As Reported by the Senate State and Local Government and Veterans Affairs Committee

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Senator Schaffer

Cosponsors: Senators Daniels, Hughes, LaRose, Brown, Turner

A B I L L

To amend section 117.13 and to enact sections 117.46, 117.461, 117.47, 117.471, and 117.472 of the Revised Code to require performance auditing by the Auditor of State of a minimum of four state agencies each biennium, to establish the Leverage for Efficiency, Accountability, and Performance Fund, and to make an appropriation.

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

Section 1. That section 117.13 be amended and sections 117.46, 117.461, 117.47, 117.471, and 117.472 of the Revised Code be enacted to read as follows:

Sec. 117.13. (A) ~~The~~ Except as otherwise provided in section 117.472 of the Revised Code, the costs of audits of state agencies shall be recovered by the auditor of state in the following manner:

(1) The costs of all audits of state agencies shall be paid to the auditor of state on statements rendered by the auditor of state. Money so received by the auditor of state shall be paid into the state treasury to the credit of the public audit expense

fund--intrastate, which is hereby created, and shall be used to pay costs related to such audits. The costs of audits of a state agency shall be charged to the state agency being audited. The costs of any assistant auditor, employee, or expert employed pursuant to section 117.09 of the Revised Code called upon to testify in any legal proceedings in regard to any audit, or called upon to review or discuss any matter related to any audit, may be charged to the state agency to which the audit relates.

(2) The auditor of state shall establish by rule rates to be charged to state agencies for recovering the costs of audits of state agencies.

(B) As used in this division, "government auditing standards" means the government auditing standards published by the comptroller general of the United States general accounting office.

(1) Except as provided in divisions (B)(2) and (3) of this section, any costs of an audit of a private institution, association, board, or corporation receiving public money for its use shall be charged to the public office providing the public money in the same manner as costs of an audit of the public office.

(2) If an audit of a private child placing agency or private noncustodial agency receiving public money from a public children services agency for providing child welfare or child protection services sets forth that money has been illegally expended, converted, misappropriated, or is unaccounted for, the costs of the audit shall be charged to the agency being audited in the same manner as costs of an audit of a public office, unless the findings are inconsequential, as defined by government auditing standards.

(3) If such an audit does not set forth that money has been

illegally expended, converted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential, as defined by government auditing standards, the costs of the audit shall be charged as follows:

(a) One-third of the costs to the agency being audited;

(b) One-third of the costs to the public children services agency that provided the public money to the agency being audited;

(c) One-third of the costs to the department of job and family services.

(C) ~~The~~ Except as otherwise provided in section 117.472 of the Revised Code, the costs of audits of local public offices shall be recovered by the auditor of state in the following manner:

(1) The total amount of compensation paid assistant auditors of state, their expenses, the cost of employees assigned to assist the assistant auditors of state, the cost of experts employed pursuant to section 117.09 of the Revised Code, and the cost of typing, reviewing, and copying reports shall be borne by the public office to which such assistant auditors of state are so assigned, except that annual vacation and sick leave of assistant auditors of state, employees, and typists shall be financed from the general revenue fund. The necessary traveling and hotel expenses of the deputy inspectors and supervisors of public offices shall be paid from the state treasury. Assistant auditors of state shall be compensated by the taxing district or other public office audited for activities undertaken pursuant to division (B) of section 117.18 and section 117.24 of the Revised Code. The costs of any assistant auditor, employee, or expert employed pursuant to section 117.09 of the Revised Code called upon to testify in any legal proceedings in regard to any audit, or called upon to review or discuss any matter related to any

audit, may be charged to the public office to which the audit relates.

(2) The auditor of state shall certify the amount of such compensation, expenses, cost of experts, reviewing, copying, and typing to the fiscal officer of the local public office audited. The fiscal officer of the local public office shall forthwith draw a warrant upon the general fund or other appropriate funds of the local public office to the order of the auditor of state; provided, that the auditor of state is authorized to negotiate with any local public office and, upon agreement between the auditor of state and the local public office, may adopt a schedule for payment of the amount due under this section. Money so received by the auditor of state shall be paid into the state treasury to the credit of the public audit expense fund--local government, which is hereby created, and shall be used to pay the compensation, expense, cost of experts and employees, reviewing, copying, and typing of reports.

(3) At the conclusion of each audit, or analysis and report made pursuant to section 117.24 of the Revised Code, the auditor of state shall furnish the fiscal officer of the local public office audited a statement showing the total cost of the audit, or of the audit and the analysis and report, and the percentage of the total cost chargeable to each fund audited. The fiscal officer may distribute such total cost to each fund audited in accordance with its percentage of the total cost.

(4) The auditor of state shall provide each local public office a statement or certification of the amount due from the public office for services performed by the auditor of state under this or any other section of the Revised Code, as well as the date upon which payment is due to the auditor of state. Any local public office that does not pay the amount due to the auditor of state by that date may be assessed by the auditor of state for

interest from the date upon which the payment is due at the rate per annum prescribed by section 5703.47 of the Revised Code. All interest charges assessed by the auditor of state may be collected in the same manner as audit costs pursuant to division (D) of this section.

(D) If the auditor of state fails to receive payment for any amount due, including, but not limited to, fines, fees, and costs, from a public office for services performed under this or any other section of the Revised Code, the auditor of state may seek payment through the office of budget and management. (Amounts due include any amount due to an independent public accountant with whom the auditor has contracted to perform services, all costs and fees associated with participation in the uniform accounting network, and all costs associated with the auditor's provision of local government services.) Upon certification by the auditor of state to the director of budget and management of any such amount due, the director shall withhold from the public office any amount available, up to and including the amount certified as due, from any funds under the director's control that belong to or are lawfully payable or due to the public office. The director shall promptly pay the amount withheld to the auditor of state. If the director determines that no funds due and payable to the public office are available or that insufficient amounts of such funds are available to cover the amount due, the director shall withhold and pay to the auditor of state the amounts available and, in the case of a local public office, certify the remaining amount to the county auditor of the county in which the local public office is located. The county auditor shall withhold from the local public office any amount available, up to and including the amount certified as due, from any funds under the county auditor's control and belonging to or lawfully payable or due to the local public office. The county auditor shall promptly pay any such amount withheld to the auditor of state.

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 auditor of state 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 of state shall make the selection and determination in consultation with the governor, 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 auditor of state shall submit a report of each completed audit to the governor, speaker and minority leader of the house of representatives, president and minority leader of the senate, and inspector general. The report shall be submitted within thirty days of the completion of the audit.

Sec. 117.461. If an agency does not fully implement performance audit recommendations within one year after an audit is completed, the agency shall do both of the following:

(A) File a report explaining why the agency has not implemented 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;

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

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 requesting loans under section 117.471 of the Revised Code and to pay for costs incurred by the auditor of state for conducting performance audits. 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 state agency or local public office may apply for 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 auditor of state shall oversee the application and approval process for a loan. 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.

The interest rate on a loan from the fund shall be calculated at the same rate as the average of the average monthly yields for the state treasury asset reserve fund for the duration of the loan. Interest shall accrue on a loan from the date the audit is completed until the date the loan is repaid.

Rates charged for performance audits of state agencies shall be determined in accordance with division (A)(2) of section 117.13 of the Revised Code. Rates charged for performance audits of local public offices shall be determined in accordance with division (C)(1) of section 117.13 of the Revised Code.

Sec. 117.472. The auditor of state shall provide each state agency receiving a loan from the fund created in section 117.47 of the Revised Code with a statement of the amount of the loan plus interest due. The statement shall include the percentage of total cost chargeable to each fund subject to the performance audit, as well as the date upon which payment is due to the auditor of state, which shall be one year following the date the performance audit is completed. If the state agency has not repaid the auditor of state by the payment deadline established under this section, 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 agency the amount certified from funds under the director's control that belong to or are lawfully payable or due to the 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 due and payable to the 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.

The auditor of state shall provide each local public office receiving a loan from the fund created in section 117.47 of the Revised Code with a statement of the amount of the loan plus interest due from the office. The statement shall include the percentage of total cost chargeable to each fund subject to the performance audit, as well as the date upon which payment is due

to the auditor of state, which shall be one year following the date the performance audit is completed. If a local public office has not repaid the auditor of state by the payment deadline established under this section, 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 due and payable 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.

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 into 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. That existing section 117.13 of the Revised Code is hereby repealed.

Section 3. Section 117.46 of the Revised Code as enacted by this act does not imply that the Auditor of State currently has no performance audit authority under Chapter 117. of the Revised Code.

Section 4. 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 5. 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 section 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 6. Sections 1, 2, 3, 4, 5, and 6 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.