

LEGISLATIVE BILL 1118

Approved by the Governor April 15, 2004

Introduced by Legislative Performance Audit Committee:

Beutler, 28, Chairperson; Bromm, 23; Brown, 6; Engel, 17;
McDonald, 41; Price, 26; Wehrbein, 2

AN ACT relating to audits; to amend sections 50-1203, 50-1205.01, and 84-304, Revised Statutes Supplement, 2003; to redefine a term; to change references to auditing standards; to change powers and duties of the Auditor of Public Accounts; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 50-1203, Revised Statutes Supplement, 2003, is amended to read:

50-1203. For purposes of the Legislative Performance Audit Act:

(1) Agency means any department, board, commission, or other governmental unit of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska but does not include (a) any court, (b) the Governor or his or her personal staff, (c) any political subdivision or entity thereof, or (d) any entity of the federal government;

(2) Auditor means the Auditor of Public Accounts whose powers and duties are prescribed in section 84-304;

(3) Business day means a day on which state offices are open for regular business;

(4) Committee means the Legislative Performance Audit Committee;

(5) Committee report means the report released by the committee at the conclusion of a performance audit;

(6) Majority vote means a vote by the majority of the committee's members;

(7) Performance audit means an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decisionmaking by parties with responsibility to oversee or initiate corrective action. Performance audits may include ~~(a) economy and efficiency audits and (b) program audits as those terms are defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office have a variety of objectives, including the assessment of a program's effectiveness and results, economy and efficiency, internal control, and compliance with legal or other requirements;~~

(8) Section means the Legislative Performance Audit Section; and

(9) Section director means the head of the section. The section director shall be selected by the Executive Board of the Legislative Council from the following: The Director of Research of the Legislature or a staff member of the Director of Research of the Legislature nominated by the director.

Sec. 2. Section 50-1205.01, Revised Statutes Supplement, 2003, is amended to read:

50-1205.01. (1) Except as provided in subsections (2) and (3) of this section, performance audits done under the terms of the Legislative Performance Audit Act shall be conducted in accordance with the general standards for ~~financial and~~ performance audits, the Field Work Standards for Performance Audits, and the Reporting Standards for Performance Audits contained in the ~~Electronic Codification of Government Auditing Standards as of July 1999~~ Government Auditing Standards (2003 Revision), published by the Comptroller General of the United States, General Accounting Office.

(2) General standards relating to continuing education for those involved in performance audits may be met when time and budgetary constraints allow.

(3) General standards relating to external quality control review may be implemented at the committee's discretion.

Sec. 3. Section 84-304, Revised Statutes Supplement, 2003, is amended to read:

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

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

(2) To furnish offices for himself or herself and all fuel, lights,

books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3) To examine or cause to be examined, at such time as he or she shall determine, in accordance with generally accepted government auditing standards for financial audits, as that term is defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons. Such examinations shall be done in accordance with generally accepted government auditing standards for financial audits and attestation engagements set forth in Government Auditing Standards (2003 Revision), published by the Comptroller General of the United States, General Accounting Office, and except as provided in subdivision (12) of this section, subdivision (17) of section 50-1205, and section 84-322, shall not include performance audits, whether conducted pursuant to attestation engagements or performance audit standards as set forth in Government Auditing Standards (2003 Revision), published by the Comptroller General of the United States, General Accounting Office;

(4) (a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, county agricultural society, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, development district, drainage district, health district, historical society, hospital authority or district, county hospital, housing agency as defined in section 71-1575, irrigation district, county or municipal library, community mental health center, railroad transportation safety district, rural water district, township, Wyuka Cemetery, any village, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act which has separately levied a property tax based on legal authority for a joint public agency to levy such a tax independent of the public agencies forming such joint public agency.

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

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. In addition, if, in the normal course of conducting an audit in accordance with subdivision (3) of this section, generally accepted government auditing standards for financial audits, as that term is defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them in writing to the Legislative Performance Audit Committee which may investigate the issue further, report it to the appropriate standing committee of the Legislature, or both;

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

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor

shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

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

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

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

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

(10) To develop a plan for implementing on-line filing of budgeted and actual financial information by political subdivisions. Such plan shall describe the technology and staff resources necessary to implement on-line filing of such information and the costs of these resources. Such plan shall be presented to the Clerk of the Legislature on or before January 15, 2003;

(11) To develop and maintain an annual budget and actual financial information reporting system that is accessible on-line by the public; and

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

Sec. 4. Original sections 50-1203, 50-1205.01, and 84-304, Revised Statutes Supplement, 2003, are repealed.