LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 539

Introduced by Watermeier, 1; Krist, 10; Larson, 40; Mello, 5.
Read first time January 21, 2015

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to government auditing; to amend sections
2 50-1215, 84-305, and 84-311, Reissue Revised Statutes of Nebraska,
3 and sections 50-1213, 50-1214, 77-2711, and 77-27,119, Revised
4 Statutes Cumulative Supplement, 2014; to change provisions relating
5 to access to information by the office of Legislative Audit and
6 Auditor of Public Accounts; to change and provide penalties; to
7 harmonize provisions; to repeal the original sections; and to
8 declare an emergency.
9 Be it enacted by the people of the State of Nebraska,
Section 1. Section 50-1213, Revised Statutes Cumulative Supplement, 2014, is amended to read:

50-1213 (1) The office shall have access to any and all information and records, confidential or otherwise, including privileged communications pursuant to section 27-503, of any agency, in whatever form they may be, unless the office is denied such access by federal law or explicitly named and denied such access by state law. If such a law exists, the agency shall provide the committee with a written explanation of its inability to produce such information and records and, after reasonable accommodations are made, shall grant the office access to all information and records or portions thereof that can legally be reviewed. Accommodations that may be negotiated between the agency and the committee include, but are not limited to, a requirement that specified information or records be reviewed on agency premises and a requirement that specified working papers be securely stored on agency premises. An agency's compliance with this subsection shall not constitute a waiver of the privilege under section 27-503.

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

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

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

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

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

Sec. 2. Section 50-1214, Revised Statutes Cumulative Supplement, 2014, is amended to read:

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

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

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

Sec. 3. Section 50-1215, Reissue Revised Statutes of Nebraska, is
amended to read:

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

Sec. 4. Section 77-2711, Revised Statutes Cumulative Supplement,
2014, is amended to read:

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

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

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

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

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

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

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

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

(7) It shall be a Class I misdemeanor for the Tax Commissioner or
any official or employee of the Tax Commissioner, the State Treasurer, or
the Department of Administrative Services to make known in any manner
whatever the business affairs, operations, or information obtained by an
investigation of records and activities of any retailer or any other
person visited or examined in the discharge of official duty or the
amount or source of income, profits, losses, expenditures, or any
particular thereof, set forth or disclosed in any return, or to permit
any return or copy thereof, or any book containing any abstract or
particulars thereof to be seen or examined by any person not connected
with the Tax Commissioner. Nothing in this section shall be construed to
prohibit (a) the delivery to a taxpayer, his or her duly authorized
representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act.

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

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

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

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

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

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

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

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

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

(b) Return information means:

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

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

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

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

(14)(a) Notwithstanding the provisions of subsection (7) of this
section, the Tax Commissioner shall, upon written request, provide an
individual certified under subdivision (b) of this subsection
representing a municipality which has adopted the local option sales and
use tax under the Local Option Revenue Act with confidential sales and
use tax returns and sales and use tax return information regarding
taxpayers that possess a sales tax permit and the amounts remitted by
such permitholders at locations within the boundaries of the requesting
municipality or with confidential business use tax returns and business
use tax return information regarding taxpayers that file a Nebraska and
Local Business Use Tax Return and the amounts remitted by such taxpayers
at locations within the boundaries of the requesting municipality. Any
written request pursuant to this subsection shall provide the Department
of Revenue with no less than ten business days to prepare the sales and
use tax returns and sales and use tax return information requested. Such
returns and return information shall be viewed only upon the premises of
the department.

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

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

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

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

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

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

(b) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 5. Section 77-27,119, Revised Statutes Cumulative Supplement, 2014, is amended to read:

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

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

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

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

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

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

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

(6) Except in accordance with proper judicial order or as otherwise
provided by law, it shall be unlawful for the Tax Commissioner, any
officer or employee of the Tax Commissioner, any person engaged or
retained by the Tax Commissioner on an independent contract basis, any
person who, pursuant to this section, is permitted to inspect any report or
return or to whom a copy, an abstract, or a portion of any report or
return is furnished, any employee of the State Treasurer or the
Department of Administrative Services, or any other person to divulge,
make known, or use in any manner the amount of income or any particulars
set forth or disclosed in any report or return required except for the
purpose of enforcing sections 77-2714 to 77-27,135. The officers charged
with the custody of such reports and returns shall not be required to
produce any of them or evidence of anything contained in them in any
action or proceeding in any court, except on behalf of the Tax
Commissioner in an action or proceeding under the provisions of the tax
law to which he or she is a party or on behalf of any party to any action
or proceeding under such sections when the reports or facts shown thereby
are directly involved in such action or proceeding, in either of which
events the court may require the production of, and may admit in
evidence, so much of such reports or of the facts shown thereby as are
pertinent to the action or proceeding and no more. Nothing in this
section shall be construed (a) to prohibit the delivery to a taxpayer,
his or her duly authorized representative, or his or her successors, 
receivers, trustees, personal representatives, administrators, assignees, 
or guarantors, if directly interested, of a certified copy of any return 
or report in connection with his or her tax, (b) to prohibit the 
publishation of statistics so classified as to prevent the identification 
of particular reports or returns and the items thereof, (c) to prohibit 
the inspection by the Attorney General, other legal representatives of 
the state, or a county attorney of the report or return of any taxpayer 
who brings an action to review the tax based thereon, against whom an 
action or proceeding for collection of tax has been instituted, or 
against whom an action, proceeding, or prosecution for failure to comply 
with the Nebraska Revenue Act of 1967 is being considered or has been 
commenced, (d) to prohibit furnishing to the Nebraska Workers' 
Compensation Court the names, addresses, and identification numbers of 
employers, and such information shall be furnished on request of the 
court, (e) to prohibit the disclosure of information and records to a 
collection agency contracting with the Tax Commissioner pursuant to 
sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of 
information pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to 
prohibit the disclosure to the Public Employees Retirement Board of the 
addresses of individuals who are members of the retirement systems 
administered by the board, and such information shall be furnished to the 
board solely for purposes of its administration of the retirement systems 
upon written request, which request shall include the name and social 
security number of each individual for whom an address is requested, (h) 
to prohibit the disclosure of information to the Department of Labor 
necessary for the administration of the Employment Security Law, the 
Contractor Registration Act, or the Employee Classification Act, (i) to 
prohibit the disclosure to the Department of Motor Vehicles of tax return 
information pertaining to individuals, corporations, and businesses 
determined by the Department of Motor Vehicles to be delinquent in the
payment of amounts due under agreements pursuant to the International
Fuel Tax Agreement Act, and such disclosure shall be strictly limited to
information necessary for the administration of the act, (j) to prohibit
the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any
court-appointed individuals, the county attorney, any authorized
attorney, or the Department of Health and Human Services of an absent
parent's address, social security number, amount of income, health
insurance information, and employer's name and address for the exclusive
purpose of establishing and collecting child, spousal, or medical
support, (k) to prohibit the disclosure of information to the Department
of Insurance, the Nebraska State Historical Society, or the State
Historic Preservation Officer as necessary to carry out the Department of
Revenue's responsibilities under the Nebraska Job Creation and Mainstreet
Revitalization Act, or (l) to prohibit the disclosure to the Department
of Insurance of information pertaining to authorization for, and use of,
tax credits under the New Markets Job Growth Investment Act. Information
so obtained shall be used for no other purpose. Any person who violates
this subsection shall be guilty of a felony and shall upon conviction
thereof be fined not less than one hundred dollars nor more than five
hundred dollars, or be imprisoned not more than five years, or be both so
fined and imprisoned, in the discretion of the court and shall be
assessed the costs of prosecution. If the offender is an officer or
employee of the state, he or she shall be dismissed from office and be
ineligible to hold any public office in this state for a period of two
years thereafter.

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

(8) Notwithstanding the provisions of subsection (6) of this
section, the Tax Commissioner may permit the Secretary of the Treasury of
the United States or his or her delegates or the proper officer of any
state imposing an income tax, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer or may furnish to such officer or his or her authorized representative an abstract of the return of income of any taxpayer or supply him or her with information concerning an item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by sections 77-2714 to 77-27,135.

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

(10)(a) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the Legislative Performance Audit Committee, make tax returns and tax return information open to inspection by or disclosure to officers and employees of the Auditor of Public Accounts or employees of the office of Legislative Audit for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. The Auditor of Public Accounts or office of Legislative Audit shall statistically and randomly select the tax returns and tax return information to be audited based upon a
computer tape provided by the Department of Revenue which contains only
total population documents without specific identification of taxpayers.  
The Tax Commissioner shall have the authority to approve the statistical
sampling method used by the Auditor of Public Accounts or office of
Legislative Audit. Confidential tax returns and tax return information
shall be audited only upon the premises of the Department of Revenue. All
audit workpapers pertaining to the audit of the Department of Revenue
shall be stored in a secure place in the Department of Revenue.

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

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

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

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

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

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

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

(13) The Auditor of Public Accounts or the office of Legislative Audit shall, as a condition for receiving tax returns and tax return information: (a) Subject employees involved in the audit to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax return information; (c) establish and maintain a secure area or place in the Department of Revenue in which the tax returns, tax return
information, or audit workpapers shall be stored; (d) restrict access to
the tax returns or tax return information only to persons whose duties or
responsibilities require access; (e) provide such other safeguards as the
Tax Commissioner determines to be necessary or appropriate to protect the
confidentiality of the tax returns or tax return information; (f) provide
a report to the Tax Commissioner which describes the procedures
established and utilized by the Auditor of Public Accounts or office of
Legislative Audit for insuring the confidentiality of tax returns, tax
return information, and audit workpapers; and (g) upon completion of use
of such returns or tax return information, return to the Tax Commissioner
such returns or tax return information, along with any copies.

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

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

Sec. 6. Section 84-305, Reissue Revised Statutes of Nebraska, is
amended to read:

84-305  (1) The Auditor of Public Accounts shall have access to any
and all information and records, confidential or otherwise, including
privileged communications pursuant to section 27-503, all records of any
public entity, in whatever form or mode the records may be, unless the
auditor is denied such access by federal law or explicitly named and
denied such access by state law. If such a law exists, the public entity shall provide the auditor with a written explanation of its inability to produce such information and records and, after reasonable accommodations are made, shall grant the auditor access to all information and records or portions thereof that can legally be reviewed. A public entity's compliance with this subsection shall not constitute a waiver of the privilege under section 27-503 auditor's access to the records is specifically prohibited or limited by federal or state law.

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

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

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

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

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

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

Sec. 9. (1) The Auditor of Public Accounts may decide not to include in any document that will be a public record the names of persons providing information to the Auditor of Public Accounts.

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

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

Sec. 10. Original sections 50-1215, 84-305, and 84-311, Reissue Revised Statutes of Nebraska, and sections 50-1213, 50-1214, 77-2711, and
1 77-27,119, Revised Statutes Cumulative Supplement, 2014, are repealed.
2 Sec. 11. Since an emergency exists, this act takes effect when
3 passed and approved according to law.