

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 412

Government Performance Audit Select Committee Substitute Adopted 4/8/93

Short Title: Legislative Audit Subcommittee.

(Public)

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Sponsors:

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Referred to: Appropriations.

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February 24, 1993

A BILL TO BE ENTITLED

1 AN ACT TO CREATE A LEGISLATIVE AUDIT SUBCOMMITTEE OF THE JOINT  
2 LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS, TO  
3 PROVIDE FOR PROGRAM EVALUATION, TO PROVIDE A LIMITED  
4 NUMBER OF EXEMPT POSITIONS FOR PERFORMANCE AUDIT STAFF,  
5 AND TO PROVIDE FUNDS FOR CONTRACTUAL AUDIT AND EXPERT  
6 SERVICES.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Article 13 of Chapter 120 of the General Statutes is amended by  
10 adding the following new sections to read:

11 "**§ 120-80. Legislative Audit Subcommittee established.**

12 There is hereby established the Legislative Audit Subcommittee of the Commission  
13 (hereinafter the 'Subcommittee'). Except as provided in G.S. 120-80.1, the  
14 Subcommittee shall consist of four Senate members of the Commission appointed by  
15 the President Pro Tempore of the Senate, one of whom shall be designated to cochair  
16 the Subcommittee, and four House members of the Commission appointed by the  
17 Speaker of the House of Representatives, one of whom shall be designated to cochair  
18 the Subcommittee.

19 "**§ 120-80.1. Additional members.**

20 The cochairmen of the Commission, in order to accommodate the need for  
21 membership on the Subcommittee, may enlarge the membership of the Commission  
22 under G.S. 120-74 by two additional members from each house, or they may enlarge the  
23 membership of the Subcommittee under G.S. 120-80 by two additional members from

1 each house who are not members of the Commission. Appointments made under either  
2 method are subject to the applicable provisions of G.S. 120-74. Members of the  
3 General Assembly who serve on the Subcommittee but not on the Commission are  
4 entitled to reimbursement and compensation as provided for Commission members  
5 under G.S. 120-78.

6 **"§ 120-81. Duties and powers.**

7 Subject to the approval of the cochairmen of the Commission, the Subcommittee  
8 may:

- 9 (1) Exercise the powers and duties of the Commission under G.S. 120-76  
10 with respect to evaluations of State agency programs;
- 11 (2) Evaluate requests for audits by members and committees of the  
12 General Assembly and recommend to the State Auditor or the  
13 Commission the audits that should be undertaken; and
- 14 (3) Review agency compliance with performance audit findings and  
15 recommendations made by the State Auditor.

16 **"§ 120-82. Compliance review.**

17 A compliance review conducted by the Subcommittee pursuant to G.S. 120-81(3)  
18 shall be commenced within 18 months of issuance of the audit report and  
19 shall adhere to the following procedures:

- 20 (1) Agency Response. – Each agency reviewed shall have an opportunity  
21 to respond in writing to the compliance review findings, subject to  
22 deadlines imposed by the Subcommittee.
- 23 (2) Public Hearing. – After review of an agency's response, if the  
24 Subcommittee is not satisfied that the agency has addressed or is  
25 making substantial progress in addressing the audit findings and  
26 recommendations, it shall schedule a public hearing, prior to issuing a  
27 final report, to receive additional testimony on agency noncompliance.  
28 The attendance of the head of the affected department or institution or  
29 other appropriate officials may be compelled in accordance with the  
30 provisions of G.S. 120-19.2. Additionally, the Subcommittee, while in  
31 the discharge of its official duties, may exercise all of the powers of a  
32 joint committee of the General Assembly provided for under the  
33 provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4.
- 34 (3) Final Report. – The final report shall contain the findings concerning  
35 agency noncompliance and recommendations for further action or  
36 legislation. The Subcommittee may issue one report that covers  
37 several audits. The Subcommittee may at any time conduct a follow-  
38 up review of agency compliance. All Subcommittee reports shall be  
39 issued to the Commission. The Commission shall review each report  
40 of the Subcommittee and may approve, disapprove, or modify the  
41 report.

42 **"§ 120-83. Government Performance Audit legislation.**

43 The Subcommittee shall issue a report to the Commission no later than April 15,  
44 1994, on agency compliance with enacted legislation recommended by the Government

1 Performance Audit Committee. With the approval of the Commission, the  
2 Subcommittee may follow the procedures outlined in G.S. 120-82 or it may adopt a  
3 different review procedure. If the agency has been specifically directed by the  
4 Government Performance Audit legislation to report to any other legislative commission  
5 created pursuant to this Chapter, it shall also report to the Subcommittee. The  
6 Subcommittee may review and report on the agency's compliance notwithstanding  
7 review by other legislative commissions. The Subcommittee shall issue a final report to  
8 the Commission no later than December 1, 1994. The Commission shall review the  
9 reports of the Subcommittee and may approve, disapprove, or modify them."

10 Sec. 2. G.S. 147-64.6(c) reads as rewritten:

11 "(c) The Auditor shall be responsible for the following acts and activities:

- 12 (1) Audits made or caused to be made by the Auditor shall be conducted  
13 in accordance with generally accepted auditing standards as prescribed  
14 by the American Institute of Certified Public Accountants, the United  
15 States General Accounting Office, or other professionally recognized  
16 accounting standards-setting bodies.
- 17 (2) Financial and compliance audits may be made at the discretion of the  
18 Auditor without advance notice to the organization being audited.  
19 Audits of economy and efficiency and program results shall be  
20 discussed in advance with the prospective auditee unless an  
21 unannounced visit is essential to the audit.
- 22 (3) The Auditor, on his own initiative and as often as he deems necessary,  
23 or as requested by the Governor or the General Assembly, shall, to the  
24 extent deemed practicable and consistent with his overall  
25 responsibility as contained in this act, make or cause to be made audits  
26 of all or any part of the activities of the State agencies. Requests from  
27 members or committees of the General Assembly shall be submitted to  
28 the Joint Legislative Commission on Governmental Operations, or, at  
29 the direction of the Commission chairmen, to the Commission's  
30 Legislative Audit Subcommittee.
- 31 (4) The Auditor, at his own discretion, may, in selecting audit areas and in  
32 evaluating current audit activity, consider and utilize, in whole or in  
33 part, the relevant audit coverage and applicable reports of the audit  
34 staffs of the various State agencies, independent contractors, and  
35 federal agencies. He shall coordinate, to the extent deemed  
36 practicable, the auditing conducted within the State to meet the needs  
37 of all governmental bodies.
- 38 (5) The Auditor is authorized to contract with federal audit agencies, or  
39 any governmental agency, on a cost reimbursable basis, for the  
40 Auditor to perform audits of federal grants and programs administered  
41 by the State Departments and institutions in accordance with  
42 agreements negotiated between the Auditor and the contracting federal  
43 audit agencies or any governmental agency. In instances where the  
44 grantee State agency shall subgrant these federal funds to local

1 governments, regional councils of government and other local groups  
2 or private or semiprivate institutions or agencies, the Auditor shall  
3 have the authority to examine the books and records of these  
4 subgrantees to the extent necessary to determine eligibility and proper  
5 use in accordance with State and federal laws and regulations.

6 The Auditor shall charge and collect from the contracting federal  
7 audit agencies, or any governmental agencies, the actual cost of all the  
8 audits of the grants and programs contracted by him to do. Amounts  
9 collected under these arrangements shall be deposited in the State  
10 Treasury and be budgeted in the Department of State Auditor and shall  
11 be available to hire sufficient personnel to perform these contracted  
12 audits and to pay for related travel, supplies and other necessary  
13 expenses.

14 (6) The Auditor is authorized and directed in his reports of audits or  
15 reports of special investigations to make any comments, suggestions,  
16 or recommendations he deems appropriate concerning any aspect of  
17 such agency's activities and operations.

18 (7) The Auditor shall charge and collect from each examining and  
19 licensing board the actual cost of each audit of such board. Costs  
20 collected under this subdivision shall be based on the actual expense  
21 incurred by the Auditor's office in making such audit and the affected  
22 agency shall be entitled to an itemized statement of such costs.  
23 Amounts collected under this subdivision shall be deposited into the  
24 general fund as nontax revenue.

25 (8) The Auditor shall examine as often as may be deemed necessary the  
26 accounts kept by the Treasurer, and if he discovers any irregularity or  
27 deficiency therein, unless the same be rectified or explained to his  
28 satisfaction, report the same forthwith in writing to the General  
29 Assembly, with copy of such report to the Governor and Attorney  
30 General. In addition to regular audits, the Auditor shall check the  
31 treasury records at the time a Treasurer assumes office (not to succeed  
32 himself), and therein charge him with the balance in the treasury, and  
33 shall check the Treasurer's records at the time he leaves office to  
34 determine that the accounts are in order.

35 (9) The Auditor may examine the accounts and records of any bank or  
36 financial institution relating to transactions with the State Treasurer, or  
37 with any State agency, or he may require banks doing business with  
38 the State to furnish him information relating to transactions with the  
39 State or State agencies.

40 (10) The Auditor may, as often as he deems advisable, conduct a detailed  
41 review of the bookkeeping and accounting systems in use in the  
42 various State agencies which are supported partially or entirely from  
43 State funds. Such examinations will be for the purpose of evaluating  
44 the adequacy of systems in use by these agencies and institutions. In

1 instances where the Auditor determines that existing systems are  
2 outmoded, inefficient, or otherwise inadequate, he shall recommend  
3 changes to the State Controller. The State Controller shall prescribe  
4 and supervise the installation of such changes, as provided in G.S.  
5 143B-426.39 (2).

6 (11) The Auditor shall, through appropriate tests, satisfy himself  
7 concerning the propriety of the data presented in the Comprehensive  
8 Annual Financial Report and shall express the appropriate auditor's  
9 opinion in accordance with generally accepted auditing standards.

10 (12) The Auditor shall provide in a written statement to the Governor and  
11 Attorney General, and other appropriate officials, such facts as are in  
12 his possession which pertain to the apparent violation of penal statutes  
13 or apparent instances of malfeasance, misfeasance, or nonfeasance by  
14 an officer or employee.

15 (13) At the conclusion of an audit, the Auditor or his designated  
16 representative shall discuss the audit with the official whose office is  
17 subject to audit and submit necessary underlying facts developed for  
18 all findings and recommendations which may be included in the audit  
19 report. On audits of economy and efficiency and program results, the  
20 auditee's written response shall be included in the final report if  
21 received within 30 days from receipt of the draft report.

22 (14) The Auditor shall provide copies of each audit report to the Joint  
23 Legislative Commission on Governmental Operations of the General  
24 Assembly, the Governor, the Chief Executive Officer of each agency  
25 audited, and other persons as the Auditor deems appropriate. He shall  
26 also file a copy of the audit report in the Auditor's office, which will be  
27 a permanent public record; Provided, nothing in this subsection shall  
28 be construed as authorizing or permitting the publication of  
29 information whose disclosure is otherwise prohibited by law.

30 (15) It is not the intent of the audit function, nor shall it be so construed, to  
31 infringe upon or deprive the General Assembly and the executive or  
32 judicial branches of State government of any rights, powers, or duties  
33 vested in or imposed upon them by statute or the Constitution.

34 (16) The Auditor shall be responsible for receiving reports of allegations of  
35 the improper governmental activities set forth in G.S. 126-84. The  
36 Auditor shall provide a telephone hotline to receive such allegations  
37 and informant may choose whether to remain anonymous. The  
38 Auditor shall implement the necessary policies and procedures to  
39 investigate hotline allegations and recommend appropriate action.  
40 When the allegation involves issues of substantial and specific danger  
41 to the public health and safety, the Auditor shall notify the appropriate  
42 agency immediately. In addition, the Auditor shall publicize the  
43 hotline number periodically and shall report findings to the agencies  
44 involved.

1 All records maintained by the State Auditor which involve  
2 unsubstantiated allegations of improper governmental activities set  
3 forth in G.S. 126-84 shall be destroyed within four years from the date  
4 such allegation was received."

5 Sec. 3. G.S. 147-64.5 reads as rewritten:

6 **"§ 147-64.5. Cooperation with Joint Legislative Commission on governmental**  
7 **operations and other governmental bodies.**

8 (a) Joint Legislative Commission on Governmental Operations. – The Auditor  
9 shall furnish copies of any and all audits requested by the Joint Legislative Commission  
10 on Governmental ~~Operations.~~ Operations or its Legislative Audit Subcommittee.  
11 Accordingly, the Auditor shall, upon request by the chairmen, appear before the  
12 Commission or the Subcommittee to present findings and answer questions concerning  
13 the results of these audits. The Commission and the Subcommittee are ~~is~~ hereby  
14 authorized to use these audit findings in ~~its~~ their inquiries concerning the operations of  
15 State agencies and ~~is~~ are empowered to require agency heads to advise the Commission  
16 or Subcommittee of actions taken or to be taken on any recommendations made in the  
17 report or explain the reasons for not taking action.

18 (b) Requests for Auditor Assistance. – Committees of the General Assembly, the  
19 Governor, and other State officials may make written requests that the Auditor  
20 undertake, to the extent deemed practicable and within the resources provided, a  
21 specific audit or investigation; provide technical assistance and advice; and provide  
22 recommendations on management systems, finance, accounting, auditing, and other  
23 areas of management interest. Requests from members or committees of the General  
24 Assembly shall be submitted to the Joint Legislative Commission on Governmental  
25 Operations, or, at the direction of the Commission chairmen, to the Commission's  
26 Legislative Audit Subcommittee.

27 (c) Cooperation with Other Governmental Bodies. – The Auditor shall cooperate,  
28 act, and function with other audit or evaluation organizations in the State, with  
29 appropriate councils or committees of other states, with governing bodies of the  
30 political subdivisions of the State, and with federal agencies in an effort to maximize the  
31 extent of intergovernmental audit coordination and thereby avoid unnecessary  
32 duplication and expense of audit effort. Nothing in this Article is intended nor shall it be  
33 construed as giving the Auditor control over the internal auditors of any agency."

34 Sec. 4. G.S. 120-76(1) reads as rewritten:

35 "(1) To conduct program evaluation studies of the various components of  
36 State agency activity as they relate to:

- 37 a. Service benefits of each program relative to expenditures;
- 38 b. Achievement of program goals;
- 39 c. Use of indicators by which the success or failure of a program  
40 may be gauged; and
- 41 d. Conformity with legislative intent.

42 The State Auditor shall propose a schedule for in-depth program  
43 evaluation that shall be provided to the Commission for input.

1                   Strategies for carrying out the program evaluation studies shall be  
2                   developed by the State Auditor in consultation with the Commission.  
3                   The Director of the Budget shall ensure that the results of these  
4                   program evaluations are used by State agencies in the State's policy,  
5                   planning, and budgeting processes."

6                   Sec. 5. G.S. 120-74 reads as rewritten:

7                   "**§ 120-74. Appointment of members; terms of office.**

8                   Except as provided in G.S. 120-80.1, the ~~The~~ Commission shall consist of 22  
9                   members. The President pro tempore of the Senate, the Speaker pro tempore of the  
10                  House, and the Majority Leader of the Senate and the Speaker of the House shall serve  
11                  as ex officio members of the Commission. The Speaker of the House of  
12                  Representatives shall appoint nine members from the House. The President pro  
13                  tempore of the Senate shall appoint nine members from the Senate. Vacancies created  
14                  by resignation or otherwise shall be filled by the original appointing authority.  
15                  Members shall serve two-year terms beginning and ending on January 15 of the odd-  
16                  numbered years, except that initial appointments shall begin on July 1, 1975. Members  
17                  shall not be disqualified from completing a term of service on the Commission because  
18                  they fail to run or are defeated for reelection. Resignation or removal from the General  
19                  Assembly shall constitute resignation or removal from membership on the Commission.  
20                  The terms of the initial members of the Commission shall expire January 15, 1977."

21                  Sec. 6. Requirements as to program-based budgeting and program evaluation  
22                  based on outcome measures necessitate that certain performance audit functions be  
23                  conducted by personnel who have unique blends of skills and experiences that do not  
24                  fall within the traditional classifications for auditors. Accordingly, the State Auditor  
25                  may establish up to three positions that are exempt from the State Personnel Act for  
26                  persons who conduct performance audits. These positions may be established as  
27                  exempt positions if the State Auditor determines that there is no adequate classification  
28                  for such positions within the State personnel system.

29                  Sec. 7. There is hereby appropriated from the General Fund to the Office of  
30                  the State Auditor for the 1993-94 fiscal year the sum of twenty-five thousand dollars  
31                  (\$25,000) for contracted performance audit and expert services. There is hereby  
32                  appropriated from the General Fund to the Office of the State Auditor for the 1994-95  
33                  fiscal year the sum of fifty thousand dollars (\$50,000) for contracted performance audit  
34                  and expert services.

35                  Sec. 8. Section 7 of this act becomes effective July 1, 1993. The remainder  
36                  of this act is effective upon ratification. G.S. 120-83, created in Section 1 of this act,  
37                  shall expire January 1, 1995.