

Introduced: 1/11/82  
Referred: State Affairs and  
Finance

1 IN THE SENATE

BY KELLY

2 SENATE BILL NO. 645

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for election of a state auditor,  
7 establishing the auditor's powers and duties; changing  
8 functions of the legislative audit division; and provid-  
9 ing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 \* Section 1. AS 37 is amended by adding a new chapter to read:

12 CHAPTER 06. STATE AUDITOR.

13 Sec. 37.06.010. POWERS AND DUTIES. (a) The state auditor elected  
14 under art. IX, sec. 14 of the state constitution shall

15 (1) audit annually, or more often if considered necessary,  
16 the accounts of all state agencies and the general accounts of the  
17 state;

18 (2) audit monthly, or more often if considered necessary, the  
19 accounts of the Department of Administration;

20 (3) make special audits and investigations when required by  
21 the governor, the legislature, or the chief justice of the supreme  
22 court;

23 (4) conduct an audit of boards and commissions designated in  
24 AS 44.66.010 and of those programs and activities subject to termination  
25 under AS 44.66.020 and 44.66.040, and submit the audit no later than the  
26 first day of the regular session of the legislature convening in each  
27 year designated for boards, commissions, and programs subject to AS 44.-  
28 66;

29 (5) audit the statements of financial condition and operation

1 of the state government and examine the estimates of receipts and ex-  
2 penditures prepared for inclusion in each budget report, and certify the  
3 results of that audit and examination for inclusion in the budget report  
4 presented by the governor to the legislature under AS 37.07.060;

5 (6) report immediately to the governor and the Legislative  
6 Budget and Audit Committee any unauthorized, illegal, irregular, or  
7 unsafe handling or expenditure of state money, or other improper practice  
8 of financial administration, and any obstruction of the auditor during  
9 the conduct of an audit or investigation of a state agency;

10 (7) assist state agencies in establishing or improving their  
11 accounting systems;

12 (8) assist the Legislative Budget and Audit Committee at its  
13 request at hearings and investigations conducted by it and cooperate  
14 with the committee in the preparation of its reports;

15 (9) keep accounts showing the costs of audit operations and  
16 of each audit and investigation conducted, and other accounts necessary  
17 for administration of the auditor's office.

18 (b) The auditor may investigate and examine into the conduct of  
19 state officers who are authorized to receive, collect, or disburse money  
20 for the state, or who manage or control property belonging to the state  
21 or in which the state is interested, or who make estimates or records  
22 that are used as a basis by a state agency in the disbursement of public  
23 money.

24 Sec. 37.06.020. ASSISTANT AUDITOR AND EMPLOYEES. (a) The auditor  
25 shall appoint for the duration of his own term an assistant auditor who  
26 shall be a certified public accountant. The assistant auditor shall  
27 have direct supervision over all technical work and technical assistants,  
28 and shall otherwise aid the auditor in the performance of his duties.  
29 If the auditor is absent or is rendered incapable of performing his

1 duties, or a vacancy in the office occurs, the assistant auditor shall  
2 perform the duties of the auditor until the necessity ceases to exist  
3 or, in the case of a vacancy, until a successor is elected for the  
4 remainder of the unexpired term at the first general election occurring  
5 after the office becomes vacant.

6 (b) The auditor may employ other staff as needed to carry out the  
7 duties of the auditor, including certified public accountants on a  
8 temporary basis for special assignments.

9 Sec. 37.06.030. ACCESS TO RECORDS AND TESTIMONY. (a) The auditor  
10 shall have access to and may examine records, accounts, reports,  
11 vouchers, correspondence files, books, money, and property of a state  
12 agency. Each officer and employee of a state agency having records or  
13 property in his possession or under his control shall permit access to  
14 and examination of them upon the request of the auditor or an agent  
15 authorized by the auditor to make the request.

16 (b) The auditor may require information on oath from any person  
17 regarding matters relating to an account that the auditor is required to  
18 audit. The auditor may summon a person to appear and to give testimony  
19 or answer interrogatories under oath respecting audit matters.

20 Sec. 37.06.040. AUDIT REPORTS. Upon completion of each audit, the  
21 auditor shall prepare a report of his findings and recommendations. The  
22 auditor shall furnish a copy to the governor, the legislature, and the  
23 chief justice of the supreme court, and to the head of the agency to  
24 which the report pertains. The auditor shall prepare and submit to the  
25 legislature an annual report of his activities, summarizing the findings  
26 and recommendations of each audit report prepared and presenting other  
27 findings and recommendations considered necessary.

28 Sec. 37.06.050. DEFINITIONS. In this chapter

29 (1) "agency" means a department, officer, institution, board,

1 commission, bureau, division, or other administrative unit forming the  
2 state government, including the legislative, executive, and judicial  
3 branches of government and the University of Alaska;

4 (2) "auditor" means the state auditor elected under art. IX,  
5 sec. 14 of the state constitution.

6 \* Sec. 2. AS 15.35 is amended by adding a new section to read:

7 ARTICLE 4. STATE AUDITOR.

8 Sec. 15.35.140. ELECTION OF AUDITOR. A state auditor shall be  
9 elected at the general election in 1984 and every four years thereafter.

10 \* Sec. 3. AS 24.20.201(a)(12) is amended to read:

11 (12) review the [PROVIDE FOR] annual post audits of the Alaska  
12 Housing Finance Corporation and the Alaska Industrial Development  
13 Authority.

14 \* Sec. 4. AS 24.20.206(7) is amended to read:

15 (7) review the [PROVIDE FOR AN] annual post audit prepared by  
16 the state auditor and provide for an annual operational and performance  
17 evaluation of the Alaska Permanent Fund Corporation investments and  
18 investment programs;

19 \* Sec. 5. AS 24.20.206(8) is amended to read:

20 (8) review the annual post audit by the state auditor and  
21 provide for an annual operational and performance evaluation of the  
22 Alaska Housing Finance Corporation and the Alaska Industrial Development  
23 Authority; the performance evaluation shall include, but is not limited  
24 to, a comparison of the impact on various sectors of the economy by  
25 public and private lending, the impact on resident and nonresident  
26 employment, the impact on real wages, and the impact on state and local  
27 operating and capital budgets of the programs of the Alaska Housing  
28 Finance Corporation and the Alaska Industrial Development Authority.

29 \* Sec. 6. AS 24.20.241 is amended to read:

1           Sec. 24.20.241. LEGISLATIVE AUDIT DIVISION. The legislative audit  
2 division is established as a permanent staff agency responsible to the  
3 Legislative Budget and Audit Committee for completion of operational and  
4 performance evaluations of state agencies and other reports as directed  
5 by the committee [THE POST-AUDIT FUNCTION].

6 \* Sec. 7. AS 24.20.271(1) is amended to read:

7           (1) conduct a performance evaluation [POST-AUDIT] of boards  
8 and commissions designated in AS 44.66.010 and of those programs and  
9 activities of agencies subject to termination as determined in the  
10 manner set out in AS 44.66.020 and 44.66.040, and submit the evaluation  
11 [AUDIT], together with a written report, not later than the first day of  
12 the regular session of the legislature convening in each year set out  
13 with reference to boards, commissions or agency programs whose activi-  
14 ties are subject to termination as prescribed in AS 44.66;

15 \* Sec. 8. AS 24.20.271(3) is amended to read:

16           (3) at the direction of the Legislative Budget and Audit  
17 Committee, conduct performance evaluations of [POST-AUDITS ON] any  
18 agency of state government;

19 \* Sec. 9. AS 24.20.271(5) is amended to read:

20           (5) require the assistance and cooperation of all state  
21 officials and other state employees in the inspection and [,] examina-  
22 tion [AND AUDIT] of state agency books and accounts;

23 \* Sec. 10. AS 24.20.271(6) is amended to read:

24           (6) have access when conducting performance evaluations under  
25 (1) or (3) of this section [AT ALL TIMES] to the books, accounts, reports  
26 or other records, whether confidential or not, of every state agency;

27 \* Sec. 11. AS 24.20.271(7) is amended to read:

28           (7) ascertain, as necessary for its performance evaluations  
29 [AUDIT VERIFICATION], the amount of agency funds on deposit in any bank

1 as shown on the books of the bank; no bank may be held liable for making  
2 information required under this paragraph available to the legislative  
3 audit division;

4 \* Sec. 12. AS 24.20.271(9) is amended to read:

5 (9) have [DIRECT] access when conducting performance evalua-  
6 tions under (1) or (3) of this section to any information related to the  
7 management of the University of Alaska and any [HAVE THE SAME RIGHT OF  
8 ACCESS AS EXISTS WITH RESPECT TO EVERY] other state agency.

9 \* Sec. 13. AS 24.20.281 is amended to read:

10 Sec. 24.20.281. SPECIAL AUDIT. A member of the legislature may,  
11 in writing and with at least six days notice, request that the budget  
12 and audit committee direct a special audit of any state agency or deter-  
13 mine the propriety of any expenditure of state funds received by any  
14 political subdivision or other entity obtaining state funds. Should a  
15 majority of the committee vote to approve the request, the state auditor  
16 [LEGISLATIVE AUDIT DIVISION] shall make the audit.

17 \* Sec. 14. AS 24.20.301(a) is amended to read:

18 (a) The legislative audit division shall keep a complete file of  
19 all audit and performance evaluation reports and other reports or  
20 releases issued by the division, and a complete file of audit and per-  
21 formance evaluation work papers and other related supportive material.  
22 The division shall also keep a complete and accurate record of all  
23 fiscal transactions involving the division.

24 \* Sec. 15. AS 24.20.311 is amended to read:

25 Sec. 24.20.311. REPORTS. The committee shall file copies of its  
26 approved audit and performance evaluation reports, including any com-  
27 mittee recommendations, with the governor, the agency concerned and the  
28 legislature. An annual report summarizing the audit and performance  
29 evaluation reports and committee recommendations made during the year

1 shall be filed with the governor and with the legislature within the  
2 first five days of each regular session of the legislature. Reports  
3 shall be approved by a majority of the committee before their release  
4 and shall be open to public inspection after their release to the legis-  
5 lature.

6 \* Sec. 16. AS 35.10.135 is amended to read:

7       Sec. 35.10.135. PUBLIC FACILITY PLANNING FUND. There is estab-  
8 lished within the Office of the Governor, division of budget and manage-  
9 ment a public facility planning fund. The fund is a capital fund and  
10 consists of (1) money appropriated by the legislature, (2) money reim-  
11 bursed to it from the proceeds of the sales of general obligation bonds  
12 and revenue bonds issued for projects and (3) money reimbursed to it  
13 from appropriations for any projects for which money from the fund has  
14 been spent. The fund is available for expenditure, on a reimbursable  
15 basis, only for the purposes of providing working capital for facility  
16 program planning and for facility procurement planning as specified in  
17 this chapter. All expenditures from the fund are subject to an [INDE-  
18 PENDENT] audit which shall be made annually by the state auditor and  
19 reported to the governor and the legislature.

20 \* Sec. 17. AS 37.12.100 is amended to read:

21       Sec. 37.12.100. ANNUAL AUDIT. The corporation shall have its  
22 financial record audited annually by the state auditor [AN INDEPENDENT  
23 OUTSIDE AUDITOR]. The state [LEGISLATIVE] auditor may prescribe the  
24 form and content of the financial record of the corporation and shall  
25 have access to these records at any time.

26 \* Sec. 18. AS 37.13.160 is amended to read:

27       Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Committee  
28 shall review the [PROVIDE FOR AN] annual post audit prepared by the state  
29 auditor and provide for an annual operational and performance evaluation

1 [EVALUATIONS] of the corporations's investments and investment programs.

2 \* Sec. 19. AS 43.18.125(b) is amended to read:

3 (b) Each borough or city which is a school district shall maintain  
4 financial records of the receipt and disbursement of state funds received  
5 under AS 43.18.105 - 43.18.135 and money provided toward local effort.  
6 The records shall be in the form prescribed by the department and are  
7 subject to audit by the state auditor [IT] at any time.

8 \* Sec. 20. AS 44.07.200 is amended to read:

9 Sec. 44.07.200. MONEY OF THE CORPORATION. The state [LEGISLATIVE]  
10 auditor may examine all the accounts and books of the corporation and  
11 all other records and papers relating to its financial standing. The  
12 state auditor [LEGISLATIVE BUDGET AND AUDIT COMMITTEE] shall conduct an  
13 audit [EXAMINATION] at least once every two years [OR MAY ACCEPT AN  
14 INDEPENDENT AUDIT] of the corporation [BY A FIRM OF CERTIFIED PUBLIC  
15 ACCOUNTANTS MADE AT THE REQUEST OF THE CORPORATION IN SATISFACTION OF  
16 THE EXAMINATION REQUIREMENT].

17 \* Sec. 21. AS 44.07.280 is amended to read:

18 Sec. 44.07.280. STAFF. The state auditor shall provide audits and  
19 the legislative audit division and the legislative finance division  
20 shall provide [AUDITS,] reports and analyses requested by the committee.  
21 The committee may hire and determine the salary of the staff it considers  
22 necessary within the limit of the budget approved by the legislature.

23 \* Sec. 22. AS 44.66.050(a) is amended to read:

24 (a) Before the termination, dissolution, continuation or reestab-  
25 lishment of a board or commission under AS 08.03.010 or AS 44.66.010, or  
26 of an agency program under AS 44.66.020 and 44.66.030, a committee of  
27 reference of each house, which shall be the standing committee of legis-  
28 lative jurisdiction as provided in the Uniform Rules of the Legislature,  
29 shall hold one or more hearings to receive testimony from the public,

1 the commissioner of the department having administrative responsibility  
2 for each named board, commission, or agency program, and the members of  
3 the board or commission involved. The hearings may be joint hearings.  
4 The committee shall also consider the proposed budget of the board,  
5 commission, or agency program, prepared in accordance with AS 37.07.-  
6 050(f), the audit prepared by the state auditor as prescribed by AS 37.-  
7 06.010(a)(3). and the performance audit of the activities of the board,  
8 commission, or agency program, prepared by the legislative audit division  
9 as prescribed in AS 24.20.271(1). The committee may consider any other  
10 report of the activities of the board, commission or program, including  
11 but not limited to annual reports, summaries prepared by the Legislative  
12 Affairs Agency, and any evaluation or general report of the manner of  
13 conduct of activities of the board, commission, or agency program pre-  
14 pared by the office of the ombudsman.

15 \* Sec. 23. AS 44.81.270 is amended to read:

16 Sec. 44.81.270. POWERS OF [LEGISLATIVE] AUDIT OF BANK. The state  
17 [LEGISLATIVE] auditor may audit [CAUSE] the bank as [TO BE AUDITED IN  
18 THE MANNER AND UNDER THE CONDITIONS] prescribed by AS 37.06 [AS 24.20.271  
19 FOR AUDITS PERFORMED BY THE LEGISLATIVE AUDIT DIVISION]. The state  
20 auditor [LEGISLATIVE AUDIT DIVISION] has free access to all books and  
21 papers of the bank that relate to its business and books and papers kept  
22 by a director, officer, or employee relating to or upon which a record  
23 of its business is kept, and may summon witnesses and administer oaths  
24 or affirmations in the examination of the directors, officers, or em-  
25 ployees of the bank or any other person in relation to its affairs,  
26 transactions, and conditions, and may require and compel the production  
27 of records, books, papers, contracts, or other documents by court order  
28 if not voluntarily produced.

29 \* Sec. 24. AS 44.81.280 is amended to read:

1           Sec. 44.81.280. PROHIBITION ON DISCLOSURE. The state [LEGISLA-  
2 TIVE] auditor and his employees may not disclose information acquired by  
3 them in the course of an audit of the bank concerning the particulars of  
4 the business or affairs of a borrower of the bank or another person,  
5 unless the information is required to be disclosed by law or under a  
6 court order.

7 \* Sec. 25. AS 44.82.180 is amended to read:

8           Sec. 44.82.180. ANNUAL AUDIT. The authority shall have its finan-  
9 cial records audited annually by the state [LEGISLATIVE AUDITOR OR BY A  
10 CERTIFIED PUBLIC ACCOUNTANT APPROVED BY THE LEGISLATIVE] auditor. The  
11 state [LEGISLATIVE] auditor may prescribe the form and content of the  
12 financial records of the authority and is entitled to access to these  
13 records at any time.

14 \* Sec. 26. AS 44.83.190 is amended to read:

15           Sec. 44.83.190. ANNUAL AUDIT. The authority shall have its finan-  
16 cial records audited annually by the state auditor [A CERTIFIED PUBLIC  
17 ACCOUNTANT]. The state [LEGISLATIVE] auditor may prescribe the form and  
18 content of the financial records of the authority and shall have access  
19 to these records at any time.

20 \* Sec. 27. AS 44.88.200 is amended to read:

21           Sec. 44.88.200. ANNUAL AUDIT. The authority shall have its finan-  
22 cial records audited annually by the state [LEGISLATIVE AUDITOR OR BY A  
23 CERTIFIED PUBLIC ACCOUNTANT APPROVED BY THE LEGISLATIVE] auditor. The  
24 state [LEGISLATIVE] auditor may prescribe the form and content of the  
25 financial records of the authority and shall have access to these records  
26 at any time.

27 \* Sec. 28. AS 47.40.030(1) is amended to read:

28           (1) meet accepted standards of fiscal accountability for  
29 public funds and shall, upon request, submit a complete financial state-

1 ment by an independent, certified public accountant to the department  
2 and to the state auditor [DIVISION OF LEGISLATIVE AUDIT];

3 \* Sec. 29. AS 47.40.030(3) is amended to read:

4 (3) upon request, furnish the state auditor [DIVISION OF  
5 LEGISLATIVE AUDIT] all fiscal information, books, records, and accounts  
6 pertaining to services paid for under this chapter.

7 \* Sec. 30. AS 24.20.271(2) and (4) are repealed.

8 \* Sec. 31. This Act takes effect on the effective date of the constitu-  
9 tional amendment proposed in Senate Joint Resolution No. , Twelfth Legisla-  
10 ture, Second Session.