

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 40

Introduced by Harms, 48.

Read first time January 10, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to auditing standards; to amend sections 50-1204
2 and 50-1205.01, Reissue Revised Statutes of Nebraska, and
3 section 84-304, Revised Statutes Cumulative Supplement,
4 2012; to change references to auditing standards; to
5 repeal the original sections; and to declare an
6 emergency.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 50-1204, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 50-1204 (1) The Legislative Performance Audit Committee
4 is hereby established as a special legislative committee to exercise
5 the authority and perform the duties provided for in the Legislative
6 Performance Audit Act. The committee shall be composed of the Speaker
7 of the Legislature, the chairperson of the Executive Board of the
8 Legislative Council, the chairperson of the Appropriations Committee
9 of the Legislature, and four other members of the Legislature to be
10 chosen by the Executive Board of the Legislative Council. The
11 executive board shall ensure that the Legislative Performance Audit
12 Committee includes adequate geographic representation. The
13 chairperson and vice-chairperson of the Legislative Performance Audit
14 Committee shall be elected by majority vote. The committee shall be
15 subject to all rules prescribed by the Legislature. The committee
16 shall be reconstituted at the beginning of each Legislature and shall
17 meet as needed.

18 (2) The Legislative Performance Audit Section is
19 established. The section shall be administered by the Legislative
20 Auditor, who shall ensure that performance audit work conducted by
21 the section conforms with performance audit standards contained in
22 the Government Auditing Standards ~~(2007 revision)~~ (2011 Revision) as
23 required in section 50-1205.01. The section shall be composed of the
24 Legislative Auditor and other employees of the Legislature employed
25 to conduct performance audits. The section shall be the custodian of

1 all records generated by the committee or section except as provided
2 by section 50-1213, subsection (11) of section 77-2711, or
3 subdivision (10)(a) of section 77-27,119. The section shall inform
4 the Legislative Fiscal Analyst of its activities and consult with him
5 or her as needed. The section shall operate under the general
6 direction of the committee.

7 Sec. 2. Section 50-1205.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 50-1205.01 Performance audits done under the terms of the
10 Legislative Performance Audit Act shall be conducted in accordance
11 with the generally accepted government auditing standards for
12 performance audits contained in the Government Auditing Standards
13 ~~(2007 Revision)~~, (2011 Revision), published by the Comptroller
14 General of the United States, Government Accountability Office.

15 Sec. 3. Section 84-304, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 84-304 It shall be the duty of the Auditor of Public
18 Accounts:

19 (1) To give information electronically to the
20 Legislature, whenever required, upon any subject relating to the
21 fiscal affairs of the state or with regard to any duty of his or her
22 office;

23 (2) To furnish offices for himself or herself and all
24 fuel, lights, books, blanks, forms, paper, and stationery required
25 for the proper discharge of the duties of his or her office;

1 (3) To examine or cause to be examined, at such time as
2 he or she shall determine, books, accounts, vouchers, records, and
3 expenditures of all state officers, state bureaus, state boards,
4 state commissioners, the state library, societies and associations
5 supported by the state, state institutions, state colleges, and the
6 University of Nebraska, except when required to be performed by other
7 officers or persons. Such examinations shall be done in accordance
8 with generally accepted government auditing standards for financial
9 audits and attestation engagements set forth in Government Auditing
10 Standards ~~(2007 Revision)~~, (2011 Revision), published by the
11 Comptroller General of the United States, Government Accountability
12 Office, and except as provided in subdivision (11) of this section,
13 subdivision (16) of section 50-1205, and section 84-322, shall not
14 include performance audits, whether conducted pursuant to attestation
15 engagements or performance audit standards as set forth in Government
16 Auditing Standards ~~(2007 Revision)~~, (2011 Revision), published by the
17 Comptroller General of the United States, Government Accountability
18 Office;

19 (4)(a) To examine or cause to be examined, at the expense
20 of the political subdivision, when the Auditor of Public Accounts
21 determines such examination necessary or when requested by the
22 political subdivision, the books, accounts, vouchers, records, and
23 expenditures of any agricultural association formed under Chapter 2,
24 article 20, any county agricultural society, any joint airport
25 authority formed under the Joint Airport Authorities Act, any city or

1 county airport authority, any bridge commission created pursuant to
2 section 39-868, any cemetery district, any development district, any
3 drainage district, any health district, any local public health
4 department as defined in section 71-1626, any historical society, any
5 hospital authority or district, any county hospital, any housing
6 agency as defined in section 71-1575, any irrigation district, any
7 county or municipal library, any community mental health center, any
8 railroad transportation safety district, any rural water district,
9 any township, Wyuka Cemetery, the Educational Service Unit
10 Coordinating Council, any entity created pursuant to the Interlocal
11 Cooperation Act which includes either the participation of the
12 Educational Service Unit Coordinating Council or any educational
13 service unit, any village, any political subdivision with the
14 authority to levy a property tax or a toll, or any entity created
15 pursuant to the Joint Public Agency Act which has separately levied a
16 property tax based on legal authority for a joint public agency to
17 levy such a tax independent of the public agencies forming such joint
18 public agency.

19 (b) The Auditor of Public Accounts may waive the audit
20 requirement of subdivision (4)(a) of this section upon the submission
21 by the political subdivision of a written request in a form
22 prescribed by the auditor. The auditor shall notify the political
23 subdivision in writing of the approval or denial of the request for a
24 waiver;

25 (5) To report promptly to the Governor and the

1 appropriate standing committee of the Legislature the fiscal
2 condition shown by such examinations conducted by the auditor,
3 including any irregularities or misconduct of officers or employees,
4 any misappropriation or misuse of public funds or property, and any
5 improper system or method of bookkeeping or condition of accounts.
6 The report submitted to the committee shall be submitted
7 electronically. In addition, if, in the normal course of conducting
8 an audit in accordance with subdivision (3) of this section, the
9 auditor discovers any potential problems related to the
10 effectiveness, efficiency, or performance of state programs, he or
11 she shall immediately report them electronically to the Legislative
12 Performance Audit Committee which may investigate the issue further,
13 report it electronically to the appropriate standing committee of the
14 Legislature, or both;

15 (6)(a) To examine or cause to be examined the books,
16 accounts, vouchers, records, and expenditures of a fire protection
17 district. The expense of the examination shall be paid by the
18 political subdivision.

19 (b) Whenever the expenditures of a fire protection
20 district are one hundred fifty thousand dollars or less per fiscal
21 year, the fire protection district shall be audited no more than once
22 every five years except as directed by the board of directors of the
23 fire protection district or unless the auditor receives a verifiable
24 report from a third party indicating any irregularities or misconduct
25 of officers or employees of the fire protection district, any

1 misappropriation or misuse of public funds or property, or any
2 improper system or method of bookkeeping or condition of accounts of
3 the fire protection district. In the absence of such a report, the
4 auditor may waive the five-year audit requirement upon the submission
5 of a written request by the fire protection district in a form
6 prescribed by the auditor. The auditor shall notify the fire
7 protection district in writing of the approval or denial of a request
8 for waiver of the five-year audit requirement. Upon approval of the
9 request for waiver of the five-year audit requirement, a new five-
10 year audit period shall begin.

11 (c) Whenever the expenditures of a fire protection
12 district exceed one hundred fifty thousand dollars in a fiscal year,
13 the auditor may waive the audit requirement upon the submission of a
14 written request by the fire protection district in a form prescribed
15 by the auditor. The auditor shall notify the fire protection district
16 in writing of the approval or denial of a request for waiver. Upon
17 approval of the request for waiver, a new five-year audit period
18 shall begin for the fire protection district if its expenditures are
19 one hundred fifty thousand dollars or less per fiscal year in
20 subsequent years;

21 (7) To appoint two assistant deputies (a) whose entire
22 time shall be devoted to the service of the state as directed by the
23 auditor, (b) who shall be certified public accountants with at least
24 five years' experience, (c) who shall be selected without regard to
25 party affiliation or to place of residence at the time of

1 appointment, (d) who shall promptly report in duplicate to the
2 auditor the fiscal condition shown by each examination, including any
3 irregularities or misconduct of officers or employees, any
4 misappropriation or misuse of public funds or property, and any
5 improper system or method of bookkeeping or condition of accounts,
6 and it shall be the duty of the auditor to file promptly with the
7 Governor a duplicate of such report, and (e) who shall qualify by
8 taking an oath which shall be filed in the office of the Secretary of
9 State;

10 (8) To conduct audits and related activities for state
11 agencies, political subdivisions of this state, or grantees of
12 federal funds disbursed by a receiving agency on a contractual or
13 other basis for reimbursement to assure proper accounting by all such
14 agencies, political subdivisions, and grantees for funds appropriated
15 by the Legislature and federal funds disbursed by any receiving
16 agency. The auditor may contract with any political subdivision to
17 perform the audit of such political subdivision required by or
18 provided for in section 23-1608 or 79-1229 or this section and charge
19 the political subdivision for conducting the audit. The fees charged
20 by the auditor for conducting audits on a contractual basis shall be
21 in an amount sufficient to pay the cost of the audit. The fees
22 remitted to the auditor for such audits and services shall be
23 deposited in the Auditor of Public Accounts Cash Fund;

24 (9) To conduct all audits and examinations in a timely
25 manner and in accordance with the standards for audits of

1 governmental organizations, programs, activities, and functions
2 published by the Comptroller General of the United States;

3 (10) To develop and maintain an annual budget and actual
4 financial information reporting system for political subdivisions
5 that is accessible on-line by the public; and

6 (11) When authorized, to conduct joint audits with the
7 Legislative Performance Audit Committee as described in section
8 50-1205.

9 Sec. 4. Original sections 50-1204 and 50-1205.01, Reissue
10 Revised Statutes of Nebraska, and section 84-304, Revised Statutes
11 Cumulative Supplement, 2012, are repealed.

12 Sec. 5. Since an emergency exists, this act takes effect
13 when passed and approved according to law.