

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 337**  
Final Reading

Introduced by Fulton, 29; Avery, 28.

Read first time January 12, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Auditor of Public Accounts; to amend  
2 sections 23-362, 39-2204, 60-1409, 66-738, 72-1255, and  
3 77-2608, Reissue Revised Statutes of Nebraska; to change  
4 timeframes for certain audits; to repeal the original  
5 sections; and to declare an emergency.

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

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

3           23-362 In order to equitably distribute the added burden  
4 of law enforcement imposed upon certain counties of this state by  
5 reason of the passage of Public Law 280 of the Eighty-third Congress  
6 dealing with state jurisdiction and the resulting withdrawal of  
7 federal law enforcement in such counties, there shall each fiscal  
8 year be paid out of the state treasury, on the warrant of the  
9 Director of Administrative Services as directed by the chairperson of  
10 the Nebraska Commission on Law Enforcement and Criminal Justice, not  
11 to exceed one hundred one thousand dollars for the benefit of Indians  
12 in any county which has land held in trust by the United States  
13 Government for the benefit of Indians to be used for purposes of law  
14 enforcement and jail operations. Such funds shall be divided as  
15 equally as possible between the areas of law enforcement and jail  
16 operations. ~~An audit shall be conducted biennially by the Auditor of~~  
17 ~~Public Accounts or his or her designee of the funds distributed~~  
18 ~~pursuant to this section. The Auditor of Public Accounts or his or~~  
19 ~~her designee shall conduct, at such time as he or she determines~~  
20 necessary, an audit of the funds distributed pursuant to this  
21 section. A detailed report shall be submitted on December 31 of each  
22 year, including discussion of the operation and expenditures of the  
23 office of the county sheriff and, ~~every other year, when completed,~~ a  
24 copy of the audit, to the Executive Board of the Legislative Council  
25 and the Governor. Such payment shall be made to any county of this

1 state meeting the following conditions:

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

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

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

12 39-2204 (1) The Attorney General shall serve as legal  
13 advisor to the commission and, to assist him or her in the  
14 performance of his or her duties as such, may authorize the  
15 commission to employ special bond counsel.

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

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

21 60-1409 The Nebraska Motor Vehicle Industry Licensing  
22 Fund is created. All fees collected under the Motor Vehicle Industry  
23 Regulation Act shall be remitted by the board, as collected, to the  
24 State Treasurer for credit to the fund. Such fund shall be  
25 appropriated by the Legislature for the operations of the Nebraska

1 Motor Vehicle Industry Licensing Board and shall be paid out from  
2 time to time by warrants of the Director of Administrative Services  
3 on the State Treasurer for authorized expenditures upon duly itemized  
4 vouchers executed as provided by law and approved by the chairperson  
5 of the board or the executive secretary, except that transfers from  
6 the fund to the General Fund may be made at the direction of the  
7 Legislature through June 30, 2011. The expenses of conducting the  
8 office must always be kept within the income collected and reported  
9 to the State Treasurer by such board. Such office and expense thereof  
10 shall not be supported or paid from the General Fund, and all money  
11 deposited in the Nebraska Motor Vehicle Industry Licensing Fund shall  
12 be expended only for such office and expense thereof and, unless  
13 determined by the board, it shall not be required to expend any funds  
14 to any person or any other governmental agency.

15 Any money in the Nebraska Motor Vehicle Industry  
16 Licensing Fund available for investment shall be invested by the  
17 state investment officer pursuant to the Nebraska Capital Expansion  
18 Act and the Nebraska State Funds Investment Act. The fund shall be  
19 audited ~~annually~~ by the Auditor of Public Accounts at such time as he  
20 or she determines necessary.

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

23 66-738 The Motor Fuel Tax Enforcement and Collection  
24 Division is hereby created within the Department of Revenue. The  
25 division shall be funded by a separate appropriation program within

1 the department. All provisions of Chapter 66, articles 4, 5, 6, and  
2 12, and sections 66-712 to 66-737 and the provisions of Chapter 3,  
3 article 1, and Chapter 66, article 15, pertaining to the Department  
4 of Revenue, the Tax Commissioner, or the division shall be entirely  
5 and separately undertaken and enforced by the division, except that  
6 the division may utilize services provided by other programs of the  
7 Department of Revenue in functional areas known on July 1, 1991, as  
8 the budget subprograms designated revenue operations and  
9 administration. Appropriations for the division that are used to fund  
10 costs allocated for such functional operations shall be expended by  
11 the division in an appropriate pro rata share and shall be subject to  
12 ~~biennial~~ audit by the Auditor of Public Accounts, at such time as he  
13 or she determines necessary, which audit shall be provided to the  
14 budget division of the Department of Administrative Services and the  
15 Legislative Fiscal Analyst by October 1 of ~~each even-numbered year.~~  
16 the year under audit. Audit information useful to other divisions of  
17 the Department of Revenue may be shared by the Motor Fuel Tax  
18 Enforcement and Collection Division with the other divisions of the  
19 department and the Division of Motor Carrier Services of the  
20 Department of Motor Vehicles, but audits shall not be considered as a  
21 functional operation for purposes of this section. Except for staff  
22 performing in functional areas, staff funded from the separate  
23 appropriation program shall only be utilized to carry out the  
24 provisions of such articles and sections. The auditors and field  
25 investigators in the Motor Fuel Tax Enforcement and Collection

1 Division shall be adequately trained for the purposes of motor fuel  
2 tax enforcement and collection. The Tax Commissioner shall hire for  
3 or assign to the division sufficient staff to carry out the  
4 responsibility of the division for the enforcement of the motor fuel  
5 laws.

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

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

15 72-1255 The Auditor of Public Accounts shall conduct, at  
16 such time as he or she determines necessary, ~~from time to time~~  
17 postaudits of the investment transactions provided for in the  
18 Nebraska State Funds Investment Act and shall submit annually a  
19 report of his or her findings to the Governor and the state  
20 investment officer.

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

23 77-2608 The Tax Commissioner shall prepare and have  
24 suitable stamps for use on each kind of piece or package of  
25 cigarettes, except when cigarette tax meter impressions are affixed.

1 Requisition for the preparation of such stamps shall be made through  
2 the materiel division of the Department of Administrative Services as  
3 other state supplies are requisitioned, and the Tax Commissioner and  
4 his or her bondsperson shall be liable for the value of all such  
5 stamps delivered to him or her. The Auditor of Public Accounts shall  
6 audit ~~annually or~~ as often as the auditor deems advisable the records  
7 of the Tax Commissioner with respect to the money received from the  
8 sale of stamps and as revenue from tax meter impressions for the  
9 purpose of determining the accuracy and correctness of the same. The  
10 Tax Commissioner shall sell the stamps only to licensed wholesale  
11 dealers, as defined in section 77-2601, and he or she shall keep an  
12 accurate record of all stamps coming into and leaving his or her  
13 hands. Such stamps shall be sold and accounted for at the face value  
14 thereof, except that the Tax Commissioner may, by rule and regulation  
15 certified to the State Treasurer, authorize the sale thereof to  
16 wholesale dealers in this state or outside of this state at a  
17 discount of one and eighty-five hundredths percent of such face value  
18 of the tax as a commission for affixing and canceling such stamps,  
19 except that for stamps sold beginning October 1, 2002, through  
20 September 30, 2004, the authorized commission for affixing and  
21 canceling such stamps shall be one and seven-tenths percent of the  
22 face value of the tax. Any wholesale dealer using a tax meter machine  
23 shall be entitled to the same discount as allowed a wholesale dealer  
24 for affixing and canceling the stamps. The money received by the Tax  
25 Commissioner from the sale of the stamps and as revenue from such tax

1 meter impressions shall be deposited by him or her daily with the  
2 State Treasurer who shall credit such money as provided in section  
3 77-2602. Upon proof by the Tax Commissioner that he or she can affix  
4 such stamps or meter impressions, warehouse and distribute such  
5 cigarettes, and collect such revenue at a cost less than any discount  
6 allowed to wholesale dealers pursuant to this section, he or she may  
7 then proceed to affix the stamps himself or herself after giving the  
8 wholesale dealers sixty days' notice and purchasing all equipment  
9 used by them for the purpose of affixing such stamps or meter  
10 impressions at a fair market value.

11           Sec. 7. Original sections 23-362, 39-2204, 60-1409,  
12 66-738, 72-1255, and 77-2608, Reissue Revised Statutes of Nebraska,  
13 are repealed.

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