

LEGISLATIVE BILL 607

Approved by the Governor April 16, 2003

Introduced by Schimek, 27; Redfield, 12; Combs, 32

AN ACT relating to government; to amend sections 39-868 and 50-1201 to 50-1215, Reissue Revised Statutes of Nebraska, and sections 13-503, 50-1303, and 84-304, Revised Statutes Supplement, 2002; to provide and change provisions relating to bridge commissions; to change provisions relating to the Legislative Program Evaluation Act; to rename the act, a committee, and a unit; to define and redefine terms; to provide for performance audits; to eliminate provisions relating to program evaluations; to change and provide duties for the Auditor of Public Accounts; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 13-503, Revised Statutes Supplement, 2002, is amended to read:

13-503. For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body shall mean the governing body of any county agricultural society, elected county fair board, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, city, village, municipal county, community college, community redevelopment authority, county, drainage or levee district, educational service unit, rural or suburban fire protection district, historical society, hospital district, irrigation district, natural resources district, nonprofit county historical association or society for which a tax is levied under subsection (1) of section 23-355.01, public building commission, railroad transportation safety district, reclamation district, road improvement district, rural water district, school district, sanitary and improvement district, township, offstreet parking district, transit authority, metropolitan utilities district, and political subdivision with the authority to have a property tax request, with the authority to levy a toll, or that receives state aid;

(2) Levying board shall mean any governing body which has the power or duty to levy a tax;

(3) Fiscal year shall mean the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax shall mean any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor shall mean the Auditor of Public Accounts;

(6) Cash reserve shall mean funds required for the period before revenue would become available for expenditure but shall not include funds held in any special reserve fund;

(7) Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement shall mean a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such term shall include additions, if any, to an adopted budget statement made by a revised budget which has been adopted as provided in section 13-511;

(9) Special reserve fund shall mean any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, or (f) statutorily authorized sinking funds shall be considered special reserve funds;

(10) Biennial period shall mean the two fiscal years comprising a biennium commencing in odd-numbered years used by a city in determining and carrying on its financial and taxing affairs; and

(11) Biennial budget shall mean a budget by a city of the primary or metropolitan class that adopts a charter provision providing for a biennial period to determine and carry on the city's financial and taxing affairs.

Sec. 2. Section 39-868, Reissue Revised Statutes of Nebraska, is amended to read:

39-868. Through the exercise of the powers conferred by sections 39-855 to 39-872, the governing body of any county, city, or village may by resolution create a bridge commission. Upon the passage of such resolution, the governing body of such county shall appoint three, four, or five persons who shall constitute the bridge commission of such county. The bridge commission shall be a public body corporate and politic and a political subdivision of the State of Nebraska. The bridge commission shall have the power to contract, to sue and be sued, and to adopt a seal and alter the same at pleasure, but shall not have power to pledge the credit or taxing power of the county.

Sec. 3. Section 50-1201, Reissue Revised Statutes of Nebraska, is amended to read:

50-1201. Sections 50-1201 to 50-1215 and section 8 of this act shall be known and may be cited as the Legislative Program Evaluation Performance Audit Act.

Sec. 4. Section 50-1202, Reissue Revised Statutes of Nebraska, is amended to read:

50-1202. (1) The Legislature hereby finds and declares that pursuant to section 50-402 it is the duty of the Legislative Council to do independent assessments of the performance of state government organizations, programs, activities, and functions in order to provide information to improve public accountability and facilitate decisionmaking by parties with responsibility to oversee or initiate corrective action. ~~(a) to collect information concerning the government and general welfare of the state, (b) to examine the effects of previously enacted statutes and recommend amendments thereto, and (c) to deal with important issues of public policy and questions of statewide interest. The Legislature further finds that it is the duty of the Legislative Council to investigate and study the possibilities for improvements and efficiencies in state government in order to eliminate unnecessary activities, to avoid duplication in office personnel and equipment, to coordinate agency activities, and to develop methods of increasing efficiency and effecting economies.~~

~~(2) The Legislature recognizes that evaluation of the success of agencies in effectively implementing legislative intent is a logical extension of the initial policy formulation and enactment process. The Legislature further recognizes the potential value of professional program evaluation as a means of assessing the success of agencies in implementing legislative intent and the need to generate objective information regarding agency performance, in addition to fiscal compliance data, for use in making well-informed decisions relative to the ongoing appropriation of public funds.~~

~~(3) (2) The purpose of the Legislative Program Evaluation Performance Audit Act is to provide for a system of program evaluation performance audits to be conducted by the Legislative Program Evaluation Unit Performance Audit Section as directed by the Legislative Program Evaluation Performance Audit Committee.~~

~~(4) (3) It is not the purpose of the act to interfere with the duties of the Public Counsel or the Legislative Fiscal Analyst or to interfere with the statutorily defined investigative responsibilities or prerogative of any executive state officer, agency, board, bureau, commission, association, society, or institution, except that the act shall not be construed to preclude the evaluation a performance audit of an agency on the basis that another agency has the same responsibility. The act shall not be construed to interfere with or supplant the responsibilities or prerogative of the Governor to monitor and report on the performance of the agencies, boards, bureaus, commissions, associations, societies, and institutions under his or her administrative direction.~~

Sec. 5. Section 50-1203, Reissue Revised Statutes of Nebraska, is amended to read:

50-1203. For purposes of the Legislative Program Evaluation Performance Audit Act:

(1) Agency ~~shall mean~~ means any department, board, commission, or other governmental unit of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska but ~~shall~~ does not include (a) any court, (b) the Governor or his or her personal staff, (c) any political subdivision or entity thereof, or (d) any entity of the federal government;

(2) Auditor means the Auditor of Public Accounts whose powers and

duties are prescribed in section 84-304;

(3) Business day means a day on which state offices are open for regular business;

(4) Committee shall mean means the Legislative Program Evaluation Performance Audit Committee;

~~(3) Program evaluation shall mean a systematic review, directed by the committee, of any aspect of agencies and the programs administered by such agencies. A program evaluation may encompass aspects of agency programs, including, but not limited to:~~

~~(a) Adherence to legislative intent;~~

~~(b) Program effectiveness;~~

~~(c) Compliance with preestablished performance standards;~~

~~(d) Efficiency of operation;~~

~~(e) Unanticipated program effects or problems;~~

~~(f) Possible duplication or overlap of services; and~~

~~(g) Review of the statutes authorizing a program for corrections, updating, or other revision;~~

(4) (5) Unit shall mean Committee report means the report released by the committee at the conclusion of a performance audit;

(6) Majority vote means a vote by the majority of the committee's members;

(7) Performance audit means an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decisionmaking by parties with responsibility to oversee or initiate corrective action. Performance audits may include (a) economy and efficiency audits and (b) program audits as those terms are defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office;

(8) Section means the Legislative Program Evaluation Unit Performance Audit Section; and

~~(5) Unit director shall mean (9) Section director means the head of the unit section. The unit section director shall be selected by the Executive Board of the Legislative Council from the following: The Director of Research of the Legislature, or a staff member of the Director of Research of the Legislature nominated by the such director. or any other legislative employee.~~

Sec. 6. Section 50-1204, Reissue Revised Statutes of Nebraska, is amended to read:

50-1204. (1) The Legislative Program Evaluation Performance Audit Committee is hereby established as a special legislative committee to exercise the authority and perform the duties provided for in the Legislative Program Evaluation Performance Audit Act. The committee shall be composed of the Speaker of the Legislature, the chairperson of the Executive Board of the Legislative Council, the chairperson of the Appropriations Committee of the Legislature, and ~~three~~ four other members of the Legislature to be chosen by the Executive Board of the Legislative Council. The executive board shall ensure that the Legislative Performance Audit Committee includes adequate geographic representation. The chairperson and vice-chairperson of the ~~committee~~ Legislative Performance Audit Committee shall be elected by majority vote. ~~of the committee.~~ The committee shall be subject to all rules prescribed by the Legislature. The committee shall be reconstituted at the beginning of each Legislature ~~or~~ The committee and shall meet as needed. ~~for the purpose of selecting programs to be evaluated, approving scope statements and evaluation plans for program evaluation projects, reviewing completed program evaluation reports, and conducting public hearings.~~

(2) The Legislative Program Evaluation Unit ~~is hereby~~ Performance Audit Section ~~is~~ established. The unit section shall be administered and ~~coordinated~~ by the unit section director and shall be composed of employees of the Legislature assigned to conduct program evaluations performance audits. The unit section shall inform the Legislative Fiscal Analyst of its activities and consult with him or her and ~~receive input, suggestions, advice, and information regarding the limits of program evaluation as needed.~~ The unit section shall operate under the general direction of the committee. ~~The unit director shall supervise the day-to-day operations of the unit and shall serve as the unit's liaison with the committee.~~

Sec. 7. Section 50-1205, Reissue Revised Statutes of Nebraska, is amended to read:

50-1205. The committee shall:

(1) Adopt, by majority vote, procedures consistent with the Legislative Performance Audit Act to govern the business of the committee and

the conduct of performance audits;

(2) Ensure that performance audits done by the committee are not undertaken based on or influenced by special or partisan interests;

(3) Review performance audit requests and select, by majority vote, agencies or agency programs for performance audit;

(4) Review, amend, if necessary, and approve a scope statement and an audit plan for each performance audit;

(5) Respond to inquiries regarding performance audits;

~~(1) Review referrals of potential program evaluation topics and select, by majority vote, agencies, programs, subprograms, or subject areas for program evaluation using the screening criteria prescribed in section 50-1207;~~

~~(2) Promote the efficient use of the unit staff and resources by limiting and defining the scope of proposed program evaluations and by adopting formal scope statements which shall be used to guide the unit in the conduct of program evaluations;~~

~~(3) Review, amend, if necessary, and approve or reject a formal program evaluation plan for each program evaluation to be developed by the unit director and staff;~~

~~(4) Respond to inquiries regarding the conduct of program evaluations;~~

~~(5) (6) Inspect or approve the inspection of the premises, or any parts thereof, of any agency or any property owned, leased, or operated by an agency as frequently as is necessary in the opinion of the committee to carry out a program evaluation or preevaluation performance audit or preaudit inquiry;~~

~~(6) (7) Inspect and examine, or approve the inspection and examination of, the records and documents of any agency as a part of the conduct of a program evaluation or preevaluation performance audit or preaudit inquiry;~~

~~(7) (8) Administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses either residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court;~~

~~(8) (9) Review completed program evaluation performance audit reports prepared by the unit staff section, together with comments from the evaluated agency, and adopt, reject, or amend each report recommendations and incorporate the adopted and amended recommendations them into a committee report;~~

~~(9) (10) Release the committee report to the public and distribute it to the Legislature with or without benefit of a public hearing;~~

~~(10) (11) Hold a public hearing, at the committee's discretion, for the purpose of receiving testimony prior to issuance of the committee report;~~

~~(11) (12) Establish a system to ascertain and monitor agency conformity to an agency's implementation of the recommendations contained in the committee report and compliance with any statutory changes resulting from the recommendations;~~

~~(12) (13) Issue an annual report each September, to be prepared by the unit section director and approved by the committee, summarizing recommendations made pursuant to reports of program evaluations performance audits during the previous fiscal year and the status of implementation of those recommendations;~~

~~(13) (14) Serve as custodian of all records generated by the committee or the unit in the conduct of a program evaluation section during a performance audit;~~

~~(14) (15) Consult with the unit section director regarding the staffing and budgetary needs of the unit section and assist in presenting budget requests to the Appropriations Committee of the Legislature; and~~

~~(15) (16) Approve or reject, within the budgetary limits of the unit section, contracts to retain consultants to assist with program evaluations performance audits requiring specialized knowledge or expertise. Requests for consultant contracts shall be approved by the unit section director and presented to the committee Legislative Performance Audit Committee by the unit section director. A majority vote of the committee shall be required to approve consultant contract requests; and~~

(17) At its discretion, and with the agreement of the auditor, conduct joint fiscal or performance audits with the auditor. The details of any joint audit shall be agreed upon in writing by the committee and the auditor.

Sec. 8. (1) Except as provided in subsections (2) and (3) of this section, performance audits done under the terms of the Legislative

Performance Audit Act shall be conducted in accordance with the general standards for financial and performance audits, the Field Work Standards for Performance Audits, and the Reporting Standards for Performance Audits contained in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office.

(2) General standards relating to continuing education for those involved in performance audits may be met when time and budgetary constraints allow.

(3) General standards relating to external quality control review may be implemented at the committee's discretion.

Sec. 9. Section 50-1206, Reissue Revised Statutes of Nebraska, is amended to read:

50-1206. (1) Requests for performance audits may be made by the Governor, any other constitutional officer of the State of Nebraska, a legislator, the Legislative Fiscal Analyst, or the Director of Research of the Legislature.

(2) Performance audit requests shall be submitted to the committee chairperson or section director by letter or on a form developed by the section director.

(3) When considering a performance audit request, if the committee determines that the request has potential merit but insufficient information is available, it may, by majority vote, instruct the section director to conduct a preaudit inquiry.

(4) Upon completion of the preaudit inquiry, the committee chairperson shall place the request on the agenda for the committee's next meeting and shall notify the request sponsor of that action. Any person may request or suggest a program evaluation of an agency by contacting any member of the Legislature. Such requests or suggestions may then be referred by the legislator to the chairperson of the committee on a referral form prescribed by the committee. Suggestions for program evaluations may also be forwarded directly to the chairperson by the Governor or any other duly elected executive officer of the State of Nebraska, by any legislator acting on his or her own initiative, by the Legislative Fiscal Analyst, or by the Director of Research of the Legislature.

(2) When considering a request for a program evaluation, the committee or the chairperson of the committee may determine that the request has potential merit but that insufficient data is available. In such instances, the committee, by majority vote, or the chairperson may instruct the unit director to conduct a preevaluation inquiry. A preevaluation inquiry shall be conducted only for the purpose of obtaining sufficient information to apply the screening criteria prescribed in section 50-1207.

(3) When a preevaluation inquiry is conducted, the committee or chairperson of the committee shall instruct the unit director to prepare, for the committee's or the chairperson's approval, a brief written statement clearly identifying what additional information is needed to allow the committee to apply the program evaluation screening criteria. The unit staff shall strictly limit its investigation to the items contained in the written statement. The committee or chairperson shall make every reasonable effort to complete any preevaluation inquiry within sixty calendar days after receipt of the request for a program evaluation.

(4) Once a preevaluation inquiry has been completed, the chairperson of the committee shall place the request on the agenda for the committee's next regularly scheduled meeting and shall notify the request sponsor of that action.

Sec. 10. Section 50-1207, Reissue Revised Statutes of Nebraska, is amended to read:

50-1207. The committee shall consider each of the following criteria in deciding whether to undertake a program evaluation and in considering how to prioritize requests for program evaluations:

(1) Urgency. The urgency of any particular issue, problem, or concern contained in the request and the potential harm to the public which might occur if the issue, problem, or concern is not addressed;

(2) Jurisdictional appropriateness. The committee may determine that an evaluation request would be more appropriately handled by some other agency, such as the Public Counsel, the Auditor of Public Accounts, the Governor, or a law enforcement agency;

(3) Universality of interest. The breadth and depth of legislative and public interest in the outcome of the program evaluation should be considered. Every effort should be made to avoid using program evaluation to pursue narrow, special, or partisan interests;

(4) Time constraints. If a program evaluation must be completed

within a specified period of time to be meaningful, the committee shall consider whether available staff time and resources would allow for the completion of the program evaluation within the relevant timeframe. The committee may narrow the request so that it can be accomplished in a sufficiently timely manner to render the results useful, and

(5) ~~Budgetary considerations.~~ The committee shall consult with the unit director and the Director of Research of the Legislature in estimating the amount of any special costs, such as consultant fees, which might be incurred in conducting a particular program evaluation.

The committee may develop ~~other~~ criteria to be used to screen requests for ~~program evaluations~~ performance audits. The committee shall consult with the ~~unit~~ section director in the application of the screening criteria.

Sec. 11. Section 50-1208, Reissue Revised Statutes of Nebraska, is amended to read:

50-1208. (1) The committee shall apply the screening criteria prescribed in section 50-1207 to each request for a program evaluation and shall approve or reject, by majority vote, each request. When the committee approves a request, it shall adopt, by majority vote, a formal scope statement identifying the parameters of the program evaluation. No program evaluation shall be undertaken until the committee has adopted a formal scope statement.

(2) The unit shall be limited to the areas of inquiry outlined in the formal scope statement in conducting the program evaluation. If the program evaluation reveals additional possible areas of inquiry, the unit director may request that the committee expand the formal scope statement. A majority vote of the committee shall be required to amend a formal scope statement.

(3) Once the committee has adopted a formal scope statement, the unit shall develop a formal evaluation plan. The formal evaluation plan shall include a description of the research and evaluation methodologies to be employed, a projected timetable for completion of the project in stages, and a timetable for submission of brief, written periodic progress reports to the committee. The formal evaluation plan shall be submitted to the committee within thirty days after the date of approval of the formal scope statement, and a majority vote of the committee shall be required for its approval.

(4) Once the committee has approved a formal evaluation plan, the agency shall be notified in writing that a program evaluation will be conducted. The notification shall detail the scope of the program evaluation and the projected timetable and shall contain a copy of the statutes which provide for the program evaluation process. Copies of the agency notification shall be forwarded to the agency director, the program director when relevant, and the Governor. The committee shall, by majority vote, adopt requests for performance audit. The committee chairperson shall notify each requester of any action taken on his or her request.

(2) Before the section begins a performance audit, it shall notify in writing the agency director, the program director, when relevant, and the Governor that a performance audit will be conducted.

(3) Following notification, the section shall arrange an entrance conference to provide the agency with further information about the audit process. The agency director shall inform the agency staff, in writing, of the performance audit and shall instruct agency staff to cooperate fully with the section.

(4) After the entrance conference, the section shall conduct the research necessary to draft a scope statement for consideration by the committee. The scope statement shall identify the specific issues to be addressed in the audit. The committee shall, by majority vote, adopt, reject, or amend and adopt the scope statement prepared by the section.

(5) Once the committee has adopted a scope statement, the section shall develop an audit plan. The audit plan shall include a description of the research and audit methodologies to be employed and a projected deadline for completion of the section's report. The audit plan shall be submitted to the committee, and a majority vote shall be required for its approval.

(6) If the performance audit reveals a need to modify the scope statement or audit plan, the section director may request that the committee make revisions. A majority vote shall be required to revise the scope statement or audit plan. The agency shall be notified in writing of any revision to the scope statement or audit plan.

Sec. 12. Section 50-1209, Reissue Revised Statutes of Nebraska, is amended to read:

50-1209. (1) The program evaluation notification required in section 50-1208 shall indicate the need to arrange an entrance conference at which time the unit staff shall provide the agency director with an initial

inventory of what will be reasonably needed to conduct the program evaluation. The inventory shall include, to the extent feasible, records, reports, staff time, and any work materials including desk space and computer terminals. The initial inventory of needs of the unit may be expanded at any time during the evaluation. The inventory of needs and any expansion thereof shall be within the agency's budget constraints which shall be determined in consultation with the agency director and the Legislative Fiscal Analyst.

(2) The agency director shall inform the agency staff, in writing, of the program evaluation and shall instruct them to cooperate fully with the unit staff. A copy of the agency director's staff notification shall be provided to the unit staff at the entrance conference.

(3) During the conduct of the program evaluation, the unit director shall provide brief, written progress reports to the chairperson of the committee as outlined in the formal evaluation plan timetable. Upon approval of an audit plan pursuant to section 50-1208, the agency shall be notified in writing of the specific scope of the audit and the projected deadline for completion of the section's report. If the section needs information from a political subdivision or entity thereof to effectively conduct a performance audit of an agency, the political subdivision or entity thereof shall provide information, on request, to the section.

Sec. 13. Section 50-1210, Reissue Revised Statutes of Nebraska, is amended to read:

50-1210. Upon completion of a program evaluation, the unit shall prepare a final draft report of its findings, including any recommendations and alternative recommendations for action including statutory changes. The unit director shall forward the draft report concurrently to the committee and to the agency director. The communication to the agency shall invite review and written response and shall prohibit release of any part of the draft report to any person outside the agency. The agency shall be allowed thirty calendar days from date of receipt of the draft report to provide a written response to the draft report to the committee. Any written response received from the agency shall be attached to the unit report as an addendum for consideration by the committee. Following receipt of any written response from the agency, the unit director shall review the response, prepare a brief written evaluation of it, and forward the evaluation to the committee for review. (1) Upon completion of a performance audit, the section shall prepare a report of its findings and recommendations for action. The section director shall provide the section's report concurrently to the committee, agency director, and Legislative Fiscal Analyst. The committee may, by majority vote, release the section's report or portions thereof to other individuals, with the stipulation that the released material shall be kept confidential.

(2) When the section director provides the report to the Legislative Fiscal Analyst, the Legislative Fiscal Analyst shall issue an opinion to the committee indicating whether the section's recommendations can be implemented by the agency within its current appropriation.

(3) When the section director provides the report to the agency, the agency shall have twenty business days from the date of receipt of the report to provide a written response. Any written response received from the agency shall be attached to the committee report. The agency shall not release any part of the report to any person outside the agency, except that an agency may discuss the report with the Governor. The Governor shall not release any part of the report.

(4) Following receipt of any written response from the agency, the section director shall prepare a brief written summary of the response, including a description of any significant disagreements the agency has with the section's report or recommendations.

Sec. 14. Section 50-1211, Reissue Revised Statutes of Nebraska, is amended to read:

50-1211. (1) The committee shall review the section's report, the agency's response, the section director's summary of the agency's response, and the Legislative Fiscal Analyst's opinion prescribed in section 50-1210. The committee may amend and shall adopt or reject each recommendation in the report and indicate whether each recommendation can be implemented by the agency within its current appropriation. The adopted recommendations shall be incorporated into a committee report, which shall be approved by majority vote.

(2) The committee report shall include, but not be limited to, the section's report, the agency's written response to the report, the section director's summary of the agency response, the committee's recommendations, and any opinions of the Legislative Fiscal Analyst regarding whether the committee's recommendations can be implemented by the agency within its current appropriation. The final draft report, the agency response, and the

unit director's evaluation prescribed in section 50-1210 shall be reviewed by the committee. The committee shall amend, if necessary, and adopt or reject each draft report recommendation, and the adopted recommendation shall be incorporated into a final committee report which shall be approved by majority vote of the committee.

~~(2)~~ (3) The committee may decide, by majority vote, to defer adoption of a final committee report pending a public hearing. ~~When~~ If the committee elects to schedule a public hearing, a preliminary report shall be released it shall release, for review by interested persons prior to the hearing, the section's report, the agency's response, the section director's summary of the agency's response, and any opinions of the Legislative Fiscal Analyst. The preliminary report shall include the unit report and recommendations and any agency response. The public hearing shall be held not less than ten and ~~not~~ nor more than thirty calendar twenty business days following release of the preliminary report materials.

~~(3)~~ (4) When the committee elects to schedule a hearing, ~~prior to releasing a final committee report,~~ the final committee report shall include, as an addendum, a summary of the testimony received at the hearing shall be attached to the committee report as an addendum. A transcript of the testimony received at the hearing shall be on file with the committee and available for public inspection. The final committee report Unless the committee votes to delay release of the committee report, the report shall be released within sixty forty business days after the public hearing.

(4) After the committee approves the final committee report, the unit director shall forward the report to the agency director. The communication to the agency shall invite written response to the final committee report and shall prohibit the release of any part of the final committee report to any person outside the agency. The agency shall be allowed fifteen calendar days from the receipt of the final committee report to provide a written response to the committee. Any written response received from the agency shall be attached to the final committee report as an addendum.

(5) Once the committee has approved its report, the committee shall, by majority vote, cause the committee report to be released to all members of the Legislature and to the public. The committee may, by majority vote, release the committee report or portions thereof prior to public release of the report. a final committee report and received a written response to the report from the agency director, the chairperson of the committee shall cause the report to be released concurrently to all members of the Legislature and to the public. Only the chairperson or his or her designee may initially release a committee report or any information relating to the content of the report, including recommendations, and then only after approval by a majority of the committee.

Sec. 15. Section 50-1212, Reissue Revised Statutes of Nebraska, is amended to read:

50-1212. (1) The committee report adopted pursuant to section 50-1211 shall include the opinion of the committee as to whether each recommendation can be implemented by the agency within its current appropriation Within forty business days following the release of the committee report, the agency shall provide to the committee a written implementation plan describing the action planned and timeframe for accomplishment of each of the recommendations contained in the committee report. The agency director shall make every effort to fully implement the recommendations that can be implemented within the limits of the agency's current appropriation. For those recommendations which require additional appropriations or the drafting of legislation, the committee shall sponsor the legislation or present the proposal for additional or revised appropriations to the Appropriations Committee of the Legislature.

(2) The committee Legislative Performance Audit Committee shall establish a system to ascertain and monitor agency conformity to the recommendations contained in the final committee report and compliance with any statutory changes resulting from the report recommendations. in the final committee report. The committee shall consider using any existing review and monitoring systems within the office of the Legislative Fiscal Analyst, the Governor's Policy Research Office, the office of the Auditor of Public Accounts, or the agency. For those recommendations which can be implemented by the agency within the limits of its current appropriation, a followup system shall include a requirement for a written implementation plan to be filed with the committee by the agency within sixty days after the release of the committee report.

~~(3)~~ Once the committee upon advice of the Legislative Fiscal Analyst determines that a recommendation in the report is within the ability of the

agency to carry out within the limits of the agency's current appropriation, the agency director shall make every effort to fully carry out the recommendation within the timeframe outlined by the committee. For those recommendations which require additional appropriations or the drafting of legislation, the committee shall sponsor the legislation or present the proposal for additional or revised appropriations to the Appropriations Committee of the Legislature.

Sec. 16. Section 50-1213, Reissue Revised Statutes of Nebraska, is amended to read:

50-1213. No proceeding of the committee or ~~unit~~ section or opinion or expression of any member of the committee or ~~unit~~ section acting at the direction of the committee shall be reviewable in any court. No member of the committee or ~~unit~~ section acting at the direction of the committee shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters relating to the conduct of a program evaluation performance audit except in a proceeding brought to enforce the Legislative Program Evaluation Performance Audit Act.

Pursuant to section 84-712.05, the working papers produced by the committee or ~~unit~~ in the conduct of a program evaluation section in conjunction with a performance audit shall not be considered public documents.

Sec. 17. Section 50-1214, Reissue Revised Statutes of Nebraska, is amended to read:

50-1214. By majority vote, the committee may decide not to include in the committee report or any other program evaluation performance audit document ~~which~~ that will be a public record the names of persons providing information as a part of any program evaluation performance audit.

No employee of the State of Nebraska who provides information to the committee or ~~unit~~ section as part of a program evaluation performance audit shall be subject to any penalties, sanctions, or restrictions in connection with his or her employment as a result of the provision of such information.

Sec. 18. Section 50-1215, Reissue Revised Statutes of Nebraska, is amended to read:

50-1215. Any person who willfully obstructs or hinders the conduct of a program evaluation performance audit or who willfully misleads or attempts to mislead any person charged with the duty of conducting a program evaluation performance audit shall be guilty of a Class II misdemeanor.

Sec. 19. Section 50-1303, Revised Statutes Supplement, 2002, is amended to read:

50-1303. (1) The Government, Military and Veterans Affairs Committee of the Legislature may randomly select and conduct an evaluation of any board, commission, or similar entity. An evaluation conducted by the committee shall include, but not be limited to, the following:

(a) A review of the basic assumptions underlying the creation of the board, commission, or entity;

(b) A statement of the impact and effectiveness of the programs, policies, services, or activities administered by, or under the supervision of, the board, commission, or entity; and

(c) A recommendation as to whether the board, commission, or entity should be terminated, continued, or modified.

(2) If the committee believes that a more extensive program evaluation of a board, commission, or entity is necessary, the chairperson of the committee, on the committee's behalf, may request the Legislative Program Evaluation Performance Audit Committee to conduct a program evaluation performance audit pursuant to the Legislative Program Evaluation Performance Audit Act. Nothing in this section shall be construed to give requests for program evaluations performance audits under this section priority over other requests under consideration by the Legislative Program Evaluation Performance Audit Committee.

Sec. 20. Section 84-304, Revised Statutes Supplement, 2002, is amended to read:

84-304. It shall be the duty of the Auditor of Public Accounts:

(1) To give information in writing to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3) To examine or cause to be examined, in accordance with generally accepted government auditing standards for financial audits, as that term is defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office, at such time as he or she shall determine, books, accounts,

vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons;

(4) (a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of ~~an~~ any agricultural association formed under Chapter 2, article 20, county agricultural society, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, development district, drainage district, health district, historical society, hospital authority or district, county hospital, housing agency as defined in section 71-1575, irrigation district, county or municipal library, community mental health center, railroad transportation safety district, rural water district, township, Wyuka Cemetery, any village, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act which has separately levied a property tax based on legal authority for a joint public agency to levy such a tax independent of the public agencies forming such joint public agency.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4) (a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver;

(5) To report promptly to the ~~Director of Administrative Services~~ Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. In addition, if, in the normal course of conducting an audit in accordance with generally accepted government auditing standards for financial audits, as that term is defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them in writing to the Legislative Performance Audit Committee which may investigate the issue further, report it to the appropriate standing committee of the Legislature, or both;

(6) (a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who

shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9) To conduct all audits and examinations in a timely manner and in accordance with the standards for audits of governmental organizations, programs, activities, and functions published by the Comptroller General of the United States;

(10) To develop a plan for implementing on-line filing of budgeted and actual financial information by political subdivisions. Such plan shall describe the technology and staff resources necessary to implement on-line filing of such information and the costs of these resources. Such plan shall be presented to the Clerk of the Legislature on or before January 15, 2003; and

(11) To develop and maintain an annual budget and actual financial information reporting system that is accessible on-line by the public; and

(12) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205.

Sec. 21. The Auditor of Public Accounts, when expressly authorized by a majority vote of the members of the Legislative Performance Audit Committee, may conduct performance audits of state executive branch offices, state agencies, state bureaus, state boards, state commissions, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska. The auditor shall issue the performance audit report to the Governor, the appropriate standing committee of the Legislature, and the Legislative Performance Audit Committee.

Sec. 22. Original sections 39-868 and 50-1201 to 50-1215, Reissue Revised Statutes of Nebraska, and sections 13-503, 50-1303, and 84-304, Revised Statutes Supplement, 2002, are repealed.