

**As Passed by the House**

**129th General Assembly  
Regular Session  
2011-2012**

**Sub. S. B. No. 4**

**Senator Schaffer**

**Cosponsors: Senators Daniels, Hughes, LaRose, Brown, Turner, Bacon,  
Beagle, Cates, Faber, Gillmor, Grendell, Hite, Jones, Jordan, Lehner,  
Manning, Niehaus, Obhof, Patton, Seitz, Stewart, Tavares, Wagoner, Widener,  
Wilson**

**Representatives Amstutz, Carey, Gardner, Sears, Balderson, Adams, R.,  
Anielski, Antonio, Baker, Barnes, Beck, Blair, Blessing, Boose, Brenner,  
Bubp, Buchy, Budish, Butler, Carney, Celeste, Coley, Combs, DeGeeter,  
Derickson, Dovilla, Driehaus, Duffey, Fedor, Fende, Garland, Gentile,  
Gerberry, Gonzales, Goyal, Hackett, Hagan, C., Hall, Hayes, Henne, Hottinger,  
Huffman, Johnson, Kozlowski, Letson, Luckie, Lundy, Maag, Mallory, Martin,  
McClain, Mecklenborg, Milkovich, Newbold, O'Brien, Peterson, Phillips,  
Pillich, Ramos, Rosenberger, Ruhl, Schuring, Slaby, Slesnick, Sprague,  
Stautberg, Stebelton, Stinziano, Sykes, Szollosi, Thompson, Uecker,  
Wachtmann, Weddington, Winburn, Young, Yuko Speaker Batchelder**

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**A B I L L**

To enact sections 117.46, 117.461, 117.462, 117.463, 1  
117.47, 117.471, and 117.472 of the Revised Code 2  
to require performance audits of most state 3  
agencies, to loan funds to state agencies and 4  
local public offices to pay for performance 5  
audits, and to make an appropriation. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

Section 1. That sections 117.46, 117.461, 117.462, 117.463, 7  
117.47, 117.471, and 117.472 of the Revised Code be enacted to 8  
read as follows: 9

Sec. 117.46. Each biennium the auditor of state shall conduct 10  
a performance audit of a minimum of four state agencies. At least 11  
two of the audits shall be of agencies selected from a list 12  
comprised of the administrative departments listed in section 13  
121.02 of the Revised Code and the department of education and at 14  
least two of the audits shall be of other state agencies. The 15  
offices of the attorney general, auditor of state, governor, 16  
secretary of state, and treasurer of state and agencies of the 17  
legislative and judicial branches shall not be subject to an audit 18  
under this section. 19

The auditor shall select each agency to be audited and shall 20  
determine whether to audit the entire agency or a portion of the 21  
agency by auditing one or more programs, offices, boards, 22  
councils, or other entities within that agency. The auditor shall 23  
make the selection and determination in consultation with the 24  
governor and the speaker and minority leader of the house of 25  
representatives and president and minority leader of the senate. 26

An audit of a portion of an agency shall be considered an 27  
audit of one agency. The authority to audit a portion of an agency 28  
in no way limits the auditor's ability to audit an entire agency 29  
if it is in the best interest of the state. 30

The performance audits under this section shall be conducted 31  
pursuant to sections 117.01 and 117.13 of the Revised Code. In 32  
conducting a performance audit, the auditor of state shall 33  
determine the scope of the audit, but shall consider, if 34  
appropriate, supervisory and subordinate level operations in the 35  
agency. 36

Sec. 117.461. Every state agency audited pursuant to section 37  
117.46 of the Revised Code shall accept comments regarding the 38  
performance audit from interested parties. The comment period 39  
shall begin on the day following the release date of the audit and 40  
shall conclude at the end of the fourteenth day following the 41  
release date. The agency shall make all comments available to the 42  
public on the twenty-first day following the release date of the 43  
audit. The agency shall determine how to accept comments under 44  
this section. 45

Sec. 117.462. (A) A state agency shall implement the 46  
recommendations of a performance audit conducted pursuant to 47  
section 117.46 of the Revised Code. If an agency does not commence 48  
implementation of such recommendations within three months after 49  
the end of the comment period for the audit, the agency shall do 50  
both of the following: 51

(1) File a report explaining why the agency has not commenced 52  
implementation of the recommendations with the governor, auditor 53  
of state, speaker and minority leader of the house of 54  
representatives, and president and minority leader of the senate; 55

(2) Provide testimony explaining why the agency has not 56  
commenced implementation of the recommendations to the house of 57  
representatives and senate committees dealing primarily with the 58  
programs and activities of the agency. 59

(B) Comments submitted to the agency under section 117.461 of 60  
the Revised Code shall be attached to the report required by 61  
division (A)(1) of this section. 62

(C) If an agency does not fully implement an audit 63  
recommendation within one year after the end of the comment period 64  
for the audit, the agency shall file a report with the governor, 65  
auditor, speaker and minority leader of the house of 66

representatives, and president and minority leader of the senate 67  
justifying why the recommendation has not or will not be 68  
implemented. 69

Sec. 117.463. (A) The auditor of state shall annually submit 70  
a report in writing to the governor, the speaker and minority 71  
leader of the house of representatives, and the president and 72  
minority leader of the senate describing both of the following: 73

(1) Whether state agencies that received performance audits 74  
in the immediately preceding year implemented the audit 75  
recommendations; 76

(2) The amount of money saved as a result of the 77  
implementation. 78

(B) The auditor of state shall establish a process for 79  
obtaining the information required for the report. 80

(C) The report shall be submitted no later than the thirtieth 81  
day of March of each year. 82

Sec. 117.47. There is hereby created in the state treasury 83  
the leverage for efficiency, accountability, and performance fund. 84  
The auditor of state shall use the fund to make loans to state 85  
agencies and local public offices that have applied to and been 86  
approved by the auditor of state to receive the loans and to pay 87  
the costs of conducting performance audits incurred by the auditor 88  
of state. The fund shall consist of money appropriated to it plus 89  
the repayments of principal and interest on loans made from the 90  
fund. Interest earned on money in the fund shall be credited to 91  
the fund. 92

Sec. 117.471. (A) A state agency or local public office may 93  
request from the auditor of state a loan from the fund created in 94  
section 117.47 of the Revised Code to pay the auditor of state for 95

a performance audit. The amount loaned shall be the amount charged 96  
by the auditor of state for a performance audit under division (B) 97  
of this section. 98

(B) The amount charged for a performance audit of a state 99  
agency shall be the same as the amount charged for an audit under 100  
division (A)(2) of section 117.13 of the Revised Code. The amount 101  
charged for a performance audit of a local public office shall be 102  
the same as the amount charged for an audit under division (C)(1) 103  
of section 117.13 of the Revised Code. 104

The amount charged for a performance audit shall include 105  
interest on the amount loaned, accrued from the date the audit is 106  
completed until the date payment is received by the auditor of 107  
state. The interest rate shall be equivalent to the average of the 108  
monthly yields for the state treasury asset reserve fund for the 109  
time period during which the interest is accruing. 110

(C) The auditor of state shall provide each state agency or 111  
local public office that receives a loan under this section with a 112  
statement of the amount due from the agency or office for services 113  
performed by the auditor of state, as well as the date on which 114  
payment is due to the auditor of state. A local public office's 115  
statement shall include the percentage of the total cost 116  
chargeable to each fund subject to the performance audit. Payment 117  
for a performance audit shall be due one year after the audit is 118  
completed. 119

(D) If the local public office seeking a loan under this 120  
section is the office of a county elected official, the local 121  
public office applying for the loan must obtain prior approval 122  
from the board of county commissioners of the county in which the 123  
local public office is located. This approval is required to 124  
ensure that the county office being audited and the board of 125  
county commissioners are notified that the costs of the loan must 126

be repaid. 127

(E) All moneys received for repayment of loans and interest 128  
under this section shall be paid to the credit of the leverage for 129  
efficiency, accountability, and performance fund created in 130  
section 117.47 of the Revised Code. 131

**Sec. 117.472.** (A) If the state agency has not repaid the 132  
auditor of state by the payment deadline established under section 133  
117.471 of the Revised Code, the auditor of state shall certify to 134  
the director of budget and management the amount of the loan plus 135  
interest due. The director shall withhold from the state agency 136  
the amount certified from funds under the director's control that 137  
belong to or are lawfully payable or due to the state agency and 138  
that may be used to repay the loan. The director shall promptly 139  
pay the amount withheld to the auditor of state. 140

If the director determines that no funds payable and due to 141  
the state agency are available or that insufficient amounts of 142  
such funds are available, the director shall withhold and pay to 143  
the auditor of state the amounts available and shall continue to 144  
withhold funds and pay the auditor of state until the full amount 145  
due to the auditor of state is paid. 146

(B) If a local public office has not repaid the auditor of 147  
state by the payment deadline established under section 117.471 of 148  
the Revised Code, the auditor of state shall certify to the county 149  
auditor the amount of the loan plus interest due. The county 150  
auditor shall withhold from the local public office the amount 151  
certified from funds under the county auditor's control that 152  
belong to or are lawfully payable or due to the local public 153  
office and that may be used to repay the loan. The county auditor 154  
shall promptly pay the amount withheld to the auditor of state. 155

If the county auditor determines that no funds payable and 156  
due to the local public office are available or that insufficient 157

amounts of such funds are available, the county auditor shall 158  
withhold and pay to the auditor of state the amounts available and 159  
shall continue to withhold funds and pay the auditor of state 160  
until the full amount due to the auditor of state is paid. 161

(C) All moneys received from the director of budget and 162  
management or a county auditor for repayment of loans and interest 163  
under this section shall be paid to the state treasury to the 164  
credit of the leverage for efficiency, accountability, and 165  
performance fund created in section 117.47 of the Revised Code. 166

**Section 2.** (A) Notwithstanding the requirement regarding the 167  
selection of the specific agencies to be audited, the initial 168  
performance audits conducted by the Auditor of State pursuant to 169  
section 117.46 of the Revised Code shall be of the following state 170  
agencies: 171

(1) The Department of Education; 172

(2) The Department of Job and Family Services; 173

(3) The Department of Transportation; 174

(4)(a) One other state agency not listed in section 121.02 of 175  
the Revised Code; 176

(b) Any state agency may request an audit under division 177  
(A)(4)(a) of this section. The Governor shall select an agency not 178  
listed in section 121.02 of the Revised Code if no such agency 179  
requests an audit. The Auditor shall conduct an audit of every 180  
agency that requests an audit and the agency the Governor selects. 181

(B)(1) The Auditor shall commence the audits of the 182  
Department of Education, the Department of Job and Family 183  
Services, the Department of Transportation, and one other agency 184  
not listed in section 121.02 of the Revised Code within 90 days of 185  
the effective date of this act. 186

(2) Audits of any additional agencies that request an audit 187

under this section shall commence as soon as practicable as 188  
determined by the Auditor. 189

(C)(1) In conducting the audit of the Department of 190  
Transportation, the Auditor shall analyze and comment on the 191  
realignment of all transportation districts. 192

(2) The Director of Transportation shall pay for the audit 193  
with money that is available to the Department and that may be 194  
used for that purpose, excluding money appropriated from the 195  
General Revenue Fund. 196

**Section 3.** Notwithstanding section 117.101 of the Revised 197  
Code, on the effective date of this act or as soon as possible 198  
thereafter, the Director of Budget and Management shall transfer 199  
\$1,500,000 cash from the Uniform Accounting Network Fund (Fund 200  
6750) to the Leverage for Efficiency, Accountability, and 201  
Performance Fund (Fund 5JZ0) established under section 117.47 of 202  
the Revised Code. Moneys within Fund 5JZ0 shall be used in 203  
accordance with sections 117.47 and 117.471 of the Revised Code. 204  
When cash balances in Fund 5JZ0 exceed the amount originally 205  
transferred pursuant to this section, the Director of Budget and 206  
Management shall transfer the excess amounts to Fund 6750 until 207  
the \$1,500,000 originally transferred has been repaid. 208

**Section 4.** All items in this section are hereby appropriated 209  
as designated out of any moneys in the state treasury to the 210  
credit of the Leverage for Efficiency, Accountability, and 211  
Performance Fund (Fund 5JZ0). For all appropriations made in this 212  
act, those in the first column are for fiscal year 2010 and those 213  
in the second column are for fiscal year 2011. The appropriations 214  
made in this act are in addition to any other appropriations made 215  
for the FY 2010-2011 biennium. 216

AUD Auditor of State	217
Auditor of State Fund Group	218
5JZ0 070606 LEAP Revolving Loans \$ 0 \$ 1,500,000	219
TOTAL AUD Auditor of State Fund \$ 0 \$ 1,500,000	220
Group	
TOTAL ALL BUDGET FUND GROUPS \$ 0 \$ 1,500,000	221
LEAP REVOLVING LOANS	222
The foregoing appropriation item 070606, LEAP Revolving	223
Loans, shall be used to advance the costs of performance audits to	224
state agencies and local public offices who have applied to and	225
been approved by the Auditor of State for receipt of these funds	226
pursuant to sections 117.47 and 117.471 of the Revised Code.	227
Within the limits set forth in this act, the Director of	228
Budget and Management shall establish accounts indicating the	229
source and amount of funds for each appropriation made in this	230
act, and shall determine the form and manner in which	231
appropriation accounts shall be maintained. Expenditures from	232
appropriations contained in this act shall be accounted for as	233
though made in Am. Sub. H.B. 1 of the 128th General Assembly.	234
The appropriations made in this act are subject to all	235
provisions of Am. Sub. H.B. 1 of the 128th General Assembly that	236
are generally applicable to such appropriations.	237
<b>Section 5.</b> Sections 1, 2, 3, 4, and 5 of this act are not	238
subject to the referendum because they are or they relate to an	239
appropriation for current expenses within the meaning of Ohio	240
Constitution, Article II, Section 1d, and section 1.471 of the	241
Revised Code, and therefore those sections take effect immediately	242
when this act becomes law.	243