

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 534**

Introduced by Avery, 28.

Read first time January 23, 2013

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, 77-27,119, and 84-304, Revised Statutes  
4 Cumulative Supplement, 2012; to provide requirements  
5 relating to access to information by the Legislative  
6 Performance Audit Section and the Auditor of Public  
7 Accounts; to require contracts for certain audits; to  
8 harmonize provisions; and to repeal the original  
9 sections.  
10 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 seven 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 seven 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) The agency shall provide any information or records  
10 requested by the section without charging fees of any kind for any  
11 cost associated with gathering, processing, or production of such  
12 information or records.

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

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

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

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

1 reports made from such external quality control review shall not make  
2 public any information which would be considered confidential when in  
3 the possession of the section.

4           Sec. 2. Section 77-2711, Revised Statutes Cumulative  
5 Supplement, 2012, is amended to read:

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

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

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

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

24           (b) Every such seller, retailer, or person shall keep  
25 such records for not less than three years from the making of such

1 records unless the Tax Commissioner in writing sooner authorized  
2 their destruction.

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

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

22 (6) In administration of the use tax, the Tax  
23 Commissioner may require the filing of reports by any person or class  
24 of persons having in his, her, or their possession or custody  
25 information relating to sales of property, the storage, use, or other

1 consumption of which is subject to the tax. The report shall be filed  
2 when the Tax Commissioner requires and shall set forth the names and  
3 addresses of purchasers of the property, the sales price of the  
4 property, the date of sale, and such other information as the Tax  
5 Commissioner may require.

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

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

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



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

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

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

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

1 period under the provisions of the Nebraska Visitors Development Act.  
2 No additional information shall be revealed.

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

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

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

1 Accounts or Legislative Performance Audit Section employee.

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

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

6 (b) Return information means:

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

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

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

1 return.

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

14 (14)(a) Notwithstanding the provisions of subsection (7)  
15 of this section, the Tax Commissioner shall, upon written request,  
16 provide a municipal employee certified under subdivision (b) of this  
17 subsection representing a municipality which has adopted the local  
18 option sales tax under the Local Option Revenue Act with confidential  
19 sales tax returns and sales tax return information regarding  
20 taxpayers that possess a sales tax permit and the amounts remitted by  
21 such permitholders at locations within the boundaries of the  
22 requesting municipality. Any written request pursuant to this  
23 subsection shall provide the Department of Revenue with no less than  
24 ten business days to prepare the sales tax returns and sales tax  
25 return information requested. Such returns and return information

1 shall be viewed only upon the premises of the department.

2 (b) Each municipality that seeks to request information  
3 under subdivision (a) of this subsection shall certify to the  
4 Department of Revenue one municipal employee who is authorized by  
5 such municipality to make such request and review the documents  
6 described in subdivision (a) of this subsection.

7 (c) No municipal employee certified by a municipality  
8 pursuant to subdivision (b) of this subsection shall disclose to any  
9 person any information obtained pursuant to a review by that  
10 municipal employee pursuant to this subsection. A municipal employee  
11 certified by a municipality pursuant to subdivision (b) of this  
12 subsection shall remain subject to this subsection after he or she  
13 (i) is no longer certified or (ii) is no longer in the employment of  
14 the certifying municipality.

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

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

21 (15) In all proceedings under the Nebraska Revenue Act of  
22 1967, the Tax Commissioner may act for and on behalf of the people of  
23 the State of Nebraska. The Tax Commissioner in his or her discretion  
24 may waive all or part of any penalties provided by the provisions of  
25 such act or interest on delinquent taxes specified in section

1 45-104.02, as such rate may from time to time be adjusted.

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

7 (b) For purposes of this subsection:

8 (i) Anonymous data means information that does not  
9 identify a person;

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

13 (iii) Personally identifiable information means  
14 information that identifies a person.

15 (c) The state agrees that a fundamental precept for model  
16 1 sellers is to preserve the privacy of consumers by protecting their  
17 anonymity. With very limited exceptions, a certified service provider  
18 shall perform its tax calculation, remittance, and reporting  
19 functions without retaining the personally identifiable information  
20 of consumers.

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

25 (i) Its system has been designed and tested to ensure

1 that the fundamental precept of anonymity is respected;

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

5 (iii) It provides consumers clear and conspicuous notice  
6 of its information practices, including what information it collects,  
7 how it collects the information, how it uses the information, how  
8 long, if at all, it retains the information, and whether it discloses  
9 the information to member states. Such notice shall be satisfied by a  
10 written privacy policy statement accessible by the public on the web  
11 site of the certified service provider;

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

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

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

24 (f) When any personally identifiable information that has  
25 been collected and retained is no longer required for the purposes

1 set forth in subdivision (16)(d)(iv) of this section, such  
2 information shall no longer be retained by the member states.

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

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

13 (i) This privacy policy is subject to enforcement by the  
14 Attorney General.

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

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

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

24 (iii) Prevent, consistent with state law, disclosure of  
25 confidential taxpayer information;



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

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

6           Sec. 3. Section 77-27,119, Revised Statutes Cumulative  
7 Supplement, 2012, is amended to read:

8           77-27,119 (1) The Tax Commissioner shall administer and  
9 enforce the income tax imposed by sections 77-2714 to 77-27,135, and  
10 he or she is authorized to conduct hearings, to adopt and promulgate  
11 such rules and regulations, and to require such facts and information  
12 to be reported as he or she may deem necessary to enforce the income  
13 tax provisions of such sections, except that such rules, regulations,  
14 and reports shall not be inconsistent with the laws of this state or  
15 the laws of the United States. The Tax Commissioner may for  
16 enforcement and administrative purposes divide the state into a  
17 reasonable number of districts in which branch offices may be  
18 maintained.

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

1 district is headquartered. The Tax Commissioner shall adopt and  
2 promulgate such rules and regulations as may be necessary to insure  
3 compliance with this requirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (c) Any person who violates the provisions of this



1 subsection shall be guilty of a Class IV felony and, in the  
2 discretion of the court, may be assessed the costs of prosecution.  
3 The guilty officer or employee shall be dismissed from employment and  
4 be ineligible to hold any position of employment with the State of  
5 Nebraska for a period of two years thereafter. For purposes of this  
6 subsection, officer or employee shall include a former officer or  
7 employee of the Auditor of Public Accounts or former Legislative  
8 Performance Audit Section employee.

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

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

18 (b) Return information shall mean:

19 (i) A taxpayer's identification number and (A) the  
20 nature, source, or amount of his or her income, payments, receipts,  
21 deductions, exemptions, credits, assets, liabilities, net worth, tax  
22 liability, tax withheld, deficiencies, overassessments, or tax  
23 payments, whether the taxpayer's return was, is being, or will be  
24 examined or subject to other investigation or processing or (B) any  
25 other data received by, recorded by, prepared by, furnished to, or

1 collected by the Tax Commissioner with respect to a return or the  
2 determination of the existence or possible existence of liability or  
3 the amount of liability of any person for any tax, penalty, interest,  
4 fine, forfeiture, or other imposition or offense; and

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

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

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

15 (13) The Auditor of Public Accounts or the Legislative  
16 Performance Audit Section shall, as a condition for receiving tax  
17 returns and tax return information: (a) Subject employees involved in  
18 the audit to the same confidential information safeguards and  
19 disclosure procedures as required of Department of Revenue employees;  
20 (b) establish and maintain a permanent system of standardized records  
21 with respect to any request for tax returns or tax return  
22 information, the reason for such request, and the date of such  
23 request and any disclosure of the tax return or tax return  
24 information; (c) establish and maintain a secure area or place in the  
25 Department of Revenue in which the tax returns, tax return

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

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

20 (15) The Tax Commissioner shall compile the school  
21 district information required by subsection (2) of this section.  
22 Insofar as it is possible, such compilation shall include, but not be  
23 limited to, the total adjusted gross income of each school district  
24 in the state. The Tax Commissioner shall adopt and promulgate such  
25 rules and regulations as may be necessary to insure that such

1 compilation does not violate the confidentiality of any individual  
2 income tax return nor conflict with any other provisions of state or  
3 federal law.

4           Sec. 4. Section 84-304, Revised Statutes Cumulative  
5 Supplement, 2012, is amended to read:

6           84-304 It shall be the duty of the Auditor of Public  
7 Accounts:

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

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

15           (3) To examine or cause to be examined, at such time as  
16 he or she shall determine, books, accounts, vouchers, records, and  
17 expenditures of all state officers, state bureaus, state boards,  
18 state commissioners, the state library, societies and associations  
19 supported by the state, state institutions, state colleges, and the  
20 University of Nebraska, except when required to be performed by other  
21 officers or persons. Such examinations shall be done in accordance  
22 with generally accepted government auditing standards for financial  
23 audits and attestation engagements set forth in Government Auditing  
24 Standards (2007 Revision), published by the Comptroller General of  
25 the United States, Government Accountability Office, and except as

1 provided in subdivision (11) of this section, subdivision (16) of  
2 section 50-1205, and section 84-322, shall not include performance  
3 audits, whether conducted pursuant to attestation engagements or  
4 performance audit standards as set forth in Government Auditing  
5 Standards (2007 Revision), published by the Comptroller General of  
6 the United States, Government Accountability Office;

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

1 service unit, any village, any political subdivision with the  
2 authority to levy a property tax or a toll, or any entity created  
3 pursuant to the Joint Public Agency Act which has separately levied a  
4 property tax based on legal authority for a joint public agency to  
5 levy such a tax independent of the public agencies forming such joint  
6 public agency.

7 (b) The Auditor of Public Accounts may waive the audit  
8 requirement of subdivision (4)(a) of this section upon the submission  
9 by the political subdivision of a written request in a form  
10 prescribed by the auditor. The auditor shall notify the political  
11 subdivision in writing of the approval or denial of the request for a  
12 waiver;

13 (5) To report promptly to the Governor and the  
14 appropriate standing committee of the Legislature the fiscal  
15 condition shown by such examinations conducted by the auditor,  
16 including any irregularities or misconduct of officers or employees,  
17 any misappropriation or misuse of public funds or property, and any  
18 improper system or method of bookkeeping or condition of accounts.  
19 The report submitted to the committee shall be submitted  
20 electronically. In addition, if, in the normal course of conducting  
21 an audit in accordance with subdivision (3) of this section, the  
22 auditor discovers any potential problems related to the  
23 effectiveness, efficiency, or performance of state programs, he or  
24 she shall immediately report them electronically to the Legislative  
25 Performance Audit Committee which may investigate the issue further,

1 report it electronically to the appropriate standing committee of the  
2 Legislature, or both;

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

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

24 (c) Whenever the expenditures of a fire protection  
25 district exceed one hundred fifty thousand dollars in a fiscal year,

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

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

23 (8) To conduct audits and related activities for state  
24 agencies, political subdivisions of this state, or grantees of  
25 federal funds disbursed by a receiving agency on a contractual or



1 other basis for reimbursement to assure proper accounting by all such  
2 agencies, political subdivisions, and grantees for funds appropriated  
3 by the Legislature and federal funds disbursed by any receiving  
4 agency. An audit of federal funds shall only be conducted pursuant to  
5 a contract entered into between the auditor and the agency. The  
6 auditor may contract with any political subdivision to perform the  
7 audit of such political subdivision required by or provided for in  
8 section 23-1608 or 79-1229 or this section and charge the political  
9 subdivision for conducting the audit. The fees charged by the auditor  
10 for conducting audits on a contractual basis shall be in an amount  
11 sufficient to pay the cost of the audit. The fees remitted to the  
12 auditor for such audits and services shall be deposited in the  
13 Auditor of Public Accounts Cash Fund;

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

18 (10) To develop and maintain an annual budget and actual  
19 financial information reporting system for political subdivisions  
20 that is accessible on-line by the public; and

21 (11) When authorized, to conduct joint audits with the  
22 Legislative Performance Audit Committee as described in section  
23 50-1205.

24 Sec. 5. Section 84-305, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           84-305 (1) The Auditor of Public Accounts shall have  
2 access to all records required during a financial audit or an  
3 attestation engagement of any public entity referred to in section  
4 84-304 or required during a performance audit conducted under section  
5 84-304.01, in whatever form or mode the records may be, unless the  
6 auditor's access to the records is specifically prohibited or limited  
7 by federal or state law. No ~~provisions~~ provision of state law shall  
8 be construed to change the nonpublic nature of the data obtained as a  
9 result of the access. When an audit or investigative finding emanates  
10 from nonpublic data which is nonpublic pursuant to federal or state  
11 law, all the nonpublic information shall not be made public. The  
12 public entity shall provide any information or records requested by  
13 the auditor without charging fees of any kind for any cost associated  
14 with gathering, processing, or production of such information or  
15 records.

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

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

8           Sec. 6. Original sections 50-1213 and 84-305, Reissue  
9 Revised Statutes of Nebraska, and sections 77-2711, 77-27,119, and  
10 84-304, Revised Statutes Cumulative Supplement, 2012, are repealed.