

## LEGISLATIVE BILL 337

Approved by the Governor April 26, 2011

Introduced by Fulton, 29; Avery, 28.

FOR AN ACT relating to the Auditor of Public Accounts; to amend sections 23-362, 39-2204, 60-1409, 66-738, 72-1255, and 77-2608, Reissue Revised Statutes of Nebraska; to change timeframes for certain audits; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 23-362, Reissue Revised Statutes of Nebraska, is amended to read:

23-362 In order to equitably distribute the added burden of law enforcement imposed upon certain counties of this state by reason of the passage of Public Law 280 of the Eighty-third Congress dealing with state jurisdiction and the resulting withdrawal of federal law enforcement in such counties, there shall each fiscal year be paid out of the state treasury, on the warrant of the Director of Administrative Services as directed by the chairperson of the Nebraska Commission on Law Enforcement and Criminal Justice, not to exceed one hundred one thousand dollars for the benefit of Indians in any county which has land held in trust by the United States Government for the benefit of Indians to be used for purposes of law enforcement and jail operations. Such funds shall be divided as equally as possible between the areas of law enforcement and jail operations. ~~An audit shall be conducted biennially by the Auditor of Public Accounts or his or her designee of the funds distributed pursuant to this section.~~ The Auditor of Public Accounts or his or her designee shall conduct, at such time as he or she determines necessary, an audit of the funds distributed pursuant to this section. A detailed report shall be submitted on December 31 of each year, including discussion of the operation and expenditures of the office of the county sheriff and, ~~every other year,~~ when completed, a copy of the audit, to the Executive Board of the Legislative Council and the Governor. Such payment shall be made to any county of this state meeting the following conditions:

(1) Such county shall have on file in the office of the Nebraska Commission on Law Enforcement and Criminal Justice a certificate of the county assessor that there are within such county over twenty-five hundred acres of land held in trust by the United States or subject to restriction against alienation imposed by the United States; and

(2) The county board of each such county may participate in alcohol-related programs with nonprofit corporations.

Sec. 2. Section 39-2204, Reissue Revised Statutes of Nebraska, is amended to read:

39-2204 (1) The Attorney General shall serve as legal advisor to the commission and, to assist him or her in the performance of his or her duties as such, may authorize the commission to employ special bond counsel.

(2) The Auditor of Public Accounts shall audit the books of the commission ~~annually and at such other times as may be~~ at such time as he or she determines necessary.

Sec. 3. Section 60-1409, Reissue Revised Statutes of Nebraska, is amended to read:

60-1409 The Nebraska Motor Vehicle Industry Licensing Fund is created. All fees collected under the Motor Vehicle Industry Regulation Act shall be remitted by the board, as collected, to the State Treasurer for credit to the fund. Such fund shall be appropriated by the Legislature for the operations of the Nebraska Motor Vehicle Industry Licensing Board and shall be paid out from time to time by warrants of the Director of Administrative Services on the State Treasurer for authorized expenditures upon duly itemized vouchers executed as provided by law and approved by the chairperson of the board or the executive secretary, except that transfers from the fund to the General Fund may be made at the direction of the Legislature through June 30, 2011. The expenses of conducting the office must always be kept within the income collected and reported to the State Treasurer by such board. Such office and expense thereof shall not be supported or paid from the General Fund, and all money deposited in the Nebraska Motor Vehicle Industry Licensing Fund shall be expended only for such office and expense thereof and, unless determined by the board, it shall not be required to expend any funds to any person or any other governmental agency.

Any money in the Nebraska Motor Vehicle Industry Licensing Fund available for investment shall be invested by the state investment officer

pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be audited ~~annually~~ by the Auditor of Public Accounts at such time as he or she determines necessary.

Sec. 4. Section 66-738, Reissue Revised Statutes of Nebraska, is amended to read:

66-738 The Motor Fuel Tax Enforcement and Collection Division is hereby created within the Department of Revenue. The division shall be funded by a separate appropriation program within the department. All provisions of Chapter 66, articles 4, 5, 6, and 12, and sections 66-712 to 66-737 and the provisions of Chapter 3, article 1, and Chapter 66, article 15, pertaining to the Department of Revenue, the Tax Commissioner, or the division shall be entirely and separately undertaken and enforced by the division, except that the division may utilize services provided by other programs of the Department of Revenue in functional areas known on July 1, 1991, as the budget subprograms designated revenue operations and administration. Appropriations for the division that are used to fund costs allocated for such functional operations shall be expended by the division in an appropriate pro rata share and shall be subject to ~~biennial~~ audit by the Auditor of Public Accounts, at such time as he or she determines necessary, which audit shall be provided to the budget division of the Department of Administrative Services and the Legislative Fiscal Analyst by October 1 of ~~each even-numbered year.~~ the year under audit. Audit information useful to other divisions of the Department of Revenue may be shared by the Motor Fuel Tax Enforcement and Collection Division with the other divisions of the department and the Division of Motor Carrier Services of the Department of Motor Vehicles, but audits shall not be considered as a functional operation for purposes of this section. Except for staff performing in functional areas, staff funded from the separate appropriation program shall only be utilized to carry out the provisions of such articles and sections. The auditors and field investigators in the Motor Fuel Tax Enforcement and Collection Division shall be adequately trained for the purposes of motor fuel tax enforcement and collection. The Tax Commissioner shall hire for or assign to the division sufficient staff to carry out the responsibility of the division for the enforcement of the motor fuel laws.

Funds appropriated to the division may also be used to contract with other public agencies or private entities to aid in the issuance of motor fuel delivery permit numbers as provided in subsection (2) of section 66-503, and such contracted funds shall only be used for such purpose. The amount of any contracts entered into pursuant to this section shall be appropriated and accounted for in a separate budget subprogram of the division.

Sec. 5. Section 72-1255, Reissue Revised Statutes of Nebraska, is amended to read:

72-1255 The Auditor of Public Accounts shall conduct, at such time as he or she determines necessary, ~~from time to time~~ postaudits of the investment transactions provided for in the Nebraska State Funds Investment Act and shall submit annually a report of his or her findings to the Governor and the state investment officer.

Sec. 6. Section 77-2608, Reissue Revised Statutes of Nebraska, is amended to read:

77-2608 The Tax Commissioner shall prepare and have suitable stamps for use on each kind of piece or package of cigarettes, except when cigarette tax meter impressions are affixed. Requisition for the preparation of such stamps shall be made through the materiel division of the Department of Administrative Services as other state supplies are requisitioned, and the Tax Commissioner and his or her bondsperson shall be liable for the value of all such stamps delivered to him or her. The Auditor of Public Accounts shall audit ~~annually~~ ~~or~~ as often as the auditor deems advisable the records of the Tax Commissioner with respect to the money received from the sale of stamps and as revenue from tax meter impressions for the purpose of determining the accuracy and correctness of the same. The Tax Commissioner shall sell the stamps only to licensed wholesale dealers, as defined in section 77-2601, and he or she shall keep an accurate record of all stamps coming into and leaving his or her hands. Such stamps shall be sold and accounted for at the face value thereof, except that the Tax Commissioner may, by rule and regulation certified to the State Treasurer, authorize the sale thereof to wholesale dealers in this state or outside of this state at a discount of one and eighty-five hundredths percent of such face value of the tax as a commission for affixing and canceling such stamps, except that for stamps sold beginning October 1, 2002, through September 30, 2004, the authorized commission for affixing and canceling such stamps shall be one and seven-tenths percent of the face value of the tax. Any wholesale dealer using a tax meter machine shall be entitled to the same discount as allowed a wholesale dealer for

affixing and canceling the stamps. The money received by the Tax Commissioner from the sale of the stamps and as revenue from such tax meter impressions shall be deposited by him or her daily with the State Treasurer who shall credit such money as provided in section 77-2602. Upon proof by the Tax Commissioner that he or she can affix such stamps or meter impressions, warehouse and distribute such cigarettes, and collect such revenue at a cost less than any discount allowed to wholesale dealers pursuant to this section, he or she may then proceed to affix the stamps himself or herself after giving the wholesale dealers sixty days' notice and purchasing all equipment used by them for the purpose of affixing such stamps or meter impressions at a fair market value.

Sec. 7. Original sections 23-362, 39-2204, 60-1409, 66-738, 72-1255, and 77-2608, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.