

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2201 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/23/05 H4/1/05

A Bill

HOUSE BILL 2464

5 By: Representatives Roebuck, S. Prater, Dickinson, L. Evans, George, Wyatt
6 By: Senators Wilkins, Laverty, Glover
7
8

For An Act To Be Entitled

10 AN ACT CONCERNING THE LEGISLATIVE JOINT AUDITING
11 COMMITTEE AND THE DIVISION OF LEGISLATIVE AUDIT;
12 AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT CONCERNING THE LEGISLATIVE JOINT
15 AUDITING COMMITTEE AND THE DIVISION OF
16 LEGISLATIVE AUDIT.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code §§ 10-3-402 – 10-3-404 are amended to read as
23 follows:

24 10-3-402. Purpose and definitions.

25 (a) It is determined that adequate information is not available at
26 each biennial session of the General Assembly through which the members of
27 the General Assembly may determine the needs and legislative requirements of
28 the various agencies, ~~and~~ departments, or other entities of the state
29 government and political subdivisions of the state and that the impartial
30 periodic auditing of ~~each agency and department~~ entities of the state and
31 political subdivisions of the state will provide information which will
32 facilitate the discharge by the General Assembly of its legislative
33 responsibilities ~~in respect to each agency and department~~.

34 (b) ~~It is further determined that the sixty day legislative session is~~
35 ~~not adequate time in which to audit each agency and department of the state~~



1 ~~government and that the size and scope of state governmental activity has~~
2 ~~grown to such an extent in recent years that auditing should be a continuing~~
3 ~~process. Due to time restraints and the size, complexity, and scope of the~~
4 ~~entities of the state and its political subdivisions, it is determined that~~
5 ~~the sixty-day legislative session is not an adequate time in which to audit~~
6 ~~entities of the state and political subdivisions of the state.~~

7 (c) It is further determined that the Legislative Joint Auditing
8 Committee shall exist and operate as a joint interim committee of the General
9 Assembly and in such capacity shall serve the General Assembly as the proper
10 agency to provide for the impartial auditing, independently of the executive
11 branch of state government, of ~~each office, department, institution, board,~~
12 ~~commission, and agency of state government~~ entities of the state and
13 political subdivisions of the state.

14 (d) It is not the intent of this act, nor shall this act be construed,
15 to infringe upon or deprive the executive or judicial branches of state
16 government of any rights, powers, or duties vested in or imposed upon them by
17 the Constitution of Arkansas.

18 (e) It is the intent of this act merely to provide the General
19 Assembly with adequate information which will facilitate the exercise by it
20 of its constitutional powers and none other.

21 (f) For the purposes of this subchapter:

22 (1) "Audit" means a financial audit, performance audit,
23 information technology audit, review, report of agreed-upon procedures,
24 compilation, examination, investigation, or other report or procedure
25 approved by the Legislative Joint Auditing Committee for an entity of the
26 state or a political subdivision of the state;

27 (2) "Entity of the state" means the State of Arkansas as a whole
28 or any department, institution of higher education, board, commission,
29 agency, or quasi-public organization, or any official, office, or employee,
30 or any agency, instrumentality, or function thereof;

31 (3) "Other funds" means any funds or assets held by a person,
32 foundation, nonprofit corporation, or any other entity for the specific
33 benefit of a particular entity or entities of the state or political
34 subdivision of the state;

35 (4) "Political subdivision of the state" means any county,
36 municipality, school, quasi-public organization, district, any official,

1 office, employee, or any agency, instrumentality, or function thereof;

2 (5) "Public funds" means any funds, moneys, receivables, grants,
3 investments, instruments, real or personal property, or other assets,
4 liabilities, equities, revenues, receipts, or disbursements belonging to,
5 held by, or passed through an entity of the state or a political subdivision
6 of the state; and

7 (6) "School" means any public school district, charter school,
8 educational cooperative, or any publicly supported entity having supervision
9 over public educational entities.

10 (g) The definitions in this subchapter are limited to this subchapter
11 only, and shall not be used or interpreted as applying to the Freedom of
12 Information Act of 1967.

13
14 10-3-403. Members – Selection.

15 (a) The Legislative Joint Auditing Committee shall consist of members
16 of the General Assembly to be selected as follows:

17 (1)(A) The Senate shall select sixteen (16) members in
18 accordance with procedures prescribed by Senate Rules.

19 (B)(i) At the time of selecting members, the Senate shall
20 also select in the same manner one (1) first alternate and one (1) second
21 alternate for each member selected.

22 (ii) The first alternates shall also be nonvoting
23 members of the Committee and shall be entitled to receive per diem and
24 mileage for attending all meetings of the Committee.

25 (iii) First alternate members of the Committee shall
26 have a vote in matters before the Committee if the regular member which the
27 first alternate represents is not in attendance.

28 (iv) Second alternate members of the Committee shall
29 have a vote in matters before the Committee if the regular member and first
30 alternate member which the second alternate represents are not in attendance.

31 (v) First alternate members attending as nonvoting
32 members of the Committee shall receive per diem and mileage to be paid in the
33 same manner and from the same source as regular members of the Committee;

34 (2)(A) The House of Representatives shall select twenty (20)
35 members in accordance with the procedure prescribed by House Rules.

36 (B)(i) At the time of selecting members, the House shall

1 also select in the same manner one (1) first alternate and one (1) second
2 alternate for each member selected.

3 (ii) The first alternates shall also be nonvoting
4 members of the Committee and shall be entitled to receive per diem and
5 mileage for attending all meetings of the Committee.

6 (iii) First alternate members of the Committee shall
7 have a vote in matters before the Committee if the regular member which the
8 first alternate represents is not in attendance.

9 (iv) Second alternate members of the Committee shall
10 have a vote in matters before the Committee if the regular member and first
11 alternate member which the second alternate represents are not in attendance.

12 (v) First alternate members attending as nonvoting
13 members of the Committee shall receive per diem and mileage to be paid in the
14 same manner and from the same source as regular members of the Committee; and

15 (3)(A) The Speaker of the House of Representatives, the
16 President Pro Tempore of the Senate, the immediate past chair or cochair of
17 the Committee, and the ~~cochair~~ cochairs and co-vice chairs of the Legislative
18 Council shall be ex officio members of the Committee and shall enjoy all the
19 rights and privileges of other members of the Committee.

20 (B) If the immediate past House cochair of the Committee
21 is not a member of the House, the Speaker of the House may appoint a member
22 of the House to serve in the stead of the immediate past House cochair.

23 (C) If the immediate past Senate cochair of the Committee
24 is not a member of the Senate, the President Pro Tempore of the Senate may
25 appoint a member of the Senate to serve in the stead of the immediate past
26 Senate cochair~~+~~.

27 (b) If as a result of a tie vote in any congressional district caucus
28 held as above provided, there should be a failure to nominate any member or
29 alternate as a representative of the district, the requirement of a caucus
30 nomination shall be dispensed with. The member or alternate shall then be
31 elected by the body of the General Assembly which the member or alternate is
32 expected to represent on the Committee.

33 (c) No member of the Committee shall be a regular member of the
34 Legislative Council, but may be a first or second alternate member of the
35 Legislative Council.

36

1 10-3-404. Tenure - Vacancies - Alternates.

2 ~~(a) Each Senate member of the Legislative Joint Auditing Committee~~
3 ~~shall serve until the commencement of the next regular session of the General~~
4 ~~Assembly unless the member fails to run for reelection as a member of either~~
5 ~~house of the General Assembly or is defeated at the November general election~~
6 ~~for reelection to either house of the General Assembly. In the event a Senate~~
7 ~~member is defeated or fails to run for reelection, he or she shall cease to~~
8 ~~be a member of the Committee as of the date of the general election and shall~~
9 ~~be succeeded by a first or second alternate member having the qualifications~~
10 ~~herein prescribed for membership on the Committee.~~

11 ~~(b) If any Senate member of the Committee loses his or her membership~~
12 ~~thereon by reason of his or her defeat for reelection or failure to run for~~
13 ~~reelection or ceases to be a member of the Committee by reason of death,~~
14 ~~resignation, or otherwise, his or her place on the Committee shall be filled~~
15 ~~by his first alternate if there is a first alternate, and otherwise by his or~~
16 ~~her second alternate.~~

17 ~~(c) If upon the termination of the membership of any Senate member of~~
18 ~~the Committee, there is no first or second alternate available to fill the~~
19 ~~vacancy, then the Senate members of the Committee shall select a successor~~
20 ~~member, whose tenure of membership and qualifications shall be the same as~~
21 ~~are prescribed in respect to the initial members.~~

22 ~~(d) In order that there may be no vacancies on the Committee at any~~
23 ~~time, at the time the members are elected to the Committee by the Senate,~~
24 ~~there shall also be elected at the same time and in the same manner one (1)~~
25 ~~first alternate member and one (1) second alternate member for each regular~~
26 ~~member elected for each congressional district and for each regular member~~
27 ~~elected at large.~~

28 ~~(e) Each Senate alternate member shall at the time he or she is~~
29 ~~elected be a member of the Senate. The tenure of membership of each alternate~~
30 ~~member shall be controlled by the provisions of subsection (a) of this~~
31 ~~section regulating the tenure of the membership of each person initially~~
32 ~~elected to serve on the Committee.~~

33 ~~(f)(a) Tenure of membership and means of filling vacant positions for~~
34 ~~House members shall be as prescribed by House Rules.~~

35 ~~(g)(b) Notwithstanding any provision of this section to the contrary,~~
36 ~~after January 1, 1999, tenure Tenure of membership and the means of filling~~

1 vacant positions for Senate members shall be as prescribed by Senate Rules.

2
3 SECTION 2. Arkansas Code § 10-3-406 is amended to read as follows:

4 10-3-406. Meetings during legislative session.

5 (a) The Legislative Joint Auditing Committee is authorized to meet and
6 transact its normal business during all legislative sessions hereafter as
7 provided herein.

8 (b)(1) If members of the House of Representatives and members of the
9 Senate have each selected their respective cochairs for the new biennial
10 period, either cochair may call a meeting of the committee members during
11 legislative sessions.

12 (2)(A) If members of the House of Representatives and members of
13 the Senate have not each selected their respective cochairs for the new
14 biennial period, meetings of the Committee during the legislative session
15 shall be called by either cochair of the Committee who shall be the person
16 who served in this capacity prior to the commencement of the current General
17 Assembly. ~~In such meetings, the primary consideration should be given to~~
18 ~~matters that require immediate attention and that cannot wait until the new~~
19 ~~Committee is appointed and organized.~~

20 ~~(e)(B)~~ The Committee shall consist of the members of the
21 General Assembly that served on the Committee prior to the commencement of
22 the current General Assembly. If any regular member of the Committee is no
23 longer serving in the General Assembly, then this vacancy shall be assumed by
24 the first or second alternate as provided by law.

25 (c) In the meetings, primary consideration shall be given to matters
26 that require immediate attention and that cannot wait until the conclusion of
27 the legislative session.

28
29 SECTION 3. Arkansas Code § 10-3-407 is amended to read as follows:

30 10-3-407. Duties – Cochairs.

31 (a) The duties of the Legislative Joint Auditing Committee shall be to
32 provide for the auditing of ~~each department, institution, board, commission,~~
33 ~~office, and agency of the state government~~ any entity of the state or
34 political subdivision of the state for the purpose of furnishing the General
35 Assembly with information vital to the discharge of its constitutional
36 duties.

1 (b)(1) Immediately after its organization, the Committee shall
2 commence the performance of its duties herein prescribed.

3 (2) The Senate members of the Committee shall select one (1) of
4 their number as cochair and one (1) of their number as co-vice chair.

5 (3) The House members of the Committee shall select one (1) of
6 their number as cochair and one (1) of their number as co-vice chair.

7 (4) The Senate cochair shall appoint all Senate Committee
8 members to subcommittees of the Committee, and the House cochair shall
9 appoint all House Committee members to subcommittees of the Committee.

10 (5) The Senate cochair shall appoint a Senate Committee member
11 as cochair of each of the Committee's subcommittees, and the House cochair
12 shall appoint a House Committee member as the cochair of each of the
13 subcommittees of the Committee.

14 (6) The Senate cochair and the House cochair shall alternate in
15 presiding at meetings of the Committee, unless the cochairs otherwise agree.
16

17 SECTION 4. Arkansas Code § 10-3-410 is amended to read as follows:

18 10-3-410. Abolishment or consolidation of agencies.

19 The Legislative Joint Auditing Committee is authorized to recommend to
20 the General Assembly the abolishment or consolidation of any ~~state agencies,~~
21 ~~boards, or commissions~~ entity of the state which the Committee deems
22 appropriate as a result of its review of audits performed by its staff ~~on the~~
23 ~~agencies, boards, or commissions.~~

24
25 SECTION 5. Arkansas Code § 10-3-411 is amended to read as follows:

26 10-3-411. Investigation and audit of state or local entities -
27 Subpoenas - Contempt.

28 (a)(1) The Legislative Joint Auditing Committee ~~shall have~~ has the
29 authority to conduct investigations or audits pertaining to the ~~financial~~
30 affairs of any state agency, institution, department, board, commission, or
31 ~~office, or pertaining to the operation of any county, city, town, or school~~
32 ~~district, or any agency or instrumentality of them~~ entity of the state or
33 political subdivision of the state, whenever the Committee shall determine
34 that investigations are necessary to make a proper determination with respect
35 to the ~~financial operations of them~~ of the entity of the state or political
36 subdivision of the state or any agency or instrumentality of them, or of the

1 collection, handling, administration, or expenditure of any public funds or
2 assets allocated, received, managed, directed, handled, or disbursed to them
3 by or on behalf of the entity.

4 (2)(A) In addition, the Legislative Joint Auditing Committee has
5 the authority to investigate documents, books, and records regarding receipt,
6 expenditure, or disbursement of other funds if the committee or its executive
7 committee determines that the investigation of the documents, books, and
8 records is necessary to verify any audit of an entity of the state or a
9 political subdivision of the state or to investigate misappropriation of
10 other funds.

11 (B) Nothing in this section shall be construed as
12 authorizing or permitting the release of information prohibited by law or not
13 subject to public inspection under the Freedom of Information Act of 1967 or
14 other applicable law. All records, documents, correspondence or other data
15 of a person, foundation, nonprofit corporation, or any other entity holding
16 other funds that would infringe upon the rights, privacy, or confidentiality
17 of donors of private funds to the person, foundation, nonprofit corporation,
18 or other entity are exempt from public disclosure. Any working papers or
19 other data relating to the donor information examined by the Legislative
20 Auditor under this chapter are confidential and exempt from public
21 disclosure.

22 (3) In connection with investigations or audits, the Legislative
23 Joint Auditing Committee has the authority to examine any or all books,
24 records, or any other data or systems relative to the investigation or audit,
25 confidential or otherwise, irrespective of the custodian or location of the
26 records. However, in the investigation of documents, books, and records
27 regarding receipt, expenditure, or disbursement of other funds the committee
28 or its executive committee must approve the Legislative Auditor's
29 determination that the investigation of the documents, books, and records is
30 necessary to verify any audit of an entity of the state or a political
31 subdivision of the state or to investigate misappropriation of other funds.

32 (b)(1) Any member of the General Assembly, by written request filed
33 with the committee at least six (6) days prior to any regular or special
34 meeting of the committee, may request an investigation or audit of any entity
35 for which the Legislative Joint Auditing Committee and the Division of
36 Legislative Audit has the authority to audit.

1 (2) Upon the vote of the majority of the membership of the
2 committee approving the request, the Legislative Auditor shall conduct the
3 investigation or audit.

4 ~~(b)(c)~~ In connection with any investigations or audits, the ~~Committee~~
5 ~~shall have~~ committee has the right and power to subpoena witnesses and to
6 issue subpoenas duces tecum.

7 ~~(e)(d)~~ All subpoenas shall be issued by either cochair of the
8 ~~Committee~~ committee, or by either co-vice chair acting in the absence of
9 either cochair, after the issuance of the subpoenas has been approved by a
10 majority vote of the membership of the ~~Committee~~ committee at a duly called
11 meeting with all members of the ~~Committee~~ committee having received no fewer
12 than six (6) days' advance notice of the meeting.

13 ~~(d)(e)~~ The reasons for, and purposes of, the proposed subpoena or
14 subpoenas, including the names of the persons or the nature and
15 identification of all books, records, and documents for which subpoenas are
16 being considered, shall be furnished in writing to the members of the
17 ~~Committee~~ committee in the notice mailed to the members not less than six (6)
18 days in advance of the meeting at which the question of issuing the subpoenas
19 is to be considered. No subpoenas shall be issued under the provisions of
20 this section until such time as any individual or the individual holding the
21 books, records, or documents sought by the ~~Committee~~ committee has received a
22 formal written invitation to appear before the ~~Committee~~ committee by
23 certified registered mail at least thirty (30) days prior to a regular or
24 special meeting of the ~~Committee~~ committee and that individual has failed or
25 refused to appear before the ~~Committee~~ committee at the meeting.

26 ~~(e)(f)~~ The cochairs and the co-vice chairs of the ~~Committee~~ committee
27 are authorized to administer oaths.

28 ~~(f)(g)(1)~~ Subpoenas issued by the ~~Committee~~ committee shall be served
29 by the sheriff of the county in which the person, books, records, or
30 documents subpoenaed are located, and the sheriff shall be entitled to the
31 same fees for the service of process as provided by law for service of
32 process issued by the circuit court. ~~However, the committee may, at its~~
33 ~~option, direct the Department of Arkansas State Police to serve any subpoena.~~

34 (2) However, at its option, the committee may direct the
35 Department of Arkansas State Police to serve any subpoena.

36 ~~(g)(h)~~ Witnesses subpoenaed to appear before the ~~Committee~~ committee

1 shall be entitled to witness fees and travel allowances at the same rate as
2 provided by law for witnesses subpoenaed to appear in civil actions in
3 circuit court.

4 ~~(h)~~(i) The fees for the serving of subpoenas and all witness fees and
5 travel allowances shall be paid from funds appropriated for the maintenance
6 and operation of the ~~Committee~~ committee .

7 ~~(i)~~(j) If any person subpoenaed to appear before the ~~Committee~~
8 committee shall fail to appear or to produce books, documents, or records
9 subpoenaed by the ~~Committee~~ committee, the fact shall be certified to the
10 circuit court of the county in which the hearing is held, and the circuit
11 court shall punish the person for contempt of the General Assembly in the
12 same manner as punishment for contempt is imposed for failure to respond to a
13 subpoena or directive of the circuit court.

14 ~~(j)~~(k)(1)(A) It is the intent of this section to authorize the
15 Committee to issue subpoenas and to compel the attendance of witnesses, and
16 to administer oaths when necessary, to make full investigations or
17 determinations whenever the ~~Committee~~ committee determines them to be
18 necessary with respect to the ~~financial~~ affairs of ~~any state agency,~~
19 ~~institution, department, board, commission, or office, or pertaining to the~~
20 ~~operation of any county, city, town, or school district, or any agency or~~
21 ~~instrumentality of them~~ any entity of the state or political subdivision of
22 the state, whenever the ~~Committee~~ committee shall determine that
23 investigations are necessary ~~for the Committee~~ to discharge its duties, ~~in~~
24 ~~keeping the General Assembly informed with respect to the financial~~
25 ~~operations of those state agencies, counties, or school districts, or the~~
26 ~~collection, handling, administration, or expenditure of any public funds~~
27 ~~allocated to them.~~

28 (B) It is not the intent of this section to repeal,
29 reduce, or diminish the authority vested by law in the Legislative Auditor to
30 issue subpoenas whenever the Legislative Auditor determines that they are
31 necessary to assist the Legislative Auditor or ~~his or her~~ the Legislative
32 Auditor's staff in making a complete audit.

33 (2) This section shall be cumulative to Acts 1955, No. 105, and
34 all laws amendatory to that act.

35

36 SECTION 6. Arkansas Code §§ 10-3-422 – 10-3-424 are repealed.

1 ~~§ 10-3-422. State agency requests—Recommendations.~~

2 ~~(a) Any request presented to the Committee to conduct a federal audit,~~
3 ~~as defined in § 10-3-423, shall first be reviewed by the Federal Audit~~
4 ~~Subcommittee for the purpose of making a recommendation to the Committee to~~
5 ~~either grant or deny the request for the audit by the Division of Legislative~~
6 ~~Audit.~~

7 ~~(b) When any request for a federal audit is denied by the Committee,~~
8 ~~the requesting entity shall be informed of the denial and shall be advised to~~
9 ~~secure the appropriate federal audit required by the respective federal~~
10 ~~agency and to inform the Committee when arrangements for the federal audit~~
11 ~~have been made.~~

12 ~~(c) The Committee may also request that a copy of the federal audit~~
13 ~~report be furnished to it when the audit is completed and made available to~~
14 ~~the entity to assure that the future eligibility of the State of Arkansas and~~
15 ~~its subdivisions to receive various forms of federal funding is not~~
16 ~~jeopardized.~~

17
18 ~~10-3-423. Federal audit defined.~~

19 ~~For purposes of § 10-3-421 [repealed] and §§ 10-3-422—10-3-424, the~~
20 ~~term "federal audit" means a financial compliance audit required as a~~
21 ~~condition of being awarded a federal grant or other federal funding with the~~
22 ~~compliance audit requirements mandating specific audit procedures which are~~
23 ~~outside the scope of the normal audits conducted by the Division of~~
24 ~~Legislative Audit and which often require the reporting of audit results~~
25 ~~under separate cover in a format which is often considerably different from~~
26 ~~the format of the other audit reports rendered by the Division of Legislative~~
27 ~~Audit, and which are frequently required to cover a reporting period not~~
28 ~~coinciding with that of the fiscal year of the receiving entity. The term~~
29 ~~"federal audit" shall not include audits of federal revenue sharing funds~~
30 ~~received by a state agency or local unit of government under the State and~~
31 ~~Local Fiscal Assistance Act of 1972 and amendments thereto which have in the~~
32 ~~past been conducted by the Division of Legislative Audit as an extension of~~
33 ~~the normal audit of an entity.~~

34
35 ~~10-3-424. Application of § 10-3-421 [repealed] and §§ 10-3-422—10-3-~~
36 ~~424.~~

1 ~~The provisions of § 10-3-421 [repealed] and §§ 10-3-422—10-3-424~~
2 ~~shall apply to requests for federal audits by any state agency, board,~~
3 ~~commission, department, officer, or other authority of the government of the~~
4 ~~State of Arkansas, including local school districts, state-supported colleges~~
5 ~~and universities, vocational technical schools, counties and municipalities,~~
6 ~~and instrumentalities thereof.~~

7
8 SECTION 7. Arkansas Code Title 10, Chapter 4 is amended to add an
9 additional subchapter to read as follows:

10 10-4-401. Division of Legislative Audit created.

11 (a) There is created under the authority of the General Assembly a
12 Division of Legislative Audit.

13 (b) The division shall be headed by the Legislative Auditor who shall
14 be selected by the Legislative Joint Auditing Committee.

15
16 10-4-402. Definitions.

17 (a) As used in this subchapter:

18 (1) “Audit” means a financial audit, performance audit,
19 information technology audit, review, report of agreed-upon procedures,
20 compilation, examination, investigation, or other report or procedure
21 approved by the Legislative Joint Auditing Committee for an entity of the
22 state or a political subdivision of the state;

23 (2) “Entity of the state” means the State of Arkansas as a whole
24 or any department, institution of higher education, board, commission,
25 agency, quasi-public organization, any official, office, employee, or any
26 agency, instrumentality, or function thereof;

27 (3) “Financial audit” means a systematic examination of the
28 financial statements of an entity and the related supporting evidence for the
29 purpose of expressing an opinion on the fairness with which they present, in
30 all material respects, financial position, results of operations, and its
31 cash flows in conformity with accounting principles generally accepted in the
32 United States, another comprehensive basis of accounting, or a regulatory
33 basis of presentation, as applicable;

34 (4) “Other funds” means any funds or assets held by a person,
35 foundation, nonprofit corporation, or any other entity for the specific
36 benefit of a particular entity or entities of the state or political

1 subdivision of the state;

2 (5) "Political subdivision of the state" means any county,
3 municipality, school, quasi-public organization, district, any official,
4 office, employee, or any agency, instrumentality, or function thereof;

5 (6) "Public funds" means any funds, moneys, receivables, grants,
6 investments, instruments, real or personal property, or other assets,
7 liabilities, equities, revenues, receipts, or disbursements belonging to,
8 held by, or passed through an entity of the state or a political subdivision
9 of the state; and

10 (7) "School" means any public school district, charter school,
11 educational cooperative, or any publicly supported entity having supervision
12 over public educational entities.

13 (b) The definitions in this subchapter are limited to this subchapter
14 only, and shall not be used or interpreted as applying to the Freedom of
15 Information Act of 1967.

16
17 10-4-403. Authority of Legislative Auditor.

18 (a) The Legislative Auditor has the authority to perform an audit of
19 any entity of the state, political subdivision of the state, or any
20 transaction relating to public funds and to prepare a written report of the
21 audit to the Legislative Joint Auditing Committee and to the entity being
22 audited.

23 (b)(1) In addition, the Legislative Auditor has the authority to
24 investigate documents, books, and records regarding receipt, expenditure, or
25 disbursement of other funds if the Legislative Auditor determines, subject to
26 approval of the Legislative Joint Auditing Committee or its executive
27 committee, that the investigation of the documents, books, and records is
28 necessary to verify any audit of an entity of the state or a political
29 subdivision of the state or to investigate misappropriation of other funds.

30 (2) Nothing in this section shall be construed as authorizing or
31 permitting the release of information prohibited by law or not subject to
32 public inspection under the provisions of the Freedom of Information Act of
33 1967 or other applicable law. All records, documents, correspondence, or
34 other data of a person, foundation, nonprofit corporation, or any other
35 entity holding other funds that would infringe upon the rights, privacy, or
36 confidentiality of donors of private funds to the person, foundation,

1 nonprofit corporation, or other entity are exempt from public disclosure.
2 Any working papers or other data relating to the donor information examined
3 by the Legislative Auditor under this chapter are confidential and exempt
4 from public disclosure.

5 (c) The Legislative Auditor may conduct any audit or investigation
6 that in his or her judgment is proper and necessary to carry out the purpose
7 and intent of this subchapter or to assist the General Assembly in the proper
8 discharge of its duties.

9 (d) In conducting audits of entities of the state or political
10 subdivisions of the state, the Legislative Auditor shall have access at all
11 times to and has the authority to examine any record or documentation
12 relating to transactions with these entities, regardless of the nature,
13 custodian, or location of these records. However, in the investigation of
14 documents, books, and records regarding receipt, expenditure, or disbursement
15 of other funds, the Legislative Auditor must determine, subject to approval
16 of the Legislative Joint Auditing Committee or its executive committee, that
17 the investigation of the documents, books and records is necessary to verify
18 any audit of an entity of the state or a political subdivision of the state
19 or to investigate misappropriation of other funds.

20 (e) The Legislative Auditor has the authority to require the aid and
21 assistance of all officials, auditors, accountants, and other employees of
22 each entity of the state or political subdivision of the state at all times
23 in the inspection, examination, and audit of any books, accounts,
24 transactions, financial statements, or any other pertinent records.

25 (f) In conducting audits of entities of the state or political
26 subdivisions of the state or verifying transactions with the entities of the
27 state or political subdivision of the state, and in the investigation of
28 other funds, the Legislative Auditor has the authority to summon and issue
29 subpoenas for the appearance of individuals or the production of documents or
30 other records.

31 (g)(1) The Legislative Auditor may make specific recommendations to
32 the Legislative Joint Auditing Committee and the General Assembly for the
33 amendment of existing laws or the passage of new laws designed to improve the
34 functioning of entities of the state and political subdivisions of the state
35 to the end that more efficient service may be rendered and the cost of
36 government reduced.

1 (2) The Legislative Auditor shall not include in his or her
2 recommendations to the General Assembly any recommendations as to the sources
3 from which taxes shall be raised to meet the governmental expense.

4
5 10-4-404. Qualifications of Legislative Auditor.

6 (a) The Legislative Auditor shall be a licensed certified public
7 accountant in the State of Arkansas with at least seven (7) years of
8 government auditing experience prior to being appointed.

9 (b) At the time of appointment, the Legislative Auditor shall not be
10 related in the second degree of consanguinity or affinity to any member of
11 the General Assembly or a constitutional officer.

12 (c) The Legislative Auditor shall not serve in any ex officio capacity
13 on any administrative board or commission or have any financial interest in
14 the transactions of any entity of the state or political subdivision of the
15 state, other than those financial interests that accrue as a result of being
16 an employee of the state.

17
18 10-4-405. Employment and removal of Legislative Auditor.

19 (a) The Legislative Auditor shall be employed by a majority vote of
20 the membership of the Legislative Joint Auditing Committee and the name of
21 the person selected shall be presented to each house of the General Assembly
22 for confirmation by both houses if the General Assembly is in session at the
23 time of the selection.

24 (b)(1) If the Legislative Auditor is selected while the General
25 Assembly is not in session, he or she shall in all respects carry out the
26 functions, powers, and duties as provided in this subchapter until the next
27 regular session of the General Assembly.

28 (2)(A) During the next regular legislative session, the name of
29 the person selected as Legislative Auditor shall be presented to both houses
30 of the General Assembly for confirmation.

31 (B) Unless upon the presentation his or her selection is
32 rejected, he or she shall in all respects continue to carry out the
33 functions, powers, and duties as Legislative Auditor.

34 (c) When a vacancy in the position of Legislative Auditor exists, the
35 position shall be filled by the committee by majority action of the committee
36 membership, subject to approval of both houses of the General Assembly at its

1 next regular session.

2 (d) The Legislative Auditor may be removed for cause at any time by a
3 majority vote of the membership of the committee after a public hearing
4 thereon.

5
6 10-4-406. Written appointment and oath of Legislative Auditor.

7 (a) The cochairs of the Legislative Joint Auditing Committee, upon
8 vote or approval of the majority of the membership of the committee, shall
9 execute a written appointment of the person employed as the Legislative
10 Auditor and cause the written appointment to be filed in the office of the
11 Secretary of State.

12 (b) Upon appointment, the Legislative Auditor shall qualify by taking
13 the constitutional oath.

14
15 10-4-407 Duties of Legislative Auditor.

16 The Legislative Auditor shall:

17 (1) Personally, or through the Legislative Auditor's authorized
18 assistants and employees, conduct audits of any entity of the state or
19 political subdivision of the state now in existence or hereafter created;

20 (2) Make recommendations to the Legislative Joint Auditing
21 Committee and respective entities regarding the:

22 (A) Improvement of the accounting systems used by any
23 entity of the state or political subdivision of the state; or

24 (B) Proper installation and utilization of the accounting
25 system;

26 (3) Call attention to any funds which, in his or her opinion,
27 have not been expended in accordance with the law, appropriation, ordinance,
28 regulation, or other legal requirement and shall make recommendations to the
29 Legislative Joint Auditing Committee, the General Assembly, and other
30 applicable governing bodies as to the manner or form of appropriations which
31 will avoid any improper expenditure of money in the future;

32 (4) Report to the proper authorities apparent improper or
33 illegal practices contained in audit reports;

34 (5) Provide technical assistance in establishing uniform systems
35 of recordkeeping within the entities of the state and political subdivisions
36 of the state insofar as it is practical to do so and not inconsistent with

1 law or professional standards; and

2 (6) Require, on forms prescribed or made available, the filing
3 with the Division of financial reports at such times as the Legislative
4 Auditor deems advisable.

5
6 10-4-408. Disbursing officer – Payment of salaries.

7 (a) The Legislative Auditor is designated as disbursing officer for
8 the Division of Legislative Audit, and all vouchers issued in the payment of
9 salaries and expenses incurred in the operations of the division shall be
10 approved by the Legislative Auditor or the Legislative Auditor's authorized
11 designees before the salaries and expenses are paid.

12 (b) In case a vacancy exists in the position of Legislative Auditor,
13 the Legislative Joint Auditing Committee may designate a disbursing agent or
14 agents for the division who shall serve until the position of the Legislative
15 Auditor is filled.

16 (c) The salary of the Legislative Auditor and the other employees of
17 the division shall be paid in the same manner and through the same procedure
18 used for the payment of salaries of other state employees.

19
20 10-4-409. Personnel.

21 (a) Subject to a biennial appropriation therefor, all employees of the
22 Division of Legislative Audit shall be selected and appointed by the
23 Legislative Auditor.

24 (b)(1) The Legislative Auditor shall be free to select the most
25 efficient personnel available for each position in the division, to the end
26 that he or she may render to the members of the General Assembly that service
27 which the members have a right to expect.

28 (2) The Legislative Auditor may conduct such professional
29 examination as he or she may deem expedient in determining the qualifications
30 of the persons whom he or she contemplates placing on his or her staff.

31 (c)(1) No person related to any member of the General Assembly or to
32 the Legislative Auditor in the first degree of consanguinity or affinity may
33 be employed on the staff of the division.

34 (2) However, subdivision (c)(1) of this section does not apply
35 if an individual is initially employed with the division before the relative
36 is elected as a member of the General Assembly.

1 (d) It is the intention and desire of the General Assembly to free the
2 Legislative Auditor and his or her staff from partisan politics. It is
3 declared to be against public policy for any member of the General Assembly
4 or any official or employee of the entities of the state or political
5 subdivisions of the state to recommend or suggest the appointment of any
6 person to a position on the staff of the Legislative Auditor.

7
8 10-4-410 Audit costs.

9 (a)(1) The Legislative Auditor shall cause to be maintained a
10 sufficient accounting of the audit costs incurred by the Division of
11 Legislative Audit in auditing entities of the state and political
12 subdivisions of the state.

13 (2) The audit costs shall provide a basis for determining a
14 reasonable reimbursement from entities of the state and political
15 subdivisions of the state for the cost of auditing federal funds received by
16 these entities.

17 (b)(1) The administrative cost of auditing political subdivisions of
18 the state shall be paid from the Ad Valorem Tax Fund as prescribed by § 19-5-
19 906.

20 (2) If these taxes or any part thereof are no longer collected
21 or deposited in the State Treasury or if there is a diminution in these
22 taxes, then the operating cost of auditing the political subdivisions of the
23 state incurred by the Division of Legislative Audit shall be paid from other
24 moneys deposited in the General Revenue Fund Account.

25 (3) As soon as practical after the close of each fiscal year,
26 the Legislative Auditor shall certify to the Chief Fiscal Officer of the
27 State the amount of funds expended during the fiscal year just ending which
28 is to be allocated to the state audit function and to the local audit
29 function of the Division of Legislative Audit.

30 (4) The Chief Fiscal Officer of the State shall utilize this
31 certification in determining those expenses which are eligible to be
32 reimbursed from the Ad Valorem Tax Fund.

33 (c) If it is determined by the Legislative Joint Auditing Committee
34 that the reimbursement for the auditing of entities of the state is
35 appropriate, the Legislative Auditor and the Director of the Department of
36 Finance and Administration shall develop guidelines for effecting proper

1 budgetary and accounting procedures for the reimbursements.

2
3 10-4-411. Audits of entities of the state.

4 (a) Except as provided in subdivision (b)(1) of this section, the
5 Legislative Auditor shall audit entities of the state.

6 (b)(1) However, any licensing board or with the approval of the
7 Legislative Joint Auditing Committee any other entity of the state may retain
8 the services of a licensed certified public accountant or a licensed
9 accountant in public practice in good standing with the Arkansas State Board
10 of Public Accountancy to conduct the entity's annual financial audit in
11 accordance with auditing standards generally accepted in the United States
12 and Government Auditing Standards issued by the Comptroller General of the
13 United States. The report shall include a report on internal control over
14 financial reporting and on compliance and other matters based on an audit of
15 financial statements performed in accordance with Government Auditing
16 Standards.

17 (2) If an annual financial audit of an entity of the state is
18 deemed by the Legislative Auditor as necessary for the audit of the
19 comprehensive annual financial report of the State of Arkansas, then any
20 contract with a private certified public accountant for the entity's annual
21 financial audit shall include provisions requiring the annual financial audit
22 to be completed and filed with the Division of Legislative Audit by a date
23 determined by the Legislative Auditor.

24 (3) All reports of the annual financial audit shall be filed
25 with the Legislative Auditor within ten (10) days of issuance of the audit
26 report to the applicable governing body.

27 (4) Nothing in this subsection (b) limits the authority of the
28 Legislative Auditor to conduct an audit of any entity of the state.

29
30 10-4-412. Audits of counties and municipalities.

31 (a)(1) Except as provided in subdivision (a)(2) of this section, the
32 Legislative Auditor shall audit counties and municipalities in the state.

33 (2)(A) However, any municipality may retain the services of a
34 licensed certified public accountant or a licensed accountant in public
35 practice in good standing with the Arkansas State Board of Public Accountancy
36 to conduct a financial audit as prescribed in subsection (b) of this section.

1 (B) All reports of the annual financial audit shall be
2 filed with the Legislative Auditor within ten (10) days of issuance of the
3 audit report.

4 (3) Nothing in this subsection (a) limits the authority of the
5 Legislative Auditor to conduct an audit of any municipality.

6 (b) Financial Audits. (1)(A) For purposes of this subsection (b), a
7 financial audit shall be planned and conducted, and the results of the work
8 reported in accordance with auditing standards generally accepted in the
9 United States and Government Auditing Standards issued by the Comptroller
10 General of the United States.

11 (B) The report shall include a report on internal control
12 over financial reporting and on compliance and other matters based on an
13 audit of financial statements performed in accordance with Government
14 Auditing Standards.

15 (2) Regulatory Basis of presentation. (A) For county and
16 municipal financial audits, the financial statements shall be presented on a
17 fund basis format with, as a minimum, the general fund and the street or road
18 fund presented separately and all other funds included in the audit presented
19 in the aggregate.

20 (B) The financial statements shall consist of the
21 following:

22 (i) A balance sheet;

23 (ii) A statement of revenues (receipts),
24 expenditures (disbursements), and changes in fund equity (balances);

25 (iii) A comparison of the final adopted budget to
26 the actual expenditures for the general fund and street or road fund of the
27 entity; and

28 (iv) Notes to the financial statements.

29 (C) The report shall include as supplemental information a
30 schedule of capital assets, including land, buildings, and equipment.

31 (3) Alternative Basis of presentation. As an alternative to the
32 presentation prescribed in subdivision (b)(2) of this section, the governing
33 body of a municipality or a county may adopt an annual resolution requiring
34 its annual financial audit to be performed and financial statements presented
35 in accordance with the standards prescribed by the Governmental Accounting
36 Standards Board, the American Institute of Certified Public Accountants, and

1 the United States Government Accountability Office, if applicable.

2 (c) Municipal agreed upon procedures. (1) As an alternative to a
3 financial audit, the Legislative Auditor may conduct an agreed-upon
4 procedures engagement of the records and accounts of all municipal or county
5 offices, officials, or employees.

6 (2) For purposes of this subsection (c), agreed-upon procedures
7 engagements shall be conducted in accordance with standards established by
8 the American Institute of Certified Public Accountants and subject to the
9 minimum procedures prescribed by the Legislative Auditor.

10 (3) Unless otherwise provided by law, the governing body of a
11 municipality may choose and employ accountants licensed and in good standing
12 with the Arkansas State Board of Public Accountancy to conduct agreed-upon
13 procedure engagements. All reports shall be filed with the Legislative
14 Auditor within ten (10) days of issuance of a report.

15
16 10-4-413. Audits of schools.

17 (a) Except as provided in subdivision (b)(1) of this section the
18 Legislative Auditor shall audit schools.

19 (b)(1) However, a school may retain the services of a licensed
20 certified public accountant or a licensed accountant in public practice in
21 good standing with the Arkansas State Board of Public Accountancy to conduct
22 an annual financial audit in accordance with auditing standards generally
23 accepted in the United States and Government Auditing Standards issued by the
24 Comptroller General of the United States. The report shall include a report
25 on internal control over financial reporting and on compliance and other
26 matters based on an audit of financial statements performed in accordance
27 with Government Auditing Standards.

28 (2) Every report of an annual financial audit shall be filed
29 with the Legislative Auditor within ten (10) days of issuance of the audit
30 report to the board.

31 (3) Nothing in this subsection (b) limits the authority of the
32 Legislative Auditor to conduct an audit of any school.

33 (c) Regulatory Basis of Presentation. (1) For school financial
34 audits, the financial statements shall be presented on a fund basis format
35 with, as a minimum, the general fund and the special revenue fund presented
36 separately and all other funds included in the audit presented in the

1 aggregate.

2 (2) The financial statements shall consist of the following:

3 (A) A balance sheet;

4 (B) A statement of revenues, expenditures, and changes in
5 fund balances;

6 (C) A comparison of the final adopted budget to the actual
7 expenditures for the general fund of the entity and the special revenue fund
8 of the entity; and

9 (D) Notes to the financial statements.

10 (3) The report shall include as supplemental information a
11 schedule of capital assets, including land, buildings, and equipment.

12 (4) The State Board of Education shall promulgate the rules
13 necessary to administer the regulatory basis of presentation provided in this
14 subsection (c).

15 (d) Alternative Basis of Presentation. (1) As an alternative to the
16 presentation prescribed in subsection (c) of this section, the governing body
17 of a school may require its annual financial audit to be performed and
18 financial statements presented in accordance with the guidelines prescribed
19 by the Governmental Accounting Standards Board, the American Institute of
20 Certified Public Accountants, and the United States Government Accountability
21 Office, if applicable.

22 (2) The report shall include a report on internal control over
23 financial reporting and on compliance and other matters based on an audit of
24 financial statements performed in accordance with Governmental Auditing
25 Standards.

26
27 10-4-414. Audits of prosecuting attorneys

28 (a) The Legislative Auditor shall audit prosecuting attorneys in the
29 state.

30 (b) Regulatory Basis of Presentation. (1) For prosecuting attorney
31 financial audits, the financial statements shall be presented on a fund basis
32 format with, as a minimum, the general fund presented separately and all
33 other funds included in the audit presented in the aggregate.

34 (2) The financial statements shall consist of the following:

35 (i) A balance sheet;

36 (ii) A statement of revenues (receipts),

1 expenditures (disbursements), and changes in fund equity (balances); and
2 (iii) Notes to the financial statements.

3 (3) The report shall include as supplemental information a
4 schedule of capital assets, including land, buildings, and equipment.

5
6 10-4-415. Monitoring of reports by the Legislative Joint Auditing
7 Committee.

8 The Legislative Joint Auditing Committee shall monitor reports
9 presented to the committee to ensure that they meet the needs of the General
10 Assembly, entities of the state, political subdivisions of the state,
11 schools, and the general public.

12
13 10-4-416. Access to records.

14 (a)(1) The Legislative Auditor and authorized employees of the
15 Division of Legislative Audit shall have access at all times to any books,
16 accounts, reports, electronic data, vouchers, or other records, confidential
17 or otherwise, of any entity of the state or political subdivision of the
18 state that are deemed necessary to audit transactions related to public
19 funds.

20 (2) Any business contracting with an entity of the state or a
21 political subdivision of the state to provide electronic or other access to
22 records of a public entity shall provide the Division of Legislative Audit
23 access to the public entity's records without charge or reimbursement.

24 (b) In the performance of the Legislative Auditor's duties, the
25 Legislative Auditor or the Legislative Auditor's authorized assistants may
26 ascertain, inspect, confirm, copy, audit, and examine any financial records,
27 documents, or accounts of any financial institution, business, or nonprofit
28 entity or any other person or entity regarding transactions or relationships
29 with an entity of the state or a political subdivision of the state.
30 However, in the investigation of documents, books, and records regarding
31 receipt, expenditure, or disbursement of other funds, the Legislative Auditor
32 must determine, subject to approval of the Legislative Joint Auditing
33 Committee or its executive committee, that the investigation of the
34 documents, books and records is necessary to verify any audit of an entity of
35 the state or a political subdivision of the state or to investigate
36 misappropriation of other funds.

1 (c) No financial institution, business, nonprofit entity, or any other
2 person or entity shall be liable for making available to the Legislative
3 Auditor any of the information required by the Legislative Auditor under this
4 section.

5 (d) Nothing in this section shall be construed as authorizing or
6 permitting the release of information prohibited by law or not subject to
7 public inspection under the provisions of the Freedom of Information Act of
8 1967 or other applicable law. All records, documents, correspondence, or
9 other data of a person, foundation, nonprofit corporation or any other entity
10 holding other funds that would infringe upon the rights, privacy, or
11 confidentiality of donors of private funds to the person, foundation,
12 nonprofit corporation, or other entity are exempt from public disclosure.
13 Any working papers or other data relating to the donor information examined
14 by the Legislative Auditor under this chapter are confidential and exempt
15 from public disclosure.

16 (e) Records that are exempt from public disclosure in the hands of the
17 entity's custodian remain exempt from public disclosure in the hands of the
18 Legislative Auditor and the Division of Legislative Audit.

19 (f) Any person knowingly providing false documents, records, or other
20 data to the Legislative Auditor or his or her authorized assistants, upon the
21 finding by a circuit court, shall be guilty of providing false information
22 and shall be punished in the same manner as a person guilty of tampering with
23 a public record.

24
25 10-4-417. Presentation and filing of audit reports.

26 (a) All audit reports prepared by the Division of Legislative Audit
27 and any audit report required to be filed with the Legislative Auditor or the
28 Division of Legislative Audit shall be presented to the Legislative Joint
29 Auditing Committee or a standing committee thereof.

30 (b) Copies of all audit reports prepared by the Division of
31 Legislative Audit, and any audit report required to be filed with the
32 Legislative Auditor or the Division of Legislative Audit shall be presented
33 on the division's website in a manner suitable for downloading and printing.

34 (c) All final reports shall be open to public inspection after
35 presentation to the Legislative Joint Auditing Committee or after being
36 approved for early release by the cochairs of the Legislative Joint Auditing

1 Committee.

2 (d) The governing body and executive official of an entity of the
3 state or political subdivision of the state shall receive a copy of the
4 entity's audit report prior to presentation to the Legislative Joint Auditing
5 committee. Until the reports are presented to the committee or approved by
6 early release by the committee cochairs, the reports are not considered
7 public information.

8
9 10-4-418. Review of audit report by governing body.

10 (a) The audit reports and accompanying comments and recommendations
11 relating to any entity of the state or political subdivision of the state
12 shall be reviewed by the applicable governing body if the entity has such a
13 governing body.

14 (b)(1) The audit report and accompanying comments and recommendations
15 shall be reviewed at the first regularly scheduled meeting following receipt
16 of the audit report if the audit report is received by the governing body at
17 least ten (10) days prior to the regularly scheduled meeting.

18 (2) If the audit report is received by the governing body less
19 than ten (10) days prior to a regularly scheduled meeting, the audit report
20 shall be reviewed at the regularly scheduled meeting falling within the ten-
21 day period or the next regularly scheduled meeting subsequent to the ten-day
22 period.

23 (c) The governing body shall take appropriate action relating to each
24 finding and recommendation contained in the audit report.

25 (d) The minutes of the governing body shall document the review of the
26 findings and recommendations and the action taken by the governing body.

27
28 10-4-419. Report of improper or illegal practices.

29 (a)(1) If an audit report presented to the Legislative Joint Auditing
30 Committee or the appropriate standing subcommittee of the committee reflects
31 evidence of improper practices of financial administration or inadequacy of
32 fiscal records, the Legislative Auditor shall report the evidence to the
33 appropriate executive official or officials affected thereby and to the
34 governing body of the entity of the state or political subdivision of the
35 state.

36 (2) If the findings relate to an entity of the state, the

1 Legislative Auditor shall also report the findings to the Chief Fiscal
2 Officer of the State.

3 (3) If the findings relate to a prosecuting attorney's office,
4 the Legislative Auditor shall also report the findings to the Attorney
5 General for review and appropriate action.

6 (b)(1) If an audit report presented to the Legislative Joint Auditing
7 Committee or the appropriate standing committee thereof reflects evidence of
8 apparent unauthorized disbursements or unaccounted-for funds or property by a
9 public official or employee, the Legislative Auditor shall promptly report
10 the transactions in writing to the prosecuting attorney for the county in
11 which the entity of the state or the political subdivision of the state is
12 located, the Governor, the appropriate executive official or officials
13 affected thereby, and the governing body of the entity of the state or
14 political subdivision of the state.

15 (2) If the findings relate to an entity of the state, the
16 Legislative Auditor shall also report the findings to the Chief Fiscal
17 Officer of the State.

18 (3) If the findings relate to a prosecuting attorney's office,
19 the Legislative Auditor shall also report the same to the Attorney General
20 for review and appropriate action.

21 (c)(1) The Legislative Auditor shall notify and cooperate with the
22 appropriate prosecuting attorney on all matters that appear to involve a
23 criminal offense.

24 (2) Upon request and with the approval of the cochairs of the
25 committee, the Legislative Auditor shall cooperate in any other
26 investigations by the appropriate prosecuting attorney, the Department of
27 Arkansas State Police, or any other state or federal law enforcement agency.

28 (d)(1) While the Legislative Joint Auditing Committee is not
29 established as an agency to effect through its own direct action the
30 correction of improper practices of financial administration or the
31 inadequacy of fiscal records, the prosecution of defaulting public officials,
32 or the improvement of accounting systems in any entity of the state or
33 political subdivision of the state, nevertheless, it is determined that the
34 action or nonaction on the part of the appropriate public officials in
35 respect to the correction of the matters when called to their attention or in
36 respect to the institution of criminal proceedings, where proper, has

1 pertinent bearing upon the question of the necessity for future remedial
2 legislation.

3 (2) It is for this reason that the committee is authorized to
4 inform public officials to the extent provided by law of the findings of the
5 Legislative Auditor in respect to any such matters.

6 (e)(1) If the Legislative Joint Auditing Committee determines that an
7 entity of the state or a political subdivision of the state has not corrected
8 the deficiencies noted in one (1) or more previous reports, the committee may
9 request the prosecuting attorney of the judicial district in which the entity
10 of the state or the political subdivision of the state is located to take
11 appropriate action to assure that the records of the entity of the state or
12 the political subdivision of the state are maintained in accordance with law.

13 (2) If the prosecuting attorney fails or refuses to take
14 appropriate action within a reasonable time after receipt of notice from the
15 committee that an entity of the state or a political subdivision of the state
16 is not maintaining its records in substantial compliance with law, the
17 committee may request the Attorney General to take such appropriate action as
18 may be necessary to assure that the records of the entity of the state or
19 political subdivision of the state are maintained in compliance with law.

20 (f)(1) By June 30 of each year, the Attorney General and each
21 prosecuting attorney to whom the Legislative Joint Auditing Committee has
22 reported a matter under this section shall file with the Legislative Council
23 and the Legislative Joint Auditing Committee a disposition report on the
24 status of the matters which have not been previously reported as resolved to
25 the Legislative Council and the Legislative Joint Auditing Committee.

26 (2) Each disposition report shall include, but is not limited
27 to:

28 (A) The date the matter was reported to the Attorney
29 General or the prosecuting attorney;

30 (B) The amount of loss or funds unaccounted for in
31 connection with the matter;

32 (C) The status or disposition of the matter; and

33 (D) Other comments pertinent to the investigation or
34 disposition of the matter.

35
36 10-4-420. Testimony before courts.

1 (a) In all criminal or civil actions brought as the result of the
2 findings set forth in any audit report of the Legislative Auditor, the
3 Legislative Auditor or his or her assistants, upon request of the proper
4 officers of the court, shall give testimony and otherwise make their services
5 available in the prosecution of any action.

6 (b) The Legislative Auditor and his or her assistants shall not be
7 entitled to witness fees for making the testimony.

8
9 10-4-421. Subpoenas – Witnesses – Penalties for failure to appear –
10 Perjury.

11 (a) In connection with an audit of any entity of the state or a
12 political subdivision of the state or an audit related to any transactions or
13 relationships with the entities, the Legislative Auditor may subpoena records
14 or summon and subpoena any person whose testimony may be desired or deemed
15 necessary to appear before him or her at a time and place and with such
16 papers, files, and records as may be named in the summons or subpoena.

17 (b) In conducting any audit or examination the Legislative Auditor or
18 any authorized assistant has the authority to administer oaths.

19 (c) Any person summoned to appear before the Legislative Auditor or
20 any of his or her authorized assistants to testify or submit papers, files,
21 and records as required in this section shall receive the same compensation
22 as is received by persons serving as witnesses in circuit courts of this
23 state.

24 (d)(1) If any person subpoenaed to appear by the Legislative Auditor
25 fails to appear or to produce books, documents, or records subpoenaed, the
26 fact shall be certified to the circuit court of the county in which the
27 hearing is held, and the circuit court shall punish the person for contempt
28 in the same manner as punishment for contempt is imposed for failure to
29 respond to a subpoena or directive of the circuit court.

30 (2) If a person placed under oath or subpoenaed by the
31 Legislative Auditor, his or her authorized assistants, or the Legislative
32 Joint Auditing Committee knowingly gives false testimony that is material to
33 an audit upon conviction by a court of competent jurisdiction that person
34 shall be deemed guilty of perjury.

35 (e)(1) Subpoenas issued by the Legislative Auditor shall be served by
36 the sheriff of the county in which the person, books, records, or documents

1 subpoenaed are located, and the sheriff shall be entitled to the same fees
2 for the service of process as provided by law for service of process issued
3 by the circuit court.

4 (2) However, at its option the Legislative Auditor may direct
5 the Department of Arkansas State Police to serve any subpoena.

6
7 10-4-422. Records – Public inspection.

8 (a) The Legislative Auditor shall keep, or cause to be kept, a
9 complete, accurate, and adequate set of fiscal transactions of the Division
10 of Legislative Audit.

11 (b) The Legislative Auditor shall also keep paper, digital, or
12 electronic copies of all audit reports, examinations, investigations, and any
13 other reports or releases issued by the Legislative Auditor.

14 (c)(1) All working papers, including communications, notes, memoranda,
15 preliminary drafts of audit reports, and other data gathered in the
16 preparation of audit reports by the division are exempt from all provisions
17 of the Freedom of Information Act of 1967, § 25-19-101 et seq., and are not
18 to be considered public documents for purposes of inspection or copying under
19 the Freedom of Information Act of 1967, § 25-19-101 et seq., or any other law
20 of the State of Arkansas, except as provided in this subsection (c).

21 (2) After any audit report has been presented to the Legislative
22 Joint Auditing Committee members, the audit report and copies of any
23 documents contained in the working papers of the division shall be open to
24 public inspection, except documents specifically exempted from disclosure
25 under the Freedom of Information Act of 1967, § 25-19-101 et seq.,
26 unsubstantiated allegations obtained in complying with the provisions of the
27 American Institute of Certified Public Accountants' Statement on Auditing
28 Standards Number 99 or other professional guidelines regarding the detection
29 of fraud, and documents which disclose auditing procedures and techniques as
30 defined in subdivision (c)(3) of this section.

31 (3) As used in this subsection (c):

32 (A) "Audit program" means the instructions and guidelines
33 formulated by the division to inform its accountants about the examination
34 procedures to be followed in the course of examining records and accounts to
35 verify their accuracy, including verifications that the examination
36 procedures have been followed; and

1 (B) "Documents which disclose auditing procedures and
2 techniques" includes:

3 (i) Internal control questionnaires consisting of
4 the checklist of accounting and administrative procedures employed by the
5 division in the course of performing an audit; and

6 (ii) An audit program.

7
8 10-4-423. Seal

9 The Secretary of State shall procure an official seal for the Division
10 of Legislative Audit.

11
12 10-4-424. Audit of data processing operations.

13 (a) The Division of Legislative Audit may conduct audits of all or any
14 part of automated data processing operations or systems of any entity of the
15 state or political subdivision of the state.

16 (b)(1)(A) Data processing charges incurred in the performance of
17 audits or audit-related tasks by the division shall be absorbed by the state
18 agency or political subdivision of the state processing data for the computer
19 application being accessed or audited.

20 (B) However, the use shall not interfere with or impede
21 normal processing by the data processing installation.

22 (2) The data processing provider shall provide requested data or
23 other information or services to the Division of Legislative Audit within ten
24 (10) days of the request, unless another date is agreed to by the Legislative
25 Auditor.

26 (c) The Department of Information Systems, its successor agency, or
27 other entities of the state or political subdivisions of the state that
28 provide Internet, network, or other computer services or information to an
29 entity of the state or a political subdivision of the state shall provide
30 access to all data, support, or other necessary information services to the
31 Division of Legislative Audit in connection with their functions at no cost
32 to the division.

33 (d) In connection with any audit by the Division of Legislative Audit,
34 contractual providers of data processing or other computer-related services
35 to entities of the state or political subdivisions of the state shall
36 cooperate and provide requested information at no cost to the division.

1 (e) All contracts by entities of the state and political subdivisions
2 of the state with vendors for data processing or other computer services
3 shall contain a provision permitting the Division of Legislative Audit access
4 and authority to audit computer applications supplied by vendors.

5
6 10-4-425. Format of private audit reports.

7 (a) To provide for a consistent and understandable financial format,
8 all financial audit reports prepared by certified public accountants in
9 private practice or public accountants of entities of the state or political
10 subdivisions of the state shall be in substantially the same form as reports
11 prepared by the Legislative Auditor for a similar governmental entity.

12 (b) The audit reports shall present the financial information and
13 comments in a similar format as audit reports of the Legislative Auditor.
14 The reports shall include coverage of all applicable laws that relate to the
15 operation of the governmental unit, including coverage of purchasing,
16 bonding, revenue, and expenditures with comments on any apparent violation of
17 applicable state or local legislative acts, codes, or regulations.

18 (c)(1) The Legislative Joint Auditing Committee shall develop a system
19 that allows an auditor in private practice to present a proposed format for
20 preparing a given audit report on one (1) of the named governmental units for
21 the review of the committee.

22 (2) If the committee finds that the audit report format is
23 similar to the audit reports prepared by the Legislative Auditor, then the
24 Committee shall approve the format of the audit on the named governmental
25 units.

26 (3) If the private auditor's format does not meet the approval
27 of the committee, then the committee may authorize and direct that the audit
28 shall be conducted by the staff of the Legislative Auditor.

29
30 10-4-426. Continuing professional education courses.

31 (a) In addition to contracting with private entities, the Division of
32 Legislative Audit may contract and pay entities of the state or political
33 subdivisions of the state or any of their part-time or full-time employees
34 for services rendered or for materials, supplies, or other expenses incurred
35 in conducting continuing professional education courses for the staff of the
36 division.

1 (b) Any funds received by public employees under this section shall be
2 considered supplemental to their regular salaried positions and shall not be
3 subject to the restrictions of § 6-63-307, § 19-4-1604, or other statutory
4 salary limitations regarding line item maximums or grades and steps.

5 (c) This section applies whether the public employee is paid directly
6 or indirectly by an entity of the state or a political subdivision of the
7 state.

8
9 10-4-427. Claims against sureties.

10 (a) With the approval of the Legislative Joint Auditing Committee, the
11 Legislative Auditor shall give notice and make proof of loss to and demand
12 payment of the surety on any bond covering an official or employee in which
13 the audit report of the records of that official or employee reflects any
14 shortage or other liability for which that official or employee and his or
15 her surety may in any way be liable.

16 (b) Within a reasonable time after the Legislative Auditor has given
17 notice and made proof of loss and demand for payment as stated in subsection
18 (a) of this section, the surety shall make payment of the amounts found to be
19 due in the name of the appropriate entity and forward the payment to the
20 Legislative Auditor. The Legislative Auditor shall forthwith transmit the
21 payments received to the treasurers of the respective local taxing units with
22 instructions to credit the amounts received to the accounts entitled to the
23 funds.

24 (c) The requirements of the self-insured fidelity bond program, §§ 21-
25 2-701 – 21-2-711, shall apply to those officials or employees covered by the
26 program, including, but not limited to, the provision for timing of coverage
27 determinations by the Governmental Bonding Board under § 21-2-709.

28
29 SECTION 8. Arkansas Code § 14-77-102(5)(B)(viii), concerning the list
30 of fiscal responsibility and management law applicable to municipalities
31 under the Local Fiscal Management Responsibility Act, is amended to read as
32 follows:

33 (viii) Review of audit reports by legislative
34 governing bodies, ~~§ 10-4-219~~ § 10-4-418;

35
36 SECTION 9. Arkansas Code § 16-21-1107(e)(1)(C), concerning the

1 prosecuting attorney in the Sixth Judicial District and the administration of
2 the district's Drug Law Enforcement Program grant, is amended to read as
3 follows:

4 (C) All moneys from the grant are appropriated on a
5 continuing basis and are subject to the prosecuting attorney's financial
6 management system, ~~§ 10-4-209~~ and are subject to audit by the Division of
7 Legislative Audit.

8
9 SECTION 10. Arkansas Code § 16-21-2007(c), concerning the prosecuting
10 attorney in the Fifteenth Judicial District and the administration of the
11 district's Drug Law Enforcement Program grant, is amended to read as follows:

12 (c) The office of the Prosecuting Attorney for the Fifteenth Judicial
13 District shall administer its Drug Law Enforcement Program grant from the
14 Office of Intergovernmental Services of the Department of Finance and
15 Administration. Expenditures may be made only for purposes of the grant. All
16 moneys from the grant are appropriated on a continuing basis and are subject
17 to ~~§ 10-4-209~~, the prosecuting attorneys' financial management system. All
18 law enforcement agent positions shall have peace officer jurisdiction
19 throughout the Fifteenth Judicial District and may serve process issuing out
20 of all courts within the state.

21
22 SECTION 11. Arkansas Code Title 10, Chapter 4, Subchapters 1 and 2 are
23 repealed.

24 ~~10-4-101. Division of Legislative Audit created—Authority—~~
25 ~~Exemption.~~

26 ~~(a) There is created under the authority of the General Assembly a~~
27 ~~"Division of Legislative Audit".~~

28 ~~(b) The division shall be headed by a Legislative Auditor who is~~
29 ~~vested with the authority and responsibility of auditing each agency,~~
30 ~~department, board, commission, council, officer, or official of the state~~
31 ~~government of Arkansas or any function thereof, receiving state appropriated~~
32 ~~funds, cash funds, or any other fund derived under the authority or by virtue~~
33 ~~of state law.~~

34 ~~(c) However, any licensing board may be exempt from the provision of~~
35 ~~this section if it files an annual audit with the Legislative Auditor.~~

36

1 ~~10-4-102. Qualifications of Legislative Auditor.~~

2 ~~(a) The Legislative Auditor, as head of the Division of Legislative~~
3 ~~Audit, shall be a certified public accountant of Arkansas with at least five~~
4 ~~(5) years' practice in the profession prior to his or her appointment.~~

5 ~~(b) The Legislative Auditor shall not be related in the second degree~~
6 ~~of consanguinity or affinity to any state officer, department head, or~~
7 ~~disbursing officer of any department, office, or agency of the state, whom~~
8 ~~under this act it shall be his or her duty to audit.~~

9 ~~(c) The Legislative Auditor shall not serve in any ex officio capacity~~
10 ~~on any administrative board or commission or have any financial interest in~~
11 ~~the transactions of any department, board, bureau, institution, commission,~~
12 ~~or agency of the state.~~

13
14 ~~10-4-103. Employment and removal of Legislative Auditor.~~

15 ~~(a) The Legislative Auditor shall be employed by a majority vote of~~
16 ~~the membership of the Legislative Joint Auditing Committee, and the name of~~
17 ~~the person so selected shall be presented to each house of the General~~
18 ~~Assembly for confirmation by both houses if the General Assembly is in~~
19 ~~session at the time of the selection.~~

20 ~~(b) If the Legislative Auditor is selected while the General Assembly~~
21 ~~is not in session, he or she shall in all respects carry out the functions,~~
22 ~~powers, and duties as provided in this act until the next regular session of~~
23 ~~the General Assembly. At that time the name of the person selected as~~
24 ~~Legislative Auditor shall be presented to both houses of the General Assembly~~
25 ~~for confirmation. Unless upon such presentation his or her selection shall be~~
26 ~~rejected, he or she shall in all respects continue to carry out the~~
27 ~~functions, powers, and duties provided in this act.~~

28 ~~(c) When a vacancy in the position of Legislative Auditor exists, the~~
29 ~~position shall be filled by the Committee by majority action of the~~
30 ~~membership thereof, subject to approval of both houses of the General~~
31 ~~Assembly at its next regular session.~~

32 ~~(d) The Legislative Auditor may be removed at any time by a majority~~
33 ~~vote of the membership of the Committee for cause after a public hearing~~
34 ~~thereon.~~

35
36 ~~10-4-104. Written appointment of Legislative Auditor.~~

1 ~~The cochairs of the Legislative Joint Auditing Committee, upon vote or~~
2 ~~approval of the majority of the membership of the Committee, shall execute a~~
3 ~~written appointment of the person so employed as the Legislative Auditor and~~
4 ~~cause the written appointment to be filed in the office of the Secretary of~~
5 ~~State.~~

6
7 ~~10-4-105. Legislative Auditor—Oath and bond.~~

8 ~~(a) Upon appointment, the Legislative Auditor shall qualify by taking~~
9 ~~the constitutional oath and executing a bond to cover his or her official~~
10 ~~acts and the acts of his or her employees, to be approved by the Legislative~~
11 ~~Joint Auditing Committee, payable to the State of Arkansas, in the sum of~~
12 ~~twenty five thousand dollars (\$25,000), conditioned upon the faithful~~
13 ~~discharge of his or her duties, with a surety company authorized to do~~
14 ~~business in the State of Arkansas.~~

15 ~~(b) The premium due the surety company for the execution of such bond~~
16 ~~shall be paid for by the state.~~

17 ~~(c) The person so appointed as Legislative Auditor, within ten (10)~~
18 ~~days after his or her appointment, shall file in the office of the Secretary~~
19 ~~of State his or her oath and approved bond, and if he or she shall fail to do~~
20 ~~so, the Committee or a majority of the membership thereof shall appoint some~~
21 ~~other qualified person to fill the office.~~

22 ~~(d) The Legislative Auditor may require any of his or her employees to~~
23 ~~post bond to reimburse him or her for any loss that he or she might incur on~~
24 ~~his or her bond due to the acts of such employees.~~

25
26 ~~10-4-106. Duties of Legislative Auditor.~~

27 ~~(a) The Legislative Auditor shall have the authority and it shall be~~
28 ~~his or her duty to:~~

29 ~~(1) Perform an audit of all accounts, books, and other financial~~
30 ~~records of the state government of any state officer, department, board,~~
31 ~~bureau, institution, commission, or agency thereof and to prepare a written~~
32 ~~report of such audit to the General Assembly and any other person hereafter~~
33 ~~designated;~~

34 ~~(2) Personally, or by his or her duly authorized assistants,~~
35 ~~examine and audit all fiscal books, records, and accounts of all custodians~~
36 ~~of public funds and of all disbursing officers of the state government of~~

1 ~~Arkansas, making independent verification of all assets, liabilities,~~
2 ~~revenues, and expenditures of the state, its departments, boards, bureaus,~~
3 ~~institutions, commissions, or agencies thereof now in existence or hereafter~~
4 ~~created;~~

5 ~~(3)(A) Make any recommendations to the General Assembly in~~
6 ~~respect to the alteration or improvement of the accounting system used by any~~
7 ~~office, agency, department, board, commission, and institution of the state~~
8 ~~government, in which connection the Legislative Auditor shall make available~~
9 ~~to the Chief Fiscal Officer of the State a copy of any recommendations.~~

10 ~~(B)(i) In respect to any accounting systems established~~
11 ~~for any state agency, office, department, board, commission, or institution~~
12 ~~pursuant to the state fiscal code or otherwise, the Legislative Auditor may~~
13 ~~recommend to the General Assembly any changes which in his or her opinion~~
14 ~~might improve the accounting system, which recommendation in each instance~~
15 ~~shall be made available to the Chief Fiscal Officer of the State.~~

16 ~~(ii) In cases where the Legislative Auditor finds~~
17 ~~that the accounting system prescribed by the Chief Fiscal Officer of the~~
18 ~~State has not been installed or followed by any agency, officer, or~~
19 ~~department of the state or may be improved, he or she shall report the~~
20 ~~failure to the General Assembly and may make such recommendations as he or~~
21 ~~she considers advisable or necessary for the alteration or correction of the~~
22 ~~accounting system;~~

23 ~~(4) Require the aid and assistance of all executives and~~
24 ~~officials, auditors, accountants, and other employees of each and every~~
25 ~~department, board, bureau, institution, commission, or agency of the state at~~
26 ~~all times in the inspection, examination, and audit of any and all books,~~
27 ~~accounts, and records of the several departments; and~~

28 ~~(5) Cause to be maintained a sufficient accounting of the audit~~
29 ~~costs incurred by the Division of Legislative Audit in auditing state~~
30 ~~agencies, boards, commissions, and colleges and universities, and in order to~~
31 ~~provide a basis for determining a reasonable reimbursement from these~~
32 ~~entities for the cost of the auditing of federal funds received by these~~
33 ~~entities, with the funds being charged with the reimbursements. In the event~~
34 ~~it is determined by the Legislative Joint Auditing Committee that the~~
35 ~~reimbursement for the auditing of funds is appropriate, the Legislative~~
36 ~~Auditor and the Director of the Department of Finance and Administration~~

1 shall develop guidelines for effecting proper budgetary and accounting
2 procedures for such reimbursements by fund transfers.

3 (b) ~~As soon as practical after the close of each fiscal year, the~~
4 ~~Legislative Auditor shall certify to the Chief Fiscal Officer of the State~~
5 ~~the amount of funds expended during the fiscal year just ending which is to~~
6 ~~be allocated to the State Audit Program and to the Local Audit Program. The~~
7 ~~Chief Fiscal Officer of the State shall utilize this certification in~~
8 ~~determining those expenses which are eligible to be reimbursed from the Ad~~
9 ~~Valorem Tax Trust Fund.~~

10 (c)(1) ~~The Legislative Auditor shall have access at all times to all~~
11 ~~of the books, accounts, reports, confidential or otherwise, vouchers, or~~
12 ~~other records of information in any state office, department, board, bureau,~~
13 ~~or institution of this state.~~

14 (2) ~~Nothing in this section shall be so construed as authorizing~~
15 ~~or permitting the publication of information prohibited by law.~~

16 (d) ~~The Legislative Auditor shall execute the duties and~~
17 ~~responsibilities of the position of Legislative Auditor as provided by law.~~

18
19 ~~10-4-107. Disbursing officer — Payment of salaries.~~

20 (a) ~~The Legislative Auditor is designated as disbursing officer for~~
21 ~~the division, and all vouchers issued in the payment of salaries and expenses~~
22 ~~incurred in the operations of the division shall be approved by the~~
23 ~~Legislative Auditor before they are paid.~~

24 (b) ~~In case a vacancy exists in the position of Legislative Auditor,~~
25 ~~the Legislative Joint Auditing Committee shall designate a disbursing agent~~
26 ~~for the division who shall serve until the position of the Legislative~~
27 ~~Auditor may be filled.~~

28 (c) ~~The salary of the Legislative Auditor and the other employees of~~
29 ~~the division shall be paid in the same manner and through the same procedure~~
30 ~~used for the payment of salaries of other state employees.~~

31
32 ~~10-4-108. Personnel.~~

33 (a) ~~Subject to a biennial appropriation therefor, all auditors,~~
34 ~~stenographic and clerical assistants, and other employees of the Division of~~
35 ~~Legislative Audit shall be named and appointed by the Legislative Auditor.~~

36 (b) ~~The Legislative Auditor shall be free to select the most efficient~~

1 ~~personnel available for each and every position in the division, to the end~~
2 ~~that he or she may render to the members of the General Assembly that service~~
3 ~~which they have a right to expect. The Legislative Auditor is authorized to~~
4 ~~conduct such professional examination as he or she may deem expedient in~~
5 ~~determining the qualifications of the persons whom he or she contemplates~~
6 ~~placing on his or her staff.~~

7 ~~(c) No person related to any member of the General Assembly or to the~~
8 ~~Legislative Auditor in the first degree of consanguinity or affinity may be~~
9 ~~employed on the staff of the division.~~

10 ~~(d) It is the intention and desire of the General Assembly to free the~~
11 ~~Legislative Auditor and his or her staff from partisan politics, and it is~~
12 ~~declared to be against public policy for any member of the General Assembly~~
13 ~~or any official or employee of the state government or any board, bureau,~~
14 ~~department, or institution thereof to recommend or suggest the appointment of~~
15 ~~any person to a position on the staff of the Legislative Auditor.~~

16
17 ~~10-4-109. Special audits.~~

18 ~~(a) The Legislative Joint Auditing Committee shall direct the~~
19 ~~Legislative Auditor to make any special audit or investigation that in its~~
20 ~~judgment is proper and necessary to carry out the purpose and intent of this~~
21 ~~act or to assist the General Assembly in the proper discharge of its duties.~~

22 ~~(b) Any member of the General Assembly, by written request filed with~~
23 ~~the Committee at least six (6) days prior to any regular or special meeting~~
24 ~~of the committee, may request a special auditing of any agency of the state.~~
25 ~~Upon the vote of the majority of the membership of the Committee approving~~
26 ~~the request, the Legislative Auditor shall make the audit.~~

27
28 ~~10-4-110. Audit and biennial reports.~~

29 ~~(a) Copies of each audit report shall be filed with the agency~~
30 ~~concerned, the Legislative Joint Auditing Committee, the Secretary of State,~~
31 ~~and the Chief Fiscal Officer of the State.~~

32 ~~(b)(1) The Legislative Auditor shall file a biennial report with the~~
33 ~~Legislative Council, the Governor, the Speaker of the House of~~
34 ~~Representatives, the Lieutenant Governor, each member of the General~~
35 ~~Assembly, the Chief Fiscal Officer of the State, in the office of the~~
36 ~~Secretary of State, and in the office of each county clerk.~~

1 ~~(2) Each biennial report shall contain, among other things,~~
2 ~~copies of, or the substance of, reports made to the various departments,~~
3 ~~bureaus, institutions, and boards, as well as a summary of recommendations~~
4 ~~made in regard thereto.~~

5 ~~(c) Reports shall also contain specific recommendations to the General~~
6 ~~Assembly for the amendment of existing laws or the passage of new laws~~
7 ~~designed to improve the functioning of various departments, boards, bureaus,~~
8 ~~institutions, or agencies of state government to the end that more efficient~~
9 ~~service may be rendered and the cost of government reduced.~~

10 ~~(d) All recommendations submitted by the Legislative Auditor shall be~~
11 ~~confined to those matters properly coming within his or her jurisdiction,~~
12 ~~which is to see that the laws passed by the General Assembly dealing with the~~
13 ~~expenditure of public moneys are in all respects carefully observed and that~~
14 ~~the attention of the General Assembly is directed to all cases of violations~~
15 ~~of the law and to those instances where there is need for change of existing~~
16 ~~laws or the passage of new laws to secure the efficient spending of public~~
17 ~~funds. The Legislative Auditor shall not include in his or her~~
18 ~~recommendations to the General Assembly any recommendations as to the sources~~
19 ~~from which taxes shall be raised to meet the governmental expense.~~

20 ~~(e) All reports of the Legislative Auditor shall call attention to any~~
21 ~~funds which, in his or her opinion, have not been expended in accordance with~~
22 ~~law or appropriation by the General Assembly and shall make recommendations~~
23 ~~to the General Assembly as to the manner or form of appropriations which will~~
24 ~~avoid any such improper expenditure of money in the future.~~

25 ~~(f) The Committee shall direct the printing or mimeographing of such~~
26 ~~number of any reports as it thinks necessary and proper.~~

27 ~~(g) All reports filed with the Secretary of State and each county~~
28 ~~clerk shall be open to public inspection.~~

29
30 ~~10-4-111. Report of improper or illegal practices.~~

31 ~~(a) If a state agency audit report or other statutorily allowed~~
32 ~~examination presented to the Legislative Joint Auditing Committee or the~~
33 ~~appropriate standing subcommittee thereof reflects evidence of improper~~
34 ~~practices of financial administration or inadequacy of fiscal records, the~~
35 ~~Legislative Auditor shall report the same to the Governor, the appropriate~~
36 ~~department head or heads affected thereby, and the governing body of the~~

1 department.

2 (b) ~~If an audit report or other statutorily allowed examination~~
3 ~~presented to the Committee or the appropriate standing subcommittee thereof~~
4 ~~reflects evidence of apparent unauthorized disbursements or unaccounted for~~
5 ~~funds or property by a public official or employee, the Legislative Auditor~~
6 ~~shall forthwith report the transactions in writing to the prosecuting~~
7 ~~attorney for the county in which the public agency or political subdivision~~
8 ~~is located, the Governor, the appropriate department head or heads affected~~
9 ~~thereby, and the governing body of the department or political subdivision.~~

10 (c) ~~The Legislative Auditor shall notify and cooperate with the~~
11 ~~appropriate prosecuting attorney on all matters that appear to involve a~~
12 ~~criminal offense. Upon request and with the approval of the cochairs of the~~
13 ~~Committee, the Legislative Auditor shall cooperate in any other~~
14 ~~investigations by the appropriate prosecuting attorney, the Department of~~
15 ~~Arkansas State Police, or any other law enforcement agency.~~

16 (d) ~~While the Committee is not established as an agency to effect~~
17 ~~through its own direct action the correction of improper practices of~~
18 ~~financial administration or inadequacy of fiscal records, the prosecution of~~
19 ~~defaulting public officials, or the improvement of accounting systems in any~~
20 ~~state department, nevertheless, it is determined that the action or nonaction~~
21 ~~on the part of the appropriate public officials in respect to the correction~~
22 ~~of such matters when called to their attention or in respect to the~~
23 ~~institution of criminal proceedings, where proper, has a pertinent bearing~~
24 ~~upon the question of the necessity for future remedial legislation. It is for~~
25 ~~this reason that the Committee is authorized to inform public officials to~~
26 ~~the extent provided by law of the findings of the Legislative Auditor in~~
27 ~~respect to any such matters.~~

28
29 10-4-112. Examination of bank records.

30 (a) ~~In verifying any of the audits made, the Legislative Auditor shall~~
31 ~~have the right to ascertain the amounts on deposit in any bank belonging to~~
32 ~~any department, board, commission, bureau, institution, or other agency of~~
33 ~~the state government required to be audited and shall have the right to audit~~
34 ~~the account on the books of the bank.~~

35 (b) ~~In addition thereto, the Legislative Auditor shall have the right~~
36 ~~to audit the bank account of any officer or employee of any state office,~~

1 ~~department, institution, bureau, board, commission, or other state agency, or~~
2 ~~the bank account of any other person or firm doing business with the state if~~
3 ~~the Legislative Auditor has reason to believe that the auditing of the~~
4 ~~accounts is necessary for the verifying of any audits made under the~~
5 ~~authority of this act.~~

6 ~~(c) No bank shall be liable for making available to the Legislative~~
7 ~~Auditor any of the information required under the provisions of this section.~~

8
9 ~~10-4-113. Shortages or liabilities—Division's duties in actions.~~

10 ~~(a) It shall be the duty of the Legislative Auditor to give notice and~~
11 ~~proof of loss together with any other supporting papers or evidence to the~~
12 ~~Chief Fiscal Officer of the State of any shortage or other liability of any~~
13 ~~officer or employee of the state that may be determined in the course of or~~
14 ~~as a result of any audit.~~

15 ~~(b) It shall be the duty of the Legislative Auditor to confer with the~~
16 ~~Chief Fiscal Officer of the State and to make available to him or her any~~
17 ~~information or assistance that may be necessary to recover any shortage or~~
18 ~~liability of any officer or employee or from their surety or sureties.~~

19 ~~(c)(1) In all criminal or civil actions brought as the result of the~~
20 ~~findings set forth in any audit report of the Legislative Auditor, the~~
21 ~~Legislative Auditor or his or her assistants making the audit shall upon~~
22 ~~request of the proper officers of the court give testimony and otherwise make~~
23 ~~their services available in the prosecution of any action.~~

24 ~~(2) The Legislative Auditor and his or her assistants shall not~~
25 ~~be entitled to witness fees for making such testimony.~~

26
27 ~~10-4-114. Witnesses—Penalty for failure to appear—Perjury.~~

28 ~~(a) The Legislative Auditor or any of his or her authorized assistants~~
29 ~~shall have the power in making any audit or examination to administer oaths~~
30 ~~and cause to be summoned to appear before them at a time and place and with~~
31 ~~such papers, files, and records as may be named in the summons, any person or~~
32 ~~persons whose testimony may be desired or deemed necessary in the audit or~~
33 ~~examination.~~

34 ~~(b) The power of the Legislative Auditor or any of his or her~~
35 ~~assistants to administer oaths and summon records as mentioned in subsection~~
36 ~~(a) of this section shall apply to all state employees and officials as well~~

1 ~~as to any other person, business, firm, corporation, or association doing~~
2 ~~business with any state agency that the Legislative Auditor or any of his or~~
3 ~~her authorized assistants may have reason to believe have information or~~
4 ~~records that are necessary to a full determination of matters pertaining to~~
5 ~~any audit authorized in this act.~~

6 ~~(c) Any person summoned to appear before the Legislative Auditor or~~
7 ~~any of his or her authorized assistants to testify or submit papers, files,~~
8 ~~and records as required in this section shall receive the same compensation~~
9 ~~as is received by persons serving as witnesses in circuit courts of this~~
10 ~~state.~~

11 ~~(d) Any person who willfully fails or refuses to appear and testify or~~
12 ~~submit papers, files, and records material and pertinent to the examination,~~
13 ~~or willfully refuses to answer any material or pertinent questions propounded~~
14 ~~to him or her by the Legislative Auditor or any of his or her assistants,~~
15 ~~shall be deemed guilty of a misdemeanor. Upon conviction by a court of~~
16 ~~competent jurisdiction, that person shall be fined in any sum not less than~~
17 ~~one hundred dollars (\$100) nor more than five hundred dollars (\$500), and any~~
18 ~~person appearing and willfully and corruptly giving any false testimony that~~
19 ~~is material to the investigation of his or her official conduct and pertinent~~
20 ~~to the examination before the Legislative Auditor or any of his assistants~~
21 ~~shall be deemed guilty of perjury.~~

22
23 ~~10-4-115. Records — Public inspection.~~

24 ~~(a) The Legislative Auditor shall keep, or cause to be kept, a~~
25 ~~complete, accurate, and adequate set of fiscal transactions of the Division~~
26 ~~of Legislative Audit.~~

27 ~~(b) He or she shall also keep a complete file of copies of all audit~~
28 ~~reports, examinations, investigations, and any and all other reports or~~
29 ~~releases issued by him or her or his or her office, and a complete file of~~
30 ~~audit work papers and other evidence pertaining to work of the division.~~

31 ~~(c)(1) All working papers, including notes, memoranda, preliminary~~
32 ~~drafts of audit reports, and other data gathered in the preparation of audit~~
33 ~~reports by the division are exempt from all provisions of the Freedom of~~
34 ~~Information Act of 1967, § 25-19-101 et seq., and are not to be considered~~
35 ~~public documents for purposes of inspection or copying under the Freedom of~~
36 ~~Information Act of 1967 or any other law of the State of Arkansas, except as~~

1 ~~provided in this subsection.~~

2 ~~(2) After any audit report has been presented to the Legislative~~
3 ~~Joint Auditing Committee members, that audit report and copies of any~~
4 ~~documents contained in the working papers of the division shall be open to~~
5 ~~public inspection, except documents specifically exempted from disclosure~~
6 ~~under the Freedom of Information Act of 1967 and except documents which~~
7 ~~disclose auditing procedures and techniques as defined in subdivision (c)(3)~~
8 ~~of this section.~~

9 ~~(3) For the purposes of this subsection, the term "documents~~
10 ~~which disclose auditing procedures and techniques" includes:~~

11 ~~(A) Internal control questionnaires consisting of the~~
12 ~~checklist of accounting and administrative procedures employed by the~~
13 ~~division in the course of performing an audit; and~~

14 ~~(B) "Audit program", which means the instructions and~~
15 ~~guidelines formulated by the division to inform its accountants about the~~
16 ~~examination procedures to be followed in the course of examining records and~~
17 ~~accounts to verify their accuracy, including verifications that the~~
18 ~~examination procedures have been followed.~~

19
20 ~~10-4-116. Seal—Effect.~~

21 ~~(a) The Secretary of State shall procure an official seal for the~~
22 ~~Division of Legislative Audit.~~

23 ~~(b) Every paper or photostatic copy thereof executed by the~~
24 ~~Legislative Auditor in pursuance of law and sealed with the seal of his or~~
25 ~~her office shall be received in evidence in any court or other tribunal and~~
26 ~~may be recorded in the same manner and with like effect as deeds regularly~~
27 ~~acknowledged.~~

28
29 ~~10-4-117. Audit of data processing operations.~~

30 ~~(a) The Division of Legislative Audit shall have the authority to~~
31 ~~conduct audits of all or any part of automated data processing operations or~~
32 ~~systems of any state agency.~~

33 ~~(b) For the purposes of this section, "state agencies" means any state~~
34 ~~agency, board, commission, department, institution, or state-supported~~
35 ~~community college, college, or university of the State of Arkansas.~~

36 ~~(c) Data processing machine usage charges incurred in the performance~~

1 ~~of audits or audit-related tasks by the division will be absorbed by the~~
2 ~~state agency processing data for the computer application being accessed or~~
3 ~~audited, provided that the use will not interfere with or impede normal~~
4 ~~processing by the data processing installation.~~

5
6 ~~10-4-118. Format of private audit reports.~~

7 ~~(a) To provide for a consistent and understandable financial format,~~
8 ~~all audit reports prepared by private certified public accountants or public~~
9 ~~accountants of state or local educational institutions, boards, or~~
10 ~~commissions, and other state agencies shall be in the substantial form as~~
11 ~~reports prepared by the Legislative Auditor or a similar governmental entity.~~

12 ~~(b) The audit reports shall present the financial information and~~
13 ~~comments in a similar format as audit reports of the Legislative Auditor, and~~
14 ~~the reports shall include a coverage of all applicable laws that relate to~~
15 ~~the operation of the governmental unit, including coverage of purchasing,~~
16 ~~bonding, and revenue expenditures with comments on any apparent violation of~~
17 ~~applicable state or local legislative acts.~~

18 ~~(c)(1) The Legislative Joint Auditing Committee shall develop a system~~
19 ~~whereby a private auditor shall be able to present his or her format for~~
20 ~~preparing a given audit report on one (1) of the named governmental units for~~
21 ~~the review of the Committee.~~

22 ~~(2) If the Committee finds that the audit report format is~~
23 ~~similar to the audit reports prepared by the Legislative Auditor, then the~~
24 ~~Committee shall approve the format of the private audits of the named~~
25 ~~governmental units.~~

26 ~~(3) In the event that the private auditor's format does not meet~~
27 ~~the approval of the Committee, then the Committee may authorize and direct~~
28 ~~that the audit shall be done by the staff of the Legislative Auditor.~~

29
30 ~~10-4-119. Continuing professional education courses.~~

31 ~~(a) The Division of Legislative Audit is authorized to contract and~~
32 ~~pay state agencies or institutions of higher education or any of their part-~~
33 ~~time or full-time employees for services rendered, materials, supplies, or~~
34 ~~other expenses incurred in conducting continuing professional education~~
35 ~~courses for the staff of the division.~~

36 ~~(b) Any funds received by the employees under the provisions of this~~

1 ~~section shall be considered supplemental to their regular salaried positions~~
2 ~~and shall not be subject to the restrictions of § 6-63-307, § 19-4-1604, or~~
3 ~~other statutory salary limitations regarding line item maximums or grades and~~
4 ~~steps.~~

5 ~~(c) These provisions apply whether the employee is paid directly or~~
6 ~~indirectly by the state agency or institution of higher education.~~

7
8 ~~10-4-201. Division of Local Affairs and Audits—Directors.~~

9 ~~(a) The Legislative Auditor shall appoint a Director of the Division~~
10 ~~of Local Affairs and Audits who shall serve at his or her pleasure.~~

11 ~~(b) The Director of the Division of Local Affairs and Audits of the~~
12 ~~Division of Legislative Audit, with the approval of the Legislative Joint~~
13 ~~Auditing Committee, shall appoint the directors of the respective Divisions~~
14 ~~of County Audits, Municipal Audits, and School Audits within the Division of~~
15 ~~Local Affairs and Audits.~~

16 ~~(c) With respect to the administration of the various laws of this~~
17 ~~state governing local audits, the Director of the Division of Local Affairs~~
18 ~~and Audits shall possess all powers, functions, and duties with respect to~~
19 ~~local audits as formerly vested in the Office of the State Comptroller as ex~~
20 ~~officio Director of Local Audits, or in the Director of Administration.~~

21 ~~(d) All personnel within the Division of Local Affairs and Audits of~~
22 ~~the Division of Legislative Audit shall be named by the Director of the~~
23 ~~Division of Local Affairs and Audits with the approval of the Legislative~~
24 ~~Auditor and shall serve at the pleasure of the Director of the Division of~~
25 ~~Local Affairs and Audits and the Committee.~~

26
27 ~~10-4-202. Audits authorized—Independent audits.~~

28 ~~(a)(1) The Legislative Auditor has the power and duty, acting through~~
29 ~~his or her duly authorized employees, to conduct audits of the records and~~
30 ~~accounts of all officials or employees of counties, municipalities, school~~
31 ~~districts, county school boards, and educational cooperatives.~~

32 ~~(2) In the alternative, upon approval of the Legislative Joint~~
33 ~~Auditing Committee, the Legislative Auditor may conduct:~~

34 ~~(A) A compilation or a report of agreed upon procedures of~~
35 ~~the records and accounts of all officials or employees of incorporated towns;~~
36 ~~or~~

1 ~~(B) A report of agreed upon procedures of cities of the~~
2 ~~second class.~~

3 ~~(b)(1) Nothing contained in subsection (a) of this section shall be so~~
4 ~~construed as to abridge the right of any school district, any educational~~
5 ~~cooperative, or any municipality to choose and employ accountants licensed~~
6 ~~and in good standing with the Arkansas State Board of Public Accountancy to~~
7 ~~conduct these audits in accordance with Government Auditing Standards issued~~
8 ~~by the Comptroller General of the United States.~~

9 ~~(2) In the alternative, with the approval of the Committee:~~

10 ~~(A) An incorporated town may employ such licensed~~
11 ~~accountants to conduct a compilation or a report of agreed upon procedures as~~
12 ~~provided in subdivision (b)(2)(B) of this section in accordance with~~
13 ~~standards issued by the American Institute of Certified Public Accountants;~~
14 ~~or~~

15 ~~(B)(i) A city of the second class may employ such licensed~~
16 ~~accountants to conduct and prepare a report of agreed upon procedures.~~

17 ~~(ii) The agreed upon procedures and format of the~~
18 ~~report shall be prescribed by the Legislative Auditor and shall include at a~~
19 ~~minimum:~~

20 ~~(a) A reconciliation and confirmation of cash;~~

21 ~~(b) A cash basis balance sheet;~~

22 ~~(c) A statement of cash receipts and~~
23 ~~disbursements; and~~

24 ~~(d) A report on compliance with certain~~
25 ~~Arkansas laws.~~

26 ~~(3)(A) A certified copy of each audit, compilation, or agreed-~~
27 ~~upon procedures report shall be filed with the Division of Legislative Audit~~
28 ~~in a timely manner after completion of the report.~~

29 ~~(B) All compilation reports and reports of agreed upon~~
30 ~~procedures allowed in this section shall be presented to the appropriate~~
31 ~~governing body in the same manner as audit reports.~~

32
33 ~~10-4-203. Records and reports.~~

34 ~~(a) Insofar as it is practical to do so and not inconsistent with the~~
35 ~~law, the Director of the Division of Local Affairs and Audits of the Division~~
36 ~~of Legislative Audit shall establish uniform systems of record keeping within~~

1 ~~the respective counties, school districts, and municipalities.~~

2 ~~(b) The director may require, on forms prescribed and furnished by him~~
3 ~~or her, the filing with the division of financial reports at such times as he~~
4 ~~or she shall deem advisable.~~

5
6 ~~10-4-204. Verifying transactions.~~

7 ~~In verifying any transaction or in determining the nature or manner of~~
8 ~~handling any matter under investigation during the course of any audit, the~~
9 ~~Director of the Division of Local Affairs and Audits of the Division of~~
10 ~~Legislative Audit shall have the right to examine the accounts of any officer~~
11 ~~or employee of any county, school district, or municipality or the records of~~
12 ~~any banking institution or business concern and to require of the proper~~
13 ~~officer of any banking institution or business concern verified statements~~
14 ~~with relation to any such transactions or matters.~~

15
16 ~~10-4-205. Public inspection—Filing of certified copies.~~

17 ~~(a)(1) All working papers, including notes, memoranda, preliminary~~
18 ~~drafts of audit reports, and other data gathered in the preparation of audit~~
19 ~~reports by the Division of Legislative Audit are exempt from all provisions~~
20 ~~of the Freedom of Information Act of 1967, § 25-19-101 et seq., and are not~~
21 ~~to be considered public documents for purposes of inspection or copying under~~
22 ~~the Freedom of Information Act of 1967 or any other law of the State of~~
23 ~~Arkansas, except as provided in this subsection.~~

24 ~~(2) After any audit report has been presented to the Legislative~~
25 ~~Joint Auditing Committee members, that audit report and copies of any~~
26 ~~documents contained in the working papers of the Division of Legislative~~
27 ~~Audit shall be open to public inspection, except documents specifically~~
28 ~~exempted from disclosure under the Freedom of Information Act of 1967 and~~
29 ~~except documents which disclose auditing procedures and techniques as defined~~
30 ~~in subdivision (a)(3) of this section.~~

31 ~~(3) For the purposes of this subsection, the term "documents~~
32 ~~which disclose auditing procedures and techniques" includes:~~

33 ~~(A) Internal control questionnaires consisting of the~~
34 ~~checklist of accounting and administrative procedures employed by the~~
35 ~~Division of Legislative Audit in the course of performing an audit; and~~

36 ~~(B) "Audit program", which means the instructions and~~

1 guidelines formulated by the Division of Legislative Audit to inform its
2 accountants about the examination procedures to be followed in the course of
3 examining records and accounts to verify their accuracy, including
4 verifications that the examination procedures have been followed.

5 (b)(1) ~~After the report of each audit shall have been completed, one~~
6 ~~(1) certified copy of the report shall be retained by the Director of the~~
7 ~~Division of Local Affairs and Audits of the Division of Legislative Audit. In~~
8 ~~addition, one (1) certified copy shall be filed.~~

9 (A) ~~With respect to county audits, with the county judge~~
10 ~~and the county clerk. The clerk of the county court shall promptly notify~~
11 ~~each member of the quorum court of the county by mail that the audit has been~~
12 ~~completed and filed in the office of the county clerk, and it shall be a~~
13 ~~matter of public record.~~

14 (B) ~~With respect to school district audits, with the~~
15 ~~Director of the Department of Education, the county school supervisor, and~~
16 ~~the chair or president of the board of directors of the particular school~~
17 ~~district when the records and accounts of that district have been audited;~~
18 ~~and~~

19 (C) ~~With respect to municipal audits, with the mayor or~~
20 ~~other chief magistrate of the city and the city clerk or town recorder.~~

21 (2) ~~Each audit report, when so filed, shall be a public document~~
22 ~~and shall be subject to and made available for the inspection of any~~
23 ~~interested taxpayer or citizen.~~

24
25 10-4-206. Auditors, accountants, and employees.

26 (a) ~~No auditor or employee of the Division of Local Affairs and Audits~~
27 ~~or of the Division of Legislative Audit shall assist in or conduct the audit~~
28 ~~of the books of any county official if the auditor or employee or the spouse~~
29 ~~of either of them is related in the first degree of consanguinity to any~~
30 ~~county official whose office is subject to be audited by the Division of~~
31 ~~Local Affairs and Audits.~~

32 (b) ~~Each auditor or accountant shall be required to furnish bond of~~
33 ~~such penalty as shall be determined by the Director of the Division of Local~~
34 ~~Affairs and Audits of the Division of Legislative Audit. Any auditor or~~
35 ~~accountant who shall knowingly or willfully make or publish any false~~
36 ~~statement or report concerning the affairs or conditions of any officer or~~

1 office under audit shall be immediately discharged by the director, and he or
2 she and the surety on his or her bond shall be liable to the individuals
3 injured thereby.

4
5 ~~10-4-207. Audit of county hospitals.~~

6 ~~The Division of Local Affairs and Audits of the Division of Legislative~~
7 ~~Audit is authorized to make an audit of any hospital owned and operated by~~
8 ~~any county in this state when an audit is requested by the proper authorities~~
9 ~~of the hospital.~~

10
11 ~~10-4-208. Audit of publicly funded educational institutions—~~
12 ~~Requirements of report by independent accountant.~~

13 ~~(a) The audit of every publicly funded educational institution shall~~
14 ~~be performed by the Division of Legislative Audit or other independent person~~
15 ~~licensed to practice accounting by the Arkansas State Board of Public~~
16 ~~Accountancy to be selected by the governing body of the educational~~
17 ~~institution.~~

18 ~~(b) Any statutorily required audit of an educational institution~~
19 ~~performed by an independent accountant shall include as a minimum and as an~~
20 ~~integral part of the annual financial report a review and comments on~~
21 ~~substantial compliance with each of the following:~~

22 ~~(1) Management letter for audit of political subdivisions, §§~~
23 ~~14-75-101—14-75-104;~~

24 ~~(2) School officials prohibited from having interest in sales to~~
25 ~~school and from receiving pecuniary profits for favorable actions, §§ 6-13-~~
26 ~~628;~~

27 ~~(3) School elections, §§ 6-14-102, 6-14-118;~~

28 ~~(4) Management of schools, §§ 6-13-617—6-13-620, 6-13-701;~~

29 ~~(5) Revolving Loan Fund, §§ 6-19-114(a), 6-20-801 et seq.;~~

30 ~~(6) District finances, §§ 6-20-402, 6-20-409;~~

31 ~~(7) District school bonds, §§ 6-20-1208, 6-20-1210(a) and (b);~~

32 ~~(8) Teachers and employees, §§ 6-17-201(b) and (c), 6-17-203—~~
33 ~~6-17-206, 6-17-301, 6-17-401;~~

34 ~~(9) Teachers' salaries, the Minimum Foundation Program Aid Act,~~
35 ~~§§ 6-17-803(b), 6-17-907, 6-17-908(a) and (b), 6-17-911—6-17-915, 6-17-918,~~
36 ~~and 6-17-919;~~

1 ~~(10) Surety bonds if district has a district treasurer, § 19-1-~~
2 ~~403;~~

3 ~~(11) Deposit of funds, §§ 19-8-104, 19-8-106;~~

4 ~~(12) Investment of funds, § 19-1-504; and~~

5 ~~(13) Improvement contracts, §§ 22-9-202—22-9-205.~~

6 ~~(c) The governing body of the educational institution shall require~~
7 ~~the independent accountant to present the annual financial report in~~
8 ~~conformity with the format and guidelines as prescribed by the appropriate~~
9 ~~professional organizations, such as, but not limited to, the American~~
10 ~~Institute of Certified Public Accountants, the National Council on~~
11 ~~Governmental Accounting, and the National Association of College and~~
12 ~~University Business Officers.~~

13 ~~(d)(1) The audit reports and accompanying comments and recommendations~~
14 ~~relating to any publicly funded school, educational cooperative, vocational-~~
15 ~~technical school, or institution of higher education prepared in accordance~~
16 ~~with the provisions of § 6-1-101 or other Code provisions shall be reviewed~~
17 ~~by the applicable board or governing body.~~

18 ~~(2)(A) The audit report and accompanying comments and~~
19 ~~recommendations shall be reviewed at the first regularly scheduled meeting~~
20 ~~following receipt of the audit report if the audit report is received by the~~
21 ~~board or governing body prior to ten (10) days before the regularly scheduled~~
22 ~~meeting.~~

23 ~~(B) If the audit report is received by the board or~~
24 ~~governing body within ten (10) days before a regularly scheduled meeting, the~~
25 ~~audit report may be reviewed at the next regularly scheduled meeting after~~
26 ~~the ten-day period.~~

27 ~~(3) The board or governing body shall take appropriate action~~
28 ~~relating to each finding and recommendation contained in the audit report.~~

29 ~~(4) The minutes of the board or governing body shall document~~
30 ~~the review of the findings and recommendations and the action taken by the~~
31 ~~board or governing body.~~

32
33 ~~10-4-209. Prosecuting attorneys—Accounting system—Audit.~~

34 ~~(a) The Division of Legislative Audit shall assist the prosecuting~~
35 ~~attorneys and their deputies in developing an accounting system for funds~~
36 ~~received or disbursed by virtue of their office.~~

1 ~~(b) The funds and their supporting accounts, records, and~~
2 ~~documentation shall be audited by the Division of Legislative Audit.~~

3
4 ~~10-4-210. Independent audits—Requirement.~~

5 ~~(a) When audit reports presented to the Legislative Joint Auditing~~
6 ~~Committee reflect violations of law or failures to comply with law by any~~
7 ~~municipality, county, or school district, the Committee, by notifying the~~
8 ~~municipality, county, or school district in writing, may require the~~
9 ~~municipality, county, or school district to obtain the services of an~~
10 ~~independent accountant to conduct the audit of the records of the~~
11 ~~municipality, county, or school district.~~

12 ~~(b) The audit prepared by the independent accountant shall be for the~~
13 ~~fiscal year next succeeding the year for which the last audit report was~~
14 ~~presented to the Committee, and the audit report shall be in substantially~~
15 ~~the same form as audit reports prepared by the staff of the Committee.~~

16
17 ~~10-4-211. Duty of prosecuting attorney.~~

18 ~~When any municipality, county, or school district is required to obtain~~
19 ~~the services of an independent accountant to conduct an audit of the~~
20 ~~municipality, county, or school district as provided in § 10-4-210, it shall~~
21 ~~be the duty of the prosecuting attorney of the judicial district in which the~~
22 ~~municipality, county, or school district is located to assure that the~~
23 ~~municipality, county, or school district does in fact cause the audit to be~~
24 ~~made.~~

25
26 ~~10-4-212. Review of independent audit.~~

27 ~~When the records of a municipality, county, or school district are~~
28 ~~audited by an independent accountant, as required by § 10-4-210, a copy of~~
29 ~~the audit report arising from the audit shall be presented to the Legislative~~
30 ~~Joint Auditing Committee. The Committee shall then review the report to~~
31 ~~determine whether the municipality, county, or school district has corrected~~
32 ~~the deficiencies noted in the last audit presented to the Committee and~~
33 ~~whether the financial records of the municipality, county, or school district~~
34 ~~are being maintained in substantial compliance with laws of the state.~~

35
36 ~~10-4-213. Enforcement.~~

1 ~~(a) If the Legislative Joint Auditing Committee determines that the~~
2 ~~municipality, county, or school district has not corrected the deficiencies~~
3 ~~noted in the last previous audit of such municipality, county, or school~~
4 ~~district presented to the Committee or that the financial records of the~~
5 ~~municipality, county, or school district are not being maintained in~~
6 ~~substantial compliance with law, the Committee shall give written notice~~
7 ~~thereof to the prosecuting attorney of the judicial district in which the~~
8 ~~municipality, county, or school district is located. The prosecuting attorney~~
9 ~~shall proceed to take appropriate legal action to assure that the municipal,~~
10 ~~county, or school district records are maintained in accordance with law.~~

11 ~~(b) If the prosecuting attorney fails or refuses to take appropriate~~
12 ~~legal action within a reasonable time after receipt of notice from the~~
13 ~~Committee that a municipality, county, or school district is not maintaining~~
14 ~~its records in substantial compliance with law, the Committee shall give~~
15 ~~notice thereof to the Attorney General. It shall be the duty of the Attorney~~
16 ~~General to take such appropriate action as may be necessary to assure that~~
17 ~~the municipal, county, or school district financial records are maintained in~~
18 ~~compliance with law.~~

19
20 ~~10-4-214. Schedule of fixed assets.~~

21 ~~Any municipality or school district in the State of Arkansas engaging~~
22 ~~the services of an independent accountant for the purpose of conducting a~~
23 ~~statutorily required audit of the municipality or school district shall~~
24 ~~require the accountant to review and comment on the adequacy and extent of~~
25 ~~accounting controls relating to fixed assets of the municipality or school~~
26 ~~district in the audit report issued by the accountant and to include a~~
27 ~~schedule of fixed assets of the municipality or school district as an~~
28 ~~integral part of the report.~~

29
30 ~~10-4-215. County officer to receive copy of report and notice of~~
31 ~~review.~~

32 ~~(a) Whenever the Division of Legislative Audit completes an audit of~~
33 ~~any county office, a copy of the audit shall be furnished for review to the~~
34 ~~county officer whose office has been audited prior to the audit's being~~
35 ~~submitted to the Legislative Joint Auditing Committee for consideration.~~

36 ~~(b) If any discrepancy is noted in the audit, the county officer shall~~

1 ~~be notified of the meeting of the Committee at which the audit is being~~
2 ~~considered in order that the county officer may be present when the audit is~~
3 ~~considered by the Committee and make himself available to discuss the audit~~
4 ~~with the members of the Committee. The notice shall be furnished to the~~
5 ~~county officer by the Legislative Auditor at least six (6) days prior to the~~
6 ~~meeting of the Committee at which the audit is to be considered by mailing a~~
7 ~~copy of the notice to the county officer by ordinary mail.~~

8
9 ~~10-4-216. Bonds of county officers.~~

10 ~~(a)(1) Under such method of procedure and by use of such formulas as~~
11 ~~shall be determined by the State Board of Finance, the Director of the~~
12 ~~Division of Local Affairs and Audits of the Division of Legislative Audit~~
13 ~~shall fix the amounts of the penalties of the bonds to be furnished by all~~
14 ~~county officers required by law to furnish bond.~~

15 ~~(2)(A) On or before December 1 of each year, he or she shall~~
16 ~~certify to the clerks of the county courts the amounts of the bonds as so~~
17 ~~determined, which certification shall be made available for the inspection of~~
18 ~~all such officers.~~

19 ~~(B) The certifications so made shall be deemed to~~
20 ~~constitute sufficient notice of the contents thereof to each of the county~~
21 ~~officers.~~

22 ~~(b) Nothing contained in this section shall be so construed as to~~
23 ~~amend or repeal any law in which the amount of the penalty of the bond to be~~
24 ~~furnished by any officer has been fixed in a specific amount.~~

25
26 ~~10-4-217. Claims against sureties.~~

27 ~~(a) It shall be the duty of the Director of the Division of Local~~
28 ~~Affairs and Audits of the Division of Legislative Audit, with the approval of~~
29 ~~the Legislative Joint Auditing Committee, to give notice and make proof of~~
30 ~~loss to and demand payment of the surety on any bond executed by any officer~~
31 ~~in which the audit report of the records of that officer reflects any~~
32 ~~shortage or other liability for which that officer and his surety may in any~~
33 ~~way be liable.~~

34 ~~(b) Within a reasonable time after the director shall have given~~
35 ~~notice and made proof of loss and demand for payment as stated in subsection~~
36 ~~(a) of this section, the surety shall make payment to the director of the~~

1 ~~amounts so found to be due. The director shall forthwith transmit the amounts~~
2 ~~so received to the treasurers of the respective local taxing units with~~
3 ~~instructions to credit the amounts received to the accounts entitled to such~~
4 ~~funds.~~

5 ~~(c)(1) In the event any surety shall fail or refuse to pay over the~~
6 ~~amounts so found to be due, the director shall give notice of the failure or~~
7 ~~refusal to the prosecuting attorney of the proper circuit or to the city~~
8 ~~attorney in the event the shortage applies to a municipality or incorporated~~
9 ~~town. The attorney shall forthwith take such legal actions as shall be~~
10 ~~necessary to collect the amount so found to be due from the officer and his~~
11 ~~or her surety.~~

12 ~~(2)(A) In cases involving funds belonging to cities, upon the~~
13 ~~failure or refusal of the city attorney or in the event the municipality does~~
14 ~~not have a city attorney, then the director shall so inform the prosecuting~~
15 ~~attorney of the proper circuit, and it shall be the prosecuting attorney's~~
16 ~~duty to forthwith take such legal action as shall be necessary to collect the~~
17 ~~amounts to be due from the officer and his surety.~~

18 ~~(B)(i) Upon the failure or refusal of the prosecuting~~
19 ~~attorney to take such action within a reasonable time thereafter, then the~~
20 ~~director shall give notice of such failure or refusal to the Attorney~~
21 ~~General, and it shall be the Attorney General's duty to forthwith take such~~
22 ~~action as shall be necessary to enforce collection of both the shortage and~~
23 ~~penalty.~~

24 ~~(ii) All recovery of the principal amount of the~~
25 ~~loss shall be paid over to the director for transmittal to the taxing units~~
26 ~~entitled to it.~~

27 ~~(d)(1) In all criminal or civil actions brought as the result of the~~
28 ~~findings set forth in any audit report, the auditors making the audit, upon~~
29 ~~request of the proper officers of the court, shall give testimony and~~
30 ~~otherwise make their services available in the prosecution of any action.~~

31 ~~(2) Auditors shall not be entitled to witness fees.~~

32
33 ~~10-4-218. Administrative cost.~~

34 ~~(a) The administrative cost of the Division of Local Affairs and~~
35 ~~Audits of the Division of Legislative Audit shall be paid from the annual~~
36 ~~gross collections of taxes on bus and truck lines and private car companies~~

1 ~~which are deposited in the State Treasury for the benefit of counties and~~
2 ~~municipalities and which are to be used to defray the cost of auditing~~
3 ~~counties, municipalities, and school districts.~~

4 ~~(b) In the event these taxes, or any part thereof, are no longer~~
5 ~~collected or deposited in the State Treasury, or there is a diminution in~~
6 ~~these taxes, then the operating cost of the division shall be paid from other~~
7 ~~moneys deposited in the General Revenue Fund.~~

8
9 ~~10-4-219. Review of audit report by governing body.~~

10 ~~(a) The audit reports and accompanying comments and recommendations~~
11 ~~relating to any county or municipality of this state prepared pursuant to the~~
12 ~~provisions of § 10-4-202, § 14-58-101, or other Code provisions shall be~~
13 ~~reviewed by the applicable legislative governing body.~~

14 ~~(b)(1) The audit report and accompanying comments and recommendations~~
15 ~~shall be reviewed at the first regularly scheduled meeting following receipt~~
16 ~~of the audit report if the audit report is received by the governing body~~
17 ~~prior to ten (10) days of the regularly scheduled meeting.~~

18 ~~(2) If the audit report is received by the governing body within~~
19 ~~ten (10) days of a regularly scheduled meeting, the audit report may be~~
20 ~~reviewed at the next regularly scheduled meeting after the ten-day period.~~

21 ~~(c) The governing body shall take appropriate action relating to each~~
22 ~~finding and recommendation contained in the audit report.~~

23 ~~(d) The minutes of the governing body shall document the review of the~~
24 ~~findings and recommendations and the action taken by the governing body.~~

25
26 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the
27 General Assembly of the State of Arkansas that the Legislative Joint Auditing
28 Committee and the Division of Legislative Audit provide essential auditing
29 and investigative services to the General Assembly and the State of Arkansas;
30 that to avoid confusion, the General Assembly finds it is necessary to
31 combine the Arkansas Code provisions concerning the Division of Legislative
32 Audit and the local audit section of the division in one Arkansas Code
33 chapter; that to avoid certain undue hardships on public entities of the
34 state, it is also necessary for the General Assembly to provide a basis of
35 financial statement presentation for certain public entities; that the
36 American Institute of Certified Public Accountants' Statement on Auditing

1 Standards Number 99 regarding the detection of fraud requires auditors to
2 document unsubstantiated allegations of fraud in their working papers; and
3 that this act is immediately necessary because the General Assembly finds
4 that the public disclosure of such unsubstantiated allegations do not serve a
5 public purpose and may cause irreparable harm to innocent individuals and
6 public employees. Therefore, an emergency is declared to exist and this act
7 being immediately necessary for the preservation of the public peace, health,
8 and safety shall become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,
11 the expiration of the period of time during which the Governor may veto the
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is
14 overridden, the date the last house overrides the veto.

15
16 */s/ Roebuck, et al*

17
18
19 *APPROVED: 4/13/2005*

1