

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 539**

FINAL READING

Introduced by Watermeier, 1; Krist, 10; Larson, 40; Mello, 5.

Read first time January 21, 2015

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to government auditing; to amend sections  
2 29-2011.02, 29-2011.03, 50-1215, 84-304, 84-304.02, 84-305, and  
3 84-311, Reissue Revised Statutes of Nebraska, and sections 50-1213,  
4 50-1214, 77-2711, and 77-27,119, Revised Statutes Cumulative  
5 Supplement, 2014; to provide subpoena powers as prescribed for the  
6 Auditor of Public Accounts; to change provisions relating to access  
7 to information by the office of Legislative Audit and the Auditor of  
8 Public Accounts, review of certain reports, and access to certain  
9 documents by audited entities as prescribed; to prohibit personnel  
10 actions in certain circumstances as prescribed; to provide and  
11 change penalties; to provide and change powers to audit certain  
12 entities; to define a term; to harmonize provisions; to repeal the  
13 original sections; and to declare an emergency.  
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2011.02, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 29-2011.02 Whenever a witness refuses, on the basis of the privilege  
4 against self-incrimination, to testify or to provide other information in  
5 a criminal proceeding or investigation before a court, a grand jury,  
6 Auditor of Public Accounts, or a special committee of the Legislature  
7 authorized pursuant to section 50-404, the court, on motion of the county  
8 attorney, other prosecuting attorney, Auditor of Public Accounts, or  
9 chairperson of a special committee of the Legislature, may order the  
10 witness to testify or to provide other information. The witness may not  
11 refuse to comply with such an order of the court on the basis of the  
12 privilege against self-incrimination, but no testimony or other  
13 information compelled under the court's order or any information directly  
14 or indirectly derived from such testimony or other information may be  
15 used against the witness in any criminal case except in a prosecution for  
16 perjury, giving a false statement, or failing to comply with the order of  
17 the court.

18 Sec. 2. Section 29-2011.03, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 29-2011.03 The A county attorney, other prosecuting attorney,  
21 Auditor of Public Accounts, or chairperson of a special committee of the  
22 Legislature authorized pursuant to section 50-404 upon an affirmative  
23 vote of a majority of the committee may request an order pursuant to  
24 section 29-2011.02 when in his or her judgment:

25 (1) The testimony or other information from such individual may be  
26 necessary to the public interest; and

27 (2) Such individual has refused or is likely to refuse to testify or  
28 provide other information on the basis of the privilege against self-  
29 incrimination.

30 Sec. 3. Section 50-1213, Revised Statutes Cumulative Supplement,  
31 2014, is amended to read:

1           50-1213 (1) The office shall have access to any and all information  
2 and records, confidential or otherwise, of any agency, in whatever form  
3 they may be, unless the office is denied such access by federal law or  
4 explicitly named and denied such access by state law. If such a law  
5 exists, the agency shall provide the committee with a written explanation  
6 of its inability to produce such information and records and, after  
7 reasonable accommodations are made, shall grant the office access to all  
8 information and records or portions thereof that can legally be reviewed.  
9 Accommodations that may be negotiated between the agency and the  
10 committee include, but are not limited to, a requirement that specified  
11 information or records be reviewed on agency premises and a requirement  
12 that specified working papers be securely stored on agency premises.

13           (2) Upon receipt of a written request by the office for access to  
14 any information or records, the agency shall provide to the office as  
15 soon as is practicable and without delay, but not more than three  
16 business days after actual receipt of the request, either (a) the  
17 requested materials or (b)(i) if there is a legal basis for refusal to  
18 comply with the request, a written denial of the request together with  
19 the information specified in subsection (1) of this section or (ii) if  
20 the entire request cannot with reasonable good faith efforts be fulfilled  
21 within three business days after actual receipt of the request due to the  
22 significant difficulty or the extensiveness of the request, a written  
23 explanation, including the earliest practicable date for fulfilling the  
24 request, and an opportunity for the office to modify or prioritize the  
25 items within the request. No delay due to the significant difficulty or  
26 the extensiveness of a request for access to information or records shall  
27 exceed three calendar weeks after actual receipt of such request by any  
28 agency. The three business days shall be computed by excluding the day  
29 the request is received, after which the designated period of time begins  
30 to run. Business day does not include a Saturday, a Sunday, or a day  
31 during which the offices of the custodian of the public records are

1 closed.

2 (3 2) Except as provided in this section, any confidential  
3 information or confidential records shared with the office shall remain  
4 confidential and shall not be shared by an employee of the office with  
5 any person who is not an employee of the office, including any member of  
6 the committee. If necessary for the conduct of the performance audit, the  
7 office may discuss or share confidential information with the chairperson  
8 of the committee. If a dispute arises between the office and the agency  
9 as to the accuracy of a performance audit or preaudit inquiry involving  
10 confidential information or confidential records, the Speaker of the  
11 Legislature, as a member of the committee, will be allowed access to the  
12 confidential information or confidential records for the purpose of  
13 assessing the accuracy of the performance audit or preaudit inquiry.

14 (4 3) Except as provided in subdivision (10)(c) of section  
15 77-27,119, if the speaker or chairperson knowingly divulges or makes  
16 known, in any manner not permitted by law, confidential information or  
17 confidential records, he or she shall be guilty of a Class III  
18 misdemeanor. Except as provided in subsection (11) of section 77-2711 and  
19 subdivision (10)(c) of section 77-27,119, if any employee or former  
20 employee of the office knowingly divulges or makes known, in any manner  
21 not permitted by law, confidential information or confidential records,  
22 he or she shall be guilty of a Class III misdemeanor and, in the case of  
23 an employee, shall be dismissed.

24 (5 4) No proceeding of the committee or opinion or expression of any  
25 member of the committee or office employee acting at the direction of the  
26 committee shall be reviewable in any court. No member of the committee or  
27 office employee acting at the direction of the committee shall be  
28 required to testify or produce evidence in any judicial or administrative  
29 proceeding concerning matters relating to the work of the office except  
30 in a proceeding brought to enforce the Legislative Performance Audit Act.

31 (6 5) Pursuant to sections 84-712 and 84-712.01 and subdivision (5)

1 of section 84-712.05, the working papers obtained or produced by the  
2 committee or office shall not be considered public records. The committee  
3 may make the working papers available for purposes of an external quality  
4 control review as required by generally accepted government auditing  
5 standards. However, any reports made from such external quality control  
6 review shall not make public any information which would be considered  
7 confidential when in the possession of the office.

8 Sec. 4. Section 50-1214, Revised Statutes Cumulative Supplement,  
9 2014, is amended to read:

10 50-1214 (1) By majority vote, the committee may decide not to  
11 include in any document that will be a public record the names of persons  
12 providing information to the office or committee.

13 (2) No employee of the State of Nebraska who provides information to  
14 the committee or office shall be subject to any personnel action, as  
15 defined in section 81-2703, penalties, sanctions, or restrictions in  
16 connection with his or her employment as a result of the provision of  
17 such information.

18 (3) Any person exercising his or her supervisory or managerial  
19 authority to recommend, approve, direct, or otherwise take or affect  
20 personnel action in violation of subsection (2) of this section shall be  
21 guilty of a Class III misdemeanor and shall be subject to personnel  
22 action up to and including dismissal from employment with the state.

23 Sec. 5. Section 50-1215, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 50-1215 Any person who willfully fails to comply with the provisions  
26 of section 50-1213 or who otherwise willfully obstructs or hinders the  
27 conduct of a performance audit or preaudit inquiry or who willfully  
28 misleads or attempts to mislead any person charged with the duty of  
29 conducting a performance audit or preaudit inquiry shall be guilty of a  
30 Class II misdemeanor.

31 Sec. 6. Section 77-2711, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
3 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and  
4 regulations relating to the administration and enforcement of such  
5 sections.

6 (b) The Tax Commissioner may prescribe the extent to which any  
7 ruling or regulation shall be applied without retroactive effect.

8 (2) The Tax Commissioner may employ accountants, auditors,  
9 investigators, assistants, and clerks necessary for the efficient  
10 administration of the Nebraska Revenue Act of 1967 and may delegate  
11 authority to his or her representatives to conduct hearings, prescribe  
12 regulations, or perform any other duties imposed by such act.

13 (3)(a) Every seller, every retailer, and every person storing,  
14 using, or otherwise consuming in this state property purchased from a  
15 retailer shall keep such records, receipts, invoices, and other pertinent  
16 papers in such form as the Tax Commissioner may reasonably require.

17 (b) Every such seller, retailer, or person shall keep such records  
18 for not less than three years from the making of such records unless the  
19 Tax Commissioner in writing sooner authorized their destruction.

20 (4) The Tax Commissioner or any person authorized in writing by him  
21 or her may examine the books, papers, records, and equipment of any  
22 person selling property and any person liable for the use tax and may  
23 investigate the character of the business of the person in order to  
24 verify the accuracy of any return made or, if no return is made by the  
25 person, to ascertain and determine the amount required to be paid. In the  
26 examination of any person selling property or of any person liable for  
27 the use tax, an inquiry shall be made as to the accuracy of the reporting  
28 of city sales and use taxes for which the person is liable under the  
29 Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 and the  
30 accuracy of the allocation made between the various counties, cities,  
31 villages, and municipal counties of the tax due. The Tax Commissioner may

1 make or cause to be made copies of resale or exemption certificates and  
2 may pay a reasonable amount to the person having custody of the records  
3 for providing such copies.

4 (5) The taxpayer shall have the right to keep or store his or her  
5 records at a point outside this state and shall make his or her records  
6 available to the Tax Commissioner at all times.

7 (6) In administration of the use tax, the Tax Commissioner may  
8 require the filing of reports by any person or class of persons having in  
9 his, her, or their possession or custody information relating to sales of  
10 property, the storage, use, or other consumption of which is subject to  
11 the tax. The report shall be filed when the Tax Commissioner requires and  
12 shall set forth the names and addresses of purchasers of the property,  
13 the sales price of the property, the date of sale, and such other  
14 information as the Tax Commissioner may require.

15 (7) It shall be a Class I misdemeanor for the Tax Commissioner or  
16 any official or employee of the Tax Commissioner, the State Treasurer, or  
17 the Department of Administrative Services to make known in any manner  
18 whatever the business affairs, operations, or information obtained by an  
19 investigation of records and activities of any retailer or any other  
20 person visited or examined in the discharge of official duty or the  
21 amount or source of income, profits, losses, expenditures, or any  
22 particular thereof, set forth or disclosed in any return, or to permit  
23 any return or copy thereof, or any book containing any abstract or  
24 particulars thereof to be seen or examined by any person not connected  
25 with the Tax Commissioner. Nothing in this section shall be construed to  
26 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
27 representative, or his or her successors, receivers, trustees, executors,  
28 administrators, assignees, or guarantors, if directly interested, of a  
29 certified copy of any return or report in connection with his or her tax,  
30 (b) the publication of statistics so classified as to prevent the  
31 identification of particular reports or returns and the items thereof,

1 (c) the inspection by the Attorney General, other legal representative of  
2 the state, or county attorney of the reports or returns of any taxpayer  
3 when either (i) information on the reports or returns is considered by  
4 the Attorney General to be relevant to any action or proceeding  
5 instituted by the taxpayer or against whom an action or proceeding is  
6 being considered or has been commenced by any state agency or the county  
7 or (ii) the taxpayer has instituted an action to review the tax based  
8 thereon or an action or proceeding against the taxpayer for collection of  
9 tax or failure to comply with the Nebraska Revenue Act of 1967 is being  
10 considered or has been commenced, (d) the furnishing of any information  
11 to the United States Government or to states allowing similar privileges  
12 to the Tax Commissioner, (e) the disclosure of information and records to  
13 a collection agency contracting with the Tax Commissioner pursuant to  
14 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a  
15 transaction of information and records concerning the transaction between  
16 the taxpayer and the other party, (g) the disclosure of information  
17 pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of  
18 information to the Department of Labor necessary for the administration  
19 of the Employment Security Law, the Contractor Registration Act, or the  
20 Employee Classification Act.

21 (8) Notwithstanding the provisions of subsection (7) of this  
22 section, the Tax Commissioner may permit the Postal Inspector of the  
23 United States Postal Service or his or her delegates to inspect the  
24 reports or returns of any person filed pursuant to the Nebraska Revenue  
25 Act of 1967 when information on the reports or returns is relevant to any  
26 action or proceeding instituted or being considered by the United States  
27 Postal Service against such person for the fraudulent use of the mails to  
28 carry and deliver false and fraudulent tax returns to the Tax  
29 Commissioner with the intent to defraud the State of Nebraska or to evade  
30 the payment of Nebraska state taxes.

31 (9) Notwithstanding the provisions of subsection (7) of this

1 section, the Tax Commissioner may permit other tax officials of this  
2 state to inspect the tax returns, reports, and applications filed under  
3 sections 77-2701.04 to 77-2713, but such inspection shall be permitted  
4 only for purposes of enforcing a tax law and only to the extent and under  
5 the conditions prescribed by the rules and regulations of the Tax  
6 Commissioner.

7 (10) Notwithstanding the provisions of subsection (7) of this  
8 section, the Tax Commissioner may, upon request, provide the county board  
9 of any county which has exercised the authority granted by section  
10 81-3716 with a list of the names and addresses of the hotels located  
11 within the county for which lodging sales tax returns have been filed or  
12 for which lodging sales taxes have been remitted for the county's County  
13 Visitors Promotion Fund under the Nebraska Visitors Development Act.

14 The information provided by the Tax Commissioner shall indicate only  
15 the names and addresses of the hotels located within the requesting  
16 county for which lodging sales tax returns have been filed for a  
17 specified period and the fact that lodging sales taxes remitted by or on  
18 behalf of the hotel have constituted a portion of the total sum remitted  
19 by the state to the county for a specified period under the provisions of  
20 the Nebraska Visitors Development Act. No additional information shall be  
21 revealed.

22 (11)(a) Notwithstanding the provisions of subsection (7) of this  
23 section, the Tax Commissioner shall, upon written request by the Auditor  
24 of Public Accounts or the Legislative Performance Audit Committee, make  
25 tax returns and tax return information open to inspection by or  
26 disclosure to the Auditor of Public Accounts or employees of the office  
27 of Legislative Audit for the purpose of and to the extent necessary in  
28 making an audit of the Department of Revenue pursuant to section 50-1205  
29 or 84-304. Confidential tax returns and tax return information shall be  
30 audited only upon the premises of the Department of Revenue. All audit  
31 workpapers pertaining to the audit of the Department of Revenue shall be

1 stored in a secure place in the Department of Revenue.

2 (b) No employee of the Auditor of Public Accounts or the office of  
3 Legislative Audit shall disclose to any person, other than another  
4 Auditor of Public Accounts or office employee whose official duties  
5 require such disclosure or as provided in subsections (3 2) and (4 3) of  
6 section 50-1213, any return or return information described in the  
7 Nebraska Revenue Act of 1967 in a form which can be associated with or  
8 otherwise identify, directly or indirectly, a particular taxpayer.

9 (c) Any person who violates the provisions of this subsection shall  
10 be guilty of a Class I misdemeanor. For purposes of this subsection,  
11 employee includes a former Auditor of Public Accounts or office of  
12 Legislative Audit employee.

13 (12) For purposes of this subsection and subsections (11) and (14)  
14 of this section:

15 (a) Disclosure means the making known to any person in any manner a  
16 tax return or return information;

17 (b) Return information means:

18 (i) A taxpayer's identification number and (A) the nature, source,  
19 or amount of his or her income, payments, receipts, deductions,  
20 exemptions, credits, assets, liabilities, net worth, tax liability, tax  
21 withheld, deficiencies, overassessments, or tax payments, whether the  
22 taxpayer's return was, is being, or will be examined or subject to other  
23 investigation or processing or (B) any other data received by, recorded  
24 by, prepared by, furnished to, or collected by the Tax Commissioner with  
25 respect to a return or the determination of the existence or possible  
26 existence of liability or the amount of liability of any person for any  
27 tax, penalty, interest, fine, forfeiture, or other imposition or offense;  
28 and

29 (ii) Any part of any written determination or any background file  
30 document relating to such written determination; and

31 (c) Tax return or return means any tax or information return or

1 claim for refund required by, provided for, or permitted under sections  
2 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf  
3 of, or with respect to any person and any amendment or supplement  
4 thereto, including supporting schedules, attachments, or lists which are  
5 supplemental to or part of the filed return.

6 (13) Notwithstanding the provisions of subsection (7) of this  
7 section, the Tax Commissioner shall, upon request, provide any  
8 municipality which has adopted the local option sales tax under the Local  
9 Option Revenue Act with a list of the names and addresses of the  
10 retailers which have collected the local option sales tax for the  
11 municipality. The request may be made annually and shall be submitted to  
12 the Tax Commissioner on or before June 30 of each year. The information  
13 provided by the Tax Commissioner shall indicate only the names and  
14 addresses of the retailers. The Tax Commissioner may provide additional  
15 information to a municipality so long as the information does not include  
16 any data detailing the specific revenue, expenses, or operations of any  
17 particular business.

18 (14)(a) Notwithstanding the provisions of subsection (7) of this  
19 section, the Tax Commissioner shall, upon written request, provide an  
20 individual certified under subdivision (b) of this subsection  
21 representing a municipality which has adopted the local option sales and  
22 use tax under the Local Option Revenue Act with confidential sales and  
23 use tax returns and sales and use tax return information regarding  
24 taxpayers that possess a sales tax permit and the amounts remitted by  
25 such permitholders at locations within the boundaries of the requesting  
26 municipality or with confidential business use tax returns and business  
27 use tax return information regarding taxpayers that file a Nebraska and  
28 Local Business Use Tax Return and the amounts remitted by such taxpayers  
29 at locations within the boundaries of the requesting municipality. Any  
30 written request pursuant to this subsection shall provide the Department  
31 of Revenue with no less than ten business days to prepare the sales and

1 use tax returns and sales and use tax return information requested. Such  
2 returns and return information shall be viewed only upon the premises of  
3 the department.

4 (b) Each municipality that seeks to request information under  
5 subdivision (a) of this subsection shall certify to the Department of  
6 Revenue one individual who is authorized by such municipality to make  
7 such request and review the documents described in subdivision (a) of  
8 this subsection. The individual may be a municipal employee or an  
9 individual who contracts with the requesting municipality to provide  
10 financial, accounting, or other administrative services.

11 (c) No individual certified by a municipality pursuant to  
12 subdivision (b) of this subsection shall disclose to any person any  
13 information obtained pursuant to a review under this subsection. An  
14 individual certified by a municipality pursuant to subdivision (b) of  
15 this subsection shall remain subject to this subsection after he or she  
16 (i) is no longer certified or (ii) is no longer in the employment of or  
17 under contract with the certifying municipality.

18 (d) Any person who violates the provisions of this subsection shall  
19 be guilty of a Class I misdemeanor.

20 (e) The Department of Revenue shall not be held liable by any person  
21 for an impermissible disclosure by a municipality or any agent or  
22 employee thereof of any information obtained pursuant to a review under  
23 this subsection.

24 (15) In all proceedings under the Nebraska Revenue Act of 1967, the  
25 Tax Commissioner may act for and on behalf of the people of the State of  
26 Nebraska. The Tax Commissioner in his or her discretion may waive all or  
27 part of any penalties provided by the provisions of such act or interest  
28 on delinquent taxes specified in section 45-104.02, as such rate may from  
29 time to time be adjusted.

30 (16)(a) The purpose of this subsection is to set forth the state's  
31 policy for the protection of the confidentiality rights of all

1 participants in the system operated pursuant to the streamlined sales and  
2 use tax agreement and of the privacy interests of consumers who deal with  
3 model 1 sellers.

4 (b) For purposes of this subsection:

5 (i) Anonymous data means information that does not identify a  
6 person;

7 (ii) Confidential taxpayer information means all information that is  
8 protected under a member state's laws, regulations, and privileges; and

9 (iii) Personally identifiable information means information that  
10 identifies a person.

11 (c) The state agrees that a fundamental precept for model 1 sellers  
12 is to preserve the privacy of consumers by protecting their anonymity.  
13 With very limited exceptions, a certified service provider shall perform  
14 its tax calculation, remittance, and reporting functions without  
15 retaining the personally identifiable information of consumers.

16 (d) The governing board of the member states in the streamlined  
17 sales and use tax agreement may certify a certified service provider only  
18 if that certified service provider certifies that:

19 (i) Its system has been designed and tested to ensure that the  
20 fundamental precept of anonymity is respected;

21 (ii) Personally identifiable information is only used and retained  
22 to the extent necessary for the administration of model 1 with respect to  
23 exempt purchasers;

24 (iii) It provides consumers clear and conspicuous notice of its  
25 information practices, including what information it collects, how it  
26 collects the information, how it uses the information, how long, if at  
27 all, it retains the information, and whether it discloses the information  
28 to member states. Such notice shall be satisfied by a written privacy  
29 policy statement accessible by the public on the web site of the  
30 certified service provider;

31 (iv) Its collection, use, and retention of personally identifiable

1 information is limited to that required by the member states to ensure  
2 the validity of exemptions from taxation that are claimed by reason of a  
3 consumer's status or the intended use of the goods or services purchased;  
4 and

5 (v) It provides adequate technical, physical, and administrative  
6 safeguards so as to protect personally identifiable information from  
7 unauthorized access and disclosure.

8 (e) The state shall provide public notification to consumers,  
9 including exempt purchasers, of the state's practices relating to the  
10 collection, use, and retention of personally identifiable information.

11 (f) When any personally identifiable information that has been  
12 collected and retained is no longer required for the purposes set forth  
13 in subdivision (16)(d)(iv) of this section, such information shall no  
14 longer be retained by the member states.

15 (g) When personally identifiable information regarding an individual  
16 is retained by or on behalf of the state, it shall provide reasonable  
17 access by such individual to his or her own information in the state's  
18 possession and a right to correct any inaccurately recorded information.

19 (h) If anyone other than a member state, or a person authorized by  
20 that state's law or the agreement, seeks to discover personally  
21 identifiable information, the state from whom the information is sought  
22 should make a reasonable and timely effort to notify the individual of  
23 such request.

24 (i) This privacy policy is subject to enforcement by the Attorney  
25 General.

26 (j) All other laws and regulations regarding the collection, use,  
27 and maintenance of confidential taxpayer information remain fully  
28 applicable and binding. Without limitation, this subsection does not  
29 enlarge or limit the state's authority to:

30 (i) Conduct audits or other reviews as provided under the agreement  
31 and state law;

1 (ii) Provide records pursuant to the federal Freedom of Information  
2 Act, disclosure laws with governmental agencies, or other regulations;

3 (iii) Prevent, consistent with state law, disclosure of confidential  
4 taxpayer information;

5 (iv) Prevent, consistent with federal law, disclosure or misuse of  
6 federal return information obtained under a disclosure agreement with the  
7 Internal Revenue Service; and

8 (v) Collect, disclose, disseminate, or otherwise use anonymous data  
9 for governmental purposes.

10 Sec. 7. Section 77-27,119, Revised Statutes Cumulative Supplement,  
11 2014, is amended to read:

12 77-27,119 (1) The Tax Commissioner shall administer and enforce the  
13 income tax imposed by sections 77-2714 to 77-27,135, and he or she is  
14 authorized to conduct hearings, to adopt and promulgate such rules and  
15 regulations, and to require such facts and information to be reported as  
16 he or she may deem necessary to enforce the income tax provisions of such  
17 sections, except that such rules, regulations, and reports shall not be  
18 inconsistent with the laws of this state or the laws of the United  
19 States. The Tax Commissioner may for enforcement and administrative  
20 purposes divide the state into a reasonable number of districts in which  
21 branch offices may be maintained.

22 (2)(a) The Tax Commissioner may prescribe the form and contents of  
23 any return or other document required to be filed under the income tax  
24 provisions. Such return or other document shall be compatible as to form  
25 and content with the return or document required by the laws of the  
26 United States. The form shall have a place where the taxpayer shall  
27 designate the high school district in which he or she lives and the  
28 county in which the high school district is headquartered. The Tax  
29 Commissioner shall adopt and promulgate such rules and regulations as may  
30 be necessary to insure compliance with this requirement.

31 (b) The State Department of Education, with the assistance and

1 cooperation of the Department of Revenue, shall develop a uniform system  
2 for numbering all school districts in the state. Such system shall be  
3 consistent with the data processing needs of the Department of Revenue  
4 and shall be used for the school district identification required by  
5 subdivision (a) of this subsection.

6 (c) The proper filing of an income tax return shall consist of the  
7 submission of such form as prescribed by the Tax Commissioner or an exact  
8 facsimile thereof with sufficient information provided by the taxpayer on  
9 the face of the form from which to compute the actual tax liability. Each  
10 taxpayer shall include such taxpayer's correct social security number or  
11 state identification number and the school district identification number  
12 of the school district in which the taxpayer resides on the face of the  
13 form. A filing is deemed to occur when the required information is  
14 provided.

15 (3) The Tax Commissioner, for the purpose of ascertaining the  
16 correctness of any return or other document required to be filed under  
17 the income tax provisions, for the purpose of determining corporate  
18 income, individual income, and withholding tax due, or for the purpose of  
19 making an estimate of taxable income of any person, shall have the power  
20 to examine or to cause to have examined, by any agent or representative  
21 designated by him or her for that purpose, any books, papers, records, or  
22 memoranda bearing upon such matters and may by summons require the  
23 attendance of the person responsible for rendering such return or other  
24 document or remitting any tax, or any officer or employee of such person,  
25 or the attendance of any other person having knowledge in the premises,  
26 and may take testimony and require proof material for his or her  
27 information, with power to administer oaths or affirmations to such  
28 person or persons.

29 (4) The time and place of examination pursuant to this section shall  
30 be such time and place as may be fixed by the Tax Commissioner and as are  
31 reasonable under the circumstances. In the case of a summons, the date

1 fixed for appearance before the Tax Commissioner shall not be less than  
2 twenty days from the time of service of the summons.

3 (5) No taxpayer shall be subjected to unreasonable or unnecessary  
4 examinations or investigations.

5 (6) Except in accordance with proper judicial order or as otherwise  
6 provided by law, it shall be unlawful for the Tax Commissioner, any  
7 officer or employee of the Tax Commissioner, any person engaged or  
8 retained by the Tax Commissioner on an independent contract basis, any  
9 person who pursuant to this section is permitted to inspect any report or  
10 return or to whom a copy, an abstract, or a portion of any report or  
11 return is furnished, any employee of the State Treasurer or the  
12 Department of Administrative Services, or any other person to divulge,  
13 make known, or use in any manner the amount of income or any particulars  
14 set forth or disclosed in any report or return required except for the  
15 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged  
16 with the custody of such reports and returns shall not be required to  
17 produce any of them or evidence of anything contained in them in any  
18 action or proceeding in any court, except on behalf of the Tax  
19 Commissioner in an action or proceeding under the provisions of the tax  
20 law to which he or she is a party or on behalf of any party to any action  
21 or proceeding under such sections when the reports or facts shown thereby  
22 are directly involved in such action or proceeding, in either of which  
23 events the court may require the production of, and may admit in  
24 evidence, so much of such reports or of the facts shown thereby as are  
25 pertinent to the action or proceeding and no more. Nothing in this  
26 section shall be construed (a) to prohibit the delivery to a taxpayer,  
27 his or her duly authorized representative, or his or her successors,  
28 receivers, trustees, personal representatives, administrators, assignees,  
29 or guarantors, if directly interested, of a certified copy of any return  
30 or report in connection with his or her tax, (b) to prohibit the  
31 publication of statistics so classified as to prevent the identification

1 of particular reports or returns and the items thereof, (c) to prohibit  
2 the inspection by the Attorney General, other legal representatives of  
3 the state, or a county attorney of the report or return of any taxpayer  
4 who brings an action to review the tax based thereon, against whom an  
5 action or proceeding for collection of tax has been instituted, or  
6 against whom an action, proceeding, or prosecution for failure to comply  
7 with the Nebraska Revenue Act of 1967 is being considered or has been  
8 commenced, (d) to prohibit furnishing to the Nebraska Workers'  
9 Compensation Court the names, addresses, and identification numbers of  
10 employers, and such information shall be furnished on request of the  
11 court, (e) to prohibit the disclosure of information and records to a  
12 collection agency contracting with the Tax Commissioner pursuant to  
13 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of  
14 information pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to  
15 prohibit the disclosure to the Public Employees Retirement Board of the  
16 addresses of individuals who are members of the retirement systems  
17 administered by the board, and such information shall be furnished to the  
18 board solely for purposes of its administration of the retirement systems  
19 upon written request, which request shall include the name and social  
20 security number of each individual for whom an address is requested, (h)  
21 to prohibit the disclosure of information to the Department of Labor  
22 necessary for the administration of the Employment Security Law, the  
23 Contractor Registration Act, or the Employee Classification Act, (i) to  
24 prohibit the disclosure to the Department of Motor Vehicles of tax return  
25 information pertaining to individuals, corporations, and businesses  
26 determined by the Department of Motor Vehicles to be delinquent in the  
27 payment of amounts due under agreements pursuant to the International  
28 Fuel Tax Agreement Act, and such disclosure shall be strictly limited to  
29 information necessary for the administration of the act, (j) to prohibit  
30 the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any  
31 court-appointed individuals, the county attorney, any authorized

1 attorney, or the Department of Health and Human Services of an absent  
2 parent's address, social security number, amount of income, health  
3 insurance information, and employer's name and address for the exclusive  
4 purpose of establishing and collecting child, spousal, or medical  
5 support, (k) to prohibit the disclosure of information to the Department  
6 of Insurance, the Nebraska State Historical Society, or the State  
7 Historic Preservation Officer as necessary to carry out the Department of  
8 Revenue's responsibilities under the Nebraska Job Creation and Mainstreet  
9 Revitalization Act, or (l) to prohibit the disclosure to the Department  
10 of Insurance of information pertaining to authorization for, and use of,  
11 tax credits under the New Markets Job Growth Investment Act. Information  
12 so obtained shall be used for no other purpose. Any person who violates  
13 this subsection shall be guilty of a felony and shall upon conviction  
14 thereof be fined not less than one hundred dollars nor more than five  
15 hundred dollars, or be imprisoned not more than five years, or be both so  
16 fined and imprisoned, in the discretion of the court and shall be  
17 assessed the costs of prosecution. If the offender is an officer or  
18 employee of the state, he or she shall be dismissed from office and be  
19 ineligible to hold any public office in this state for a period of two  
20 years thereafter.

21 (7) Reports and returns required to be filed under income tax  
22 provisions of sections 77-2714 to 77-27,135 shall be preserved until the  
23 Tax Commissioner orders them to be destroyed.

24 (8) Notwithstanding the provisions of subsection (6) of this  
25 section, the Tax Commissioner may permit the Secretary of the Treasury of  
26 the United States or his or her delegates or the proper officer of any  
27 state imposing an income tax, or the authorized representative of either  
28 such officer, to inspect the income tax returns of any taxpayer or may  
29 furnish to such officer or his or her authorized representative an  
30 abstract of the return of income of any taxpayer or supply him or her  
31 with information concerning an item of income contained in any return or

1 disclosed by the report of any investigation of the income or return of  
2 income of any taxpayer, but such permission shall be granted only if the  
3 statutes of the United States or of such other state, as the case may be,  
4 grant substantially similar privileges to the Tax Commissioner of this  
5 state as the officer charged with the administration of the income tax  
6 imposed by sections 77-2714 to 77-27,135.

7 (9) Notwithstanding the provisions of subsection (6) of this  
8 section, the Tax Commissioner may permit the Postal Inspector of the  
9 United States Postal Service or his or her delegates to inspect the  
10 reports or returns of any person filed pursuant to the Nebraska Revenue  
11 Act of 1967 when information on the reports or returns is relevant to any  
12 action or proceeding instituted or being considered by the United States  
13 Postal Service against such person for the fraudulent use of the mails to  
14 carry and deliver false and fraudulent tax returns to the Tax  
15 Commissioner with the intent to defraud the State of Nebraska or to evade  
16 the payment of Nebraska state taxes.

17 (10)(a) Notwithstanding the provisions of subsection (6) of this  
18 section, the Tax Commissioner shall, upon written request by the Auditor  
19 of Public Accounts or the Legislative Performance Audit Committee, make  
20 tax returns and tax return information open to inspection by or  
21 disclosure to officers and employees of the Auditor of Public Accounts or  
22 employees of the office of Legislative Audit for the purpose of and to  
23 the extent necessary in making an audit of the Department of Revenue  
24 pursuant to section 50-1205 or 84-304. The Auditor of Public Accounts or  
25 office of Legislative Audit shall statistically and randomly select the  
26 tax returns and tax return information to be audited based upon a  
27 computer tape provided by the Department of Revenue which contains only  
28 total population documents without specific identification of taxpayers.  
29 The Tax Commissioner shall have the authority to approve the statistical  
30 sampling method used by the Auditor of Public Accounts or office of  
31 Legislative Audit. Confidential tax returns and tax return information

1 shall be audited only upon the premises of the Department of Revenue. All  
2 audit workpapers pertaining to the audit of the Department of Revenue  
3 shall be stored in a secure place in the Department of Revenue.

4 (b) No officer or employee of the Auditor of Public Accounts or  
5 office of Legislative Audit employee shall disclose to any person, other  
6 than another officer or employee of the Auditor of Public Accounts or  
7 office of Legislative Audit whose official duties require such disclosure  
8 or as provided in subsections (3 2) and (4 3) of section 50-1213, any  
9 return or return information described in the Nebraska Revenue Act of  
10 1967 in a form which can be associated with or otherwise identify,  
11 directly or indirectly, a particular taxpayer.

12 (c) Any person who violates the provisions of this subsection shall  
13 be guilty of a Class IV felony and, in the discretion of the court, may  
14 be assessed the costs of prosecution. The guilty officer or employee  
15 shall be dismissed from employment and be ineligible to hold any position  
16 of employment with the State of Nebraska for a period of two years  
17 thereafter. For purposes of this subsection, officer or employee shall  
18 include a former officer or employee of the Auditor of Public Accounts or  
19 former employee of the office of Legislative Audit.

20 (11) For purposes of subsections (10) through (13) of this section:

21 (a) Tax returns shall mean any tax or information return or claim  
22 for refund required by, provided for, or permitted under sections 77-2714  
23 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of,  
24 or with respect to any person and any amendment or supplement thereto,  
25 including supporting schedules, attachments, or lists which are  
26 supplemental to or part of the filed return;

27 (b) Return information shall mean:

28 (i) A taxpayer's identification number and (A) the nature, source,  
29 or amount of his or her income, payments, receipts, deductions,  
30 exemptions, credits, assets, liabilities, net worth, tax liability, tax  
31 withheld, deficiencies, overassessments, or tax payments, whether the

1 taxpayer's return was, is being, or will be examined or subject to other  
2 investigation or processing or (B) any other data received by, recorded  
3 by, prepared by, furnished to, or collected by the Tax Commissioner with  
4 respect to a return or the determination of the existence or possible  
5 existence of liability or the amount of liability of any person for any  
6 tax, penalty, interest, fine, forfeiture, or other imposition or offense;  
7 and

8 (ii) Any part of any written determination or any background file  
9 document relating to such written determination; and

10 (c) Disclosures shall mean the making known to any person in any  
11 manner a return or return information.

12 (12) The Auditor of Public Accounts or the Legislative Auditor shall  
13 (a) notify the Tax Commissioner in writing thirty days prior to the  
14 beginning of an audit of his or her intent to conduct an audit, (b)  
15 provide an audit plan, and (c) provide a list of the tax returns and tax  
16 return information identified for inspection during the audit.

17 (13) The Auditor of Public Accounts or the office of Legislative  
18 Audit shall, as a condition for receiving tax returns and tax return  
19 information: (a) Subject employees involved in the audit to the same  
20 confidential information safeguards and disclosure procedures as required  
21 of Department of Revenue employees; (b) establish and maintain a  
22 permanent system of standardized records with respect to any request for  
23 tax returns or tax return information, the reason for such request, and  
24 the date of such request and any disclosure of the tax return or tax  
25 return information; (c) establish and maintain a secure area or place in  
26 the Department of Revenue in which the tax returns, tax return  
27 information, or audit workpapers shall be stored; (d) restrict access to  
28 the tax returns or tax return information only to persons whose duties or  
29 responsibilities require access; (e) provide such other safeguards as the  
30 Tax Commissioner determines to be necessary or appropriate to protect the  
31 confidentiality of the tax returns or tax return information; (f) provide

1 a report to the Tax Commissioner which describes the procedures  
2 established and utilized by the Auditor of Public Accounts or office of  
3 Legislative Audit for insuring the confidentiality of tax returns, tax  
4 return information, and audit workpapers; and (g) upon completion of use  
5 of such returns or tax return information, return to the Tax Commissioner  
6 such returns or tax return information, along with any copies.

7 (14) The Tax Commissioner may permit other tax officials of this  
8 state to inspect the tax returns and reports filed under sections 77-2714  
9 to 77-27,135, but such inspection shall be permitted only for purposes of  
10 enforcing a tax law and only to the extent and under the conditions  
11 prescribed by the rules and regulations of the Tax Commissioner.

12 (15) The Tax Commissioner shall compile the school district  
13 information required by subsection (2) of this section. Insofar as it is  
14 possible, such compilation shall include, but not be limited to, the  
15 total adjusted gross income of each school district in the state. The Tax  
16 Commissioner shall adopt and promulgate such rules and regulations as may  
17 be necessary to insure that such compilation does not violate the  
18 confidentiality of any individual income tax return nor conflict with any  
19 other provisions of state or federal law.

20 Sec. 8. Section 84-304, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 84-304 It shall be the duty of the Auditor of Public Accounts:

23 (1) To give information electronically to the Legislature, whenever  
24 required, upon any subject relating to the fiscal affairs of the state or  
25 with regard to any duty of his or her office;

26 (2) To furnish offices for himself or herself and all fuel, lights,  
27 books, blanks, forms, paper, and stationery required for the proper  
28 discharge of the duties of his or her office;

29 (3) To examine or cause to be examined, at such time as he or she  
30 shall determine, books, accounts, vouchers, records, and expenditures of  
31 all state officers, state bureaus, state boards, state commissioners, the

1 state library, societies and associations supported by the state, state  
2 institutions, state colleges, and the University of Nebraska, except when  
3 required to be performed by other officers or persons. Such examinations  
4 shall be done in accordance with generally accepted government auditing  
5 standards for financial audits and attestation engagements set forth in  
6 Government Auditing Standards (2011 Revision), published by the  
7 Comptroller General of the United States, Government Accountability  
8 Office, and except as provided in subdivision (11) of this section,  
9 subdivision (16) of section 50-1205, and section 84-322, shall not  
10 include performance audits, whether conducted pursuant to attestation  
11 engagements or performance audit standards as set forth in Government  
12 Auditing Standards (2011 Revision), published by the Comptroller General  
13 of the United States, Government Accountability Office;

14 (4)(a) To examine or cause to be examined, at the expense of the  
15 political subdivision, when the Auditor of Public Accounts determines  
16 such examination necessary or when requested by the political  
17 subdivision, the books, accounts, vouchers, records, and expenditures of  
18 any agricultural association formed under Chapter 2, article 20, any  
19 county agricultural society, any joint airport authority formed under the  
20 Joint Airport Authorities Act, any city or county airport authority, any  
21 bridge commission created pursuant to section 39-868, any cemetery  
22 district, any community redevelopment authority or limited community  
23 redevelopment authority established under the Community Development Law,  
24 any development district, any drainage district, any health district, any  
25 local public health department as defined in section 71-1626, any  
26 historical society, any hospital authority or district, any county  
27 hospital, any housing agency as defined in section 71-1575, any  
28 irrigation district, any county or municipal library, any community  
29 mental health center, any railroad transportation safety district, any  
30 rural water district, any township, Wyuka Cemetery, the Educational  
31 Service Unit Coordinating Council, any entity created pursuant to the

1 ~~Interlocal Cooperation Act, which includes either the participation of~~  
2 ~~the Educational Service Unit Coordinating Council or any educational~~  
3 ~~service unit, any village, any service contractor or subrecipient of~~  
4 ~~state or federal funds, any political subdivision with the authority to~~  
5 ~~levy a property tax or a toll, or any entity created pursuant to the~~  
6 ~~Joint Public Agency Act which has separately levied a property tax based~~  
7 ~~on legal authority for a joint public agency to levy such a tax~~  
8 ~~independent of the public agencies forming such joint public agency.~~

9 For purposes of this subdivision, service contractor or subrecipient  
10 means any nonprofit entity that expends state or federal funds to carry  
11 out a state or federal program or function, but it does not include an  
12 individual who is a direct beneficiary of such a program or function or a  
13 licensed health care provider or facility receiving direct payment for  
14 medical services provided for a specific individual.

15 (b) The Auditor of Public Accounts may waive the audit requirement  
16 of subdivision (4)(a) of this section upon the submission by the  
17 political subdivision of a written request in a form prescribed by the  
18 auditor. The auditor shall notify the political subdivision in writing of  
19 the approval or denial of the request for a waiver.

20 (c) The Auditor of Public Accounts may conduct audits under this  
21 subdivision for purposes of sections 2-3228, 12-101, 13-2402, 14-567,  
22 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,  
23 23-3526, and 71-1631.02;

24 (5) To report promptly to the Governor and the appropriate standing  
25 committee of the Legislature the fiscal condition shown by such  
26 examinations conducted by the auditor, including any irregularities or  
27 misconduct of officers or employees, any misappropriation or misuse of  
28 public funds or property, and any improper system or method of  
29 bookkeeping or condition of accounts. The report submitted to the  
30 committee shall be submitted electronically. In addition, if, in the  
31 normal course of conducting an audit in accordance with subdivision (3)

1 of this section, the auditor discovers any potential problems related to  
2 the effectiveness, efficiency, or performance of state programs, he or  
3 she shall immediately report them electronically to the Legislative  
4 Performance Audit Committee which may investigate the issue further,  
5 report it electronically to the appropriate standing committee of the  
6 Legislature, or both;

7 (6)(a) To examine or cause to be examined the books, accounts,  
8 vouchers, records, and expenditures of a fire protection district. The  
9 expense of the examination shall be paid by the political subdivision.

10 (b) Whenever the expenditures of a fire protection district are one  
11 hundred fifty thousand dollars or less per fiscal year, the fire  
12 protection district shall be audited no more than once every five years  
13 except as directed by the board of directors of the fire protection  
14 district or unless the auditor receives a verifiable report from a third  
15 party indicating any irregularities or misconduct of officers or  
16 employees of the fire protection district, any misappropriation or misuse  
17 of public funds or property, or any improper system or method of  
18 bookkeeping or condition of accounts of the fire protection district. In  
19 the absence of such a report, the auditor may waive the five-year audit  
20 requirement upon the submission of a written request by the fire  
21 protection district in a form prescribed by the auditor. The auditor  
22 shall notify the fire protection district in writing of the approval or  
23 denial of a request for waiver of the five-year audit requirement. Upon  
24 approval of the request for waiver of the five-year audit requirement, a  
25 new five-year audit period shall begin.

26 (c) Whenever the expenditures of a fire protection district exceed  
27 one hundred fifty thousand dollars in a fiscal year, the auditor may  
28 waive the audit requirement upon the submission of a written request by  
29 the fire protection district in a form prescribed by the auditor. The  
30 auditor shall notify the fire protection district in writing of the  
31 approval or denial of a request for waiver. Upon approval of the request

1 for waiver, a new five-year audit period shall begin for the fire  
2 protection district if its expenditures are one hundred fifty thousand  
3 dollars or less per fiscal year in subsequent years;

4 (7) To appoint two assistant deputies (a) whose entire time shall be  
5 devoted to the service of the state as directed by the auditor, (b) who  
6 shall be certified public accountants with at least five years'  
7 experience, (c) who shall be selected without regard to party affiliation  
8 or to place of residence at the time of appointment, (d) who shall  
9 promptly report in duplicate to the auditor the fiscal condition shown by  
10 each examination, including any irregularities or misconduct of officers  
11 or employees, any misappropriation or misuse of public funds or property,  
12 and any improper system or method of bookkeeping or condition of  
13 accounts, and it shall be the duty of the auditor to file promptly with  
14 the Governor a duplicate of such report, and (e) who shall qualify by  
15 taking an oath which shall be filed in the office of the Secretary of  
16 State;

17 (8) To conduct audits and related activities for state agencies,  
18 political subdivisions of this state, or grantees of federal funds  
19 disbursed by a receiving agency on a contractual or other basis for  
20 reimbursement to assure proper accounting by all such agencies, political  
21 subdivisions, and grantees for funds appropriated by the Legislature and  
22 federal funds disbursed by any receiving agency. The auditor may contract  
23 with any political subdivision to perform the audit of such political  
24 subdivision required by or provided for in section 23-1608 or 79-1229 or  
25 this section and charge the political subdivision for conducting the  
26 audit. The fees charged by the auditor for conducting audits on a  
27 contractual basis shall be in an amount sufficient to pay the cost of the  
28 audit. The fees remitted to the auditor for such audits and services  
29 shall be deposited in the Auditor of Public Accounts Cash Fund;

30 (9) To conduct all audits and examinations in a timely manner and in  
31 accordance with the standards for audits of governmental organizations,

1 programs, activities, and functions published by the Comptroller General  
2 of the United States;

3 (10) To develop and maintain an annual budget and actual financial  
4 information reporting system for political subdivisions that is  
5 accessible online by the public; and

6 (11) When authorized, to conduct joint audits with the Legislative  
7 Performance Audit Committee as described in section 50-1205.

8 Sec. 9. Section 84-304.02, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 84-304.02 ~~The (1) Except as provided in subsection (2) of this~~  
11 ~~section, the Auditor of Public Accounts, or a person designated by him or~~  
12 ~~her, may shall~~ prepare a written review of all audit, accounting, or  
13 financial reports required to be filed by a political subdivision of the  
14 state with the Auditor of Public Accounts and of public retirement system  
15 plan reports required to be submitted to the Auditor of Public Accounts  
16 pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111,  
17 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, and 71-1631.02, and  
18 cause one copy of such written review to be mailed to the political  
19 subdivision involved and one copy to the accountant who prepared the  
20 report. Such written review shall specifically set forth wherein the  
21 audit, accounting, ~~or~~ financial, or retirement system plan report fails  
22 to comply with the applicable minimum standards and the necessary action  
23 to be taken to bring the report into compliance with such standards. The  
24 Auditor of Public Accounts may, upon continued failure to comply with  
25 such standards, refuse to accept for filing an audit, accounting, ~~or~~  
26 financial, or retirement system plan report or any future report  
27 submitted for filing by any political subdivision.

28 ~~(2) For public retirement system plan reports required to be~~  
29 ~~submitted to the Auditor of Public Accounts pursuant to sections 2-3228,~~  
30 ~~12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501,~~  
31 ~~23-1118, 23-3526, and 71-1631.02, the auditor may prepare a review of~~

1 ~~such report pursuant to subsection (1) of this section but is not~~  
2 ~~required to do so.~~

3       Sec. 10. Section 84-305, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5       84-305 (1) The Auditor of Public Accounts shall have access to any  
6 and all information and records, confidential or otherwise, all records  
7 of any public entity, in whatever form or mode the records may be, unless  
8 the auditor is denied such access by federal law or explicitly named and  
9 denied such access by state law. If such a law exists, the public entity  
10 shall provide the auditor with a written explanation of its inability to  
11 produce such information and records and, after reasonable accommodations  
12 are made, shall grant the auditor access to all information and records  
13 or portions thereof that can legally be reviewed ~~auditor's access to the~~  
14 ~~records is specifically prohibited or limited by federal or state law.~~

15       (2) Upon receipt of a written request by the Auditor of Public  
16 Accounts for access to any information or records, the public entity  
17 shall provide to the auditor as soon as is practicable and without delay,  
18 but not more than three business days after actual receipt of the  
19 request, either (a) the requested materials or (b)(i) if there is a legal  
20 basis for refusal to comply with the request, a written denial of the  
21 request together with the information specified in subsection (1) of this  
22 section or (ii) if the entire request cannot with reasonable good faith  
23 efforts be fulfilled within three business days after actual receipt of  
24 the request due to the significant difficulty or the extensiveness of the  
25 request, a written explanation, including the earliest practicable date  
26 for fulfilling the request, and an opportunity for the auditor to modify  
27 or prioritize the items within the request. No delay due to the  
28 significant difficulty or the extensiveness of any request for access to  
29 information or records shall exceed three calendar weeks after actual  
30 receipt of such request by any public entity. The three business days  
31 shall be computed by excluding the day the request is received, after

1 which the designated period of time begins to run. Business day does not  
2 include a Saturday, a Sunday, or a day during which the offices of the  
3 custodian of the public records are closed.

4 (3) The Auditor of Public Accounts may issue subpoenas to compel the  
5 attendance of witnesses and the production of any papers, books,  
6 accounts, documents, and testimony, and cause the depositions of  
7 witnesses either residing within or without the state to be taken in the  
8 manner prescribed by law for taking depositions in civil actions in the  
9 district court.

10 (4) In case of disobedience on the part of any person to comply with  
11 any subpoena issued by the Auditor of Public Accounts or of the refusal  
12 of any witness to testify on any matters regarding which he or she may be  
13 lawfully interrogated, the district court of Lancaster County or the  
14 judge thereof, on application of the Auditor of Public Accounts, shall  
15 compel obedience by proceedings for contempt as in the case of  
16 disobedience of the requirements of a subpoena issued from such court or  
17 a refusal to testify therein.

18 (5) If a witness refuses to testify before the Auditor of Public  
19 Accounts on the basis of the privilege against self-incrimination, the  
20 Auditor of Public Accounts may request a court order pursuant to sections  
21 29-2011.02 and 29-2011.03.

22 (6) No provisions of state law shall be construed to change the  
23 nonpublic nature of the data obtained as a result of the access. When an  
24 audit or investigative finding emanates from nonpublic data which is  
25 nonpublic pursuant to federal or state law, all the nonpublic information  
26 shall not be made public.

27 Sec. 11. Any person who willfully fails to comply with the  
28 provisions of section 84-305 or who otherwise willfully obstructs or  
29 hinders the conduct of an audit, examination, or related activity by the  
30 Auditor of Public Accounts or who willfully misleads or attempts to  
31 mislead any person charged with the duty of conducting such audit,

1 examination, or related activity shall be guilty of a Class II  
2 misdemeanor.

3       Sec. 12. Section 84-311, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5       84-311 (1) All final audit reports issued by the Auditor of Public  
6 Accounts shall be maintained permanently as a public record in the office  
7 of the Auditor of Public Accounts. Working papers and other audit files  
8 maintained by the Auditor of Public Accounts are not public records and  
9 are exempt from sections 84-712 to 84-712.05. The information contained  
10 in working papers and audit files prepared pursuant to a specific audit  
11 is not subject to disclosure except to a county attorney or the Attorney  
12 General in connection with an investigation made or action taken in the  
13 course of the attorney's official duties or to the Legislative  
14 Performance Audit Committee in the course of the committee's official  
15 duties and pursuant to the requirements of subdivision (16) of section  
16 50-1205 or subdivision (5) of section 84-304. A public entity being  
17 audited and any federal agency that has made a grant to such public  
18 entity shall also have access to the relevant working papers and audit  
19 files, except that such access shall not include information that would  
20 disclose or otherwise indicate the identity of any individual who has  
21 confidentially provided the Auditor of Public Accounts with allegations  
22 of wrongdoing regarding, or other information pertaining to, the public  
23 entity being audited. Public entities being audited and the federal  
24 agencies that have made grants to public entities being audited shall  
25 also have access to the relevant working papers and audit files. For  
26 purposes of this subsection, working papers means those documents  
27 containing evidence to support the auditor's findings, opinions,  
28 conclusions, and judgments and includes the collection of evidence  
29 prepared or obtained by the auditor during the audit. The Auditor of  
30 Public Accounts may make the working papers available for purposes of an  
31 external quality control review as required by generally accepted

1 government auditing standards. However, any reports made from such  
2 external quality control review shall not make public any information  
3 which would be considered confidential under this section when in the  
4 possession of the Auditor of Public Accounts.

5 (2) If the Auditor of Public Accounts or any employee of the Auditor  
6 of Public Accounts knowingly divulges or makes known in any manner not  
7 permitted by law any record, document, or information, the disclosure of  
8 which is restricted by law, he or she is subject to the same penalties  
9 provided in section 84-712.09.

10 Sec. 13. (1) The Auditor of Public Accounts may decide not to  
11 include in any document that will be a public record the names of persons  
12 providing information to the Auditor of Public Accounts.

13 (2) No employee of the State of Nebraska or any of its political  
14 subdivisions who provides information to the Auditor of Public Accounts  
15 shall be subject to any personnel action, as defined in section 81-2703,  
16 in connection with his or her employment as a result of providing such  
17 information.

18 (3) Any person exercising his or her supervisory or managerial  
19 authority to recommend, approve, direct, or otherwise take or affect  
20 personnel action in violation of subsection (2) of this section shall be  
21 guilty of a Class III misdemeanor and shall be subject to personnel  
22 action up to and including dismissal from employment with the state or  
23 political subdivision.

24 Sec. 14. Original sections 29-2011.02, 29-2011.03, 50-1215, 84-304,  
25 84-304.02, 84-305, and 84-311, Reissue Revised Statutes of Nebraska, and  
26 sections 50-1213, 50-1214, 77-2711, and 77-27,119, Revised Statutes  
27 Cumulative Supplement, 2014, are repealed.

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