

The Florida Senate

2018 Florida Statutes

<u>Title III</u> LEGISLATIVE BRANCH; COMMISSIONS	<u>Chapter 11</u> LEGISLATIVE ORGANIZATION, PROCEDURES, AND STAFFING <u>Entire Chapter</u>	SECTION 45 Definitions; duties; authorities; reports; rules.
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11.45 Definitions; duties; authorities; reports; rules. —

(1) DEFINITIONS. — As used in ss. [11.40-11.51](#), the term:

(a) “Audit” means a financial audit, operational audit, or performance audit.

(b) “County agency” means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of the above are under law separately placed.

(c) “Financial audit” means an examination of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards as adopted by the Board of Accountancy. When applicable, the scope of financial audits shall encompass the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other applicable federal law.

(d) “Governmental entity” means a state agency, a county agency, or any other entity, however styled, that independently exercises any type of state or local governmental function.

(e) “Local governmental entity” means a county agency, municipality, or special district as defined in s. [189.012](#), but does not include any housing authority established under chapter 421.

(f) “Management letter” means a statement of the auditor’s comments and recommendations.

(g) “Operational audit” means an audit whose purpose is to evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management’s control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.

(h) “Performance audit” means an examination of a program, activity, or function of a governmental entity, conducted in accordance with applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies. The term includes an examination of issues related to:

1. Economy, efficiency, or effectiveness of the program.
2. Structure or design of the program to accomplish its goals and objectives.
3. Adequacy of the program to meet the needs identified by the Legislature or governing body.
4. Alternative methods of providing program services or products.
5. Goals, objectives, and performance measures used by the agency to monitor and report program accomplishments.
6. The accuracy or adequacy of public documents, reports, or requests prepared under the program by state agencies.
7. Compliance of the program with appropriate policies, rules, or laws.
8. Any other issues related to governmental entities as directed by the Legislative Auditing Committee.

(i) "Political subdivision" means a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(j) "State agency" means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.

¹(2) DUTIES.—The Auditor General shall:

(a) Conduct audits of records and perform related duties as prescribed by law, concurrent resolution of the Legislature, or as directed by the Legislative Auditing Committee.

(b) Annually conduct a financial audit of state government.

(c) Annually conduct financial audits of all state universities and state colleges.

(d) Annually conduct financial audits of the accounts and records of all district school boards in counties with populations of fewer than 150,000, according to the most recent federal decennial statewide census, and the Florida School for the Deaf and the Blind.

(e) Once every 3 years, conduct financial audits of the accounts and records of all district school boards in counties that have populations of 150,000 or more, according to the most recent federal decennial statewide census.

(f) At least every 3 years, conduct operational audits of the accounts and records of state agencies, state universities, state colleges, district school boards, the Florida Clerks of Court Operations Corporation, water management districts, and the Florida School for the Deaf and the Blind.

(g) At least every 3 years, conduct a performance audit of the local government financial reporting system, which, for the purpose of this chapter, means any statutory provision related to local government financial reporting. The purpose of such an audit is to determine the accuracy, efficiency, and effectiveness of the reporting system in achieving its goals and to make recommendations to the local governments, the Governor, and the Legislature as to how the reporting system can be improved and how program costs can be reduced. The Auditor General shall determine the scope of the audits. The local government financial reporting system should provide for the timely, accurate, uniform, and cost-effective accumulation of financial and other information that can be used by the members of the Legislature and other appropriate officials to accomplish the following goals:

1. Enhance citizen participation in local government;
2. Improve the financial condition of local governments;
3. Provide essential government services in an efficient and effective manner; and
4. Improve decisionmaking on the part of the Legislature, state agencies, and local government officials on matters relating to local government.

(h) At least every 3 years, conduct a performance audit of the Department of Revenue's administration of the ad valorem tax laws as described in s. [195.096](#). The audit report shall report on the activities of the ad valorem tax program of the Department of Revenue related to the ad valorem tax rolls. The Auditor General shall include, for at least four counties reviewed, findings as to the accuracy of assessment procedures, projections, and computations made by the department, using the same generally accepted appraisal standards and procedures to which the department and the property appraisers are required to adhere. However, the report may not include any findings or statistics related to any ad valorem tax roll that is in litigation between the state and county officials at the time the report is issued.

(i) Once every 3 years, review a sample of internal audit reports at each state agency, as defined in s. [20.055](#)(1), to determine compliance with current Standards for the Professional Practice of Internal Auditing or, if appropriate, government auditing standards.

(j) Conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law. No later than 18 months after the release of the audit report, the Auditor General shall perform such appropriate followup procedures as he or she

deems necessary to determine the audited entity's progress in addressing the findings and recommendations contained within the Auditor General's previous report. The Auditor General shall notify each member of the audited entity's governing body and the Legislative Auditing Committee of the results of his or her determination.

(k) Annually conduct operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations receiving eligible contributions under s. [1002.395](#), including any contracts for services with related entities, to determine compliance with the provisions of that **section**. Such audits shall include, but not be limited to, a determination of the eligible nonprofit scholarship-funding organization's compliance with s. [1002.395\(6\)\(j\)](#). The Auditor General shall provide its report on the results of the audits to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee, within 30 days of completion of the audit.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This **subsection** does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in **subsection (3)**.

(3) **AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.**—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

- (a) The accounts and records of any governmental entity created or established by law.
- (b) The information technology programs, activities, functions, or systems of any governmental entity created or established by law.
- (c) The accounts and records of any charter school created or established by law.
- (d) The accounts and records of any direct-support organization or citizen support organization created or established by law. The Auditor General is authorized to require and receive any records from the direct-support organization or citizen support organization, or from its independent auditor.
- (e) The public records associated with any appropriation made by the Legislature to a nongovernmental agency, corporation, or person. All records of a nongovernmental agency, corporation, or person with respect to the receipt and expenditure of such an appropriation shall be public records and shall be treated in the same manner as other public records are under general law.
- (f) State financial assistance provided to any nonstate entity as defined by s. [215.97](#).
- (g) The Tobacco Settlement Financing Corporation created pursuant to s. [215.56005](#).
- (h) Any purchases of federal surplus lands for use as sites for correctional facilities as described in s. [253.037](#).
- (i) Enterprise Florida, Inc., including any of its boards, advisory committees, or similar groups created by Enterprise Florida, Inc., and programs. The audit report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida, Inc., pursuant to this paragraph. The identity of a donor or prospective donor to Enterprise Florida, Inc., who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.
- (j) The Florida Development Finance Corporation or the capital development board or the programs or entities created by the board. The audit or report may not reveal the identity of any person who has anonymously made a donation to the board pursuant to this paragraph. The identity of a donor or prospective donor to the board who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.
- (k) The records pertaining to the use of funds from voluntary contributions on a motor vehicle registration application or on a driver license application authorized pursuant to ss. [320.023](#) and [322.081](#).
- (l) The records pertaining to the use of funds from the sale of specialty license plates described in chapter 320.
- (m) The acquisitions and divestitures related to the Florida Communities Trust Program created pursuant to chapter 380.

- (n) The Florida Water Pollution Control Financing Corporation created pursuant to s. [403.1837](#).
- (o) The school readiness program, including the early learning coalitions under part VI of chapter 1002.
- (p) CareerSource Florida, Inc., or the programs or entities created by CareerSource Florida, Inc., created pursuant to s. [445.004](#).
- (q) The corporation defined in s. [455.32](#) that is under contract with the Department of Business and Professional Regulation to provide administrative, investigative, examination, licensing, and prosecutorial support services in accordance with the provisions of s. [455.32](#) and the practice act of the relevant profession.
- (r) The Florida Engineers Management Corporation created pursuant to chapter 471.
- (s) The books and records of any permitholder that conducts race meetings or jai alai exhibitions under chapter 550.
- (t) The corporation defined in part II of chapter 946, known as the Prison Rehabilitative Industries and Diversified Enterprises, Inc., or PRIDE Enterprises.
- (u) The Florida Virtual School pursuant to s. [1002.37](#).
- (v) Virtual education providers receiving state funds or funds from local ad valorem taxes.
- (w) The accounts and records of a nonprofit scholarship-funding organization participating in a state sponsored scholarship program authorized by chapter 1002.
- (x) The Florida Tourism Industry Marketing Corporation.

(4) SCHEDULING AND STAFFING OF AUDITS.—

(a) Each financial audit required or authorized by this **section**, when practicable, shall be made and completed within not more than 9 months following the end of each audited fiscal year of the state agency or political subdivision, or at such lesser time which may be provided by law or concurrent resolution or directed by the Legislative Auditing Committee. When the Auditor General determines that conducting any audit or engagement otherwise required by law would not be possible due to workload or would not be an efficient or effective use of his or her resources based on an assessment of risk, then, in his or her discretion, the Auditor General may temporarily or indefinitely postpone such audits or other engagements for such period or any portion thereof, unless otherwise directed by the committee.

(b) The Auditor General may, when in his or her judgment it is necessary, designate and direct any auditor employed by the Auditor General to audit any accounts or records within the authority of the Auditor General to audit. The auditor shall report his or her findings for review by the Auditor General, who shall prepare the audit report.

(c) The audit report when final shall be a public record. The audit workpapers and notes are not a public record; however, those workpapers necessary to support the computations in the final audit report may be made available by a majority vote of the Legislative Auditing Committee after a public hearing showing proper cause. The audit workpapers and notes shall be retained by the Auditor General until no longer useful in his or her proper functions, after which time they may be destroyed.

(d) At the conclusion of the audit, the Auditor General or the Auditor General's designated representative shall discuss the audit with the official whose office is subject to audit and submit to that official a list of the Auditor General's findings which may be included in the audit report. If the official is not available for receipt of the list of audit findings, then delivery is presumed to be made when it is delivered to his or her office. The official shall submit to the Auditor General or the designated representative, within 30 days after the receipt of the list of findings, his or her written statement of explanation or rebuttal concerning all of the findings, including corrective action to be taken to preclude a recurrence of all findings.

(e) The Auditor General shall provide the successor independent certified public accountant of a district school board with access to the prior year's working papers in accordance with the Statements on Auditing Standards, including documentation of planning, internal control, audit results, and other matters of continuing accounting and auditing significance, such as the working paper analysis of balance sheet accounts and those relating to contingencies.

(5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

(a) The Legislative Auditing Committee shall direct the Auditor General to make an audit of any municipality whenever petitioned to do so by at least 20 percent of the registered electors in the last general election of that municipality pursuant to this subsection. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the registered electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the distribution pursuant to s. [212.20\(6\)\(d\)5](#), which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

(b) At least one registered elector in the most recent general election must file a letter of intent with the municipal clerk prior to any petition of the electors of that municipality for the purpose of an audit. Each petition must be submitted to the supervisor of elections and contain, at a minimum:

1. The elector's printed name;
2. The signature of the elector;
3. The elector's residence address;
4. The elector's date of birth; and
5. The date signed.

All petitions must be submitted for verification within 1 calendar year after the audit petition origination by the municipal electors.

(6) REQUEST BY A LOCAL GOVERNMENTAL ENTITY FOR AN AUDIT BY THE AUDITOR GENERAL.— Whenever a local governmental entity requests the Auditor General to conduct an audit of all or part of its operations and the Auditor General conducts the audit under his or her own authority or at the direction of the Legislative Auditing Committee, the expenses of the audit shall be paid by the local governmental entity. The Auditor General shall estimate the cost of the audit. Fifty percent of the cost estimate shall be paid by the local governmental entity before the initiation of the audit and deposited into the General Revenue Fund of the state. After the completion of the audit, the Auditor General shall notify the local governmental entity of the actual cost of the audit. The local governmental entity shall remit the remainder of the cost of the audit to the Auditor General for deposit into the General Revenue Fund of the state. If the local governmental entity fails to comply with paying the remaining cost of the audit, the Auditor General shall notify the Legislative Auditing Committee.

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(a) The Auditor General shall notify the Legislative Auditing Committee of any local governmental entity, district school board, charter school, or charter technical career center that does not comply with the reporting requirements of s. [218.39](#).

(b) The Auditor General, in consultation with the Board of Accountancy, shall review all audit reports submitted pursuant to s. [218.39](#). The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the governmental entity does not comply with the Auditor General's request, the Auditor General shall notify the Legislative Auditing Committee.

(c) The Auditor General shall provide annually a list of those special districts which are not in compliance with s. [218.39](#) to the Special District Accountability Program of the Department of Economic Opportunity.

(d) During the Auditor General's review of audit reports, he or she shall contact those units of local government, as defined in s. [218.403](#), that are not in compliance with s. [218.415](#) and request evidence of corrective action. The unit of local government shall provide the Auditor General with evidence of corrective action within 45 days after the date it is requested by the Auditor General. If the unit of local government fails to comply with the Auditor General's request, the Auditor General shall notify the Legislative Auditing Committee.

(e) The Auditor General shall notify the Governor or the Commissioner of Education, as appropriate, and the Legislative Auditing Committee of any audit report reviewed by the Auditor General pursuant to paragraph (b) which contains a statement that a local governmental entity, charter school, charter technical career center, or district school board has met one or more of the conditions specified in s. [218.503](#). If the Auditor General requests a clarification regarding information included in an audit report to determine whether a local governmental entity, charter school, charter technical career center, or district school board has met one or more of the conditions specified in s. [218.503](#), the requested clarification must be provided within 45 days after the date of the request. If the local governmental entity, charter school, charter technical career center, or district school board does not comply with the Auditor General's request, the Auditor General shall notify the Legislative Auditing Committee. If, after obtaining the requested clarification, the Auditor General determines that the local governmental entity, charter school, charter technical career center, or district school board has met one or more of the conditions specified in s. [218.503](#), he or she shall notify the Governor or the Commissioner of Education, as appropriate, and the Legislative Auditing Committee.

(f) The Auditor General shall annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports reviewed in paragraph (b) or otherwise identified by the Auditor General's review of such audit reports and financial information, and identified in audits of district school boards conducted by the Auditor General. The Auditor General shall include financial information provided pursuant to s. [218.32](#)(1)(e) for entities with fiscal years ending on or after June 30, 2003, within his or her reports submitted pursuant to this paragraph.

(g) If the Auditor General discovers significant errors, improper practices, or other significant discrepancies in connection with his or her audits of a state agency or state officer, the Auditor General shall notify the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee. The President of the Senate and the Speaker of the House of Representatives shall promptly forward a copy of the notification to the chairs of the respective legislative committees, which in the judgment of the President of the Senate and the Speaker of the House of Representatives are substantially concerned with the functions of the state agency or state officer involved. Thereafter, and in no event later than the 10th day of the next succeeding legislative session, the person in charge of the state agency involved, or the state officer involved, as the case may be, shall explain in writing to the President of the Senate, the Speaker of the House of Representatives, and to the Legislative Auditing Committee the reasons or justifications for such errors, improper practices, or other significant discrepancies and the corrective measures, if any, taken by the agency.

(h) The Auditor General shall annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee by December 1 of each year a report that includes a projected 2-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General. The Auditor General may also transmit recommendations at other times of the year when the information would be timely and useful for the Legislature.

(i) The Auditor General shall annually transmit by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to **subsection (2)**.

(j) The Auditor General shall notify the Legislative Auditing Committee of any financial or operational audit report prepared pursuant to this **section** which indicates that a district school board, state university, or Florida College System institution has failed to take full corrective action in response to a recommendation that was included in the two preceding financial or operational audit reports.

1. The committee may direct the district school board or the governing body of the state university or Florida College System institution to provide a written statement to the committee explaining why full corrective action has not been taken or, if the governing body intends to take full corrective action, describing the corrective action to be taken and when it will occur.

2. If the committee determines that the written statement is not sufficient, the committee may require the chair of the district school board or the chair of the governing body of the state university or Florida College System institution, or the chair's designee, to appear before the committee.

3. If the committee determines that the district school board, state university, or Florida College System institution has failed to take full corrective action for which there is no justifiable reason or has failed to comply with committee requests made pursuant to this **section**, the committee shall refer the matter to the State Board of Education or the Board of Governors, as appropriate, to proceed in accordance with s. [1008.32](#) or s. [1008.322](#), respectively.

(8) **RULES OF THE AUDITOR GENERAL.**—The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all financial audits performed by independent certified public accountants pursuant to ss. [215.981](#), [218.39](#), [1001.453](#), [1002.395](#), [1004.28](#), and [1004.70](#). The rules for audits of local governmental entities, charter schools, charter technical career centers, and district school boards must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act as stated in s. [218.501](#).

(9) **TECHNICAL ADVICE PROVIDED BY THE AUDITOR GENERAL.**—The Auditor General may provide technical advice to:

(a) The Department of Education in the development of a compliance supplement for the financial audit of a district school board conducted by an independent certified public accountant.

(b) Governmental entities on their financial and accounting systems, procedures, and related matters.

(c) Governmental entities on promoting the building of competent and efficient accounting and internal audit organizations in their offices.

History.—s. 6, ch. 67-470; s. 6, ch. 69-82; s. 1, ch. 72-6; ss. 1, 2, ch. 73-234; s. 1, ch. 75-122; s. 1, ch. 76-73; s. 1, ch. 77-102; s. 2, ch. 79-183; ss. 1, 3, 6, ch. 79-589; s. 1, ch. 81-167; s. 1, ch. 83-55; s. 1, ch. 83-106; s. 1, ch. 84-241; s. 1, ch. 85-80; s. 14, ch. 86-204; s. 2, ch. 86-217; s. 1, ch. 87-114; s. 4, ch. 89-87; s. 30, ch. 89-169; s. 9, ch. 90-110; s. 19, ch. 90-227; s. 65, ch. 91-45; s. 17, ch. 91-282; s. 2, ch. 91-429; s. 91, ch. 92-142; s. 136, ch. 92-279; s. 55, ch. 92-326; s. 15, ch. 94-249; s. 1309, ch. 95-147; s. 1, ch. 95-214; s. 1, ch. 95-380; s. 12, ch. 95-396; s. 26, ch. 96-318; s. 1, ch. 96-324; s. 21, ch. 97-96; s. 1, ch. 97-111; s. 1, ch. 97-255; s. 26, ch. 97-271; s. 3, ch. 99-333; s. 1, ch. 2000-151; s. 4, ch. 2000-264; s. 31, ch. 2000-355; s. 36, ch. 2000-371; s. 30, ch. 2001-140; s. 15, ch. 2001-266; s. 1, ch. 2002-1; s. 17, ch. 2002-22; s. 880, ch. 2002-387; s. 2, ch. 2004-305; s. 1, ch. 2004-331; s. 3, ch. 2004-484; s. 1, ch. 2005-171; s. 7, ch. 2006-190; s. 5, ch. 2009-68; s. 1, ch. 2009-214; s. 2, ch. 2010-5; s. 13, ch. 2011-34; s. 1, ch. 2011-49; s. 1, ch. 2011-52; s. 36, ch. 2011-142; s. 1, ch. 2012-5; s. 1, ch. 2012-134; s. 1, ch. 2013-15; s. 1, ch. 2013-51; s. 19, ch. 2013-252; s. 1, ch. 2014-17; s. 55, ch. 2014-22; s. 1, ch. 2014-39; s. 15, ch. 2014-184; s. 1, ch. 2014-223; s. 1, ch. 2015-2; s. 1, ch. 2015-98; ss. 5, 36, ch. 2016-62; s. 1, ch. 2017-116; s. 13, ch. 2017-233; s. 1, ch. 2018-5.

¹**Note.**— **Section 1**, ch. 2018-5, redesignated current paragraph (2)(k) as paragraph (l) and added a new paragraph (k), effective July 1, 2019, to read:

(k) Contact each district school board, as defined in s. 1003.01(1), with the findings and recommendations contained within the Auditor General's previous operational audit report. The district school board shall provide the Auditor General with evidence of the initiation of corrective action within 45 days after the date it is requested by the Auditor General and evidence of completion of corrective action within 180 days after the date it is requested by the Auditor General. If the district school board fails to comply with the Auditor General's request or is unable to take corrective action within the required timeframe, the Auditor General shall notify the Legislative Auditing Committee.

Note.— Former s. 11.186.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.