

HOUSE BILL No. 2441

By Legislative Post Audit Committee

12-27

1 AN ACT concerning audits of state agencies; financial-compliance audits;
2 Kansas lottery security audit; selection of auditor, contracts with,
3 creating the Kansas lottery audit contract committee and the department
4 of administration audit services fund; creating the department of
5 administration audit services fund; amending K.S.A. 46-1108, 46-1112,
6 46-1115, 46-1116, 46-1122, 46-1123, 46-1125, 46-1126, 46-1127 and
7 74-2424 and K.S.A. 2017 Supp. 39-709b, 46-1106, 46-1114, 46-1118,
8 46-1128, 46-1135, 74-4921, 75-5133 and 79-3234 and repealing the
9 existing sections; also repealing K.S.A. 2017 Supp. 46-1121 and 46-
10 1134.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. (a) (1) Beginning in calendar year 2019, and at least
14 once every three years thereafter, there shall be conducted a security audit
15 of the Kansas lottery. Any security audit conducted pursuant to this section
16 shall include a comprehensive study and evaluation of all aspects of
17 security in the operation of such state agency. The firm to conduct a
18 security audit shall be selected and shall perform such audit work as
19 provided in sections 3 through 6, and amendments thereto. The firm
20 selected to perform a security audit shall be experienced in security
21 procedures, including, but not limited to, computer systems and security.
22 A contract to conduct such a security audit required by this subsection
23 shall not be awarded until a background investigation is conducted by the
24 executive director of the Kansas lottery on the person or firm selected to
25 perform the audit. Such background investigation shall include: (A) The
26 vendor to whom the contract is to be awarded; (B) all persons who own a
27 controlling interest in such vendor; and (C) all applicable staff having
28 involvement with the audit.

29 (2) For the purpose of conducting a security audit under this
30 subsection, a person or a firm selected to perform the security audit shall
31 not be limited to a legal entity permitted by law to engage in practice as a
32 certified public accountant.

33 (b) Beginning in calendar year 2019, a financial-compliance audit
34 shall be conducted annually on the accounts and transactions of the Kansas
35 lottery and the Kansas lottery commission. The first financial-compliance
36 audit shall examine the accounts and transactions for fiscal year 2019. The

Proposed Amendments to
House Bill No. 2441 #2
Committee on Fed & State
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1 firm to conduct this audit work shall be selected as provided in sections 3
2 and 4, and amendments thereto. The audits required pursuant to this
3 subsection shall be conducted in accordance with generally accepted
4 governmental auditing standards, and shall be conducted as soon after the
5 close of the fiscal year as practicable, but shall be completed no later than
6 the deadlines as set forth in section 6, and amendments thereto.

7 New Sec. 2. (a) There is hereby created the Kansas lottery audit
8 contract committee, which shall consist of the following members: (1) The
9 executive director of the Kansas lottery or a Kansas lottery employee
10 designated by the executive director; (2) the chairperson of the Kansas
11 lottery commission or a commission member designated by the
12 chairperson of the Kansas lottery commission; and (3) the post auditor or a
13 person designated by the post auditor. The executive director of the Kansas
14 lottery or the person designated by the executive director to serve as a
15 member of the Kansas lottery audit contract committee shall be the
16 chairperson of the committee.

17 (b) The Kansas lottery audit contract committee shall meet on the call
18 of the chairperson of such committee. A vote of two members of the
19 committee shall be required for any action of the committee.

20 New Sec. 3. (a) In the procurement of a firm or firms to perform an
21 audit required by section 1, and amendments thereto, the executive
22 director of the Kansas lottery shall encourage firms engaged in the lawful
23 practice of their professions to place their names on a list maintained by
24 the executive director of bidders to receive ~~invitations for bid~~ on audit
25 contracts.

26 (b) The executive director of the Kansas lottery shall establish
27 specifications for the conduct by a firm or firms of an audit required by
28 section 1, and amendments thereto. The specifications shall be used in
29 preparing ~~invitations for bid~~ and evaluating the bids received.

30 (c) For all audits required by section 1, and amendments thereto, the
31 executive director of the Kansas lottery shall issue ~~an invitation for bid~~ to
32 all firms who have requested to be on the bidders list and others who
33 request a copy after notice in the Kansas register. The ~~invitation~~ shall
34 request information on the firm's qualifications, the qualifications of staff
35 to be assigned to the job, the firm's technical approach to the audit and the
36 fee. The executive director shall evaluate the bids received in response to
37 the ~~invitations~~ and for each audit shall prepare a list of at least three and
38 not more than five firms that are, in the opinion of the executive director,
39 qualified to perform such audit or audits. Such list shall be submitted to
40 the Kansas lottery audit contract committee.

41 New Sec. 4. (a) The Kansas lottery audit contract committee may
42 conduct discussions with each of the firms submitted by the executive
43 director and then shall select a firm or firms from such listing to provide

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1 an audit as required by section 1, and amendments thereto.

2 (b) The Kansas lottery audit contract committee shall consider, in
3 making their selection, qualifications of the firm and staff, the technical
4 proposal and fee.

5 (c) If the Kansas lottery audit contract committee is unable to contract
6 with any of the selected firms, the committee shall request the executive
7 director to provide another list of firms to be reviewed by the committee.
8 Upon receipt of such list, the committee shall proceed in accordance with
9 the provisions of this section.

10 New Sec. 5. (a) Each contract for an audit required by section 1, and
11 amendments thereto, entered into under section 3 and section 4, and
12 amendments thereto, shall be entered into between the executive director
13 of the Kansas lottery and the firm or firms selected to perform the audit.
14 Each such contract shall require the firm or firms selected to submit
15 evidence that is satisfactory to the Kansas lottery audit contract committee
16 that the firm has general professional liability insurance or specific
17 liability insurance that is adequate for such audit.

18 (b) In addition to the requirements in subsection (a), each such
19 contract for audit services shall specify the responsibilities undertaken by
20 the firm selected to perform such audit and such firm shall be responsible
21 for all material errors and omissions in the performance of such contract.

22 (c) ~~Such contracts shall not be subject to the provisions of K.S.A. 75-~~
23 ~~3739, and amendments thereto.~~

24 New Sec. 6. (a) The Kansas lottery audit contract committee shall
25 monitor the performance of the firm or firms conducting audits pursuant to
26 a contract entered into under section 5, and amendments thereto, to ensure
27 that such audit is performed in accordance with the specifications
28 developed for the conduct of such audit.

29 (b) (1) The firm selected to perform an audit required by section 1(a),
30 and amendments thereto, shall submit a final written audit report by
31 December 1 of each year to the executive director of the Kansas lottery and
32 the legislative post audit committee.

33 (2) The firm selected to perform an audit required by section 1(b),
34 and amendments thereto, shall submit a preliminary written audit report by
35 September 15 of each year to the executive director of the Kansas lottery
36 and the secretary of administration. A final audit report shall be submitted
37 by October 1 of each year to the executive director of the Kansas lottery,
38 the secretary of administration and the legislative post audit committee.

39 (c) In the performance of such audit, the officers and employees of
40 the firm or firms performing the audit shall be subject to the same duty of
41 confidentiality applicable to the post auditor and officers and employees of
42 the division of post audit under the legislative post audit act, and shall
43 have access to all books, accounts, records, files, documents and

75-37,102 or K.S.A. 2017 Supp. 75-37,130 through 75-37,135,

1 correspondence, confidential or otherwise, of any person or state agency
2 subject to the audit.

3 New Sec. 7. Sections 1 through 7, and amendments thereto, shall be
4 part of and supplemental to the Kansas lottery act.

5 New Sec. 8. (a) Beginning in calendar year 2019, a financial-
6 compliance audit shall be conducted annually on the accounts and
7 transactions of the Kansas public employees retirement system. The first
8 financial-compliance audit shall examine the accounts and transactions for
9 fiscal year 2019. The auditor to conduct this audit work shall be selected as
10 provided in subsection (c). The audit required pursuant to this subsection
11 shall be conducted in accordance with generally accepted governmental
12 auditing standards, and shall be conducted as soon after the close of the
13 fiscal year as practicable, but shall be completed no later than the
14 deadlines as set forth in section 9, and amendments thereto.

15 (b) The financial-compliance audit of the Kansas public employees
16 retirement system shall include, but not be limited to, a review of
17 alternative investments of the system with any estimates of permanent
18 impairments to the value of such alternative investments reported by the
19 system pursuant to K.S.A. 74-4907, and amendments thereto, and a review
20 of any internal assessment or examination of alternative investments of the
21 system performed and reported pursuant to K.S.A. 74-4921(12)(a), and
22 amendments thereto.

23 (c) The Kansas public employees retirement system board of trustees
24 shall be responsible for the procurement of an auditing firm under the
25 provisions of K.S.A. 75-37,132, and amendments thereto.

26 New Sec. 9. (a) The executive director of the Kansas public
27 employees retirement system shall monitor the performance of the firm
28 conducting an audit to ensure that such audit is performed in accordance
29 with the specifications developed for the conduct of such audit.

30 (b) The executive director of the Kansas public employees retirement
31 system shall submit a preliminary draft of the management's discussion
32 and analysis and the financial statements by October 1 of each year to the
33 secretary of administration and the firm selected to perform an audit
34 required by section 8, and amendments thereto. The executive director of
35 the Kansas public employees retirement system shall submit the final draft
36 of the management's discussion and analysis and the financial statements
37 by October 15 of each year to the secretary of administration and the firm
38 selected to perform an audit required by section 8, and amendments
39 thereto. The final audit opinion letter shall be submitted by November 1 of
40 each year by the firm selected to perform an audit by section 8, and
41 amendments thereto, to the executive director of the Kansas public
42 employees retirement system, the secretary of administration and the
43 legislative post audit committee.

1 (c) In the performance of such audit, the officers and employees of
2 the firm performing the audit shall be subject to the same duty of
3 confidentiality applicable to the post auditor and officers and employees of
4 the division of post audit under the legislative post audit act, and shall
5 have access to all books, accounts, records, files, documents and
6 correspondence, confidential or otherwise, of any person, any affiliated
7 employer or state agency subject to the audit.

8 New Sec. 10. (a) At least once every three years, the legislative post
9 audit committee shall direct the division of post audit to conduct a
10 performance audit of the Kansas public employees retirement system. In
11 considering performance audit subjects, the legislative post audit
12 committee shall consider recommendations and requests for performance
13 audits relating to the system or the management thereof by the joint
14 committee on pensions, investments and benefits or by any other
15 committee or individual member of the legislature.

16 (b) This section shall be part of and supplemental to the legislative
17 post audit act.

18 New Sec. 11. (a) Beginning in calendar year 2019, a financial-
19 compliance audit shall be conducted each year of the general purpose
20 financial statements prepared by the division of accounts and reports of the
21 department of administration for its annual financial report. The first
22 financial-compliance audit shall examine the general purpose financial
23 statements for fiscal year 2019. This audit shall be conducted in
24 accordance with generally accepted governmental auditing standards. The
25 resulting written audit report shall be issued as soon after the end of the
26 fiscal year as is practicable, but shall be completed no later than the
27 deadlines as set forth in section 17, and amendments thereto.

28 (b) (1) Beginning in fiscal year 2020, and once every two years
29 thereafter, separate written audit reports on the financial management
30 practices of the office of the state treasurer and the pooled money
31 investment board shall be prepared addressing the adequacy of financial
32 management practices and compliance with applicable state laws. The
33 separate audit of the pooled money investment board also shall include a
34 comparative investment performance review and an analysis of the
35 investment program, including an evaluation of investment policies and
36 practices and of specific investments in the pooled money investment
37 portfolio. The analysis of the specific investments in the pooled money
38 investment portfolio shall review whether such investments meet the
39 investment priorities of safety, liquidity and performance. The
40 performance of such investments shall be measured by comparison to an
41 appropriate market index. The resulting written audit report shall be
42 completed no later than the deadlines as set forth in section 17, and
43 amendments thereto.

1 (2) In addition, whenever an individual is first elected or appointed
2 and qualified to the office of the state treasurer, there shall be conducted a
3 transition audit within two weeks after the date such individual enters upon
4 the duties of the office of the state treasurer. The purpose of the transition
5 audit shall be to review the assets in the custody of the office of the state
6 treasurer for significant discrepancies at the time of the transition. A
7 separate written report shall be prepared for each transition audit.

8 (3) Any additional costs associated with preparing the separate
9 additional reports on the office of the state treasurer and the pooled money
10 investment board shall be borne by the office of the state treasurer and the
11 pooled money investment board in accordance with section 18, and
12 amendments thereto.

13 (c) (1) Books and accounts of the state treasurer and the director of
14 accounts and reports, including the bond register of the state treasurer, may
15 be examined monthly if the department of administration audit contract
16 committee so determines, and such examination may include detailed
17 checking of every transaction or test checking.

18 (2) Any person receiving tax information under the provisions of
19 subsection (a) or (b) shall be subject to the same duty of confidentiality
20 imposed by law upon the personnel of the department of revenue and shall
21 be subject to any civil or criminal penalties imposed by law for violations
22 of such duty of confidentiality.

23 New Sec. 12. (a) Beginning in fiscal year 2019, the department of
24 administration shall be responsible for procuring and managing audit
25 services for any audit of the financial affairs and transactions of a state
26 agency that is required to comply with federal government audit
27 requirements for receiving federal awards or grants.

28 (b) As used in this section, "state agency" means any state office,
29 officer, department, board, commission, institution, bureau, agency or
30 authority or any division or unit thereof.

31 New Sec. 13. (a) There is hereby created the department of
32 administration contract audit committee, which shall consist of the
33 following members: (1) The secretary of administration or a person
34 designated by the secretary of administration; (2) the director of accounts
35 and reports or a person designated by the director of accounts and reports;
36 (3) the post auditor or a person designated by the post auditor; (4) the state
37 treasurer or a person designated by the state treasurer; and (5) the director
38 of the budget or a person designated by the director of the budget. The
39 secretary of administration or the person designated by the secretary to
40 serve as a member of the department of administration contract audit
41 committee shall be the chairperson of the committee.

42 (b) The department of administration contract audit committee shall
43 meet on the call of the chairperson of such committee. A vote of two

1 members of the committee shall be required for any such action of the
2 committee.

3 New Sec. 14. (a) In the procurement of a firm or firms to perform an
4 audit required by section 11 and section 12, and amendments thereto, the
5 secretary of administration shall encourage firms engaged in the lawful
6 practice of their professions to place their names on a list maintained by
7 the secretary of bidders to receive ~~invitations for bid~~ on audit contracts.

8 (b) The secretary of administration shall establish specifications for
9 the conduct by a firm or firms of an audit required by section 11 and
10 section 12, and amendments thereto. The specifications shall be used in
11 preparing ~~invitations for bid~~ and evaluating the bids received.

12 (c) For all audits required by section 11 and section 12, and
13 amendments thereto, the secretary of administration shall issue an
14 ~~invitation for bid~~ to all firms who have requested to be on the bidders list
15 and others who request a copy after notice in the Kansas register. The
16 ~~invitation~~ shall request information on the firm's qualifications, the
17 qualifications of staff to be assigned to the job, the firm's technical
18 approach to the audit and the fee. The secretary shall evaluate the bids
19 received in response to the ~~invitations~~ and for each audit shall prepare a
20 list of at least three and not more than five firms that are, in the opinion of
21 the secretary, qualified to perform such audit. Such list shall be submitted
22 to the department of administration audit contract committee.

23 New Sec. 15. (a) The department of administration audit contract
24 committee may conduct discussions with each of the firms submitted by
25 the secretary of administration and then shall select a firm or firms from
26 such listing to provide an audit as required by section 11 and section 12,
27 and amendments thereto.

28 (b) The department of administration audit contract committee shall
29 consider, in making their selection, qualifications of the firm and staff, the
30 technical proposal and fee.

31 (c) If the department of administration audit contract committee is
32 unable to contract with any of the selected firms, the committee shall
33 request the secretary of administration to provide another list of firms to be
34 reviewed by the committee. Upon receipt of such list, the committee shall
35 proceed in accordance with the provisions of this section.

36 New Sec. 16. (a) Each contract for an audit required by section 11
37 and section 12, and amendments thereto, entered into under section 14 and
38 section 15, and amendments thereto, shall be entered into between the
39 secretary of administration and the firm selected to perform the audit.
40 Each such contract shall require the firm selected to submit evidence that
41 is satisfactory to the department of administration audit contract committee
42 that the firm has general professional liability insurance or specific
43 liability insurance that is adequate for such audit.

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1 (b) In addition to the requirements in subsection (a), each such
2 contract for audit services shall specify the responsibilities undertaken by
3 the firm selected to perform such audit and that such firm shall be
4 responsible for all material errors and omissions in the performance of
5 such contract.

6 (c) Such contracts shall not be subject to the provisions of K.S.A. 75-
7 3739, and amendments thereto.

8 New Sec. 17. (a) The department of administration audit contract
9 committee shall monitor the performance of the firm conducting an audit
10 pursuant to a contract entered into under section 16, and amendments
11 thereto, to ensure that such audit is performed in accordance with the
12 specifications developed for the conduct of such audit.

13 (b) Written reports from audits required by section 11 and section 12,
14 and amendments thereto, shall be issued according to the following
15 deadlines:

16 (1) For an audit of the state financial statements required by section
17 11(a), and amendments thereto, a final written report shall be issued to the
18 secretary of administration and to the legislative post audit committee by
19 December 1 following the audited fiscal year;

20 (2) For a biennial audit of the state treasurer's office and the pooled
21 money investment board required by section 11(b), and amendments
22 thereto, a final written report shall be issued to the state treasurer or the
23 pooled money investment board, as appropriate, and to the secretary of
24 administration and the legislative post audit committee by December 1
25 following the audited fiscal year; and

26 (3) For a federal compliance audit required by section 12, and
27 amendments thereto, a final written report shall be issued to the secretary
28 of administration and the legislative post audit committee not less than 15
29 calendar days before the federal deadline for such report.

30 (c) In the performance of an audit pursuant to section 11 and section
31 12, and amendments thereto, the officers and employees of the firm
32 performing the audit shall be subject to the same duty of confidentiality
33 applicable to the post auditor and officers and employees of the division of
34 post audit under the legislative post audit act, and shall have access to all
35 books, accounts, records, files, documents and correspondence,
36 confidential or otherwise, of any person or state agency subject to the
37 audit.

38 New Sec. 18. (a) Whenever the secretary of administration contracts
39 with a firm to perform any audit work for any state agency to satisfy
40 financial-compliance audit requirements prescribed by section 11 and
41 section 12, and amendments thereto, and incurs costs in addition to those
42 attributable to the operations of the department of administration in
43 performance of other duties and responsibilities, the secretary shall make

75-37,102 or K.S.A. 2017 Supp. 75-37,130 through 75-37,135,