

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 90

Introduced by Hughes, 44.

Read first time January 05, 2017

Committee:

- 1 A BILL FOR AN ACT relating to the Auditor of Public Accounts; to amend
- 2 section 84-305, Revised Statutes Cumulative Supplement, 2016; to
- 3 provide for suitable accommodations by a public entity to an auditor
- 4 employee as prescribed; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-305, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 84-305 (1) The Auditor of Public Accounts shall have access to any
4 and all information and records, confidential or otherwise, of any public
5 entity, in whatever form or mode the records may be, unless the auditor
6 is denied such access by federal law or explicitly named and denied such
7 access by state law. If such a law exists, the public entity shall
8 provide the auditor with a written explanation of its inability to
9 produce such information and records and, after reasonable accommodations
10 are made, shall grant the auditor access to all information and records
11 or portions thereof that can legally be reviewed.

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

1 (3) When any employee of the Auditor of Public Accounts conducts an
2 audit or examination of any public entity, the public entity shall
3 provide suitable accommodations for such employee of the auditor at the
4 location where the requested information and records are kept or stored.
5 Such accommodations shall include desks or tables and chairs, electrical
6 outlets, and Internet access if such access is available.

7 (4) ~~(3)~~ The Auditor of Public Accounts may issue subpoenas to compel
8 the attendance of witnesses and the production of any papers, books,
9 accounts, documents, and testimony, and cause the depositions of
10 witnesses either residing within or without the state to be taken in the
11 manner prescribed by law for taking depositions in civil actions in the
12 district court.

13 (5) ~~(4)~~ In case of disobedience on the part of any person to comply
14 with any subpoena issued by the Auditor of Public Accounts or of the
15 refusal of any witness to testify on any matters regarding which he or
16 she may be lawfully interrogated, the district court of Lancaster County
17 or the judge thereof, on application of the Auditor of Public Accounts,
18 shall compel obedience by proceedings for contempt as in the case of
19 disobedience of the requirements of a subpoena issued from such court or
20 a refusal to testify therein.

21 (6) ~~(5)~~ If a witness refuses to testify before the Auditor of Public
22 Accounts on the basis of the privilege against self-incrimination, the
23 Auditor of Public Accounts may request a court order pursuant to sections
24 29-2011.02 and 29-2011.03.

25 (7) ~~(6)~~ No provisions of state law shall be construed to change the
26 nonpublic nature of the data obtained as a result of the access. When an
27 audit or investigative finding emanates from nonpublic data which is
28 nonpublic pursuant to federal or state law, all the nonpublic information
29 shall not be made public.

30 Sec. 2. Original section 84-305, Revised Statutes Cumulative
31 Supplement, 2016, is repealed.