

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 503

Introduced by Krist, 10.

Read first time January 21, 2015

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the Auditor of Public Accounts; to amend
- 2 sections 29-2011.02, 29-2011.03, and 84-305, Reissue Revised
- 3 Statutes of Nebraska; to provide authority to issue subpoenas and
- 4 request court orders for testimony or information; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

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

3 29-2011.02 Whenever a witness refuses, on the basis of the privilege
4 against self-incrimination, to testify or to provide other information in
5 a criminal proceeding or investigation before a court, a grand jury, the
6 Auditor of Public Accounts, or a special committee of the Legislature
7 authorized pursuant to section 50-404, the court, on motion of the county
8 attorney, other prosecuting attorney, the Auditor of Public Accounts, or
9 chairperson of a special committee of the Legislature, may order the
10 witness to testify or to provide other information. The witness may not
11 refuse to comply with such an order of the court on the basis of the
12 privilege against self-incrimination, but no testimony or other
13 information compelled under the court's order or any information directly
14 or indirectly derived from such testimony or other information may be
15 used against the witness in any criminal case except in a prosecution for
16 perjury, giving a false statement, or failing to comply with the order of
17 the court.

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

20 29-2011.03 A county attorney, other prosecuting attorney, the
21 Auditor of Public Accounts, or chairperson of a special committee of the
22 Legislature authorized pursuant to section 50-404 upon an affirmative
23 vote of a majority of the committee may request an order pursuant to
24 section 29-2011.02 when in his or her judgment:

25 (1) The testimony or other information from such individual may be
26 necessary to the public interest; and

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

30 Sec. 3. Section 84-305, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 84-305 (1) The Auditor of Public Accounts shall have access to all
2 records of any public entity, in whatever form or mode the records may
3 be, unless the auditor's access to the records is specifically prohibited
4 or limited by federal or state law. No provisions of state law shall be
5 construed to change the nonpublic nature of the data obtained as a result
6 of the access. When an audit or investigative finding emanates from
7 nonpublic data which is nonpublic pursuant to federal or state law, all
8 the nonpublic information shall not be made public.

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

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

23 (4) If a witness refuses to testify before the Auditor of Public
24 Accounts on the basis of the privilege against self-incrimination, the
25 Auditor of Public Accounts may request a court order pursuant to sections
26 29-2011.02 and 29-2011.03.

27 Sec. 4. Original sections 29-2011.02, 29-2011.03, and 84-305,
28 Reissue Revised Statutes of Nebraska, are repealed.