

AMENDMENTS TO LB539

Introduced by Government, Military and Veterans Affairs.

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

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

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

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

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

27           (1) The testimony or other information from such individual may be

1 necessary to the public interest; and

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

5 Sec. 3. Section 50-1213, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

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

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

1 the extensiveness of a request for access to information or records shall  
2 exceed three calendar weeks after actual receipt of such request by any  
3 agency. The three business days shall be computed by excluding the day  
4 the request is received, after which the designated period of time begins  
5 to run. Business day does not include a Saturday, a Sunday, or a day  
6 during which the offices of the custodian of the public records are  
7 closed.

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

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

30 (5 4) No proceeding of the committee or opinion or expression of any  
31 member of the committee or office employee acting at the direction of the

1 committee shall be reviewable in any court. No member of the committee or  
2 office employee acting at the direction of the committee shall be  
3 required to testify or produce evidence in any judicial or administrative  
4 proceeding concerning matters relating to the work of the office except  
5 in a proceeding brought to enforce the Legislative Performance Audit Act.

6 (6 5) Pursuant to sections 84-712 and 84-712.01 and subdivision (5)  
7 of section 84-712.05, the working papers obtained or produced by the  
8 committee or office shall not be considered public records. The committee  
9 may make the working papers available for purposes of an external quality  
10 control review as required by generally accepted government auditing  
11 standards. However, any reports made from such external quality control  
12 review shall not make public any information which would be considered  
13 confidential when in the possession of the office.

14 Sec. 4. Section 50-1214, Revised Statutes Cumulative Supplement,  
15 2014, is amended to read:

16 50-1214 (1) By majority vote, the committee may decide not to  
17 include in any document that will be a public record the names of persons  
18 providing information to the office or committee.

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

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

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

31 50-1215 Any person who willfully fails to comply with the provisions

1 of section 50-1213 or who otherwise willfully obstructs or hinders the  
2 conduct of a performance audit or preaudit inquiry or who willfully  
3 misleads or attempts to mislead any person charged with the duty of  
4 conducting a performance audit or preaudit inquiry shall be guilty of a  
5 Class II misdemeanor.

6 Sec. 6. Section 77-2711, Revised Statutes Cumulative Supplement,  
7 2014, is amended to read:

8 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
9 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and  
10 regulations relating to the administration and enforcement of such  
11 sections.

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

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

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

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

26 (4) The Tax Commissioner or any person authorized in writing by him  
27 or her may examine the books, papers, records, and equipment of any  
28 person selling property and any person liable for the use tax and may  
29 investigate the character of the business of the person in order to  
30 verify the accuracy of any return made or, if no return is made by the  
31 person, to ascertain and determine the amount required to be paid. In the

1 examination of any person selling property or of any person liable for  
2 the use tax, an inquiry shall be made as to the accuracy of the reporting  
3 of city sales and use taxes for which the person is liable under the  
4 Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 and the  
5 accuracy of the allocation made between the various counties, cities,  
6 villages, and municipal counties of the tax due. The Tax Commissioner may  
7 make or cause to be made copies of resale or exemption certificates and  
8 may pay a reasonable amount to the person having custody of the records  
9 for providing such copies.

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

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

21 (7) It shall be a Class I misdemeanor for the Tax Commissioner or  
22 any official or employee of the Tax Commissioner, the State Treasurer, or  
23 the Department of Administrative Services to make known in any manner  
24 whatever the business affairs, operations, or information obtained by an  
25 investigation of records and activities of any retailer or any other  
26 person visited or examined in the discharge of official duty or the  
27 amount or source of income, profits, losses, expenditures, or any  
28 particular thereof, set forth or disclosed in any return, or to permit  
29 any return or copy thereof, or any book containing any abstract or  
30 particulars thereof to be seen or examined by any person not connected  
31 with the Tax Commissioner. Nothing in this section shall be construed to

1 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
2 representative, or his or her successors, receivers, trustees, executors,  
3 administrators, assignees, or guarantors, if directly interested, of a  
4 certified copy of any return or report in connection with his or her tax,  
5 (b) the publication of statistics so classified as to prevent the  
6 identification of particular reports or returns and the items thereof,  
7 (c) the inspection by the Attorney General, other legal representative of  
8 the state, or county attorney of the reports or returns of any taxpayer  
9 when either (i) information on the reports or returns is considered by  
10 the Attorney General to be relevant to any action or proceeding  
11 instituted by the taxpayer or against whom an action or proceeding is  
12 being considered or has been commenced by any state agency or the county  
13 or (ii) the taxpayer has instituted an action to review the tax based  
14 thereon or an action or proceeding against the taxpayer for collection of  
15 tax or failure to comply with the Nebraska Revenue Act of 1967 is being  
16 considered or has been commenced, (d) the furnishing of any information  
17 to the United States Government or to states allowing similar privileges  
18 to the Tax Commissioner, (e) the disclosure of information and records to  
19 a collection agency contracting with the Tax Commissioner pursuant to  
20 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a  
21 transaction of information and records concerning the transaction between  
22 the taxpayer and the other party, (g) the disclosure of information  
23 pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of  
24 information to the Department of Labor necessary for the administration  
25 of the Employment Security Law, the Contractor Registration Act, or the  
26 Employee Classification Act.

27 (8) Notwithstanding the provisions of subsection (7) of this  
28 section, the Tax Commissioner may permit the Postal Inspector of the  
29 United States Postal Service or his or her delegates to inspect the  
30 reports or returns of any person filed pursuant to the Nebraska Revenue  
31 Act of 1967 when information on the reports or returns is relevant to any

1 action or proceeding instituted or being considered by the United States  
2 Postal Service against such person for the fraudulent use of the mails to  
3 carry and deliver false and fraudulent tax returns to the Tax  
4 Commissioner with the intent to defraud the State of Nebraska or to evade  
5 the payment of Nebraska state taxes.

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

13 (10) Notwithstanding the provisions of subsection (7) of this  
14 section, the Tax Commissioner may, upon request, provide the county board  
15 of any county which has exercised the authority granted by section  
16 81-3716 with a list of the names and addresses of the hotels located  
17 within the county for which lodging sales tax returns have been filed or  
18 for which lodging sales taxes have been remitted for the county's County  
19 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

28 (11)(a) Notwithstanding the provisions of subsection (7) of this  
29 section, the Tax Commissioner shall, upon written request by the Auditor  
30 of Public Accounts or the Legislative Performance Audit Committee, make  
31 tax returns and tax return information open to inspection by or



1 disclosure to the Auditor of Public Accounts or employees of the office  
2 of Legislative Audit for the purpose of and to the extent necessary in  
3 making an audit of the Department of Revenue pursuant to section 50-1205  
4 or 84-304. Confidential tax returns and tax return information shall be  
5 audited only upon the premises of the Department of Revenue. All audit  
6 workpapers pertaining to the audit of the Department of Revenue shall be  
7 stored in a secure place in the Department of Revenue.

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

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

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

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

23 (b) Return information means:

24 (i) A taxpayer's identification number and (A) the nature, source,  
25 or amount of his or her income, payments, receipts, deductions,  
26 exemptions, credits, assets, liabilities, net worth, tax liability, tax  
27 withheld, deficiencies, overassessments, or tax payments, whether the  
28 taxpayer's return was, is being, or will be examined or subject to other  
29 investigation or processing or (B) any other data received by, recorded  
30 by, prepared by, furnished to, or collected by the Tax Commissioner with  
31 respect to a return or the determination of the existence or possible

1 existence of liability or the amount of liability of any person for any  
2 tax, penalty, interest, fine, forfeiture, or other imposition or offense;  
3 and

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

6 (c) Tax return or return means any tax or information return or  
7 claim for refund required by, provided for, or permitted under sections  
8 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf  
9 of, or with respect to any person and any amendment or supplement  
10 thereto, including supporting schedules, attachments, or lists which are  
11 supplemental to or part of the filed return.

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

24 (14)(a) Notwithstanding the provisions of subsection (7) of this  
25 section, the Tax Commissioner shall, upon written request, provide an  
26 individual certified under subdivision (b) of this subsection  
27 representing a municipality which has adopted the local option sales and  
28 use tax under the Local Option Revenue Act with confidential sales and  
29 use tax returns and sales and use tax return information regarding  
30 taxpayers that possess a sales tax permit and the amounts remitted by  
31 such permitholders at locations within the boundaries of the requesting

1 municipality or with confidential business use tax returns and business  
2 use tax return information regarding taxpayers that file a Nebraska and  
3 Local Business Use Tax Return and the amounts remitted by such taxpayers  
4 at locations within the boundaries of the requesting municipality. Any  
5 written request pursuant to this subsection shall provide the Department  
6 of Revenue with no less than ten business days to prepare the sales and  
7 use tax returns and sales and use tax return information requested. Such  
8 returns and return information shall be viewed only upon the premises of  
9 the department.

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

17 (c) No individual certified by a municipality pursuant to  
18 subdivision (b) of this subsection shall disclose to any person any  
19 information obtained pursuant to a review under this subsection. An  
20 individual certified by a municipality pursuant to subdivision (b) of  
21 this subsection shall remain subject to this subsection after he or she  
22 (i) is no longer certified or (ii) is no longer in the employment of or  
23 under contract with the certifying municipality.

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

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

30 (15) In all proceedings under the Nebraska Revenue Act of 1967, the  
31 Tax Commissioner may act for and on behalf of the people of the State of

1 Nebraska. The Tax Commissioner in his or her discretion may waive all or  
2 part of any penalties provided by the provisions of such act or interest  
3 on delinquent taxes specified in section 45-104.02, as such rate may from  
4 time to time be adjusted.

5 (16)(a) The purpose of this subsection is to set forth the state's  
6 policy for the protection of the confidentiality rights of all  
7 participants in the system operated pursuant to the streamlined sales and  
8 use tax agreement and of the privacy interests of consumers who deal with  
9 model 1 sellers.

10 (b) For purposes of this subsection:

11 (i) Anonymous data means information that does not identify a  
12 person;

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

15 (iii) Personally identifiable information means information that  
16 identifies a person.

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

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

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

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

30 (iii) It provides consumers clear and conspicuous notice of its  
31 information practices, including what information it collects, how it

1 collects the information, how it uses the information, how long, if at  
2 all, it retains the information, and whether it discloses the information  
3 to member states. Such notice shall be satisfied by a written privacy  
4 policy statement accessible by the public on the web site of the  
5 certified service provider;

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

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

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

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

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

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

30 (i) This privacy policy is subject to enforcement by the Attorney  
31 General.

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

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

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

9 (iii) Prevent, consistent with state law, disclosure of confidential  
10 taxpayer information;

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

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

16 Sec. 7. Section 77-27,119, Revised Statutes Cumulative Supplement,  
17 2014, is amended to read:

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

28 (2)(a) The Tax Commissioner may prescribe the form and contents of  
29 any return or other document required to be filed under the income tax  
30 provisions. Such return or other document shall be compatible as to form  
31 and content with the return or document required by the laws of the

1 United States. The form shall have a place where the taxpayer shall  
2 designate the high school district in which he or she lives and the  
3 county in which the high school district is headquartered. The Tax  
4 Commissioner shall adopt and promulgate such rules and regulations as may  
5 be necessary to insure compliance with this requirement.

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

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

21 (3) The Tax Commissioner, for the purpose of ascertaining the  
22 correctness of any return or other document required to be filed under  
23 the income tax provisions, for the purpose of determining corporate  
24 income, individual income, and withholding tax due, or for the purpose of  
25 making an estimate of taxable income of any person, shall have the power  
26 to examine or to cause to have examined, by any agent or representative  
27 designated by him or her for that purpose, any books, papers, records, or  
28 memoranda bearing upon such matters and may by summons require the  
29 attendance of the person responsible for rendering such return or other  
30 document or remitting any tax, or any officer or employee of such person,  
31 or the attendance of any other person having knowledge in the premises,

1 and may take testimony and require proof material for his or her  
2 information, with power to administer oaths or affirmations to such  
3 person or persons.

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

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

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



1 section shall be construed (a) to prohibit the delivery to a taxpayer,  
2 his or her duly authorized representative, or his or her successors,  
3 receivers, trustees, personal representatives, administrators, assignees,  
4 or guarantors, if directly interested, of a certified copy of any return  
5 or report in connection with his or her tax, (b) to prohibit the  
6 publication of statistics so classified as to prevent the identification  
7 of particular reports or returns and the items thereof, (c) to prohibit  
8 the inspection by the Attorney General, other legal representatives of  
9 the state, or a county attorney of the report or return of any taxpayer  
10 who brings an action to review the tax based thereon, against whom an  
11 action or proceeding for collection of tax has been instituted, or  
12 against whom an action, proceeding, or prosecution for failure to comply  
13 with the Nebraska Revenue Act of 1967 is being considered or has been  
14 commenced, (d) to prohibit furnishing to the Nebraska Workers'  
15 Compensation Court the names, addresses, and identification numbers of  
16 employers, and such information shall be furnished on request of the  
17 court, (e) to prohibit the disclosure of information and records to a  
18 collection agency contracting with the Tax Commissioner pursuant to  
19 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of  
20 information pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to  
21 prohibit the disclosure to the Public Employees Retirement Board of the  
22 addresses of individuals who are members of the retirement systems  
23 administered by the board, and such information shall be furnished to the  
24 board solely for purposes of its administration of the retirement systems  
25 upon written request, which request shall include the name and social  
26 security number of each individual for whom an address is requested, (h)  
27 to prohibit the disclosure of information to the Department of Labor  
28 necessary for the administration of the Employment Security Law, the  
29 Contractor Registration Act, or the Employee Classification Act, (i) to  
30 prohibit the disclosure to the Department of Motor Vehicles of tax return  
31 information pertaining to individuals, corporations, and businesses

1 determined by the Department of Motor Vehicles to be delinquent in the  
2 payment of amounts due under agreements pursuant to the International  
3 Fuel Tax Agreement Act, and such disclosure shall be strictly limited to  
4 information necessary for the administration of the act, (j) to prohibit  
5 the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any  
6 court-appointed individuals, the county attorney, any authorized  
7 attorney, or the Department of Health and Human Services of an absent  
8 parent's address, social security number, amount of income, health  
9 insurance information, and employer's name and address for the exclusive  
10 purpose of establishing and collecting child, spousal, or medical  
11 support, (k) to prohibit the disclosure of information to the Department  
12 of Insurance, the Nebraska State Historical Society, or the State  
13 Historic Preservation Officer as necessary to carry out the Department of  
14 Revenue's responsibilities under the Nebraska Job Creation and Mainstreet  
15 Revitalization Act, or (l) to prohibit the disclosure to the Department  
16 of Insurance of information pertaining to authorization for, and use of,  
17 tax credits under the New Markets Job Growth Investment Act. Information  
18 so obtained shall be used for no other purpose. Any person who violates  
19 this subsection shall be guilty of a felony and shall upon conviction  
20 thereof be fined not less than one hundred dollars nor more than five  
21 hundred dollars, or be imprisoned not more than five years, or be both so  
22 fined and imprisoned, in the discretion of the court and shall be  
23 assessed the costs of prosecution. If the offender is an officer or  
24 employee of the state, he or she shall be dismissed from office and be  
25 ineligible to hold any public office in this state for a period of two  
26 years thereafter.

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

30 (8) Notwithstanding the provisions of subsection (6) of this  
31 section, the Tax Commissioner may permit the Secretary of the Treasury of

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

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

23 (10)(a) Notwithstanding the provisions of subsection (6) of this  
24 section, the Tax Commissioner shall, upon written request by the Auditor  
25 of Public Accounts or the Legislative Performance Audit Committee, make  
26 tax returns and tax return information open to inspection by or  
27 disclosure to officers and employees of the Auditor of Public Accounts or  
28 employees of the office of Legislative Audit for the purpose of and to  
29 the extent necessary in making an audit of the Department of Revenue  
30 pursuant to section 50-1205 or 84-304. The Auditor of Public Accounts or  
31 office of Legislative Audit shall statistically and randomly select the

1 tax returns and tax return information to be audited based upon a  
2 computer tape provided by the Department of Revenue which contains only  
3 total population documents without specific identification of taxpayers.  
4 The Tax Commissioner shall have the authority to approve the statistical  
5 sampling method used by the Auditor of Public Accounts or office of  
6 Legislative Audit. Confidential tax returns and tax return information  
7 shall be audited only upon the premises of the Department of Revenue. All  
8 audit workpapers pertaining to the audit of the Department of Revenue  
9 shall be stored in a secure place in the Department of Revenue.

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

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

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

27 (a) Tax returns shall mean any tax or information return or claim  
28 for refund required by, provided for, or permitted under sections 77-2714  
29 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of,  
30 or with respect to any person and any amendment or supplement thereto,  
31 including supporting schedules, attachments, or lists which are

1 supplemental to or part of the filed return;

2 (b) Return information shall mean:

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

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

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

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

23 (13) The Auditor of Public Accounts or the office of Legislative  
24 Audit shall, as a condition for receiving tax returns and tax return  
25 information: (a) Subject employees involved in the audit to the same  
26 confidential information safeguards and disclosure procedures as required  
27 of Department of Revenue employees; (b) establish and maintain a  
28 permanent system of standardized records with respect to any request for  
29 tax returns or tax return information, the reason for such request, and  
30 the date of such request and any disclosure of the tax return or tax  
31 return information; (c) establish and maintain a secure area or place in

1 the Department of Revenue in which the tax returns, tax return  
2 information, or audit workpapers shall be stored; (d) restrict access to  
3 the tax returns or tax return information only to persons whose duties or  
4 responsibilities require access; (e) provide such other safeguards as the  
5 Tax Commissioner determines to be necessary or appropriate to protect the  
6 confidentiality of the tax returns or tax return information; (f) provide  
7 a report to the Tax Commissioner which describes the procedures  
8 established and utilized by the Auditor of Public Accounts or office of  
9 Legislative Audit for insuring the confidentiality of tax returns, tax  
10 return information, and audit workpapers; and (g) upon completion of use  
11 of such returns or tax return information, return to the Tax Commissioner  
12 such returns or tax return information, along with any copies.

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

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

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

28 84-304 It shall be the duty of the Auditor of Public Accounts:

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

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

4           (3) To examine or cause to be examined, at such time as he or she  
5 shall determine, books, accounts, vouchers, records, and expenditures of  
6 all state officers, state bureaus, state boards, state commissioners, the  
7 state library, societies and associations supported by the state, state  
8 institutions, state colleges, and the University of Nebraska, except when  
9 required to be performed by other officers or persons. Such examinations  
10 shall be done in accordance with generally accepted government auditing  
11 standards for financial audits and attestation engagements set forth in  
12 Government Auditing Standards (2011 Revision), published by the  
13 Comptroller General of the United States, Government Accountability  
14 Office, and except as provided in subdivision (11) of this section,  
15 subdivision (16) of section 50-1205, and section 84-322, shall not  
16 include performance audits, whether conducted pursuant to attestation  
17 engagements or performance audit standards as set forth in Government  
18 Auditing Standards (2011 Revision), published by the Comptroller General  
19 of the United States, Government Accountability Office;

20           (4)(a) To examine or cause to be examined, at the expense of the  
21 political subdivision, when the Auditor of Public Accounts determines  
22 such examination necessary or when requested by the political  
23 subdivision, the books, accounts, vouchers, records, and expenditures of  
24 any agricultural association formed under Chapter 2, article 20, any  
25 county agricultural society, any joint airport authority formed under the  
26 Joint Airport Authorities Act, any city or county airport authority, any  
27 bridge commission created pursuant to section 39-868, any cemetery  
28 district, any development district, any drainage district, any health  
29 district, any local public health department as defined in section  
30 71-1626, any historical society, any hospital authority or district, any  
31 county hospital, any housing agency as defined in section 71-1575, any

1 irrigation district, any county or municipal library, any community  
2 mental health center, any railroad transportation safety district, any  
3 rural water district, any township, Wyuka Cemetery, the Educational  
4 Service Unit Coordinating Council, any entity created pursuant to the  
5 Interlocal Cooperation Act, ~~which includes either the participation of~~  
6 ~~the Educational Service Unit Coordinating Council or~~ any educational  
7 service unit, any village, any service contractor or subrecipient of  
8 state or federal funds, any political subdivision with the authority to  
9 levy a property tax or a toll, or any entity created pursuant to the  
10 Joint Public Agency Act ~~which has separately levied a property tax based~~  
11 ~~on legal authority for a joint public agency to levy such a tax~~  
12 ~~independent of the public agencies forming such joint public agency.~~

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

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

24 (c) The Auditor of Public Accounts may conduct audits under this  
25 subdivision for purposes of sections 2-3228, 12-101, 13-2402, 14-567,  
26 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,  
27 23-3526, and 71-1631.02;

28 (5) To report promptly to the Governor and the appropriate standing  
29 committee of the Legislature the fiscal condition shown by such  
30 examinations conducted by the auditor, including any irregularities or  
31 misconduct of officers or employees, any misappropriation or misuse of



1 public funds or property, and any improper system or method of  
2 bookkeeping or condition of accounts. The report submitted to the  
3 committee shall be submitted electronically. In addition, if, in the  
4 normal course of conducting an audit in accordance with subdivision (3)  
5 of this section, the auditor discovers any potential problems related to  
6 the effectiveness, efficiency, or performance of state programs, he or  
7 she shall immediately report them electronically to the Legislative  
8 Performance Audit Committee which may investigate the issue further,  
9 report it electronically to the appropriate standing committee of the  
10 Legislature, or both;

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

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

30 (c) Whenever the expenditures of a fire protection district exceed  
31 one hundred fifty thousand dollars in a fiscal year, the auditor may

1 waive the audit requirement upon the submission of a written request by  
2 the fire protection district in a form prescribed by the auditor. The  
3 auditor shall notify the fire protection district in writing of the  
4 approval or denial of a request for waiver. Upon approval of the request  
5 for waiver, a new five-year audit period shall begin for the fire  
6 protection district if its expenditures are one hundred fifty thousand  
7 dollars or less per fiscal year in subsequent years;

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

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

1 audit. The fees remitted to the auditor for such audits and services  
2 shall be deposited in the Auditor of Public Accounts Cash Fund;

3 (9) To conduct all audits and examinations in a timely manner and in  
4 accordance with the standards for audits of governmental organizations,  
5 programs, activities, and functions published by the Comptroller General  
6 of the United States;

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

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

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

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

1           ~~(2) For public retirement system plan reports required to be~~  
2 ~~submitted to the Auditor of Public Accounts pursuant to sections 2-3228,~~  
3 ~~12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501,~~  
4 ~~23-1118, 23-3526, and 71-1631.02, the auditor may prepare a review of~~  
5 ~~such report pursuant to subsection (1) of this section but is not~~  
6 ~~required to do so.~~

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

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

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

1 significant difficulty or the extensiveness of any request for access to  
2 information or records shall exceed three calendar weeks after actual  
3 receipt of such request by any public entity. The three business days  
4 shall be computed by excluding the day the request is received, after  
5 which the designated period of time begins to run. Business day does not  
6 include a Saturday, a Sunday, or a day during which the offices of the  
7 custodian of the public records are closed.

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

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

22 (5) If a witness refuses to testify before the Auditor of Public  
23 Accounts on the basis of the privilege against self-incrimination, the  
24 Auditor of Public Accounts may request a court order pursuant to sections  
25 29-2011.02 and 29-2011.03.

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

31 Sec. 11. Any person who willfully fails to comply with the

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

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

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

1 conclusions, and judgments and includes the collection of evidence  
2 prepared or obtained by the auditor during the audit. The Auditor of  
3 Public Accounts may make the working papers available for purposes of an  
4 external quality control review as required by generally accepted  
5 government auditing standards. However, any reports made from such  
6 external quality control review shall not make public any information  
7 which would be considered confidential under this section when in the  
8 possession of the Auditor of Public Accounts.

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

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

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

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

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

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