 (b) Shall enter into such a contract on or after October
10 31, 2014, to identify persons who have an outstanding tax liability
11 of at least twenty-five thousand dollars.

12 (2) Fees for services, reimbursements, costs incurred by
13 the department, or other remuneration may be funded from the amount
14 of tax, penalty, interest, or other recovery actually collected and
15 shall be paid only after the amount is collected. The Legislature
16 intends to appropriate an amount from the tax, penalty, interest, and
17 other recovery actually collected, not to exceed the amount
18 collected, which is sufficient to pay for services, reimbursements,
19 costs incurred by the department, or other remuneration pursuant to
20 this section.

21 (3) Vendors entering into a contract with the department
22 pursuant to this section are subject to the requirements and
23 penalties of the confidentiality laws of this state regarding tax
24 information.

25 ~~(2)-(4)~~ (4) Ten percent of all proceeds received during each

1 calendar year due to the contracts entered into pursuant to this
2 section shall be deposited in the Department of Revenue Enforcement
3 Fund for purposes of identifying nonfilers, underreporters,
4 nonpayers, and improper or fraudulent payments.

5 ~~(3)~~(5) The Tax Commissioner shall submit electronically
6 an annual report to the Revenue Committee of the Legislature and
7 Appropriations Committee of the Legislature on the amount of dollars
8 generated during the previous fiscal year pursuant to this section.

9 Sec. 2. Section 77-5601, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 77-5601 (1) From August 1, ~~2004~~2014, through October
12 31, ~~2004~~2014, there shall be conducted a tax amnesty program with
13 regard to taxes due and owing that have not been reported to the
14 Department of Revenue. Any person applying for tax amnesty shall pay
15 all unreported taxes that were due on or before April 1, ~~2004~~2014.
16 Any person that applies for tax amnesty and is accepted by the Tax
17 Commissioner shall have any penalties and interest waived on
18 unreported and delinquent taxes notwithstanding any other provisions
19 of law to the contrary.

20 (2) To be eligible for the tax amnesty provided by this
21 section, the person shall apply for amnesty within the amnesty
22 period, file a return for each taxable period for which the amnesty
23 is requested by December 31, ~~2004~~2014, if no return has been filed,
24 and pay in full all taxes for which amnesty is sought with the return
25 or within thirty days after the application if a return was filed

1 prior to the amnesty period. Tax amnesty shall not be available for
2 any person that is under civil or criminal audit, investigation, or
3 prosecution for unreported or delinquent taxes by this state or the
4 United States Government on or before April 16, ~~2004~~. 2014.

5 (3) The department shall not seek civil or criminal
6 prosecution against any person for any taxable period for which
7 amnesty has been granted. The Tax Commissioner shall develop forms
8 for applying for the tax amnesty program, develop procedures for
9 qualification for tax amnesty, and conduct a public awareness
10 campaign publicizing the program.

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

17 (5)(a) Except for any local option sales tax collected
18 and returned to the appropriate municipality, any sales and use tax
19 proceeds described in subdivision (2)(b) of section 77-27,132, which
20 shall be deposited in the State Highway Capital Improvement Fund and
21 the Highway Allocation Fund as provided in such subdivision, and any
22 motor vehicle fuel, diesel fuel, and compressed fuel taxes, which
23 shall be deposited in the Highway Trust Fund or Highway Allocation
24 Fund as provided by law, no less than eighty percent of all revenue
25 received pursuant to the tax amnesty program shall be deposited in

1 the ~~General Fund; ten Property Tax Credit Cash Fund; and twenty~~
2 percent, not to exceed ~~five hundred thousand~~ one million dollars,
3 shall be deposited in the Department of Revenue Enforcement Fund. ~~;~~
4 ~~and ten percent, not to exceed five hundred thousand dollars, shall~~
5 ~~be deposited in the Department of Revenue Enforcement Technology~~
6 ~~Fund.~~ Any amount that would otherwise be deposited in the Department
7 of Revenue Enforcement Fund ~~or the Department of Revenue Enforcement~~
8 ~~Technology Fund~~ that is in excess of the ~~five hundred thousand dollar~~
9 one-million-dollar limitation shall be deposited in the ~~General Fund.~~
10 Property Tax Credit Cash Fund.

11 (b) For fiscal year ~~2005-06, 2015-16,~~ all proceeds in the
12 Department of Revenue Enforcement Fund which are received pursuant to
13 the tax amnesty program shall be appropriated to the department for
14 purposes of employing investigators, agents, and auditors and
15 otherwise increasing personnel for enforcement of the Nebraska
16 Revenue Act of 1967. ~~For fiscal year 2005-06, all proceeds in the~~
17 ~~Department of Revenue Enforcement Technology Fund shall be~~
18 ~~appropriated to the department for the purposes of acquiring lists,~~
19 ~~software, programming, computer equipment, and other technological~~
20 ~~methods for enforcing the act.~~

21 (c) For fiscal years after fiscal year ~~2005-06, 2015-16,~~
22 twenty percent of all proceeds received during the previous calendar
23 year due to the efforts of auditors and investigators hired pursuant
24 to subdivision (5)(b) of this section, not to exceed seven hundred
25 fifty thousand dollars, shall be deposited in the Department of

1 Revenue Enforcement Fund for purposes of employing investigators and
2 auditors or continuing such employment for purposes of increasing
3 enforcement of the act.

4 (d) Ten percent of all proceeds received during each
5 calendar year due to the contracts entered into pursuant to section
6 77-367 shall be deposited in the Department of Revenue Enforcement
7 Fund for purposes of identifying nonfilers of returns,
8 underreporters, nonpayers of taxes, and improper or fraudulent
9 payments.

10 (6)(a) The department shall prepare a report by April 1,
11 ~~2005, 2015,~~ and by February 1 of each year thereafter detailing the
12 results of the tax amnesty program and the subsequent enforcement
13 efforts. For the report due April 1, ~~2005, 2015,~~ the report shall
14 include (i) the amount of revenue obtained as a result of the tax
15 amnesty program broken down by tax program, (ii) the amount obtained
16 from instate taxpayers and from out-of-state taxpayers, and (iii) the
17 amount obtained from individual taxpayers and from business
18 enterprises.

19 (b) For reports due in subsequent years, the report shall
20 include (i) the number of personnel hired for purposes of subdivision
21 (5)(b) of this section and their duties, ~~(ii) a description of lists,~~
22 ~~software, programming, computer equipment, and other technological~~
23 ~~methods acquired pursuant to such subdivision and the purposes of~~
24 ~~each,~~ and ~~(iii)~~ (ii) the amount of new revenue obtained as a result
25 of the new personnel ~~and acquisitions~~ during the prior calendar year,

1 broken down into the same categories as described in subdivision (6)
2 (a) of this section.

3 (7) The Department of Revenue Enforcement Fund ~~and the~~
4 ~~Department of Revenue Enforcement Technology Fund are~~ is created.
5 Transfers may be made from the Department of Revenue Enforcement Fund
6 to the General Fund at the direction of the Legislature. The
7 Department of Revenue Enforcement Fund may receive transfers from the
8 Civic and Community Center Financing Fund at the direction of the
9 Legislature for the purpose of administering the Sports Arena
10 Facility Financing Assistance Act. Any money in the Department of
11 Revenue Enforcement Fund ~~and the Department of Revenue Enforcement~~
12 ~~Technology Fund~~ available for investment shall be invested by the
13 state investment officer pursuant to the Nebraska Capital Expansion
14 Act and the Nebraska State Funds Investment Act. ~~The Department of~~
15 ~~Revenue Enforcement Technology Fund shall terminate on July 1, 2006.~~
16 ~~Any unobligated money in the fund at that time shall be deposited in~~
17 ~~the General Fund.~~

18 (8) For purposes of this section, taxes mean any taxes
19 collected by the department, including, but not limited to state and
20 local sales and use taxes, individual and corporate income taxes,
21 financial institutions deposit taxes, motor vehicle fuel, diesel
22 fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and
23 charitable gaming taxes.

24 Sec. 3. Original sections 77-367 and 77-5601, Revised
25 Statutes Cumulative Supplement, 2012, are repealed.