

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 751

"TO AMEND THE CODE RELATING TO THE LEGISLATIVE JOINT AUDITING
COMMITTEE AND THE DIVISION OF LEGISLATIVE AUDIT."

Amendment No. 1 to Senate Bill No. 751.

Amend Senate Bill No. 751 as originally introduced:

Delete everything after the enacting clause and substitute the following:

“SECTION 1. Arkansas Code § 10-3-402 is amended to read as follows:
10-3-402. Purpose.

(a) It is determined that adequate information is not available at each biennial session of the General Assembly through which the members of the General Assembly may determine the needs and legislative requirements of the various agencies and departments of the state government entities of the state and political subdivisions of the state and that the impartial periodic auditing of ~~each agency and department~~ any entity or political subdivision of the state or affiliate thereof will provide information which will facilitate the discharge by the General Assembly of its legislative responsibilities ~~in respect to each agency and department.~~

(b) ~~It is further determined that the sixty day legislative session is not adequate time in which to audit each agency and department of the state government and that the size and scope of state governmental activity has grown to such an extent in recent years that auditing should be a continuing process~~ Due to time restraints and the size, complexity, and scope of the entities of the state and its political subdivisions, it is determined that the sixty-day legislative session is not adequate time in which to audit entities of the state and political subdivisions of the state, or affiliates thereof.

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

(d) It is not the intent of this act, nor shall this act be construed, to infringe upon or deprive the executive or judicial branches of state government or its political subdivisions of any rights, powers, or duties



vested in or imposed upon them by the Constitution of Arkansas.

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

(f) For the purposes of this subchapter:

(1) "Affiliate" means any entity receiving, disbursing, or handling public grants or funds, or any nonprofit or other entity whose exclusive or primary purpose or function is to directly or indirectly benefit or assist an entity of the state or a political subdivision of the state;

(2) "Audit" means an audit, review, report of agreed upon procedures, compilation, examination, investigation, or other report or procedure approved by the Legislative Joint Auditing Committee for an entity;

(3) "Entity of the state" means the state as a whole or any official, office, employee, department, institution of higher education, board, commission, or agency of the state, or function thereof; and

(4) "Political subdivision of the state" means any county, municipality, public school district, educational cooperative, quasigovernmental entity, any employee or official thereof, or any function thereof.

SECTION 2. Arkansas Code § 10-3-403(a)(3) is amended to read as follows:

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

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

(b)(1)(A) Meetings of the committee during the legislative session shall be called by either cochair of the committee who shall be the person who served in the capacity prior to the commencement of the current General Assembly.

(B) In such meetings, the primary consideration should be given to matters that require immediate attention and that cannot wait until the new committee is appointed and organized.

(2) If House and Senate members have selected their respective cochair for the subsequent biennial period, either new cochair may call a meeting of the committee during or after legislative sessions.

SECTION 4. Arkansas Code § 10-3-407(a) is amended to read as follows:

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

SECTION 5. Arkansas Code §§ 10-3-410 and 10-3-411 are amended to read as follows:

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

The Legislative Joint Auditing Committee is authorized to recommend to

the General Assembly the abolishment or consolidation of any ~~state agencies, boards, or commissions~~ entity of the state or political subdivision of the state which the Committee deems appropriate as a result of its review of audits performed by its staff ~~on the agencies, boards, or commissions.~~

10-3-411. Investigation of state or local entities - Subpoenas - Contempt.

(a)(1) The Legislative Joint Auditing Committee shall have the authority to conduct investigations pertaining to the financial or other affairs of any ~~state agency, institution, department, board, commission, or office, or pertaining to the operation of any county, city, town, or school district, or any agency or instrumentality thereof~~ entity of the state, political subdivision of the state, or affiliate thereof, whenever the Committee shall determine that investigations are necessary to make a proper determination with respect to the ~~financial~~ operations thereof, or of the collection, handling, administration, or expenditure of any public funds allocated thereto or disbursed thereby.

(2) In connection with investigations regarding any entity of the state, its political subdivisions, or affiliates thereof, the Legislative Joint Auditing Committee has the authority to examine any or all books, records, or any other data or systems relative to the investigation, irrespective by whom holds the records or where the records are located.

(b) In connection with any investigations, the Committee shall have the right and power to subpoena witnesses and to issue subpoenas duces tecum.

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

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

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

~~(f)~~(e)(1) Subpoenas issued by the Committee shall be served by the sheriff of the county in which the person, books, records, or documents subpoenaed are located, and the sheriff shall be entitled to the same fees for the service of process as provided by law for service of process issued by the circuit court.

(2) However, the Committee may, at its option, direct the Arkansas State Police to serve any subpoena.

~~(g)~~(f) Witnesses subpoenaed to appear before the Committee shall be

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

~~(h)(g)~~ The fees for the serving of subpoenas and all witness fees and travel allowances shall be paid from funds appropriated for the maintenance and operation of the Legislative Joint Auditing Committee.

(h)(1) It is a Class D felony for any person subpoenaed by the Legislative Joint Auditing Committee to knowingly fail or refuse to appear and testify or submit papers, files, and records material and pertinent to the examination.

(2) It is a Class D felony for any person to knowingly give any false testimony before the Legislative Joint Auditing Committee.

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

~~(j)(1) (i)(1)(A) It is the intent of this section to authorize the Legislative Joint Auditing Committee to issue subpoenas and to compel the attendance of witnesses, and to administer oaths when necessary, to make full investigations or determinations whenever the Committee determines them to be necessary with respect to the financial affairs of any state agency, institution, department, board, commission, or office, or pertaining to the operation of any county, city, town, or school district, or any agency of instrumentality thereof entity of the state, a political subdivision of the state, or an affiliate thereof, whenever the Committee shall determine that investigations are necessary for the Committee to discharge its duties in keeping the General Assembly informed with respect to the financial operations of those state agencies, counties, or school districts, or the collection, handling, administration, or expenditure of any public funds allocated thereto.~~

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

(2) This section shall be cumulative to Acts 1955, No. 105, and all laws amendatory thereto.

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

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

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

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

~~(c) The Committee may also request that a copy of the federal audit~~

~~report be furnished to it when the audit is completed and made available to the entity to assure that the future eligibility of the State of Arkansas and its subdivisions to receive various forms of federal funding is not jeopardized.~~

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

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

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

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

SECTION 7. Arkansas Code § 10-4-101 is amended to read as follows:

10-4-101. Division of Legislative Audit created - Authority - Exemption.

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

(b) The Division of Legislative Audit shall be headed by a Legislative Auditor who is vested with the authority and responsibility of auditing each agency, department, board, commission, council, officer, or official of the state government of Arkansas or any function thereof, receiving state-appropriated funds, cash funds, or any other fund derived under the authority or by virtue of state law entities of the state, political subdivisions of the state, or affiliates thereof.

(c)(1) However, any licensing board may be exempt from the provision of this section retain the services of a private certified public accountant or private public accountant to conduct the board's audit if it files an annual audit with the Legislative Auditor.

(2) As used in this subsection, the term "audit" means an annual financial report, which includes as a minimum, the expression of an opinion by an independent auditor on the fairness with which the licensing board's financial statements present, in all material respects, financial position, results of operations, and, if required its cash flows, in conformity with

generally accepted accounting principles.

(d) For the purposes of this subchapter:

(1) "Affiliate" means any entity receiving, disbursing, or handling public grants or funds, or any nonprofit or other entity whose exclusive or primary purpose or function is to directly or indirectly benefit or assist an entity of the state or a political subdivision of the state;

(2) "Audit" means an audit, review, report of agreed upon procedures, compilation, examination, investigation, or other report or procedure approved by the Legislative Joint Auditing Committee for an entity;

(3) "Entity of the state" means the state as a whole or any official, office, employee, department, institution of higher education, board, commission, or agency of the state, or function thereof; and

(4) "Political subdivision of the state" means any county, municipality, public school district, educational cooperative, quasigovernmental entity, any employee or official thereof, or any function thereof.

SECTION 8. Arkansas Code § 10-4-102(b) and (c) are amended to read as follows:

(b) The Legislative Auditor shall not be related in the second degree of consanguinity or affinity to any ~~state~~ officer, department head, or disbursing officer of any ~~department, office, or agency~~ entity of the state ~~whom under this act it shall be his or her duty to audit or any political subdivision audited by the Division of Legislative Audit.~~

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

SECTION 9. Arkansas Code §§ 10-4-105 and 10-4-106 are amended to read as follows:

10-4-105. Legislative Auditor - Oath ~~and bond.~~

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

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

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

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

10-4-106. Duties of Legislative Auditor.

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

(1)(A) ~~Perform an audit~~ audits of all accounts, books, and other ~~financial~~ records of the state government of any state officer, department, board, bureau, institution, commission, or agency thereof any entity of the state, political subdivision of the state, or affiliate thereof and to prepare a written report of such audit ~~to the General Assembly and any other person hereafter designated;~~

(B) All reports or summaries thereof shall be presented to the Legislative Joint Auditing Committee.

(C) In addition, reports or summaries thereof may be presented to the General Assembly or any other legislative committee;

(2) Personally, or by ~~his or her~~ duly the Legislative Auditor's authorized assistants, examine and audit ~~all fiscal~~ books, records, and accounts of ~~all~~ custodians of public funds, and ~~of all~~ disbursing officers of the state government of Arkansas making independent verification of all assets, liabilities, revenues, and expenditures of the state, ~~its departments, boards, bureaus, institutions, commissions, or agencies~~ any entity of the state, political subdivision of the state, or affiliate thereof now in existence or hereafter created;

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

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

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

(4) Require the aid and assistance of all executives and officials, auditors, accountants, and other employees of each and every ~~department, board, bureau, institution, commission, or agency of the state~~ entity of the state, political subdivision of the state, or affiliate thereof at all times in the inspection, examination, and audit of any and all of their books, accounts, and records ~~of the several departments;~~ and

(5)(A) Cause to be maintained a sufficient accounting of the audit costs incurred by the Division of Legislative Audit in auditing entities of the state agencies, boards, commissions, and colleges and universities, and in order to provide a basis for determining a reasonable reimbursement from these entities for the cost of the auditing of federal funds received by these entities, with the funds being charged with the

reimbursements.

(B) In the event it is determined by the Legislative Joint Auditing Committee that the reimbursement for the auditing of funds is appropriate, the Legislative Auditor and the Director of the Department of Finance and Administration shall develop guidelines for effecting proper budgetary and accounting procedures for such reimbursements by fund transfers.

(b)(1) As soon as practical after the close of each fiscal year, the Legislative Auditor shall certify to the Chief Fiscal Officer of the State the amount of funds expended during the fiscal year just ending which is to be allocated to the ~~State Audit Program~~ State Audit Function and to the ~~Local Audit Program~~ Local Audit Function.

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

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

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

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

SECTION 10. Arkansas Code § 10-4-107(a) is amended to read as follows:

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

SECTION 11. Arkansas Code § 10-4-108(d) is amended to read as follows:

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

SECTION 12. Arkansas Code § 10-4-109(b) is amended to read as follows:

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

(2) Upon the vote of the majority of the membership of the Committee approving the request, the Legislative Auditor shall ~~make~~ conduct the audit.

SECTION 13. Arkansas Code §§ 10-4-110 through 10-4-112 are amended to

read as follows:

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

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

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

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

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

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

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

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

~~(g)(e)(1) All reports filed with the Secretary of State and each county clerk shall be open to public inspection~~ after presentation to the Legislative Joint Auditing Committee or approved for release by the cochairs of the Legislative Joint Auditing Committee.

(2) All final reports produced after January 1, 2002 shall be available for viewing or downloading from the Internet.

10-4-111. Report of improper or illegal practices.

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

department.

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

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

(2) Upon request, and with the approval of the cochairs and co-vicechairs of the Committee, the Legislative Auditor shall cooperate in any other investigations by the appropriate prosecuting attorney, the Department of Arkansas State Police, or any other law enforcement agency.

(d) The Legislative Auditor may request the appropriate prosecuting attorney to petition the court to order, as part of any disposition or adjudication, the payment, by a defendant, of costs incurred by the Division of Legislative Audit in investigating any unauthorized disbursements or unaccounted for funds or property related to a defendant.

~~(d)~~(e)(1) While the Committee is not established as an agency to effect, through its own direct action the correction of improper practices of financial administration or inadequacy of fiscal records, the prosecution of defaulting public officials, or the improvement of accounting systems in any ~~state department~~ entity of the state or political subdivision of the state, nevertheless, it is determined that the action or nonaction on the part of the appropriate public officials in respect to the correction of such matters when called to their attention or in respect to the institution of criminal proceedings, where proper, has a pertinent bearing upon the question of the necessity for future remedial legislation.

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

10-4-112. ~~Examination of bank records~~ Business, financial, and personal records.

(a) ~~In verifying any of the audits made, the Legislative Auditor shall have the right to ascertain the amounts on deposit in any banks belonging to any department, board, commission, bureau, institution, or other agency of the state government required to be audited, and shall have the right to audit the account on the books of such bank~~ In the performance of the Legislative Auditor's duties, the Legislative Auditor or the Legislative Auditor's authorized assistants may confirm, audit, and examine all accounts or records, confidential or otherwise, regarding any entity of the state, political subdivision of the state, or any affiliate, official, officer, or employee thereof held in any financial institution or other business entity, regardless of location or form of record.

(b) ~~In addition thereto, the Legislative Auditor shall have the right to audit the bank account of any officer or employee of any state office, department, institution, bureau, board, commission, or other state agency, or the bank account of any other person or firm doing business with the state~~

~~if the Legislative Auditor has reason to believe that the auditing of the accounts is necessary for the verifying of any audits made under the authority of this act~~ In addition, in the performance of the Legislative Auditor's duties, the Legislative Auditor or the Legislative Auditor's authorized assistants have the authority to confirm, audit, and examine any accounts or records, confidential or otherwise, of any person, firm, or other entity regarding transactions or other relationships with any entity of the state, political subdivision of the state, or any affiliate, official, officer, or employee thereof.

(c) No bank, financial institution, or other entity shall be liable for making available to the Legislative Auditor any of the information required under the provisions of this section.

SECTION 14. Arkansas Code § 10-4-113 (a) is amended to read as follows:

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

SECTION 15. Arkansas Code § 10-4-113(c)(1) is amended to read as follows:

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

SECTION 16. Arkansas Code § 10-4-114 is amended to read as follows:

10-4-114. Subpoenas - Witnesses - Penalty for failure to appear - Perjury.

(a)(1) The Legislative Auditor may issue subpoenas in connection with any audit or other investigation of any entity of the state, political subdivision of the state, or affiliate thereof.

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

(b) The power of the Legislative Auditor or any of his or her assistants to administer oaths and summon records as mentioned ~~in subsection (a) of this section above~~ shall apply to all ~~state~~ employees and officials of the state, its political subdivisions, or any functions or affiliate thereof, as well as to any other person, business, firm, corporation, or association receiving, disbursing, or handling public grants or funds or doing business with any the state, its political subdivisions, or any affiliate thereof ~~agency~~ that the Legislative Auditor or any of his or her authorized assistants may have reason to believe have information or records that are necessary to a full determination of matters pertaining to any audit authorized in this act.

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

~~(d)(1) Any person who willfully fails or refuses to appear and testify or submit papers, files, and records material and pertinent to the examination, or willfully refuses to answer any material or pertinent questions propounded to him or her by the Legislative Auditor or any of his or her assistants, shall be deemed guilty of a misdemeanor. Upon conviction by a court of competent jurisdiction, that person shall be fined in any sum not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and any person appearing and willfully and corruptly giving any false testimony that is material to the investigation of his or her official conduct and pertinent to the examination before the Legislative Auditor or any of his assistants shall be deemed guilty of perjury. It is a Class D felony for any person subpoenaed by the Legislative Joint Auditing Committee to knowingly fail or refuse to appear and testify or submit papers, files, and records material pertinent to the examination.~~

(2) It is a Class D felony for any person to knowingly give any false testimony before the Legislative Joint Auditing Committee.

SECTION 17. Arkansas Code § 10-4-115(b) is amended to read as follows:

~~(b)(1) He or she shall also keep a complete file of copies, paper or otherwise, of all audit reports, examinations, investigations, and any and all other reports or releases issued by him or her or his or her office and a complete file of audit.~~

(2) Audit work papers and other evidence pertaining to work of the division shall be maintained for at least three (3) years after completion of the report.

SECTION 18. Arkansas Code § 10-4-116 is repealed.

~~10-4-116. Seal — Effect.~~

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

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

SECTION 19. Arkansas Code § 10-4-117 is amended to read as follows:
10-4-117. Audit of data processing operations.

(a) The Division of Legislative Audit ~~shall have~~ has the authority to conduct audits of all or any part of automated data processing operations or systems of any ~~state agency~~ entity of the state, political subdivision of the state, or affiliate thereof.

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

~~(e)(b)(1) Data processing machine usage charges incurred in the performance of audits or audit-related tasks by the division will~~ shall be

~~absorbed by the state agency processing data for the computer application being accessed or audited provided that the use will not interfere with or impede normal processing by the data processing installation entity of the state, political subdivision of the state, or affiliate thereof being audited.~~

(2) The data processing provider shall provide requested data or other information or services to the Division of Legislative Audit in a timely manner.

(c) The Department of Information Systems, its successor agency, or other entities of the state, political subdivisions of the state, or affiliates thereof, providing Internet, network, or other computer services or information to an entity of the state, a political subdivision of the state, or an affiliate thereof, shall provide access to any or all data, support, or other necessary information services to the Division of Legislative Audit in connection with their functions at no cost to the division.

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

(e) All contracts for data processing or other computer services for entities of the state or political subdivisions of the state shall contain a right to audit clause.

SECTION 20. Arkansas Code § 10-4-118(a) is amended to read as follows:

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

SECTION 21. Arkansas Code § 10-4-119 is amended to read as follows:
10-4-119. Continuing professional education courses.

(a) ~~The~~ In addition to contracting with private entities, the Division of Legislative Audit ~~is authorized to~~ may contract and pay entities of the state agencies or institutions of higher education or any of their part-time or full-time employees for services rendered, materials, supplies, or other expenses incurred in conducting continuing professional education courses for the staff of the division.

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

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

SECTION 22. Arkansas Code § 10-4-201 is repealed.

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

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

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

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

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

SECTION 23. Arkansas Code §§ 10-4-202 through 10-4-204 are amended to read as follows:

10-4-202. Audits authorized - Independent audits.

(a)(1) The Legislative Auditor has the power and duty, acting through his or her duly authorized employees, to conduct audits of the records and accounts of ~~all officials or employees of counties, municipalities, school districts, county school boards, and educational cooperatives~~ any political subdivision of the state or affiliates thereof.

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

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

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

(b) For the purposes of this subchapter:

(1) "Affiliate" means any entity receiving, disbursing, or handling public grants or funds, or any nonprofit or other entity whose exclusive or primary purpose or function is to directly or indirectly benefit or assist an entity of the state or a political subdivision of the state;

(2) "Audit" means an audit, review, report of agreed upon procedures, compilation, examination, investigation, or other report or procedure approved by the Legislative Joint Auditing Committee for an entity;

(3) "Entity of the state" means the state as a whole or any official, office, employee, department, institution of higher education, board, commission, or agency of the state, or function thereof; and

(4) "Political subdivision of the state" means any county, municipality, public school district, educational cooperative, quasi-governmental entity, any employee or official thereof, or any function thereof.

~~(b)(1) (c)(1)(A)~~ Nothing contained in subsection (a) of this section shall be so construed as to abridge the right of any school district, any educational cooperative, or any municipality to choose and employ accountants licensed and in good standing with the Arkansas State Board of Public Accountancy to conduct these audits in accordance with Government Auditing

Standards issued by the Comptroller General of the United States.

(B) As used in this subsection, the term "audit" means an annual financial report, which includes as a minimum, the expression of an opinion by an independent auditor on the fairness with which the financial statements present, in all material respects, financial position, results of operations, and, if required its cash flows, in conformity with generally accepted accounting principles.

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

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

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

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

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

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

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

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

~~(3)(A) (2)(A) A certified copy of each audit, compilation, or agreed upon procedures report shall be filed with the Division of Legislative Audit in a timely manner after completion of the report.~~

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

(3)(A) Audits conducted by private licensed accountants under this section shall include any specific procedures, tests, reports, exhibits, or schedules prescribed by the Legislative Auditor and approved by the Legislative Joint Auditing Committee.

(B) Any specific required procedures or formats shall be available from the Division of Legislative Audit.

10-4-203. Records and reports.

(a) Insofar as it is practical to do so, and not inconsistent with the law or professional guidelines, ~~the Director of the Division of Local Affairs and Audits of the Division of Legislative Audit shall~~ Legislative Auditor may establish uniform systems of record-keeping within the respective counties, school districts, ~~and municipalities, or other public entity.~~

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

10-4-204. Verifying transactions.

In verifying any transaction or in determining the nature or manner of handling any matter under investigation during the course of any audit, ~~the Director of the Division of Local Affairs and Audits of the Division of Legislative Audit~~ the Legislative Auditor or the Legislative Auditor's

authorized assistants shall have the right to examine the accounts, records, or other data, confidential or otherwise, of any officer or employee of any county, school district, or municipality entity of the state, political subdivision of the state, or affiliate thereof, or the records of any banking or financial institution, or business concern, or individual, and to require, of the proper officer of any banking or financial institution, or business concern, or individual, verified statements with relation to any such transactions or matters.

SECTION 24. Arkansas Code § 10-4-205(b) is amended to read as follows:

~~(b)(1) After the report of each audit shall have been completed, one (1) certified copy of the report shall be retained by the Director of the Division of Local Affairs and Audits of the Division of Legislative Audit. In addition, one (1) certified copy shall be filed: After reports have been presented to the Legislative Joint Auditing Committee, the reports shall be available for viewing or downloading from the Internet.~~

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

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

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

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

SECTION 25. Arkansas Code § 10-4-206 is amended to read as follows:
10-4-206. Auditors, accountants, and employees.

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

~~(b) Each auditor or accountant shall be required to furnish bond of such penalty as shall be determined by the Director of the Division of Local Affairs and Audits of the Division of Legislative Audit. Any auditor or accountant who shall knowingly or willfully make or publish any false statement or report concerning the affairs or conditions of any officer or office under audit shall be immediately discharged by the director, and he or she and the surety on his or her bond shall be liable to the individuals injured thereby.~~

SECTION 26. Arkansas Code § 10-4-207 is repealed.

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

~~The Division of Local Affairs and Audits of the Division of Legislative Audit is authorized to make an audit of any hospital owned and operated by~~

~~any county in this state when an audit is requested by the proper authorities of the hospital.~~

SECTION 27. Arkansas Code § 10-4-208 is amended to read as follows:

10-4-208. Audit of publicly funded educational institutions and municipalities -

Requirements of report by independent accountant.

(a) ~~The audit of every publicly funded educational institution municipality, public school district, county school board, or educational cooperative shall be performed by the Division of Legislative Audit or other independent person licensed to practice accounting by the Arkansas State Board of Public Accountancy to be selected by the governing body of the educational institution entity.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(e)(b) The governing body of the educational institution municipality, public school district, county school board, or educational cooperative shall require the independent accountant to present the annual financial report in conformity with the format and guidelines as prescribed by the appropriate professional organizations, such as, but not limited to, the American Institute of Certified Public Accountants, the National Council on Governmental Accounting, and the National Association of College and University Business Officers Division of Legislative Audit.~~

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

~~(2)(A) The audit report and accompanying comments and recommendations shall be reviewed at the first regularly scheduled meeting~~

~~following receipt of the audit report if the audit report is received by the board or governing body prior to ten (10) days before the regularly scheduled meeting.~~

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

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

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

SECTION 28. Arkansas Code § 10-4-214 is amended to read as follows:
10-4-214. ~~Schedule of fixed~~ Capital assets.

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

SECTION 29. Arkansas Code § 10-4-215(b) is amended to read as follows:

(b) If any discrepancy is noted in the audit, the county officer shall be notified of the meeting of the Committee at which the audit is being considered in order that the county officer may be present when the audit is considered by the Committee and make himself or herself available to discuss the audit with the members of the Committee. ~~The notice shall be furnished to the county officer by the Legislative Auditor at least six (6) days prior to the meeting of the Committee at which the audit is to be considered, by mailing a copy of the notice to the county officer by ordinary mail.~~

SECTION 30. Arkansas Code §10-4-216 is repealed.
10-4-216. ~~Bonds of county officers.~~

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

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

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

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

SECTION 31. Arkansas Code § 10-4-217(a) is amended to read as follows:

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

SECTION 32. Arkansas Code § 10-4-218 is amended to read as follows:
10-4-218. Administrative cost.

(a) The administrative cost of ~~the Division of Local Affairs and Audits of~~ auditing the political subdivisions of the state by the Division of Legislative Audit shall be paid from the ~~annual gross collections of taxes on bus and truck lines and private car companies, which are deposited in the State Treasury for the benefit of counties and municipalities and which are to be used to defray the cost of auditing counties, municipalities, and school districts~~ Ad Valorem Tax Fund as prescribed by § 19-5-906.

(b) In the event these taxes, or any part thereof, are no longer collected or deposited in the State Treasury, or there is a diminution in these taxes, then the operating cost of ~~the division~~ auditing the political subdivisions of the state by the Division of Legislative Audit shall be paid from other moneys deposited in the General Revenue Fund Account.

SECTION 33. Arkansas Code § 10-4-219(a) is amended to read as follows:

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

SECTION 34. Arkansas Code § 10-4-219(b)(2) is amended to read as follows:

(2) If the audit report is received by the board or governing body within ten (10) days ~~of~~ before a regularly scheduled meeting, the audit report ~~may~~ shall be reviewed at the ~~next~~ regularly scheduled meeting ~~after the ten-day period~~ falling within the ten-day period or at the next following regularly scheduled meeting."

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator Wilkins
LDH/MHF - 031820030926
MHF407 _____
Secretary