

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1295

Introduced by von Gillern, 4.

Read first time January 16, 2024

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-5601, Revised Statutes Cumulative Supplement, 2022; to adopt the
- 3 Financial Institution Data Match Act; to harmonize provisions; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and may be
2 cited as the Financial Institution Data Match Act.

3 Sec. 2. For purposes of the Financial Institution Data Match Act:

4 (1) Account means a demand deposit account, checking or negotiable
5 withdrawal order account, savings account, time deposit account, or
6 money-market mutual fund account;

7 (2) Department means the Department of Revenue;

8 (3) Financial institution means every federal or state commercial or
9 savings bank, including savings and loan associations and cooperative
10 banks, federal or state chartered credit unions, benefit associations,
11 insurance companies, safe deposit companies, any money-market mutual fund
12 that meets the requirements of section 851(a) of the Internal Revenue
13 Code and 17 C.F.R. 270.2a-7, any broker, brokerage firm, trust company,
14 or unit investment trust, or any other similar entity doing business or
15 authorized to do business in the State of Nebraska;

16 (4) Match means a comparison by name and social security number or
17 federal employer identification number of a list of tax debtors provided
18 to a financial institution by the department and a list of depositors of
19 any financial institution. Such comparison may be carried out by
20 automated or other means; and

21 (5) Tax debtor means a person liable to pay any delinquent (i) tax,
22 (ii) fee, or (iii) other type of repayment under any program administered
23 by the Tax Commissioner.

24 Sec. 3. (1) The department shall operate a data match system with
25 each financial institution doing business in the State of Nebraska.

26 (2) Under the data match system, a financial institution shall
27 receive from the department a listing of tax debtors to be used in
28 matches within the financial institution's system. The listing from the
29 department shall include the name and social security number or federal
30 employer identification number of each tax debtor. The financial
31 institution shall receive the listing within thirty days after the end of

1 each calendar quarter subsequent to the effective date of this act.
2 Within thirty days after receiving the listing, the financial institution
3 shall match the listing to its records of accounts held in one or more
4 persons' names which are open accounts or accounts that were closed
5 within the preceding calendar quarter. The financial institution shall
6 provide the department with a match listing of all matches made within
7 five working days of the match. The match listing from the financial
8 institution shall include the name, address, and social security number
9 or federal employer identification number of each tax debtor matched and
10 the balance of each account. The financial institution shall also provide
11 the names and addresses of all other owners of accounts in the match
12 listing as reflected on a signature card or other similar document on
13 file with the financial institution. The financial institution shall
14 submit all match listings by an electronic medium approved by the
15 department.

16 (3) Nothing in this section shall (a) require a financial
17 institution to disclose the account number assigned to the account of any
18 person or (b) serve to encumber the ownership interest of any person in
19 or impact any right of setoff against an account.

20 (4) To maintain the confidentiality of the listing and match
21 listing, the department shall implement appropriate security provisions
22 for the listing and match listing which are as stringent as those
23 established under the federal Tax Information Security Guidelines for
24 Federal, State and Local Agencies.

25 Sec. 4. The department may enter into agreements with financial
26 institutions doing business in this state to operate the data match
27 system described in section 3 of this act. A financial institution may
28 charge a reasonable fee, not to exceed actual cost, to be paid by the
29 department for the service of reporting matches as required by section 3
30 of this act.

31 Sec. 5. (1) The department may contract with one or more vendors to

1 develop the data match system and perform the matches required under
2 section 3 of this act. Vendors entering into a contract with the
3 department pursuant to this section are subject to the requirements and
4 penalties of the confidentiality laws of this state regarding tax
5 information, including, but not limited to, the provisions and penalties
6 in sections 77-2711 and 77-27,119.

7 (2)(a) Within fifteen days after the end of fiscal year 2024-25 and
8 each fiscal year thereafter, the Tax Commissioner shall determine and
9 certify to the State Treasurer the following amounts:

10 (i) The total amount of any fees for services or reimbursements paid
11 by the department or other costs incurred by the department during the
12 previous fiscal year due to the contracts entered into pursuant to this
13 section; and

14 (ii) The total amount of taxes, penalties, and interest collected
15 during the previous fiscal year as a result of contracts entered into
16 pursuant to this section.

17 (b) After receiving such certification, the State Treasurer shall
18 transfer the amount certified under subdivision (2)(a)(i) of this section
19 or two percent of the amount certified under subdivision (2)(a)(ii) of
20 this section, whichever amount is less, from the General Fund to the
21 Department of Revenue Enforcement Fund.

22 (3) The Tax Commissioner shall submit electronically an annual
23 report to the Revenue Committee of the Legislature and the Appropriations
24 Committee of the Legislature on the amount of taxes, penalties, and
25 interest collected during the most recently completed fiscal year as a
26 result of contracts entered into pursuant to this section.

27 Sec. 6. A financial institution receiving information from the
28 department under section 3 of this act and the employees, agents,
29 officers, and directors of the financial institution shall maintain the
30 confidentiality of the information supplied by the department and use
31 such information only for the purposes described in section 3 of this act

1 and shall be subject to the requirements and penalties of the
2 confidentiality laws of this state regarding tax information, including,
3 but not limited to, the provisions and penalties in sections 77-2711 and
4 77-27,119.

5 Sec. 7. (1) A financial institution is not liable under any state
6 or local law to any individual or to the department for disclosure or
7 release of information to the department for the purpose of complying
8 with the requirements of section 3 of this act.

9 (2) The Financial Institution Data Match Act shall not be construed
10 to make a financial institution responsible or liable to any extent for
11 assuring that the department maintains the confidentiality of information
12 disclosed under section 3 of this act.

13 (3) A financial institution is not liable to any extent for failing
14 to disclose to a depositor or account holder that the name, address, and
15 social security number or federal employer identification number of a tax
16 debtor was included in the match listing provided to the department
17 pursuant to section 3 of this act.

18 (4) A financial institution may disclose to its depositors or
19 account holders that the department has the authority to request and
20 obtain certain identifying information on certain depositors or account
21 holders pursuant to the Financial Institution Data Match Act for state
22 tax collection purposes.

23 Sec. 8. The department may adopt and promulgate rules and
24 regulations to carry out the Financial Institution Data Match Act.

25 Sec. 9. Section 77-5601, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 77-5601 (1) From August 1, 2004, through October 31, 2004, there
28 shall be conducted a tax amnesty program with regard to taxes due and
29 owing that have not been reported to the Department of Revenue. Any
30 person applying for tax amnesty shall pay all unreported taxes that were
31 due on or before April 1, 2004. Any person that applies for tax amnesty

1 and is accepted by the Tax Commissioner shall have any penalties and
2 interest waived on unreported and delinquent taxes notwithstanding any
3 other provisions of law to the contrary.

4 (2) To be eligible for the tax amnesty provided by this section, the
5 person shall apply for amnesty within the amnesty period, file a return
6 for each taxable period for which the amnesty is requested by December
7 31, 2004, if no return has been filed, and pay in full all taxes for
8 which amnesty is sought with the return or within thirty days after the
9 application if a return was filed prior to the amnesty period. Tax
10 amnesty shall not be available for any person that is under civil or
11 criminal audit, investigation, or prosecution for unreported or
12 delinquent taxes by this state or the United States Government on or
13 before April 16, 2004.

14 (3) The department shall not seek civil or criminal prosecution
15 against any person for any taxable period for which amnesty has been
16 granted. The Tax Commissioner shall develop forms for applying for the
17 tax amnesty program, develop procedures for qualification for tax
18 amnesty, and conduct a public awareness campaign publicizing the program.

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

24 (5)(a) Except for any local option sales tax collected and returned
25 to the appropriate municipality and any motor vehicle fuel, diesel fuel,
26 and compressed fuel taxes, which shall be deposited in the Highway Trust
27 Fund or Highway Allocation Fund as provided by law, no less than eighty
28 percent of all revenue received pursuant to the tax amnesty program shall
29 be deposited in the General Fund and ten percent, not to exceed five
30 hundred thousand dollars, shall be deposited in the Department of Revenue
31 Enforcement Fund. Any amount that would otherwise be deposited in the

1 Department of Revenue Enforcement Fund that is in excess of the five-
2 hundred-thousand-dollar limitation shall be deposited in the General
3 Fund.

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

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

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

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

28 (b) For reports due in subsequent years, the report shall include
29 (i) the number of personnel hired for purposes of subdivision (5)(b) of
30 this section and their duties, (ii) a description of lists, software,
31 programming, computer equipment, and other technological methods acquired

1 and the purposes of each, and (iii) the amount of new revenue obtained as
2 a result of the new personnel and acquisitions during the prior calendar
3 year, broken down into the same categories as described in subdivision
4 (6)(a) of this section.

5 (7) The Department of Revenue Enforcement Fund is created. Transfers
6 may be made from the Department of Revenue Enforcement Fund to the
7 General Fund at the direction of the Legislature. The Department of
8 Revenue Enforcement Fund may receive transfers from the Civic and
9 Community Center Financing Fund at the direction of the Legislature for
10 the purpose of administering the Sports Arena Facility Financing
11 Assistance Act. The Department of Revenue Enforcement Fund shall include
12 any money credited to the fund (a) under section 77-2703, and such money
13 shall be used by the Department of Revenue to defray the costs incurred
14 to implement Laws 2019, LB237, (b) under the Mechanical Amusement Device
15 Tax Act, and such money shall be used by the department to defray the
16 costs incurred to implement and enforce Laws 2019, LB538, and any rules
17 and regulations adopted and promulgated to carry out Laws 2019, LB538,
18 ~~and~~ (c) under section 77-2906, and such money shall be used by the
19 Department of Revenue to defray the costs incurred to implement Laws
20 2020, LB310, and (d) under section 5 of this act. Any money in the
21 Department of Revenue Enforcement Fund available for investment shall be
22 invested by the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act.

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

29 Sec. 10. Original section 77-5601, Revised Statutes Cumulative
30 Supplement, 2022, is repealed.