

E AND R AMENDMENTS TO LB 642

Introduced by Larson, 40, Chairperson Enrollment and Review

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

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

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

1 nonpayers.

2 (3) The Tax Commissioner shall report annually to the  
3 Revenue Committee of the Legislature and Appropriations Committee  
4 of the Legislature on the amount of dollars generated during the  
5 previous fiscal year pursuant to this section.

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

8 77-5601 (1) From August 1, 2004, through October 31,  
9 2004, there shall be conducted a tax amnesty program with regard  
10 to taxes due and owing that have not been reported to the  
11 Department of Revenue. Any person applying for tax amnesty shall  
12 pay all unreported taxes that were due on or before April 1,  
13 2004. Any person that applies for tax amnesty and is accepted  
14 by the Tax Commissioner shall have any penalties and interest  
15 waived on unreported and delinquent taxes notwithstanding any other  
16 provisions of law to the contrary.

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

27 (3) The department shall not seek civil or criminal

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

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

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

27 (b) For fiscal year 2005-06, all proceeds in the

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

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

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

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

1 from instate taxpayers and from out-of-state taxpayers, and (iii)  
2 the amount obtained from individual taxpayers and from business  
3 enterprises.

4 (b) For reports due in subsequent years, the report  
5 shall include (i) the number of personnel hired for purposes  
6 of subdivision (5)(b) of this section and their duties, (ii) a  
7 description of lists, software, programming, computer equipment,  
8 and other technological methods acquired pursuant to such  
9 subdivision and the purposes of each, and (iii) the amount  
10 of new revenue obtained as a result of the new personnel and  
11 acquisitions during the prior calendar year, broken down into the  
12 same categories as described in subdivision (6)(a) of 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  
16 Fund to the General Fund at the direction of the Legislature. The  
17 Department of Revenue Enforcement Fund may receive transfers from  
18 the Local Civic, Cultural, and Convention Center Financing Fund at  
19 the direction of the Legislature for the purpose of administering  
20 the Sports Arena Facility Financing Assistance Act. Any money  
21 in the Department of Revenue Enforcement Fund and the Department  
22 of Revenue Enforcement Technology Fund available for investment  
23 shall be invested by the state investment officer pursuant to  
24 the Nebraska Capital Expansion Act and the Nebraska State Funds  
25 Investment Act. The Department of Revenue Enforcement Technology  
26 Fund shall terminate on July 1, 2006. Any unobligated money in the  
27 fund at that time shall be deposited in the General Fund.

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

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

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