

AMENDMENTS TO LB 16

Introduced by Executive Board.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. The establishment of the web site under
4 section 50-401.01 shall be known and may be cited as the Taxpayer
5 Transparency Act.

6 Sec. 2. Section 50-401.01, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 50-401.01 (1) The Legislative Council shall have an
9 executive board, to be known as the Executive Board of the
10 Legislative Council, which shall consist of a chairperson, a
11 vice-chairperson, and six members of the Legislature, to be chosen
12 by the Legislature at the commencement of each regular session of
13 the Legislature when the speaker is chosen, and the Speaker of
14 the Legislature. The Legislature at large shall elect two of its
15 members from legislative districts Nos. 1, 2, 15, 21 to 30, 32,
16 34, and 46, two from legislative districts Nos. 3 to 14, 18, 20,
17 31, 39, and 45, and two from legislative districts Nos. 16, 17,
18 19, 33, 35 to 38, 40 to 44, and 47 to 49. The Chairperson of the
19 Committee on Appropriations shall serve as a nonvoting ex officio
20 member of the executive board whenever the board is considering
21 fiscal administration.

22 (2) The executive board shall:

23 (a) Supervise all services and service personnel of the

1 Legislature and may employ and fix compensation and other terms of
2 employment for such personnel as may be needed to carry out the
3 intent and activities of the Legislature or of the board, unless
4 otherwise directed by the Legislature, including the adoption of
5 policies by the executive board which permit (i) the purchasing
6 of an annuity for an employee who retires or (ii) the crediting
7 of amounts to an employee's deferred compensation account under
8 section 84-1504. The payments to or on behalf of an employee may be
9 staggered to comply with other law; ~~and~~

10 (b) Appoint persons to fill the positions of Legislative
11 Fiscal Analyst, Director of Research, Revisor of Statutes, and
12 Legislative Auditor. The persons appointed to these positions shall
13 have training and experience as determined by the executive board
14 and shall serve at the pleasure of the executive board. The
15 Legislative Performance Audit Committee shall recommend the person
16 to be appointed Legislative Auditor. Their respective salaries
17 shall be set by the executive board; ~~and-~~

18 (c) By August 1, 2010, develop a single, searchable web
19 site which is accessible by the public at no cost to access. The
20 information to be provided, subject to the review and approval by
21 the executive board, shall document the sources of all tax receipts
22 and the expenditure of state funds by all agencies, boards,
23 commissions, and departments of the state. The executive board
24 shall determine the appropriate level of detail to be published in
25 the web site for each of the following:

26 (i) The identity, principal location, and amount of funds
27 received or expended;

1 (ii) The funding or expending agency, board, commission,
2 or department;

3 (iii) The budget program source;

4 (iv) The amount, date, purpose, and recipient of all
5 disbursed funds; and

6 (v) Other relevant information.

7 The web site shall include data for fiscal year 2008-09
8 and each fiscal year thereafter. Beginning July 1, 2010, the data
9 shall be available on the web site no later than thirty days after
10 the end of the preceding fiscal year.

11 All agencies, boards, commissions, and departments of the
12 state shall provide to the executive board, at such times and in
13 such form as designated by the executive board, such information
14 as is necessary to accomplish the purposes of the Taxpayers
15 Transparency Act.

16 Nothing in this subdivision requires the disclosure of
17 information which is considered confidential under state or federal
18 law or is not a public record under section 84-712.05.

19 For purposes of this subdivision, expenditure of state
20 funds means all expenditures of appropriated or nonappropriated
21 funds by an agency, board, commission, or department of the state
22 from the state treasury in forms including, but not limited to:

23 (A) Grants;

24 (B) Contracts;

25 (C) Subcontracts;

26 (D) State aid to political subdivisions; and

27 (E) Tax refunds or credits, excluding those which result

1 from the overpayment of income tax, but including refunds and
2 credits used under agreements entered into on or after the
3 effective date of this act under the Nebraska Advantage Act,
4 the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska
5 Advantage Research and Development Act, or the Nebraska Advantage
6 Rural Development Act.

7 Expenditure of state funds does not include the transfer
8 of funds between two agencies, boards, commissions, or departments
9 of the state or payments of state or federal assistance to an
10 individual.

11 (3) Notwithstanding any other provision of law, the
12 executive board may contract to obtain legal, auditing, accounting,
13 actuarial, or other professional services or advice for or on
14 behalf of the executive board, the Legislative Council, the
15 Legislature, or any member of the Legislature. The providers
16 of such services or advice shall meet or exceed the minimum
17 professional standards or requirements established or specified by
18 their respective professional organizations or licensing entities
19 or by federal law. Such contracts, the deliberations of the
20 executive board with respect to such contracts, and the work
21 product resulting from such contracts shall not be subject to
22 review or approval by any other entity of state government.

23 Sec. 3. Section 50-1304, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 50-1304 (1) All agencies, boards, commissions, and
26 departments of the state shall furnish such information, reports,
27 aid, services, and assistance as may be requested by any standing

1 committee of the Legislature or the Executive Board of the
2 Legislative Council in the performance of its duties.

3 (2) The Government, Military and Veterans Affairs
4 Committee of the Legislature shall use its staff and may
5 also request assistance from the Director of Research of the
6 Legislature, the Legislative Fiscal Analyst, or any other division
7 within the Legislature as may be necessary in the performance of
8 the duties set forth in sections 50-1301 to 50-1304.

9 Sec. 4. Section 77-27,119, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 77-27,119 (1) The Tax Commissioner shall administer and
12 enforce the income tax imposed by sections 77-2714 to 77-27,135,
13 and he or she is authorized to conduct hearings, to adopt and
14 promulgate such rules and regulations, and to require such facts
15 and information to be reported as he or she may deem necessary to
16 enforce the income tax provisions of such sections, except that
17 such rules, regulations, and reports shall not be inconsistent with
18 the laws of this state or the laws of the United States. The Tax
19 Commissioner may for enforcement and administrative purposes divide
20 the state into a reasonable number of districts in which branch
21 offices may be maintained.

22 (2) (a) The Tax Commissioner may prescribe the form and
23 contents of any return or other document required to be filed under
24 the income tax provisions. Such return or other document shall
25 be compatible as to form and content with the return or document
26 required by the laws of the United States. The form shall have a
27 place where the taxpayer shall designate the high school district

1 in which he or she lives and the county in which the high school
2 district is headquartered. The Tax Commissioner shall adopt and
3 promulgate such rules and regulations as may be necessary to insure
4 compliance with this requirement.

5 (b) The State Department of Education, with the
6 assistance and cooperation of the Department of Revenue, shall
7 develop a uniform system for numbering all school districts in the
8 state. Such system shall be consistent with the data processing
9 needs of the Department of Revenue and shall be used for the
10 school district identification required by subdivision (a) of this
11 subsection.

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

22 (3) The Tax Commissioner, for the purpose of ascertaining
23 the correctness of any return or other document required to
24 be filed under the income tax provisions, for the purpose of
25 determining corporate income, individual income, and withholding
26 tax due, or for the purpose of making an estimate of taxable income
27 of any person, shall have the power to examine or to cause to have

1 examined, by any agent or representative designated by him or her
2 for that purpose, any books, papers, records, or memoranda bearing
3 upon such matters and may by summons require the attendance of
4 the person responsible for rendering such return or other document
5 or remitting any tax, or any officer or employee of such person,
6 or the attendance of any other person having knowledge in the
7 premises, and may take testimony and require proof material for his
8 or her information, with power to administer oaths or affirmations
9 to such person or persons.

10 (4) The time and place of examination pursuant to this
11 section shall be such time and place as may be fixed by the Tax
12 Commissioner and as are reasonable under the circumstances. In the
13 case of a summons, the date fixed for appearance before the Tax
14 Commissioner shall not be less than twenty days from the time of
15 service of the summons.

16 (5) No taxpayer shall be subjected to unreasonable or
17 unnecessary examinations or investigations.

18 (6) Except in accordance with proper judicial order or
19 as otherwise provided by law, it shall be unlawful for the Tax
20 Commissioner, any officer or employee of the Tax Commissioner,
21 any person engaged or retained by the Tax Commissioner on an
22 independent contract basis, any person who pursuant to this section
23 is permitted to inspect any report or return or to whom a copy, an
24 abstract, or a portion of any report or return is furnished, any
25 employee of the State Treasurer or the Department of Administrative
26 Services, or any other person to divulge, make known, or use in
27 any manner the amount of income or any particulars set forth or

1 disclosed in any report or return required except for the purpose
2 of enforcing sections 77-2714 to 77-27,135. The officers charged
3 with the custody of such reports and returns shall not be required
4 to produce any of them or evidence of anything contained in them
5 in any action or proceeding in any court, except on behalf of the
6 Tax Commissioner in an action or proceeding under the provisions
7 of the tax law to which he or she is a party or on behalf of
8 any party to any action or proceeding under such sections when the
9 reports or facts shown thereby are directly involved in such action
10 or proceeding, in either of which events the court may require the
11 production of, and may admit in evidence, so much of such reports
12 or of the facts shown thereby as are pertinent to the action or
13 proceeding and no more. Nothing in this section shall be construed
14 (a) to prohibit the delivery to a taxpayer, his or her duly
15 authorized representative, or his or her successors, receivers,
16 trustees, personal representatives, administrators, assignees, or
17 guarantors, if directly interested, of a certified copy of any
18 return or report in connection with his or her tax, (b) to
19 prohibit the publication of statistics so classified as to prevent
20 the identification of particular reports or returns and the items
21 thereof, (c) to prohibit the inspection by the Attorney General,
22 other legal representatives of the state, or a county attorney
23 of the report or return of any taxpayer who brings an action to
24 review the tax based thereon, against whom an action or proceeding
25 for collection of tax has been instituted, or against whom an
26 action, proceeding, or prosecution for failure to comply with the
27 Nebraska Revenue Act of 1967 is being considered or has been

1 commenced, (d) to prohibit furnishing to the Nebraska Workers'
2 Compensation Court the names, addresses, and identification numbers
3 of employers, and such information shall be furnished on request
4 of the court, (e) to prohibit the disclosure of information
5 and records to a collection agency contracting with the Tax
6 Commissioner pursuant to sections 77-377.01 to 77-377.04, (f)
7 to prohibit the disclosure of information pursuant to section
8 77-27,195, 77-4110, or 77-5731, (g) to prohibit the disclosure
9 to the Public Employees Retirement Board of the addresses of
10 individuals who are members of the retirement systems administered
11 by the board, and such information shall be furnished to the
12 board solely for purposes of its administration of the retirement
13 systems upon written request, which request shall include the name
14 and social security number of each individual for whom an address
15 is requested, (h) to prohibit the disclosure to the Department
16 of Labor of tax return information pertaining to individuals,
17 corporations, and businesses determined by the Department of Labor
18 to be delinquent in the payment of combined tax or in the repayment
19 of benefit overpayments, and such disclosure shall be strictly
20 limited to information necessary for the administration of the
21 Employment Security Law, (i) to prohibit the disclosure to the
22 Department of Motor Vehicles of tax return information pertaining
23 to individuals, corporations, and businesses determined by the
24 Department of Motor Vehicles to be delinquent in the payment of
25 amounts due under agreements pursuant to the International Fuel
26 Tax Agreement Act, and such disclosure shall be strictly limited
27 to information necessary for the administration of the act, ~~or~~ (j)

1 to prohibit the disclosure under section 42-358.08, 43-512.06, or
2 43-3327 to any court-appointed individuals, the county attorney,
3 any authorized attorney, or the Department of Health and Human
4 Services of an absent parent's address, social security number,
5 amount of income, health insurance information, and employer's
6 name and address for the exclusive purpose of establishing and
7 collecting child, spousal, or medical support, or (k) to prohibit
8 the disclosure of information required by the Taxpayer Transparency
9 Act. Information so obtained shall be used for no other purpose.
10 Any person who violates this subsection shall be guilty of a
11 felony and shall upon conviction thereof be fined not less than
12 one hundred dollars nor more than five hundred dollars, or be
13 imprisoned not more than five years, or be both so fined and
14 imprisoned, in the discretion of the court and shall be assessed
15 the costs of prosecution. If the offender is an officer or employee
16 of the state, he or she shall be dismissed from office and be
17 ineligible to hold any public office in this state for a period of
18 two years thereafter.

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

22 (8) Notwithstanding the provisions of subsection (6) of
23 this section, the Tax Commissioner may permit the Secretary of the
24 Treasury of the United States or his or her delegates or the proper
25 officer of any state imposing an income tax, or the authorized
26 representative of either such officer, to inspect the income tax
27 returns of any taxpayer or may furnish to such officer or his or

1 her authorized representative an abstract of the return of income
2 of any taxpayer or supply him or her with information concerning an
3 item of income contained in any return or disclosed by the report
4 of any investigation of the income or return of income of any
5 taxpayer, but such permission shall be granted only if the statutes
6 of the United States or of such other state, as the case may be,
7 grant substantially similar privileges to the Tax Commissioner of
8 this state as the officer charged with the administration of the
9 income tax imposed by sections 77-2714 to 77-27,135.

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

21 (10) (a) Notwithstanding the provisions of subsection (6)
22 of this section, the Tax Commissioner shall, upon written request
23 by the Auditor of Public Accounts or the Legislative Performance
24 Audit Committee, make tax returns and tax return information
25 open to inspection by or disclosure to officers and employees
26 of the Auditor of Public Accounts or Legislative Performance
27 Audit Section employees for the purpose of and to the extent

1 necessary in making an audit of the Department of Revenue pursuant
2 to section 50-1205 or 84-304. The Auditor of Public Accounts
3 or Legislative Performance Audit Section shall statistically and
4 randomly select the tax returns and tax return information to
5 be audited based upon a computer tape provided by the Department
6 of Revenue which contains only total population documents without
7 specific identification of taxpayers. The Tax Commissioner shall
8 have the authority to approve the statistical sampling method used
9 by the Auditor of Public Accounts or Legislative Performance Audit
10 Section. Confidential tax returns and tax return information shall
11 be audited only upon the premises of the Department of Revenue.
12 All audit workpapers pertaining to the audit of the Department of
13 Revenue shall be stored in a secure place in the Department of
14 Revenue.

15 (b) No officer or employee of the Auditor of Public
16 Accounts or Legislative Performance Audit Section employee shall
17 disclose to any person, other than another officer or employee of
18 the Auditor of Public Accounts or Legislative Performance Audit
19 Section employee whose official duties require such disclosure or
20 as provided in subsections (2) and (3) of section 50-1213, any
21 return or return information described in the Nebraska Revenue
22 Act of 1967 in a form which can be associated with or otherwise
23 identify, directly or indirectly, a particular taxpayer.

24 (c) Any person who violates the provisions of this
25 subsection shall be guilty of a Class IV felony and, in the
26 discretion of the court, may be assessed the costs of prosecution.
27 The guilty officer or employee shall be dismissed from employment

1 and be ineligible to hold any position of employment with the State
2 of Nebraska for a period of two years thereafter. For purposes of
3 this subsection, officer or employee shall include a former officer
4 or employee of the Auditor of Public Accounts or former Legislative
5 Performance Audit Section employee.

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

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

15 (b) Return information shall mean:

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

27 (ii) Any part of any written determination or any

1 background file document relating to such written determination;
2 and

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

5 (12) The Auditor of Public Accounts or the Legislative
6 Auditor of the Legislative Performance Audit Section shall (a)
7 notify the Tax Commissioner in writing thirty days prior to the
8 beginning of an audit of his or her intent to conduct an audit, (b)
9 provide an audit plan, and (c) provide a list of the tax returns
10 and tax return information identified for inspection during the
11 audit.

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

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

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

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

24 Sec. 5. Original section 50-1304, Reissue Revised
25 Statutes of Nebraska, and sections 50-401.01 and 77-27,119, Revised
26 Statutes Cumulative Supplement, 2008, are repealed.