

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 37**

Introduced by Harms, 48.

Read first time January 06, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to audits; to amend sections 50-1213 and 84-305,  
2 Reissue Revised Statutes of Nebraska, and sections  
3 77-2711 and 77-27,119, Revised Statutes Cumulative  
4 Supplement, 2010; to provide requirements relating to  
5 access to information by the Legislative Performance  
6 Audit Section and the Auditor of Public Accounts; to  
7 provide a penalty; to harmonize provisions; and to repeal  
8 the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 50-1213, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

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

16                   (2) Upon receipt of a written request by the section for  
17 access to any information or records, the agency shall provide to the  
18 section as soon as is practicable and without delay, but not more  
19 than four business days after actual receipt of the request either  
20 (a) the requested materials or (b)(i) if there is a legal basis for  
21 refusal to comply with the request, a written denial of the request  
22 together with the information specified in subsection (1) of this  
23 section or (ii) if the entire request cannot with reasonable good  
24 faith efforts be fulfilled within four business days after actual  
25 receipt of the request due to the significant difficulty or the

1 extensiveness of the request, a written explanation, including the  
2 earliest practicable date for fulfilling the request, and an  
3 opportunity for the section to modify or prioritize the items within  
4 the request. No delay due to the significant difficulty or the  
5 extensiveness of any request for access to information or records  
6 shall exceed three calendar weeks after actual receipt of such  
7 request by any public entity unless the section agrees in writing to  
8 a longer time period.

9 (3) Any information or records requested by the section  
10 shall be provided by the agency without fees or charges of any kind  
11 or any cost associated with its gathering, processing, or production.

12 ~~(2)~~—(4) Except as provided in this section, any  
13 confidential information or confidential records shared with the  
14 section shall remain confidential and shall not be shared by an  
15 employee of the section with any person who is not an employee of the  
16 section, including any member of the committee. If necessary for the  
17 conduct of the performance audit, the section may discuss or share  
18 confidential information with the chairperson of the committee. If a  
19 dispute arises between the section and the agency as to the accuracy  
20 of a performance audit or preaudit inquiry involving confidential  
21 information or confidential records, the Speaker of the Legislature,  
22 as a member of the committee, will be allowed access to the  
23 confidential information or confidential records for the purpose of  
24 assessing the accuracy of the performance audit or preaudit inquiry.

25 ~~(3)~~—(5) Except as provided in subdivision (10)(c) of

1 section 77-27,119, if the speaker or chairperson knowingly divulges  
2 or makes known, in any manner not permitted by law, confidential  
3 information or confidential records, he or she shall be guilty of a  
4 Class III misdemeanor. Except as provided in subsection (11) of  
5 section 77-2711 and subdivision (10)(c) of section 77-27,119, if any  
6 employee or former employee of the section knowingly divulges or  
7 makes known, in any manner not permitted by law, confidential  
8 information or confidential records, he or she shall be guilty of a  
9 Class III misdemeanor and, in the case of an employee, shall be  
10 dismissed.

11 ~~(4)~~ (6) No proceeding of the committee or opinion or  
12 expression of any member of the committee or section employee acting  
13 at the direction of the committee shall be reviewable in any court.  
14 No member of the committee or section employee acting at the  
15 direction of the committee shall be required to testify or produce  
16 evidence in any judicial or administrative proceeding concerning  
17 matters relating to the work of the section except in a proceeding  
18 brought to enforce the Legislative Performance Audit Act.

19 ~~(5)~~ (7) Pursuant to sections 84-712 and 84-712.01 and  
20 subdivision (5) of section 84-712.05, the working papers obtained or  
21 produced by the committee or section shall not be considered public  
22 records. The committee may make the working papers available for  
23 purposes of an external quality control review as required by  
24 generally accepted government auditing standards. However, any  
25 reports made from such external quality control review shall not make

1 public any information which would be considered confidential when in  
2 the possession of the section.

3           Sec. 2. Section 77-2711, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

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

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

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

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

23           (b) Every such seller, retailer, or person shall keep  
24 such records for not less than three years from the making of such  
25 records unless the Tax Commissioner in writing sooner authorized

1 their destruction.

2 (4) The Tax Commissioner or any person authorized in  
3 writing by him or her may examine the books, papers, records, and  
4 equipment of any person selling property and any person liable for  
5 the use tax and may investigate the character of the business of the  
6 person in order to verify the accuracy of any return made or, if no  
7 return is made by the person, to ascertain and determine the amount  
8 required to be paid. In the examination of any person selling  
9 property or of any person liable for the use tax, an inquiry shall be  
10 made as to the accuracy of the reporting of city sales and use taxes  
11 for which the person is liable under the Local Option Revenue Act or  
12 sections 13-319, 13-324, and 13-2813 and the accuracy of the  
13 allocation made between the various counties, cities, villages, and  
14 municipal counties of the tax due. The Tax Commissioner may make or  
15 cause to be made copies of resale or exemption certificates and may  
16 pay a reasonable amount to the person having custody of the records  
17 for providing such copies.

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

21 (6) In administration of the use tax, the Tax  
22 Commissioner may require the filing of reports by any person or class  
23 of persons having in his, her, or their possession or custody  
24 information relating to sales of property, the storage, use, or other  
25 consumption of which is subject to the tax. The report shall be filed

1 when the Tax Commissioner requires and shall set forth the names and  
2 addresses of purchasers of the property, the sales price of the  
3 property, the date of sale, and such other information as the Tax  
4 Commissioner may require.

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

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

19 (8) Notwithstanding the provisions of subsection (7) of  
20 this section, the Tax Commissioner may permit the Postal Inspector of  
21 the United States Postal Service or his or her delegates to inspect  
22 the reports or returns of any person filed pursuant to the Nebraska  
23 Revenue Act of 1967 when information on the reports or returns is  
24 relevant to any action or proceeding instituted or being considered  
25 by the United States Postal Service against such person for the



1 fraudulent use of the mails to carry and deliver false and fraudulent  
2 tax returns to the Tax Commissioner with the intent to defraud the  
3 State of Nebraska or to evade the payment of Nebraska state taxes.

4 (9) Notwithstanding the provisions of subsection (7) of  
5 this section, the Tax Commissioner may permit other tax officials of  
6 this state to inspect the tax returns, reports, and applications  
7 filed under sections 77-2701.04 to 77-2713, but such inspection shall  
8 be permitted only for purposes of enforcing a tax law and only to the  
9 extent and under the conditions prescribed by the rules and  
10 regulations of the Tax Commissioner.

11 (10) Notwithstanding the provisions of subsection (7) of  
12 this section, the Tax Commissioner may, upon request, provide the  
13 county board of any county which has exercised the authority granted  
14 by section 81-1254 with a list of the names and addresses of the  
15 hotels located within the county for which lodging sales tax returns  
16 have been filed or for which lodging sales taxes have been remitted  
17 for the county's County Visitors Promotion Fund under the Nebraska  
18 Visitors Development Act.

19 The information provided by the Tax Commissioner shall  
20 indicate only the names and addresses of the hotels located within  
21 the requesting county for which lodging sales tax returns have been  
22 filed for a specified period and the fact that lodging sales taxes  
23 remitted by or on behalf of the hotel have constituted a portion of  
24 the total sum remitted by the state to the county for a specified  
25 period under the provisions of the Nebraska Visitors Development Act.

1 No additional information shall be revealed.

2 (11)(a) Notwithstanding the provisions of subsection (7)  
3 of this section, the Tax Commissioner shall, upon written request by  
4 the Auditor of Public Accounts or the Legislative Performance Audit  
5 Committee, make tax returns and tax return information open to  
6 inspection by or disclosure to Auditor of Public Accounts or  
7 Legislative Performance Audit Section employees for the purpose of  
8 and to the extent necessary in making an audit of the Department of  
9 Revenue pursuant to section 50-1205 or 84-304. Confidential tax  
10 returns and tax return information shall be audited only upon the  
11 premises of the Department of Revenue. All audit workpapers  
12 pertaining to the audit of the Department of Revenue shall be stored  
13 in a secure place in the Department of Revenue.

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

22 (c) Any person who violates the provisions of this  
23 subsection shall be guilty of a Class I misdemeanor. For purposes of  
24 this subsection, employee includes a former Auditor of Public  
25 Accounts or Legislative Performance Audit Section employee.

1                   (12) For purposes of this subsection and subsection (11)  
2 of this section:

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

5                   (b) Return information means:

6                   (i) A taxpayer's identification number and (A) the  
7 nature, source, or amount of his or her income, payments, receipts,  
8 deductions, exemptions, credits, assets, liabilities, net worth, tax  
9 liability, tax withheld, deficiencies, overassessments, or tax  
10 payments, whether the taxpayer's return was, is being, or will be  
11 examined or subject to other investigation or processing or (B) any  
12 other data received by, recorded by, prepared by, furnished to, or  
13 collected by the Tax Commissioner with respect to a return or the  
14 determination of the existence or possible existence of liability or  
15 the amount of liability of any person for any tax, penalty, interest,  
16 fine, forfeiture, or other imposition or offense; and

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

19                   (c) Tax return or return means any tax or information  
20 return or claim for refund required by, provided for, or permitted  
21 under sections 77-2701 to 77-2713 which is filed with the Tax  
22 Commissioner by, on behalf of, or with respect to any person and any  
23 amendment or supplement thereto, including supporting schedules,  
24 attachments, or lists which are supplemental to or part of the filed  
25 return.

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

13           (14) In all proceedings under the Nebraska Revenue Act of  
14 1967, the Tax Commissioner may act for and on behalf of the people of  
15 the State of Nebraska. The Tax Commissioner in his or her discretion  
16 may waive all or part of any penalties provided by the provisions of  
17 such act or interest on delinquent taxes specified in section  
18 45-104.02, as such rate may from time to time be adjusted.

19           (15)(a) The purpose of this subsection is to set forth  
20 the state's policy for the protection of the confidentiality rights  
21 of all participants in the system operated pursuant to the  
22 streamlined sales and use tax agreement and of the privacy interests  
23 of consumers who deal with model 1 sellers.

24           (b) For purposes of this subsection:

25           (i) Anonymous data means information that does not

1 identify a person;

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

5 (iii) Personally identifiable information means  
6 information that identifies a person.

7 (c) The state agrees that a fundamental precept for model  
8 1 sellers is to preserve the privacy of consumers by protecting their  
9 anonymity. With very limited exceptions, a certified service provider  
10 shall perform its tax calculation, remittance, and reporting  
11 functions without retaining the personally identifiable information  
12 of consumers.

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

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

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

22 (iii) It provides consumers clear and conspicuous notice  
23 of its information practices, including what information it collects,  
24 how it collects the information, how it uses the information, how  
25 long, if at all, it retains the information, and whether it discloses

1 the information to member states. Such notice shall be satisfied by a  
2 written privacy policy statement accessible by the public on the web  
3 site of the certified service provider;

4 (iv) Its collection, use, and retention of personally  
5 identifiable information is limited to that required by the member  
6 states to ensure the validity of exemptions from taxation that are  
7 claimed by reason of a consumer's status or the intended use of the  
8 goods or services purchased; and

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

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

16 (f) When any personally identifiable information that has  
17 been collected and retained is no longer required for the purposes  
18 set forth in subdivision (15)(d)(iv) of this section, such  
19 information shall no longer be retained by the member states.

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

25 (h) If anyone other than a member state, or a person

1 authorized by that state's law or the agreement, seeks to discover  
2 personally identifiable information, the state from whom the  
3 information is sought should make a reasonable and timely effort to  
4 notify the individual of such request.

5 (i) This privacy policy is subject to enforcement by the  
6 Attorney General.

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

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

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

16 (iii) Prevent, consistent with state law, disclosure of  
17 confidential taxpayer information;

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

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

23 Sec. 3. Section 77-27,119, Revised Statutes Cumulative  
24 Supplement, 2010, is amended to read:

25 77-27,119 (1) The Tax Commissioner shall administer and

1 enforce the income tax imposed by sections 77-2714 to 77-27,135, and  
2 he or she is authorized to conduct hearings, to adopt and promulgate  
3 such rules and regulations, and to require such facts and information  
4 to be reported as he or she may deem necessary to enforce the income  
5 tax provisions of such sections, except that such rules, regulations,  
6 and reports shall not be inconsistent with the laws of this state or  
7 the laws of the United States. The Tax Commissioner may for  
8 enforcement and administrative purposes divide the state into a  
9 reasonable number of districts in which branch offices may be  
10 maintained.

11 (2)(a) The Tax Commissioner may prescribe the form and  
12 contents of any return or other document required to be filed under  
13 the income tax provisions. Such return or other document shall be  
14 compatible as to form and content with the return or document  
15 required by the laws of the United States. The form shall have a  
16 place where the taxpayer shall designate the high school district in  
17 which he or she lives and the county in which the high school  
18 district is headquartered. The Tax Commissioner shall adopt and  
19 promulgate such rules and regulations as may be necessary to insure  
20 compliance with this requirement.

21 (b) The State Department of Education, with the  
22 assistance and cooperation of the Department of Revenue, shall  
23 develop a uniform system for numbering all school districts in the  
24 state. Such system shall be consistent with the data processing needs  
25 of the Department of Revenue and shall be used for the school



1 district identification required by subdivision (a) of this  
2 subsection.

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

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

1 administer oaths or affirmations to such person or persons.

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

8 (5) No taxpayer shall be subjected to unreasonable or  
9 unnecessary examinations or investigations.

10 (6) Except in accordance with proper judicial order or as  
11 otherwise provided by law, it shall be unlawful for the Tax  
12 Commissioner, any officer or employee of the Tax Commissioner, any  
13 person engaged or retained by the Tax Commissioner on an independent  
14 contract basis, any person who pursuant to this section is permitted  
15 to inspect any report or return or to whom a copy, an abstract, or a  
16 portion of any report or return is furnished, any employee of the  
17 State Treasurer or the Department of Administrative Services, or any  
18 other person to divulge, make known, or use in any manner the amount  
19 of income or any particulars set forth or disclosed in any report or  
20 return required except for the purpose of enforcing sections 77-2714  
21 to 77-27,135. The officers charged with the custody of such reports  
22 and returns shall not be required to produce any of them or evidence  
23 of anything contained in them in any action or proceeding in any  
24 court, except on behalf of the Tax Commissioner in an action or  
25 proceeding under the provisions of the tax law to which he or she is

1 a party or on behalf of any party to any action or proceeding under  
2 such sections when the reports or facts shown thereby are directly  
3 involved in such action or proceeding, in either of which events the  
4 court may require the production of, and may admit in evidence, so  
5 much of such reports or of the facts shown thereby as are pertinent  
6 to the action or proceeding and no more. Nothing in this section  
7 shall be construed (a) to prohibit the delivery to a taxpayer, his or  
8 her duly authorized representative, or his or her successors,  
9 receivers, trustees, personal representatives, administrators,  
10 assignees, or guarantors, if directly interested, of a certified copy  
11 of any return or report in connection with his or her tax, (b) to  
12 prohibit the publication of statistics so classified as to prevent  
13 the identification of particular reports or returns and the items  
14 thereof, (c) to prohibit the inspection by the Attorney General,  
15 other legal representatives of the state, or a county attorney of the  
16 report or return of any taxpayer who brings an action to review the  
17 tax based thereon, against whom an action or proceeding for  
18 collection of tax has been instituted, or against whom an action,  
19 proceeding, or prosecution for failure to comply with the Nebraska  
20 Revenue Act of 1967 is being considered or has been commenced, (d) to  
21 prohibit furnishing to the Nebraska Workers' Compensation Court the  
22 names, addresses, and identification numbers of employers, and such  
23 information shall be furnished on request of the court, (e) to  
24 prohibit the disclosure of information and records to a collection  
25 agency contracting with the Tax Commissioner pursuant to sections

1 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information  
2 pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to prohibit  
3 the disclosure to the Public Employees Retirement Board of the  
4 addresses of individuals who are members of the retirement systems  
5 administered by the board, and such information shall be furnished to  
6 the board solely for purposes of its administration of the retirement  
7 systems upon written request, which request shall include the name  
8 and social security number of each individual for whom an address is  
9 requested, (h) to prohibit the disclosure of information to the  
10 Department of Labor necessary for the administration of the  
11 Employment Security Law, the Contractor Registration Act, or the  
12 Employee Classification Act, (i) to prohibit the disclosure to the  
13 Department of Motor Vehicles of tax return information pertaining to  
14 individuals, corporations, and businesses determined by the  
15 Department of Motor Vehicles to be delinquent in the payment of  
16 amounts due under agreements pursuant to the International Fuel Tax  
17 Agreement Act, and such disclosure shall be strictly limited to  
18 information necessary for the administration of the act, or (j) to  
19 prohibit the disclosure under section 42-358.08, 43-512.06, or  
20 43-3327 to any court-appointed individuals, the county attorney, any  
21 authorized attorney, or the Department of Health and Human Services  
22 of an absent parent's address, social security number, amount of  
23 income, health insurance information, and employer's name and address  
24 for the exclusive purpose of establishing and collecting child,  
25 spousal, or medical support. Information so obtained shall be used

1 for no other purpose. Any person who violates this subsection shall  
2 be guilty of a felony and shall upon conviction thereof be fined not  
3 less than one hundred dollars nor more than five hundred dollars, or  
4 be imprisoned not more than five years, or be both so fined and  
5 imprisoned, in the discretion of the court and shall be assessed the  
6 costs of prosecution. If the offender is an officer or employee of  
7 the state, he or she shall be dismissed from office and be ineligible  
8 to hold any public office in this state for a period of two years  
9 thereafter.

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

13 (8) Notwithstanding the provisions of subsection (6) of  
14 this section, the Tax Commissioner may permit the Secretary of the  
15 Treasury of the United States or his or her delegates or the proper  
16 officer of any state imposing an income tax, or the authorized  
17 representative of either such officer, to inspect the income tax  
18 returns of any taxpayer or may furnish to such officer or his or her  
19 authorized representative an abstract of the return of income of any  
20 taxpayer or supply him or her with information concerning an item of  
21 income contained in any return or disclosed by the report of any  
22 investigation of the income or return of income of any taxpayer, but  
23 such permission shall be granted only if the statutes of the United  
24 States or of such other state, as the case may be, grant  
25 substantially similar privileges to the Tax Commissioner of this

1 state as the officer charged with the administration of the income  
2 tax imposed by sections 77-2714 to 77-27,135.

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

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

1 Commissioner shall have the authority to approve the statistical  
2 sampling method used by the Auditor of Public Accounts or Legislative  
3 Performance Audit Section. Confidential tax returns and tax return  
4 information shall be audited only upon the premises of the Department  
5 of Revenue. All audit workpapers pertaining to the audit of the  
6 Department of Revenue shall be stored in a secure place in the  
7 Department of Revenue.

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

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

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

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

10                   (b) Return information shall mean:

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

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

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



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

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

1 for insuring the confidentiality of tax returns, tax return  
2 information, and audit workpapers; and (g) upon completion of use of  
3 such returns or tax return information, return to the Tax  
4 Commissioner such returns or tax return information, along with any  
5 copies.

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

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

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

23 84-305 (1) The Auditor of Public Accounts shall have  
24 access to all records of any public entity, in whatever form or mode  
25 the records may be, unless the auditor's access to the records is

1 specifically prohibited or limited by federal or state law. No  
2 provisions of state law shall be construed to change the nonpublic  
3 nature of the data obtained as a result of the access. When an audit  
4 or investigative finding emanates from nonpublic data which is  
5 nonpublic pursuant to federal or state law, all the nonpublic  
6 information shall not be made public. Any information or records  
7 requested by the auditor shall be provided by the public entity  
8 without fees or charges of any kind or any cost associated with its  
9 gathering, processing, or production.

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

1 actual receipt of such request by any public entity unless the  
2 auditor agrees in writing to a longer time period.

3           Sec. 5. Any person who willfully fails to comply with the  
4 provisions of section 84-305 or who otherwise willfully obstructs or  
5 hinders the conduct of an audit, examination, or related activity by  
6 the Auditor of Public Accounts or who willfully misleads or attempts  
7 to mislead any person charged with the duty of conducting such audit,  
8 examination, or related activity shall be guilty of a Class II  
9 misdemeanor.

10           Sec. 6. Original sections 50-1213 and 84-305, Reissue  
11 Revised Statutes of Nebraska, and sections 77-2711 and 77-27,119,  
12 Revised Statutes Cumulative Supplement, 2010, are repealed.