

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 525**  
**89TH GENERAL ASSEMBLY**

Reported from the Committee on Critical Issues, May 7, 1998, with recommendation that the House Committee Substitute for Senate Bill No. 525 Do Pass.  
ANNE C. WALKER, Chief Clerk  
L2543.02C

**AN ACT**

To repeal sections 23.150, 23.160, 23.170, 23.180, 23.190, 33.825, 33.827, 33.829, 33.831 and 326.100, RSMo 1994, and sections 23.140 and 326.210, RSMo Supp. 1997, relating to the joint committee on legislative research, and to enact in lieu thereof nine new sections relating to the same subject, with an emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 23.150, 23.160, 23.170, 23.180, 23.190, 33.825, 33.827, 33.829, 33.831 and 326.100, RSMo 1994, and sections 23.140 and 326.210, RSMo Supp. 1997, are repealed and nine new sections enacted in lieu thereof, to be known as sections 21.184, 23.140, 23.150, 23.160, 23.170, 23.180, 23.190, 326.100 and 326.210, to read as follows:

**21.184. 1. There is hereby established a "Legislative Academy" under the supervision of the committee on legislative research. The committee may contract for specific services relating to training provided by the academy but shall otherwise sponsor and supervise the academy within the existing resources of the Missouri general assembly. Any member of the Missouri general assembly may attend such legislative academy. The legislative academy shall be designed to familiarize members with organization and operation of state government, public facilities, state revenue sources and limitations, the appropriations process, the functions of legislative committees and other topics as determined by the committee on legislative research. Such academy shall be comprehensive in subject matter and provide a thorough perspective on legislative duties and responsibilities.**

**2. The academy established in subsection 1 of this section shall meet for at least twelve weeks between June first and November first of each biennium following each first regular session of the general assembly.**

**3. The members of the general assembly attending the legislative academy shall receive the same per diem and expense allowance as the members would receive during the regular session of the general assembly for each day that they attend the academy.**

23.140. 1. Legislation, with the exception of appropriation bills, introduced into either house of the general assembly shall, before being acted upon, be submitted to the oversight division of the committee on legislative research for the preparation of a fiscal note. The staff of

**EXPLANATION—Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

the oversight division shall prepare a fiscal note, examining the items contained in subsection 2 and such additional items as may be provided either by joint rule of the house and senate or by resolution adopted by the committee or the oversight subcommittee.

2. The fiscal note shall state:

- (1) The cost of the proposed legislation to the state for the next two fiscal years;
- (2) Whether or not the proposed legislation will establish a program or agency that will duplicate an existing program or agency;
- (3) Whether or not there is a federal mandate for the program or agency;
- (4) Whether or not the proposed program or agency will have significant direct fiscal impact upon any political subdivision of the state;
- (5) Whether or not any new physical facilities will be required; and
- (6) Whether or not the proposed legislation will have an economic impact on small businesses. For the purpose of this subdivision "small business" means a corporation, partnership, sole proprietorship or other business entity, including its affiliates, that:
  - (a) Is independently owned and operated; and
  - (b) Employs fifty or fewer full-time employees.

3. The fiscal note for a bill shall accompany the bill throughout its course of passage. No member of the general assembly, lobbyist or persons other than oversight division staff members shall participate in the preparation of any fiscal note unless the communication is in writing, with a duplicate to be filed with the fiscal note or unless requested for information by the fiscal analyst preparing the note. Violations of this provision shall be reported to the chairman of the legislative research committee and subject the fiscal note and proposed bill to subcommittee review. Once a fiscal note has been signed and approved by the director of the oversight division, the note shall not be changed or revised without prior approval of the chairman of the legislative research committee, except to reflect changes made in the bill it accompanies, or to correct patent typographical, clerical or drafting errors that do not involve changes of substance, nor shall substitution be made therefor. Appeals to revise, change or to substitute a fiscal note shall be made in writing by a member of the general assembly to the chairman of the legislative research committee and a hearing before the committee or subcommittee shall be granted as soon as possible. Any member of the general assembly, upon presentation of new or additional material, may, within three legislative days after the hearing on the request to revise, change or substitute a fiscal note, request one rehearing before the full committee to further consider the requested change. The subcommittee, if satisfied that new or additional material has been presented, may recommend such rehearing to the full committee, and the rehearing shall be held as soon as possible thereafter.

4. The director of the division, hereinafter provided for, or the director's designees, shall seek information and advice from the affected department, division or agency of state government and shall call upon the research staffs of the house of representatives and of the senate, and upon the staffs of the house and senate appropriations committees for assistance in carrying out fiscal notes and [auditing] **other** functions and duties, during the interim, and each staff shall supply such information or advice as it may possess in response to the inquiry. [The state auditor shall, upon request, cooperate and provide assistance in the conduct of audits and the preparation of reports made in connection therewith.]

23.150. 1. The committee on legislative research shall organize an oversight division to prepare fiscal notes and to [conduct management audits and program audits of state agencies]

**perform fiscal analyses and conduct performance evaluations and expenditure reviews of agencies, departments, bureaus, divisions, authorities, commissions, offices or institutions, educational or otherwise, of the state, or any political subdivision thereof which shall include all county governments and agencies thereof, all city governments and agencies thereof, and all public school districts and agencies thereof to the extent that they receive funds appropriated by the general assembly. Such analyses, evaluations and reviews may be conducted pursuant to a resolution adopted by the committee upon a request from a member or committee of the general assembly or pursuant to a duly adopted concurrent resolution of the general assembly for the purpose of obtaining information necessary to legislative decisions as to future funding of agencies by appropriation and other aspects of the lawmaking process.** The committee may form a subcommittee of not less than six members to provide direct supervision of the personnel and practices of the division. The subcommittee shall consist of one-half of the members appointed by the chairman from the house which he represents and one-half of the members appointed by the vice chairman from the house which he represents.

2. Within the limits of the appropriations made for this division, the committee shall employ a director of the oversight division and other personnel as it deems necessary. The director shall be qualified by training and experience to conduct such [audits, and he] **analyses, evaluations and reviews, and** shall be directly responsible for those activities. The director of the oversight division, with the consent of the joint committee, may employ personnel necessary to carry out the duties prescribed in this chapter. Persons employed to work in the oversight division shall be professional persons possessing a wide knowledge and demonstrated expertise in governmental programming and financial planning, in conducting program review evaluations and analytic studies, and of federal, state, and local government budgetary processes, laws and regulations of the state of Missouri. [Office space, furniture and equipment formerly assigned to the committee on state fiscal affairs, and appropriations made therefor, shall be transferred to the committee on legislative research.]

23.160. [1.] As used in this chapter, [the term "management audit" means a postaudit which determines, with regard to the purpose, functions, and duties of an audited agency:

(1) Whether the agency is managing and utilizing its resources in an economical and efficient manner; and

(2) Which identifies causes of inefficiencies or uneconomical practices including inadequacies in the use and management of information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, and purchasing policies.

2. As used in this chapter, the term "program audit" means a postaudit which determines and evaluates program performance according to program objectives, responsibilities, and duties as set forth by statute or regulation. Program audits, in accordance with generally accepted program evaluation standards, shall determine:

(1) Whether the program is being performed and administered as authorized or required by law, and whether this action conforms with statutory intent;

(2) Whether the objectives and intended benefits are being achieved, and whether efficiently and effectively;

(3) Benefits derived from any program in relation to the expenditures made therefor; and

(4) Whether the program duplicates, overlaps, or conflicts with any other state program.

A program audit may include determinations within the scope of a management audit to the extent necessary or appropriate to the conduct of a particular program audit.

3. As used in this chapter, the term "resources" includes appropriated funds, federal funds, grants, and personnel, and also includes equipment and space, whether assigned, owned or leased.

4. As used in this chapter, the term "agency" includes each department and office within the executive branch of government and each identifiable unit thereof, including institutions of higher learning, and each identifiable unit of the legislative and judicial branches of government.] **the following terms mean:**

(1) "Agency", an agency, department, bureau, division, authority, commission, office or institution, educational or otherwise, of the state, or any political subdivision thereof which shall include all county governments and agencies thereof, all city governments and agencies thereof, and all public school districts and agencies thereof, which receive funds appropriated by the general assembly;

(2) "Expenditure review", an examination made at some point after the completion of a transaction or a group of transactions for the overall purpose of advising the general assembly of the proper funding levels;

(3) "Performance evaluation", an examination of the effectiveness of the administration, its sufficiency and its adequacy in terms and the programs of the agency authorized by law to be performed for the purpose of making legislative changes. Such evaluations shall include, but not be limited to:

(a) How effectively the programs are administered;

(b) Benefits of each program in relation to the expenditures;

(c) Goals of programs;

(d) Development of indicators by which the success or failure of a program may be gauged;

(e) Review conformity of programs with legislative intent;

(f) Impact of federal grant programs on agency programs.

23.170. 1. The oversight division of the committee on legislative research shall, pursuant to a duly adopted concurrent resolution of the general assembly, or pursuant to a resolution adopted by the committee on legislative research, [conduct management audits and program audits] **perform fiscal analyses and conduct performance evaluations and expenditure reviews** of agencies as directed by any such resolution. **The purpose of such analyses, evaluations and reviews shall be to gather information necessary to the general assembly's consideration of proposed legislation, including, but not limited to, appropriations bills.**

2. The staff of any agency subject to a [management or program audit] **fiscal analysis, performance evaluation or expenditure review** shall fully cooperate with the staff of the oversight division and shall provide all necessary information and assistance for such an [audit] **analysis, evaluation or review**. All records of an agency[, unless otherwise expressly declared by law to be confidential,] may be inspected by the oversight division staff while conducting the [audit] **fiscal analysis, performance evaluation or expenditure review**, and the agency subject to the [audit] **fiscal analysis, performance evaluation or expenditure review** shall afford the oversight division staff with ample opportunity to observe agency operations. **All records of an agency which are exempt from disclosure by state law, shall remain exempt when in the possession of the oversight division.**

3. All [audits] **fiscal analyses, performance evaluations or expenditure reviews** shall be completed within one year unless an extension is authorized by the committee[, but progress reports shall be made to the committee at least monthly]. The subcommittee supervising the oversight division shall meet [monthly] **as needed** to review progress [reports] **on work of the oversight division**, hear requests for changes in fiscal notes, and provide supervision for the oversight division staff **as directed by the committee on legislative research**.

4. Any member of the general assembly and any committee of either house of the general assembly may submit requests for [audits] **fiscal analyses, performance evaluations or expenditure reviews** to the committee on legislative research[, and any agency may request an audit of its operations] **for the purpose of obtaining information which would be needed in determining future appropriations of public funds. Requests may also be made pursuant to obtaining information necessary for the drafting of proposed legislation.**

23.180. The committee may:

(1) Subpoena and examine witnesses by subpoena issued under the hand of the speaker of the house or the president pro tem of the senate and may require the appearance of any person and [the production of any paper or document] **issue subpoenas duces tecum** in the same manner. **All such process shall be executed by the sergeant at arms of the house of representatives or senate, or by a special messenger appointed for that purpose and shall extend to all parts of the state. The subpoenas and subpoenas duces tecum may be enforced as authorized by the Constitution or as provided by statutory or common law, or by applying to a judge of the circuit court of Cole County or the county of the investigation, hearing or proceeding, or any county where the person or entity that has been subpoenaed resides or may be found, for an order to show cause why the subpoena or subpoena duces tecum should not be enforced. The order and a copy of the application therefor shall be served in the same manner as a summons in a civil action, and if, after hearing, the court determines that the subpoena or subpoena duces tecum should be sustained and enforced, the court shall enforce the subpoena or subpoena duces tecum in the same manner as if it had been issued by the court in a civil action;**

(2) Cause witnesses appearing before the committee or the staff of the division to give testimony under oath;

(3) Require that testimony given or a record of the proceedings of any hearing be recorded by an official court reporter or other competent person, under oath, in writing or by electronic, magnetic, or mechanical sound or video recording devices. Any such transcript or record, when certified by the reporter or recorder, shall be prima facie a correct statement of the testimony or proceedings.

23.190. [1. In making audits the division shall make recommendations and suggestions, in writing, to the personnel of the agency being audited. Such personnel shall be given an opportunity to respond, in writing, to those recommendations and suggestions. Thereafter, as soon as practicable after completion of the audit, the committee shall issue a public report of the audit. The report shall contain recommendations for changes in practices and policies as well as recommendations for changes in statutes and regulations, and shall contain the response of the agency involved. Each report shall be a public record and shall be signed by the committee chairman. Each report shall be presented to the governor and the agency involved. Copies may be made available to members of the general assembly and to the general public. The committee may charge a fee to recover publication costs for copies made available to the general public.

2. One year after completion of each audit, the oversight division shall review the operations of the agency audited to determine whether or not there has been substantial compliance with the recommendations contained in the report, and if not, a further review shall be conducted at the end of another year. In each instance a further report shall be made and distributed in the same manner as an initial report is made and distributed.] **The committee shall issue fiscal analysis reports, performance evaluation reports and expenditure review reports, in a public hearing of the committee on legislative research or any other affected committee, and any such report shall be a public record. Reports may contain, but need not be limited to, recommendations for changes in statutes or regulations, as well as changes in funding levels. Reports may also contain recommendations for changes in policies and procedures when it appears that such recommendations would be helpful to agency management but such recommendations would not be binding on the agency. All recommendations shall be communicated to the appropriate legislative committees. A copy of the report, signed by the chairman of the committee and the director of the oversight division, shall be submitted to each member of the legislature. The report shall also be submitted to the governor and to the official, officer, or person in charge of the agency evaluated for their consideration in the submission of annual budgets to the legislature.**

[33.825. Sections 33.825 to 33.831 shall be known and may be cited as the "Federal Mandate Auditor Act". ]

[33.827. As used in sections 33.825 to 33.831, the following terms mean:

(1) "Congressional delegation", all members of the United States Senate and House of Representatives from Missouri;

(2) "State", all agencies of the state including independent agencies, state colleges and universities; and

(3) "Unfunded federal mandate", a provision of a federal law or regulation that raises state or local government costs without providing the corresponding funding.]

[33.829. The director of the oversight division of the committee on legislative research shall be the federal mandate auditor.]

[33.831. 1. The federal mandate auditor shall make an inventory of all unfunded federal mandates on the state and on local governments in the state. The federal mandate auditor shall make a calculation of the cost of these federal mandates to the different levels of government.

2. The federal mandate auditor shall issue an annual report by January 1, 1995, which shall contain:

(1) A summary of the cost of unfunded federal mandates on the state as well as full detail on cost by program and agency;

(2) A summary of the cost of unfunded federal mandates on local governments, broken down as far as possible;

(3) Statistics that show the year-to-year trends in unfunded federal mandates in total as well as by program. This historical analysis shall also include the aggregate trend for federal mandates on the state and federal mandates on local governments.

3. The report or a summary thereof prepared pursuant to this section shall be sent to:

(1) The governor;

(2) The state's United States Senators and Representatives;

(3) The clerks of each respective house; and

(4) The top elected official of each local government unit requesting such report.]

326.100. All statements, records, schedules and memoranda, commonly known as working papers, made by a certified public accountant or a public accountant, or by an employee of either, incident to or in the course of professional service to clients, except reports delivered to a client, shall be and remain the property of such certified public accountant or public accountant, in the absence of a written agreement between the accountant and the client to the contrary. **This section does not apply to a certified public accountant employed by a government agency with respect to work produced in the performance of their duties as a government employee.**

326.210. 1. Permits to engage in the practice of public accounting in this state shall be issued by the board, upon payment of the fee as prescribed pursuant to section 326.200, to holders of the certificates of certified public accountants issued pursuant to section 326.060, and to holders of public accountant certificates, who shall have furnished evidence satisfactory to the board of compliance with the requirements of subsection 2 of this section, and to firms, partnerships and corporations registered pursuant to section 326.040 or 326.050. All permits shall expire on the permit renewal date and may be renewed for each licensing period upon payment of the renewal fee as prescribed pursuant to section 326.200. A permit holder whose permit has expired and who has not renewed the person's permit within two months of the permit renewal date may renew the person's permit upon payment of the permit fee together with a delinquent fee. No permit shall be renewed more than two years after expiration. Permits to engage in the practice of public accounting shall not be issued to the holder of a certificate issued by this state pursuant to section 326.060 until such person shall have had:

(1) Two years' experience acceptable to the board in the practice of public accounting under the supervision of a certified public accountant holding a certificate and live permit from this or another state, which experience shall include, but not be limited to, two years' experience in the practice of [public] **governmental accounting or auditing** under the supervision of the state auditor who is a certified public accountant holding a certificate and live permit from this or another state **or two years' experience in the practice of fiscal analysis, performance evaluation and expenditure review for the committee on legislative research under the supervision of the director of the oversight division who is a certified public accountant holding a certificate and live permit from this or another state;** or

(2) At least two years of satisfactory experience acceptable to the board as a certified public accountant in the legal practice of public accounting in another state while holding a live permit to practice from the other state; or

(3) Four years' experience acceptable to the board in the practice of governmental accounting, budgeting or auditing, including auditing of tax returns, as an employee of the state of Missouri, a political subdivision of this state, or the United States government, under the supervision of a certified public accountant acceptable to the board holding a certificate and live permit from this or another state, who is the head of the department, division or unit in which such person is employed. Only one year of public accounting experience shall be required of an internal revenue agent who has been issued a certificate by this state pursuant to section 326.060 and who has had at least four years' experience as an employee of the federal government as an internal revenue agent in the Internal Revenue Service, of which at least two years is certified by a district director of Internal Revenue Service as having been of field agent experience at the journeyman level, grade GS-512-11 or above, as specified in the United States Civil Service Commission's qualification standard as of December 1, 1975; or

(4) Four years' experience acceptable to the board in the practice of accounting for a corporation, partnership or other business entity, other than a governmental entity described in subdivision (3) of this subsection, under the supervision of a certified public accountant, acceptable to the board, holding a certificate and live permit from this or another state and who is head of the department, division or unit in which such person is employed; or

(5) Experience substantially equivalent to the experience requirement of this state as the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country.

2. After the expiration of the three-year period immediately following the effective date of board regulations establishing requirements of continuing education, every application for renewal of an annual permit to practice by any person who has held a certificate as a certified public accountant for three years or more shall be accompanied or supported by such evidence, as the board shall prescribe, of satisfaction of such requirements during the last three years preceding the application. Failure by an applicant for renewal of an annual permit to furnish such evidence shall constitute grounds for revocation, suspension or refusal to renew such permit in a proceeding pursuant to section 326.130, unless the board, in its discretion, shall determine such failure to have been due to reasonable cause or excusable neglect. The board, in its discretion, may renew an annual permit to practice despite failure to furnish evidence of satisfaction of requirements of continuing education upon condition that the applicant follow a particular program or schedule of continuing education.

3. The attestation or opinion concerning the presentation of financial or other quantitative data shall be restricted to those holding a live permit pursuant to this section.

4. Refusal by the resident manager of an office, registered pursuant to section 326.055, to submit such office to peer review, if required by the board, shall constitute grounds for revocation, suspension or refusal to renew the manager's permit in a proceeding pursuant to section 326.130.

Section B. Because immediate action is necessary for a knowledgeable lawmaking process, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

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