

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB642

Hearing Date: Thursday February 24, 2011
Committee On: Revenue
Introducer: Cornett
One Liner: Authorize the Department of Revenue to enter into contracts for products and services

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Adams, Cornett, Fischer, Hadley, Louden, Pankonin, Pirsch, Utter

Nay:

Absent:

Present Not Voting:

Proponents:

Sen. Abbie Cornett
Bob Tisone
Korby Gilbertson
Joe Kohout

Representing:

Introducer
Teradata Govt. Systems
Ryan, Inc.
West Corporation

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 642 would create a new statute section authorizing the Department of Revenue to enter into contracts to procure product and services develop, deploy, or administer systems or programs which identify nonfilers of returns, underreporters, or nonpayers of taxes administered by the department.

Fees for services, reimbursements, costs incurred by the department, or other remuneration can be funded from the amount of tax, penalty, or interest collected and must be paid only after the amount is collected.

The Legislative intent is to appropriate an amount from the tax, penalty, and interest actually collected, not to exceed the amount collected, that is sufficient to pay for services, reimbursements, costs incurred by the department, or other remuneration pursuant to this new statute section. LB 642 also provides that vendors entering into a contract with the department pursuant to this new statute section are subject to the requirements and penalties of Nebraska's confidentiality laws regarding tax information. LB 642 also provides that contracts entered into pursuant this new statute section are not subject to sections 73-201 to 73-204, which govern contracts - including contingency fee contracts - entered into on behalf of the state (sections 73-201 to 73-204 were first enacted by Laws 1995, LB 519, sections 1 through 4).

10% of all proceeds received each calendar year due to such contracts must be deposited in the Department of Revenue Enforcement Fund to help identify persons who did not file tax returns, who underreported their tax liability, or who did not pay their tax liability.

The Tax Commissioner must submit an annual report to the Legislature's Revenue Committee and the Appropriations Committee showing the dollars generated during the previous fiscal year pursuant to this new statute section.

[LB 642, section 1.]

Additionally, LB 642 amends section 77-5601 to add a new subparagraph requiring 10% of all proceeds received each calendar year attributable to contracts entered into pursuant to the new statute section created by section 1 of the bill to be deposited in the Department of Revenue Enforcement Fund for purposes of identifying persons who did not file tax returns, who underreported their tax liability, or who did not pay their tax liability. [LB 642, section 2.]

Finally, LB 642 repeals the current version of the existing statute that it amends and it contains the emergency clause. [LB 642, sections 3 and 4.]

Explanation of amendments:

The Revenue Committee amendment (AM 493) makes the following changes to the introduced version of LB 642:

First, it provides subsection numbers for the unnumbered paragraphs of the new statute section that is created by section 1 of LB 642.

Second, it adds language to subsection (1) of section 1 of the bill stating that the contractual authority provided under that subsection to procure products and services which identify nonfilers, underreporters, and nonpayers of taxes administered by the Department of Revenue also extends to "improper or fraudulent payments made by any program that is administered by the department." It also adds language to that subsection stating that: (a) Fees for such services, reimbursements, costs incurred by the Department of Revenue or other remuneration can be funded from the amount of tax, penalty, interest, "or other recoveries" actually collected; and (b) The Legislature intends to appropriate an amount from the tax, penalty, interest, "and other recovery" actually collected.

Third, it adds new subsection (2) to section 1 of LB 642 which provides that: "(2) The department may contract for the recruitment of entities to the state that will generate sales taxable pursuant to section 77-2703 if the contract is determined by the Governor to be in the best interest of the state. The contract shall not be subject to the requirements of section 73-504."

Fourth, it amends subsection (3) to section 1 of LB 642 to effectively provide that tax revenue received pursuant to subsection (2) of section 1 of the bill will go to the State's General Fund, rather than requiring 10% of such tax revenue to be credited to the Department of Revenue Enforcement Fund.

Fifth, it also amends subsection (3) of section 1 of the bill to add that the 10% of all proceeds received during each calendar due to contracts entered into pursuant to subsection (1) of section 1 of the bill will be deposited in the Department of Revenue Enforcement Fund for, among other things, identifying "improper or fraudulent payments."

Abbie Cornett, Chairperson