

AN ACT

To enact sections 117.46, 117.461, 117.462, 117.463, 117.47, 117.471, and 117.472 of the Revised Code to require performance audits of most state agencies, to loan funds to state agencies and local public offices to pay for performance audits, and to make an appropriation.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 117.46, 117.461, 117.462, 117.463, 117.47, 117.471, and 117.472 of the Revised Code be enacted to read as follows:

Sec. 117.46. Each biennium the auditor of state shall conduct a performance audit of a minimum of four state agencies. At least two of the audits shall be of agencies selected from a list comprised of the administrative departments listed in section 121.02 of the Revised Code and the department of education and at least two of the audits shall be of other state agencies. The offices of the attorney general, auditor of state, governor, secretary of state, and treasurer of state and agencies of the legislative and judicial branches shall not be subject to an audit under this section.

The auditor shall select each agency to be audited and shall determine whether to audit the entire agency or a portion of the agency by auditing one or more programs, offices, boards, councils, or other entities within that agency. The auditor shall make the selection and determination in consultation with the governor and the speaker and minority leader of the house of representatives and president and minority leader of the senate.

An audit of a portion of an agency shall be considered an audit of one agency. The authority to audit a portion of an agency in no way limits the auditor's ability to audit an entire agency if it is in the best interest of the state.

The performance audits under this section shall be conducted pursuant to sections 117.01 and 117.13 of the Revised Code. In conducting a performance audit, the auditor of state shall determine the scope of the audit, but shall consider, if appropriate, supervisory and subordinate level operations in the agency.

Sec. 117.461. Every state agency audited pursuant to section 117.46 of

the Revised Code shall accept comments regarding the performance audit from interested parties. The comment period shall begin on the day following the release date of the audit and shall conclude at the end of the fourteenth day following the release date. The agency shall make all comments available to the public on the twenty-first day following the release date of the audit. The agency shall determine how to accept comments under this section.

Sec. 117.462. (A) A state agency shall implement the recommendations of a performance audit conducted pursuant to section 117.46 of the Revised Code. If an agency does not commence implementation of such recommendations within three months after the end of the comment period for the audit, the agency shall do both of the following:

(1) File a report explaining why the agency has not commenced implementation of the recommendations with the governor, auditor of state, speaker and minority leader of the house of representatives, and president and minority leader of the senate;

(2) Provide testimony explaining why the agency has not commenced implementation of the recommendations to the house of representatives and senate committees dealing primarily with the programs and activities of the agency.

(B) Comments submitted to the agency under section 117.461 of the Revised Code shall be attached to the report required by division (A)(1) of this section.

(C) If an agency does not fully implement an audit recommendation within one year after the end of the comment period for the audit, the agency shall file a report with the governor, auditor, speaker and minority leader of the house of representatives, and president and minority leader of the senate justifying why the recommendation has not or will not be implemented.

Sec. 117.463. (A) The auditor of state shall annually submit a report in writing to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate describing both of the following:

(1) Whether state agencies that received performance audits in the immediately preceding year implemented the audit recommendations;

(2) The amount of money saved as a result of the implementation.

(B) The auditor of state shall establish a process for obtaining the information required for the report.

(C) The report shall be submitted no later than the thirtieth day of March of each year.

Sec. 117.47. There is hereby created in the state treasury the leverage

for efficiency, accountability, and performance fund. The auditor of state shall use the fund to make loans to state agencies and local public offices that have applied to and been approved by the auditor of state to receive the loans and to pay the costs of conducting performance audits incurred by the auditor of state. The fund shall consist of money appropriated to it plus the repayments of principal and interest on loans made from the fund. Interest earned on money in the fund shall be credited to the fund.

Sec. 117.471. (A) A state agency or local public office may request from the auditor of state a loan from the fund created in section 117.47 of the Revised Code to pay the auditor of state for a performance audit. The amount loaned shall be the amount charged by the auditor of state for a performance audit under division (B) of this section.

(B) The amount charged for a performance audit of a state agency shall be the same as the amount charged for an audit under division (A)(2) of section 117.13 of the Revised Code. The amount charged for a performance audit of a local public office shall be the same as the amount charged for an audit under division (C)(1) of section 117.13 of the Revised Code.

The amount charged for a performance audit shall include interest on the amount loaned, accrued from the date the audit is completed until the date payment is received by the auditor of state. The interest rate shall be equivalent to the average of the monthly yields for the state treasury asset reserve fund for the time period during which the interest is accruing.

(C) The auditor of state shall provide each state agency or local public office that receives a loan under this section with a statement of the amount due from the agency or office for services performed by the auditor of state, as well as the date on which payment is due to the auditor of state. A local public office's statement shall include the percentage of the total cost chargeable to each fund subject to the performance audit. Payment for a performance audit shall be due one year after the audit is completed.

(D) If the local public office seeking a loan under this section is the office of a county elected official, the local public office applying for the loan must obtain prior approval from the board of county commissioners of the county in which the local public office is located. This approval is required to ensure that the county office being audited and the board of county commissioners are notified that the costs of the loan must be repaid.

(E) All moneys received for repayment of loans and interest under this section shall be paid to the credit of the leverage for efficiency, accountability, and performance fund created in section 117.47 of the Revised Code.

Sec. 117.472. (A) If the state agency has not repaid the auditor of state

by the payment deadline established under section 117.471 of the Revised Code, the auditor of state shall certify to the director of budget and management the amount of the loan plus interest due. The director shall withhold from the state agency the amount certified from funds under the director's control that belong to or are lawfully payable or due to the state agency and that may be used to repay the loan. The director shall promptly pay the amount withheld to the auditor of state.

If the director determines that no funds payable and due to the state agency are available or that insufficient amounts of such funds are available, the director shall withhold and pay to the auditor of state the amounts available and shall continue to withhold funds and pay the auditor of state until the full amount due to the auditor of state is paid.

(B) If a local public office has not repaid the auditor of state by the payment deadline established under section 117.471 of the Revised Code, the auditor of state shall certify to the county auditor the amount of the loan plus interest due. The county auditor shall withhold from the local public office the amount certified from funds under the county auditor's control that belong to or are lawfully payable or due to the local public office and that may be used to repay the loan. The county auditor shall promptly pay the amount withheld to the auditor of state.

If the county auditor determines that no funds payable and due to the local public office are available or that insufficient amounts of such funds are available, the county auditor shall withhold and pay to the auditor of state the amounts available and shall continue to withhold funds and pay the auditor of state until the full amount due to the auditor of state is paid.

(C) All moneys received from the director of budget and management or a county auditor for repayment of loans and interest under this section shall be paid to the state treasury to the credit of the leverage for efficiency, accountability, and performance fund created in section 117.47 of the Revised Code.

SECTION 2. (A) Notwithstanding the requirement regarding the selection of the specific agencies to be audited, the initial performance audits conducted by the Auditor of State pursuant to section 117.46 of the Revised Code shall be of the following state agencies:

- (1) The Department of Education;
- (2) The Department of Job and Family Services;
- (3) The Department of Transportation;
- (4)(a) One other state agency not listed in section 121.02 of the Revised Code;

(b) Any state agency may request an audit under division (A)(4)(a) of this section. The Governor shall select an agency not listed in section 121.02 of the Revised Code if no such agency requests an audit. The Auditor shall conduct an audit of every agency that requests an audit and the agency the Governor selects.

(B)(1) The Auditor shall commence the audits of the Department of Education, the Department of Job and Family Services, the Department of Transportation, and one other agency not listed in section 121.02 of the Revised Code within 90 days of the effective date of this act.

(2) Audits of any additional agencies that request an audit under this section shall commence as soon as practicable as determined by the Auditor.

(C)(1) In conducting the audit of the Department of Transportation, the Auditor shall analyze and comment on the realignment of all transportation districts.

(2) The Director of Transportation shall pay for the audit with money that is available to the Department and that may be used for that purpose, excluding money appropriated from the General Revenue Fund.

SECTION 3. Notwithstanding section 117.101 of the Revised Code, on the effective date of this act or as soon as possible thereafter, the Director of Budget and Management shall transfer \$1,500,000 cash from the Uniform Accounting Network Fund (Fund 6750) to the Leverage for Efficiency, Accountability, and Performance Fund (Fund 5JZ0) established under section 117.47 of the Revised Code. Moneys within Fund 5JZ0 shall be used in accordance with sections 117.47 and 117.471 of the Revised Code. When cash balances in Fund 5JZ0 exceed the amount originally transferred pursuant to this section, the Director of Budget and Management shall transfer the excess amounts to Fund 6750 until the \$1,500,000 originally transferred has been repaid.

SECTION 4. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the Leverage for Efficiency, Accountability, and Performance Fund (Fund 5JZ0). For all appropriations made in this act, those in the first column are for fiscal year 2010 and those in the second column are for fiscal year 2011. The appropriations made in this act are in addition to any other appropriations made for the FY 2010-2011 biennium.

Appropriations

AUD Auditor of State

Auditor of State Fund Group

5JZ0 070606 LEAP Revolving Loans	\$	0	\$	1,500,000
TOTAL AUD Auditor of State Fund Group	\$	0	\$	1,500,000
TOTAL ALL BUDGET FUND GROUPS	\$	0	\$	1,500,000

LEAP REVOLVING LOANS

The foregoing appropriation item 070606, LEAP Revolving Loans, shall be used to advance the costs of performance audits to state agencies and local public offices who have applied to and been approved by the Auditor of State for receipt of these funds pursuant to sections 117.47 and 117.471 of the Revised Code.

Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in Am. Sub. H.B. 1 of the 128th General Assembly.

The appropriations made in this act are subject to all provisions of Am. Sub. H.B. 1 of the 128th General Assembly that are generally applicable to such appropriations.

SECTION 5. Sections 1, 2, 3, 4, and 5 of this act are not subject to the referendum because they are or they relate to an appropriation for current expenses within the meaning of Ohio Constitution, Article II, Section 1d, and section 1.471 of the Revised Code, and therefore those sections take effect immediately when this act becomes law.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 4

129th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____