

FEB 22 1977

Place On Calendar

*Reprinted 4/77*

HOUSE FILE 246

By COMMITTEE ON STATE GOVERNMENT

(Formerly Study Bill 90)

Passed House, Date 4-20-77 (p. 1516) Passed Senate, Date \_\_\_\_\_

Vote: Ayes 64 Nays 28 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act to establish a legislative auditor's office by  
 2 transferring the duties of the legislative fiscal  
 3 bureau, transferring the duty of the auditor of state  
 4 to audit state agencies, and establishing a duty of  
 5 conducting performance audits.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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246

HOUSE FILE 246

H-3586

- 1 Amend House File 246 as follows:
- 2 1. By striking the enacting clause.

H-3586 FILED - *Motion to withdraw* BY CRABB of Crawford  
 APRIL 14, 1977 *Amend 4/19 (1456)*

*Lost 4/19 (j. 1465)*

1 Section 1. NEW SECTION. INTENT. It is the intent of  
2 the general assembly to establish in the legislative branch  
3 of government the capability to independently and intensively  
4 review the performance of agencies in operating their programs,  
5 to evaluate their efficiency and effectiveness and to recommend  
6 alternatives which may improve the benefits of a program or  
7 reduce its costs to the citizens. The bureau established  
8 by this Act is intended to provide the technical and  
9 professional support for the general assembly's oversight  
10 responsibility.

11 Sec. 2. NEW SECTION. LEGISLATIVE AUDITOR'S OFFICE.

12 1. There is established the legislative auditor's office.  
13 The administrative head of the legislative auditor's office  
14 shall be the legislative auditor. The legislative auditor's  
15 office shall be organized in three divisions, a budget  
16 division, a financial audit division, and a performance audit  
17 division.

18 2. The legislative auditor shall be appointed upon the  
19 nomination of the legislative council and the confirmation  
20 of that nomination by two-thirds of the members of each house  
21 of the general assembly. When a vacancy in the office of  
22 the legislative auditor occurs during the legislative interim,  
23 the nomination shall be submitted to the general assembly  
24 within thirty days of its convening and shall be acted upon  
25 by each house within sixty days of its submission. When a  
26 vacancy occurs during the legislative session, the nomination  
27 shall be submitted within sixty days of the occurrence of  
28 the vacancy and shall be acted upon by each house within sixty  
29 days of its submission unless the general assembly adjourns  
30 prior to the expiration of this schedule. If the general  
31 assembly adjourns prior to the expiration of this schedule,  
32 a nomination shall be submitted as though the vacancy occurred  
33 during the legislative interim. The legislative auditor may  
34 be removed from office for just cause by a vote of two-thirds  
35 of the members of each house of the general assembly. Each

1 legislative auditor shall be appointed to a term of five  
2 years. A person nominated as director may serve as an acting  
3 legislative auditor until the nomination is confirmed or  
4 rejected by the general assembly.

5 Sec. 3. NEW SECTION. DUTIES OF THE LEGISLATIVE AUDITOR.  
6 The legislative auditor shall have the following powers and  
7 duties:

8 1. The legislative auditor shall employ and supervise  
9 the employees of the legislative auditor's office at such  
10 salaries and in such positions and professional disciplines  
11 as are within the limits of its appropriation.

12 2. The legislative auditor shall establish policies and  
13 procedures for the operations of budget, financial audit,  
14 and performance audit divisions.

15 3. The legislative auditor shall direct the performance  
16 audit division to examine an agency or program of the state  
17 government and its political subdivisions upon the request  
18 of a standing committee or budget subcommittee of the general  
19 assembly. The legislative auditor may direct the performance  
20 audit division to examine an agency or program of the state  
21 government upon the request of a member of the general assembly  
22 or upon his or her own initiative.

23 4. The legislative auditor shall determine the priorities  
24 and allocate the workload of the budget, financial audit,  
25 and performance audit divisions.

26 5. The legislative auditor shall make an annual report  
27 to the general assembly on the examinations conducted by the  
28 legislative auditor's office and on the condition of that  
29 office.

30 6. The legislative auditor shall attend, or designate  
31 a representative who shall attend, the budget hearings required  
32 by section eight point twenty-six (8.26) of the Code and may  
33 offer explanations or suggestions and make inquiries with  
34 respect to the tentative budget.

35 7. The legislative auditor shall maintain as a public

1 record an index of all performance audit and program evaluation  
2 requests, including those of the legislative auditor's  
3 initiative showing the requesting party, the subject agency,  
4 the date the request was made, and the estimated date the  
5 work will commence.

6 8. The legislative auditor may employ such technical  
7 assistance as may be necessary to conduct the assignments  
8 of the financial and performance audit divisions.

9 Sec. 4. NEW SECTION. ACCESS TO RECORDS. The legislative  
10 auditor and the agents and employees of the legislative  
11 auditor's office shall at all times have access to all offices,  
12 departments, agencies, boards, bureaus, and commissions of  
13 the state and its political subdivisions, and to the books,  
14 records, and other instrumentalities and properties used in  
15 the performance of their statutory duties, and all offices,  
16 departments, agencies, boards, bureaus, and commissions of  
17 the state and its political subdivisions shall co-operate  
18 with the legislative auditor in the performance of the  
19 foregoing duty, and shall make available such books, records,  
20 instrumentalities, and property.

21 If the information sought by the legislative auditor's  
22 office is required by law to be kept confidential, the  
23 legislative auditor's office shall have access to the  
24 information, but shall maintain the confidentiality of the  
25 information and shall be subject to the same penalties for  
26 dissemination of the information. The legislative auditor  
27 shall inform the administrative head of the agency or political  
28 subdivision as to the reason for the investigation of its  
29 confidential records.

30 Sec. 5. NEW SECTION. DUTIES OF THE FINANCIAL AUDIT  
31 DIVISION.

32 1. The financial audit division shall at least annually  
33 make a full settlement between the state and all state officers  
34 and departments and all persons receiving or expending state  
35 funds, and shall biennially make a complete audit of the books

1 and accounts of every department of the state.

2 2. However, a preliminary audit of the educational  
3 institutions and the state fair board shall be made at least  
4 quarterly to check the monthly reports submitted to the  
5 comptroller's office as required by section eight point six  
6 (8.6), subsection seven (7) of the Code and that a final audit  
7 of such state agencies shall be made at the close of each  
8 fiscal biennium.

9 3. The term "department" shall be construed to mean any  
10 authority of the state government charged by law with official  
11 responsibility for the expenditure of public money of the  
12 state and any agency of the state government receiving money  
13 from the general revenues of the state.

14 Sec. 6. NEW SECTION. REPORTS OF THE FINANCIAL AUDIT  
15 DIVISION. The financial audit division shall make or cause  
16 to be made and filed and kept in the legislative auditor's  
17 office written reports of all audits and examinations, which  
18 reports shall set out in detail the following:

19 1. The actual condition of such department found to exist  
20 on every examination.

21 2. Whether, in the legislative auditor's opinion,

22 a. All funds have been expended for the purpose for which  
23 appropriated.

24 b. The department so audited and examined is efficiently  
25 conducted, and if the maximum results for the money expended  
26 are obtained.

27 c. The work of the departments so audited or examined  
28 needlessly conflicts with or duplicates the work done by any  
29 other department.

30 3. All illegal or unbusinesslike practices.

31 4. Any recommendations for greater simplicity, accuracy,  
32 efficiency, or economy in the operation of the business of  
33 the several departments and institutions.

34 5. Comparisons of prices paid and terms obtained by the  
35 various departments for goods and services of like character

1 and reasons for differences therein, if any.

2 6. Any other information which may be of value to the  
3 legislative auditor.

4 The legislative auditor is hereby authorized to obtain,  
5 maintain, operate, and exclusively control such offset printing  
6 machinery as may be necessary to print confidential reports  
7 and documents originating in the legislative auditor's office.  
8 Copies of an audit of any individual state department shall  
9 be provided to the state comptroller and the executive council  
10 upon completion of the audit.

11 Sec. 7. NEW SECTION. METHOD OF KEEPING ACCOUNTS. Each  
12 department and institution of the state shall keep its records  
13 and accounts in such form and by such methods as to be able  
14 to exhibit in its reports the matters required by the  
15 legislative auditor, unless otherwise specifically prescribed  
16 by law. Each department and institution of the state shall  
17 keep its records and accounts in a current condition. The  
18 failure of the head of any department of the state to comply  
19 with this provision shall be grounds for suspension from  
20 office.

21 Sec. 8. NEW SECTION. DUTIES OF THE BUDGET DIVISION.  
22 The budget division shall:

23 1. By continuous review of state expenditures, and  
24 revenues, and analysis of budget, make recommendations to  
25 the general assembly concerning the state's budget and revenue  
26 of the departments, boards, commissions, and agencies of the  
27 state.

28 2. Report to the legislative fiscal committee as required  
29 by the legislative fiscal committee and the legislative council  
30 and to the general assembly after the convening of each  
31 legislative session of a general assembly and make such other  
32 reports as may be required by either the legislative council  
33 or the general assembly.

34 3. Furnish information and act in an advisory capacity  
35 to the budget committees and committees on ways and means

1 of the general assembly and their several subcommittees when  
2 so requested.

3 4. Assist standing committees and members of the general  
4 assembly in attaching fiscal notes to legislative bills and  
5 resolutions as provided by the rules of the general assembly.

6 5. Submit to each member of the general assembly quarterly  
7 a report of the current status of major state funds, a  
8 comparison of income with estimates used by the general  
9 assembly and other revenue and expenditure information which  
10 the legislative fiscal committee determines will be informative  
11 for members of the general assembly. The state comptroller  
12 shall co-operate with the budget division in the development  
13 of the report. The legislative fiscal committee shall approve  
14 the style and format of the report.

15 6. Perform such other duties as shall be assigned to the  
16 budget division by the legislative fiscal committee or by  
17 the general assembly.

18 Sec. 9. NEW SECTION. DUTIES OF THE PERFORMANCE AUDIT  
19 DIVISION. The performance audit division at the direction  
20 of the legislative auditor shall independently examine agencies  
21 and programs to determine the following:

22 1. Whether the agency or program is managing or using  
23 its resources in a legal, efficient and economical manner  
24 and whether the causes of any inefficient or uneconomical  
25 practices have been determined.

26 2. Whether the desired results or benefits are being  
27 achieved, whether the objectives established by the general  
28 assembly are being met, and whether alternatives which might  
29 produce the desired results at a lower cost have been  
30 considered.

31 3. Whether administrative or statutory changes are needed  
32 to achieve the intent of the general assembly.

33 4. Other criteria determined by the legislative auditor.

34 The legislative auditor after consulting with the  
35 responsible official and the requesting party, if any, shall

1 determine the goals of the agency or program for the purpose  
2 of the performance audit or program evaluation. The  
3 performance audit division shall consult with the legislative  
4 service bureau and citizens' aide regarding information they  
5 may have concerning the agency or program to be evaluated.  
6 The performance audit division shall not require an agency  
7 to collect any information unless that agency has statutory  
8 authority to collect such information. The performance audit  
9 division shall only require information which an agency is  
10 presently collecting unless the legislative auditor determines  
11 that additional information is essential to the performance  
12 audit.

13 Sec. 10. NEW SECTION. REPORTS OF THE PERFORMANCE AUDIT  
14 DIVISION. At the conclusion of an audit or evaluation, the  
15 legislative auditor shall provide copies to the official whose  
16 office is the subject of the audit or evaluation. The official  
17 shall be given a period of not less than twenty days nor more  
18 than sixty days by the legislative auditor to respond to the  
19 findings and recommendations of the audit or evaluation, and  
20 the response shall be included in the report. A brief summary  
21 of the findings and recommendations shall accompany each  
22 report. A report of an audit or evaluation shall be released  
23 for publication upon its completion. The report shall be  
24 regarded as confidential by all persons properly having custody  
25 of it until the report is released as provided by this section.  
26 Release of the report in violation of the provisions of this  
27 section shall be a simple misdemeanor. Upon the release of  
28 a report, the legislative auditor shall provide a copy to  
29 the governor and copies to the presiding officer of each house  
30 of the general assembly for referral to the appropriate  
31 standing committee and budget subcommittee.

32 Sec. 11. Section two point forty-two (2.42), Code 1977,  
33 is amended by striking subsections twelve (12) and thirteen  
34 (13).

35 Sec. 12. Section two point forty-five (2.45), subsection

1 two (2), Code 1977, is amended to read as follows:

2 2. The legislative fiscal committee, which shall be composed  
3 of the chairmen and the ranking minority party members of  
4 the budget ~~committees on-appropriations~~ of the house and  
5 senate and two members of the legislative council, one chosen  
6 by the president of the senate and one chosen by the speaker  
7 of the house of representatives. In addition, four members  
8 of the committee who are not members of the legislative council  
9 and who are members of a budget ~~committee on-appropriations~~;  
10 one member shall be appointed from each party by the president  
11 of the senate and the speaker of the house of representatives,  
12 respectively. The legislative fiscal committee ~~shall-determine~~  
13 ~~policies-for-the-legislative-fiscal-bureau-and~~ shall direct  
14 ~~the-administration-of-performance-audits-and~~ visitations,  
15 subject to the approval of the legislative council.

16 Sec. 13. Section two point forty-six (2.46), Code 1977,  
17 is amended by striking subsections three (3) and four (4).

18 Sec. 14. Section two point fifty-one (2.51), Code 1977,  
19 is amended to read as follows:

20 2.51 VISITATIONS. The legislative fiscal committee, with  
21 the approval of the legislative council, may direct a  
22 subcommittee, which shall be composed of the chairmen and  
23 minority party ranking members of the appropriate subcommittees  
24 of the budget ~~committees on-appropriations~~ of the senate and  
25 the house of representatives and the chairmen of the  
26 appropriate standing committees of the general assembly, to  
27 visit the offices and facilities of any state office,  
28 department, agency, board, bureau, or commission to review  
29 programs authorized by the general assembly and the  
30 administration of the programs. When the legislative fiscal  
31 committee visits the offices and facilities of any state  
32 office, department, agency, board, bureau, or commission to  
33 review programs authorized by the general assembly and the  
34 administration of the programs, there shall be included the  
35 chairmen and minority party ranking members of the appropriate

1 subcommittees of the budget committees ~~on-appropriations~~ of  
2 the senate and the house of representatives. The subcommittee  
3 and the legislative fiscal committee shall be provided with  
4 information by the legislative ~~fiscal-bureau~~ auditor's office  
5 concerning budgets, programs, and legislation authorizing  
6 programs prior to any visitation. Members of a committee  
7 shall be compensated pursuant to section 2.10, subsection  
8 6. The subcommittee shall make reports and recommendations  
9 as required by the legislative fiscal committee.

10 Sec. 15. Section eleven point twenty-five (11.25),  
11 subsection two (2), Code 1977, is amended to read as follows:

12 2. Individual audit reports giving the results of all  
13 examinations and audits of all ~~departments-and-establishments~~  
14 local governments and all fiscal officers of the ~~state-and~~  
15 local governments.

16 Sec. 16. Section eleven point twenty-seven (11.27),  
17 subsection one (1), Code 1977, is amended to read as follows:

18 1. A narrative report and such statistical statements  
19 as the state auditor deems essential to display the results  
20 of his audits of the ~~state-departments-and-establishments~~  
21 local governments.

22 Sec. 17. Section eleven point twenty-eight (11.28), Code  
23 1977, is amended to read as follows:

24 11.28 INDIVIDUAL AUDIT REPORTS. ~~The-individual-audit~~  
25 ~~reports-shall-include-exhibits-and-schedules-to-report-data~~  
26 ~~similar-to-that-now-required-by-section-44.4,-and-shall-as~~  
27 ~~nearly-as-possible-correspond-and-be-prepared-similar-in-form~~  
28 ~~to-the-audit-reports-rendered-by-certified-public-accountants,~~  
29 ~~and-such-reports-shall-include-information-as-to-the-assets~~  
30 ~~and-liabilities-of-the-various-departments-and-institutions~~  
31 ~~audited-as-of-the-beginning-and-close-of-the-fiscal-year~~  
32 ~~audited,-the-receipts-and-expenditures-of-cash,-the-disposition~~  
33 ~~of-materials-and-other-properties,-and-the-net-income-and~~  
34 ~~net-operating-cost.--These-reports-shall-also-set-forth-the~~  
35 ~~cost-as-to-each-inmate,-member,-or-student-per-year-in-the~~

1 various-classifications-of-expenses,-and-shall-make-comparisons  
2 thereof,-and-shall-give-such-other-information,-suggestions,  
3 and-recommendations-as-may-be-deemed-of-advantage-and-to-the  
4 best-interests-of-the-taxpayers-of-the-state,-provided,-that  
5 the The daily audit report of the state treasury shall be  
6 submitted to the state comptroller and the legislative auditor;  
7 ~~provided,-further,-that-copies-of-all-individual-audit-reports~~  
8 ~~of-all-state-departments-and-establishments-shall-be~~  
9 ~~transmitted-to-the-executive-council-and-to-the-state~~  
10 ~~comptroller's-office-after-the-completion-of-each-audit,~~ and  
11 ~~that~~ copies of all local government audits shall, until  
12 otherwise provided, be also supplied to the comptroller's  
13 office; provided, further, that copies of such audit reports  
14 shall also be supplied to the officers of the counties,  
15 schools, and cities, as now provided by law; and, provided  
16 further, that summaries of the findings, recommendations,  
17 and comparisons, together with any other information deemed  
18 essential, shall be printed and distributed to members of  
19 the legislature, and such officials, including state officers,  
20 as may be designated by the executive council.

21 Sec. 18. Section twenty-four point twenty-four (24.24),  
22 Code 1977, is amended to read as follows:

23 24.24 VIOLATIONS. Failure on the part of any public  
24 official to perform any of the duties prescribed in chapters  
25 22, 23, and this chapter, and ~~sections~~ section 8.39 and ~~44-4~~  
26 ~~to-44-5~~ sections five (5) through seven (7) of this Act, shall  
27 constitute a misdemeanor, and shall be sufficient ground for  
28 removal from office.

29 Sec. 19. Section sixty-four point six (64.6), subsection  
30 one (1), Code 1977, is amended to read as follows:

31 1. Secretary of state, auditor of state, legislative  
32 auditor, attorney general, clerk of the supreme court, not  
33 less than ten thousand dollars.

34 Sec. 20. Section one hundred twenty-three point fifty-  
35 seven (123.57), Code 1977, is amended to read as follows:

1 123.57 EXAMINATION OF ACCOUNTS. The financial condition  
2 and transactions of all offices, departments, stores,  
3 warehouses, and depots of the department shall be examined  
4 ~~at least once each year~~ biennially by the state legislative  
5 auditor and at shorter periods if requested by the director,  
6 governor, or executive council.

7 Sec. 21. Section one hundred fifty-nine point twenty-six  
8 (159.26), Code 1977, is amended to read as follows:

9 159.26 DUTIES OF BOARD. The duties of the agriculture  
10 marketing board shall include the following: (1) To elect  
11 a chairman, a secretary, and from time to time such other  
12 officers as it may deem advisable; (2) to keep accurate books,  
13 records, and accounts of all its dealings, which books, records  
14 and accounts shall be audited ~~annually~~ biennially by the  
15 legislative auditor ef-state.

16 Sec. 22. Section one hundred seventy-three point nineteen  
17 (173.19), Code 1977, is amended to read as follows:

18 173.19 AUDITING OF ACCOUNTS. Prior to the annual  
19 convention, the legislative auditor ef-state in even-numbered  
20 years shall examine and report to the executive council upon  
21 all financial affairs of the board.

22 Sec. 23. Section one hundred eighty-four A point nine  
23 (184A.9), Code 1977, is amended to read as follows:

24 184A.9 AUDIT. Moneys collected under authority of this  
25 chapter shall be subject to audit by the legislative auditor  
26 ~~ef-state~~ and shall be used by the council first for the payment  
27 of collection expenses and for payment of the costs and  
28 expenses arising in connection with conducting any required  
29 referendums, and secondly by the turkey marketing council  
30 for market development.

31 Sec. 24. Section one hundred eighty-five point twenty-  
32 six (185.26), Code 1977, is amended to read as follows:

33 185.26 DEPOSIT OF FUNDS. Assessments collected by the  
34 secretary from a sale of soybeans shall be deposited in the  
35 office of the treasurer of state together with any gifts,

1 or any federal or state grant as may be received by the board,  
2 and placed in a special fund to be known as the soybean  
3 promotion fund. Moneys collected shall be subject to audit  
4 by the legislative auditor ~~of-state~~. From moneys collected,  
5 the board shall first pay the costs of referendums, elections  
6 and other expenses incurred in the administration of this  
7 chapter, and thereafter moneys may be expended for the purpose  
8 of market development. The fund shall be subject at all times  
9 to warrants by the state comptroller, drawn upon the written  
10 requisition of the chairman of the board and attested to by  
11 the secretary of the board.

12 Sec. 25. Section two hundred eighteen point seven (218.7),  
13 Code 1977, is amended to read as follows:

14 218.7 ACCOUNTING AND REPORTS. The business manager shall  
15 be responsible to the division director in control of his  
16 particular institution and shall file such accounting and  
17 other statistical reports and statements with the legislative  
18 auditor ~~of-state~~, as the legislative auditor may designate  
19 by written request to the particular division director, at  
20 such times and periods as the legislative auditor might  
21 require.

22 Sec. 26. Sections two point forty-eight (2.48), two point  
23 fifty (2.50), and two point fifty-two (2.52), Code 1977, are  
24 repealed.

25 Sec. 27. Sections eleven point one (11.1), eleven point  
26 two (11.2), eleven point five (11.5), and one hundred twenty-  
27 three point fifty-eight (123.58), Code 1977, are repealed.

28 Sec. 28. The employees of the legislative fiscal bureau  
29 are transferred to the budget division of the legislative  
30 auditor's office. The legislative fiscal director shall  
31 supervise the budget division of the legislative auditor's  
32 office until the legislative auditor is appointed. The  
33 employees of the legislative fiscal bureau shall not lose  
34 any benefits accrued, including salary, retirement, vacation,  
35 or sick leave, because of the reassignment provided in this

1 section.

2     Sec. 29. This Act, being deemed of immediate importance,  
3 shall take effect and be in force from and after its  
4 publication in The Waterloo Courier, a newspaper published  
5 in Waterloo, Iowa, and in the Bettendorf News, a newspaper  
6 published in Bettendorf, Iowa, except that sections five  
7 (5) through seven (7), fifteen (15) through twenty-five (25),  
8 and twenty-seven (27) of this Act shall be effective on July  
9 1, 1978.

10                                   EXPLANATION

11     The bill establishes the legislative auditor's office which  
12 is headed by the legislative auditor. The office has three  
13 divisions, a budget division, a financial audit division,  
14 and a performance audit division. The legislative auditor  
15 is nominated by the legislative council and confirmed by two-  
16 thirds of each house of the general assembly. The legislative  
17 auditor would serve a five-year term and be removable by a  
18 two-thirds vote of each house.

19     The budget division would exercise the present functions  
20 of the legislative fiscal bureau, but would be supervised  
21 by the legislative auditor rather than the legislative fiscal  
22 committee.

23     The financial audit division would exercise the function  
24 presently exercised by the auditor of state in auditing  
25 agencies of the state government. Audits of state agencies  
26 would be conducted biennially instead of annually.

27     The performance audit division would conduct performance  
28 audits of agencies and programs of the state and its political  
29 subdivisions upon the request of standing committees and  
30 budget subcommittees. The legislative auditor would have  
31 the discretion to direct a performance audit upon the request  
32 of a member of the general assembly or upon his or her own  
33 initiative. The performance audit would address the issues  
34 of the agency's compliance with the law, the efficient and  
35 effective use of the resources available, the achievement

1 of objectives, and the costs of achieving the objectives.  
2 The agency subject to the review would have an opportunity  
3 to respond prior to the distribution of the report and its  
4 response is included in the report.

5 The legislative auditor would establish the priorities  
6 and allocate the workloads of the divisions and establish  
7 the policies and procedures for their operations. The  
8 legislative auditor's office would have access to the records  
9 of any agency of the state and its political subdivisions.

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APRIL 20, 1977

PAGE 20

HOUSE FILE 246

H-3669

- 1 Amend amendment H-3598, to House File 246, as
- 2 follows:
- 3 1. Page 2, line 8, by inserting after the word
- 4 "government" the following: ", area education
- 5 agencies established in chapter two hundred seventy-
- 6 three (273), of the Code, public school districts
- 7 provided for in chapter two hundred seventy-four
- 8 (274), of the Code, and area vocational schools and
- 9 community colleges defined in chapter two hundred
- 10 eighty A (280A), of the Code."

H-3669 FILED - *Adopted 4/20* BY PATCHETT of Johnson  
APRIL 19, 1977 *(1506)* MONROE of Des Moines  
*Adopted to reconsider 4/20 (1507)* CUSACK of Scott

HOUSE FILE 246

H-3670

- 1 Amend amendment H-3598 to House File
- 2 246 as follows:
- 3 1. Page 3, line 7, by inserting
- 4 after the word "shall" the word "not".
- 5 2. Page 3, by striking lines 8,
- 6 9 and 10 and inserting in lieu thereof
- 7 the following: "the information, unless
- 8 that information contains data or
- 9 records from which individual identities are
- 10 not ascertainable or the data or records
- 11 have been masked so that individual identities
- 12 are not ascertainable. The".
- 13 3. Page 3, line 13, by striking the
- 14 word "confidential".

H-3670 FILED - *Done 4/20* BY SMALL of Johnson  
APRIL 19, 1977 *(1504)*

HOUSE FILE 246

H-3672

- 1 Amend amendment H-3626 to amendment H-3598,
- 2 to House File 246, as follows:
- 3 1. Page 1, line 6, by striking the word
- 4 "legislative" and inserting in lieu thereof the
- 5 word "performance".

H-3672 FILED, ADOPTED *(1467)* BY CRABB of Crawford  
APRIL 19, 1977

HOUSE FILE 246

H-3673

- 1 Amend H-3598 to House File 246 as follows:
- 2 1. Page 4, line 15, by inserting after the word
- 3 "of" the words "area community colleges and",

H-3673 FILED, ADOPTED *(1502)* BY JESSE of Polk  
APRIL 20, 1977

H-3640

1 Amend the amendment H-3598 to House File 246 as  
2 follows:

3 1. Page 2, by striking line 13 and inserting in  
4 lieu thereof "government upon the request of five  
5 members of the general".

H-3640 FILED - *Case of order* BY HARVEY of Scott  
APRIL 19, 1977 *with adoption*  
*of 3625 4/19 (1482)*

HOUSE FILE 246

H-3641

1 Amend the amendment H-3598 to House File 246  
2 as follows:

3 1. Page 1, line 40, by striking the words "a  
4 term of".

5 2. Page 1, line 41, by striking the words  
6 "five years" and inserting in lieu thereof the words  
7 "an indefinite term".

H-3641 FILED - *Case 4/19 (1472)* BY STROMER of Hancock  
APRIL 19, 1977

HOUSE FILE 246

H-3648

1 Amend amendment H-3598 to House File 246 as  
2 follows:

3 1. Page 1, line 44, by inserting after the word  
4 "assembly." the following:

5 "A person shall not become a candidate for any  
6 elective state office while serving as performance  
7 auditor or acting performance auditor, and any person  
8 who becomes a candidate contrary to this provision  
9 shall thereby be deemed to have resigned from the  
10 office of auditor."

H-3648 FILED - *Adopted 4/19* BY EVANS of Grundy  
APRIL 19, 1977 *(p. 1472)*

HOUSE FILE 246

H-3662

1 Amend amendment H-3598 to House File  
2 246 as follows:

3 1. Page 3, line 7, by inserting  
4 after the word "shall" the word "not".

5 2. Page 3, by striking lines 8,  
6 9 and 10 and inserting in lieu thereof  
7 the following: "the information. The".

8 3. Page 3, line 13, by striking the  
9 word "confidential".

H-3662 FILED - *Case 4/19 (1483)* BY SMALL of Johnson  
APRIL 19, 1977

HOUSE FILE 246

H-3656

1 Amend the amendment H-3627 to amendment H-3598  
2 to page 2 of House File 246 as follows:

3 1. Page 1, line 5, by striking the word  
4 "legislative" and inserting in lieu thereof the  
5 word "performance".

H-3656 FILED, ADOPTED BY BY CRABB of Crawford  
UNANIMOUS CONSENT (p. 1472)

H-3639

1 Amend H-3598 amending House File 246 as follows:

2 1. Page 3, by inserting after line 19 the  
3 following:

4 "1. The organizational framework of the agency,  
5 its adequacy and relationship to the overall structure  
6 of the state government.

7 2. Areas in which significant inconsistency,  
8 duplication, or overlapping of activities or programs  
9 occur either within the agency or with respect to  
10 other agencies or programs.

11 3. Statewide or interagency coordinating or  
12 administration practices and their impact upon  
13 specific programs or agencies.

14 4. Whether the program under the agency's  
15 jurisdiction could be more effective if consolidated  
16 with another program, transferred to another agency,  
17 modified or abolished.

18 5. The productivity of the agency's operations  
19 measured in terms of cost-benefit relationships or  
20 other accepted measures of effectiveness.

21 6. The agency's attainment of or progress toward  
22 identifiable goals established by statute, specific  
23 legislative intent, the budget, the governor, or a  
24 long range plan.

25 7. Agency and statewide management systems and  
26 housekeeping functions including accounting procedures,  
27 personnel practices, planning activities, reporting  
28 and recordkeeping applications, staff qualifications,  
29 employment ratios, budget controls, purchasing  
30 transactions, communications patterns, public  
31 relations, and other related functions.

32 8. Agency or statewide administrative or program  
33 delivery techniques which are innovative, novel,  
34 experimental or unique in achieving greater efficiency,  
35 reduced costs, improved use of resources or increased  
36 responsiveness to expressed or anticipated needs.

37 9. Agency or statewide state-federal relationships,  
38 financial exchanges, program coordination, administra-  
39 tion and other joint activities.

40 10. Agency and program relationships between the  
41 state and its political subdivisions analyzing  
42 significant areas of state and local government contact  
43 and identifying mutual or opposing program directions  
44 and areas of duplicatory or overlapping programs.

45 11. The agency's or program's adherence to  
46 statutory requirements and diligence in executing  
47 functions assigned by law or policies established by  
48 the governor.

49 12. The agency's or program's responsiveness  
50 to anticipated public attitudes, citizen needs, or

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- 1 state problems.
- 2 13. The statewide, agency or program regulatory,
- 3 reporting or recordkeeping requirements and the
- 4 burdens imposed upon the general public, political
- 5 subdivisions, commercial enterprise or other entities
- 6 in the state."

H-3639 FILED - *Adopted 4/19*  
APRIL 19, 1977 (*g. 1483*) BY HARVEY of Scott  
TAUKE of Dubuque

HOUSE FILE 246

H-3631

- 1 Amend the amendment H-3598 to House File 246
- 2 as follows:
- 3 1. Page 4, line 15, by striking the words "or
- 4 academic integrity".

H-3631 FILED - *Adopted 4/19*  
APRIL 19, 1977 (*g. 1485*) BY STROMER of Hancock

HOUSE FILE 246

H-3634

- 1 Amend amendment H-3598 to House File 246 as
- 2 follows:
- 3 1. Page 4, line 23, by inserting after the word
- 4 "to" the words "the Governor and".

H-3634 FILED - *Lost 4/19 (1486)* BY TAUKE of Dubuque  
APRIL 19, 1977

*Motion to reconsider filed (g. 1487)  
Reconsidered & adopted 4/20 (g. 1507)*  
HOUSE FILE 246

H-3630

- 1 Amend H-3598 to House File 246 as follows:
- 2 1. Page 2, lines 8 and 9, by striking the words
- 3 "and its political subdivisions".

H-3630 FILED - *Adopted 4/19*  
APRIL 19, 1977 (*g. 1481*) BY HARVEY of Scott

*Motion to reconsider filed (g. 1488) w. d. 4/20*  
HOUSE FILE 246

H-3636

- 1 Amend the amendment H-3598 to House File 246
- 2 as follows:
- 3 1. Page 3, by striking line 50 and inserting
- 4 in lieu thereof the following: "information."
- 5 2. Page 4, by striking lines 1 through 4.

H-3636 FILED - *Lost 4/19 (1484)* BY LIPSKY of Linn  
APRIL 19, 1977

HOUSE FILE 246

H-3643

- 1 Amend the amendment H-3598 to House File 246
- 2 as follows:
- 3 1. Page 1, line 39, by striking the word "each"
- 4 and inserting in lieu thereof the word "either".

H-3643 FILED - *Adopted 4/19*  
APRIL 19, 1977 (*1477*) BY MILLER of Buchanan

## HOUSE FILE 246

H-3633

1 Amend H-3598 amending House File 246 as follows:

2 1. By striking page 1, line 4 through page 5,  
3 line 4 and inserting in lieu thereof the following:

4 "Section 1. NEW SECTION. PERFORMANCE AUDITS.

5 The auditor of state shall conduct performance audits  
6 of those agencies and programs subject to financial  
7 audits by the auditor of state when requested by the  
8 governor or the legislative council or when deemed  
9 necessary by the auditor of state. To the extent  
10 possible, the conducting of the performance audit  
11 shall coincide with the conducting of the financial  
12 audit of the agency or program.

13 Sec. 2. NEW SECTION. EVALUATIONS. In the conduct  
14 of a performance audit, the auditor of state may  
15 evaluate the following:

16 1. The organizational framework of the agency,  
17 its adequacy and relationship to the overall structure  
18 of the state government.

19 2. Areas in which significant inconsistency,  
20 duplication, or overlapping of activities or programs  
21 occur either within the agency or with respect to  
22 other agencies or programs.

23 3. Statewide or interagency coordinating or  
24 administration practices and their impact upon specific  
25 programs or agencies.

26 4. Whether the program under the agency's  
27 jurisdiction could be more effective if consolidated  
28 with another program, transferred to another agency,  
29 modified or abolished.

30 5. The productivity of the agency's operations  
31 measured in terms of cost-benefit relationships or  
32 other accepted measures of effectiveness.

33 6. The agency's attainment of or progress toward  
34 identifiable goals established by statute, specific  
35 legislative intent, the budget, the governor, or a  
36 long range plan.

37 7. Agency and statewide management systems and  
38 housekeeping functions including accounting procedures,  
39 personnel practices, planning activities, reporting  
40 and recordkeeping applications, staff qualifications,  
41 employment ratios, budget controls, purchasing  
42 transactions, communications patterns, public  
43 relations, and other related functions.

44 8. Agency or statewide administrative or program  
45 delivery techniques which are innovative, novel,  
46 experimental or unique in achieving greater efficiency,  
47 reduced costs, improved use of resources or increased  
48 responsiveness to expressed or anticipated needs.

49 9. Agency or statewide state-federal relationships,  
50 financial exchanges, program coordination, administra-

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1 tion and other joint activities.

2 10. Agency and program relationships between the  
3 state and its political subdivisions analyzing  
4 significant areas of state and local government contact  
5 and identifying mutual or opposing program directions  
6 and areas of duplicatory or overlapping programs.

7 11. The agency's or program's adherence to  
8 statutory requirements and diligence in executing  
9 functions assigned by law or policies established  
10 by the governor.

11 12. The agency's or programs's responsiveness  
12 to anticipated public attitudes, citizen needs, or  
13 state problems.

14 13. The statewide, agency or program regulatory,  
15 reporting or recordkeeping requirements and the bur-  
16 dens imposed upon the general public, political sub-  
17 divisions, commercial enterprise or other entities  
18 in the state.

19 14. Any other area designated to measure the effi-  
20 ciency or economic quotient of state or local govern-  
21 ment operations.

22 Sec. 3. NEW SECTION. RECOMMENDATIONS AND RE-  
23 PORTS.

24 1. Each performance audit report by the auditor  
25 of state shall relate the positive achievements of  
26 the agency or program being examined during the period  
27 covered by the audit and shall make specific  
28 recommendations directed toward the following:

29 a. Eliminating duplication or conflict between  
30 agencies or among programs.

31 b. Increasing efficiency in operations or  
32 management.

33 c. Reducing budget requirements or eliminating  
34 unnecessary costs.

35 d. Improving the quality of administration or  
36 services.

37 e. Simplifying procedures or practices.

38 f. Improving the responsiveness to public concerns.

39 g. Needed statutory, regulatory or administrative  
40 changes.

41 h. Any other related issues.

42 2. The auditor of state shall allow the state  
43 comptroller and the officials of the agency or program  
44 being examined reasonable opportunity to review and  
45 comment on the findings of the performance audit.  
46 The comments shall be included in the performance  
47 audit report. Copies of the report shall be furnished  
48 to the governor and the members of the legislative  
49 council prior to its release for publication.

50 3. All performance audits shall be conducted in

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1 accordance with generally recognized auditing standards  
2 issued by the general accounting office of the United  
3 States or the American Institute of Certified Public  
4 Accountants.

5 Sec. 4. Chapter eight (8), Code 1977, is amended  
6 by adding the following new section:

7 NEW SECTION. RESPONSE TO PERFORMANCE AUDITS.

8 1. Each department and establishment of government  
9 shall report on forms prepared by the state comptroller  
10 accompanying the expenditure requirements estimate  
11 any action taken in response to a finding or  
12 recommendation of a performance audit report affecting  
13 the department or establishment. The state comptroller  
14 shall report annually to the legislative council,  
15 governor, and auditor of state on the progress made  
16 in implementing the findings and recommendations of  
17 the performance audit reports.

18 2. The state comptroller shall assist in  
19 effectuating the recommendations of performance audit  
20 reports by establishing procedures to develop the  
21 following:

22 a. Common statewide and interagency definitions  
23 of programs, subprograms, and activities.

24 b. Long and short range agency goals and ob-  
25 jectives.

26 c. Uniform units of agency and program performance  
27 and effectiveness.

28 d. Identification of proposed methods of increas-  
29 ing state government efficiency and of resources  
30 needed to implement performance audit recommendations.

31 e. Identification of housekeeping changes in  
32 statutes.

33 Sec. 5. This Act is effective January 1, 1978."

34 2. Page 5, by striking lines 7 through 9 and  
35 inserting in lieu thereof the following: "Act to  
36 provide standards and procedures for the auditor of  
37 state and state comptroller for the conducting and  
38 implementing of performance audits."

H-3633 FILED, LOST (p. 1475) BY TAUKE of Dubuque  
APRIL 19, 1977

HOUSE FILE 246

H-3632

1 Amend H-3598 amending House File 246 as follows:

2 1. Page 4, by inserting after line 48 the  
3 following:

4 "Sec. \_\_\_\_\_. This Act is repealed January 1, 1986."

5 2. Re-number the sections/to conform with this  
6 amendment.

H-3632 FILED - Adopted 4/19 BY HARVEY of Scott  
APRIL 19, 1977 (p. 1487)

HOUSE CLIP SHEET

Wednesday, April 20, 1977

HOUSE FILE 246

H-3625

- 1 Amend H-3598 amending House File 246 as follows:
- 2 1. Page 2, line 10, by striking the word "The".
- 3 2. Page 2, by striking lines 11 through 14.
- 4 3. Page 2, lines 24 and 25, by striking the words
- 5 ", including those of the performance auditor's
- 6 initiative".

H-3625 FILED - *Adopted 4/19*  
*(p. 1482)* BY BRANDT of Black Hawk  
APRIL 19, 1977

HOUSE FILE 246

H-3627

- 1 Amend amendment H-3598, to House File 246, as
- 2 follows:
- 3 1. Page 2, by striking lines 6 through 14
- 4 and inserting in lieu thereof the following:
- 5 "3. The legislative auditor shall direct the
- 6 performance audit division to examine an agency or
- 7 program of the state government and its political
- 8 subdivisions when directed by a joint resolution
- 9 passed by a constitutional majority of both houses
- 10 of the general assembly while in session or by a
- 11 majority vote of the legislative council in the in-
- 12 terim between sessions of the general assembly."

H-3627 FILED - *Lost 4/19 (1486)* BY CRABB of Crawford  
APRIL 19, 1977

HOUSE FILE 246

H-3626

- 1 Amend Amendment H-3598, to House File 246, as
- 2 follows:
- 3
- 4 1. Page 4, by inserting after line 41 the
- 5 following:
- 6 "At the conclusion of an audit or evaluation,
- 7 the legislative auditor shall report the total costs
- 8 of conducting each audit including the total costs
- 9 to the agency or program being audited as a part of
- 10 the audit report."

H-3626 FILED - *Adopted as amended by*  
*3612 4/19 (p. 1487)* BY CRABB of Crawford  
APRIL 19, 1977

HOUSE FILE 246

H-3628

- 1 Amend amendment H-3598, to House File 246, as
- 2 follows:
- 3 1. Page 3, by striking lines 5 through 14.

H-3628 FILED - *Lost 4/20*  
*(p. 1504)* BY CRABB of Crawford  
APRIL 19, 1977

1 Amend House File 246 as follows:

2 1. By striking all after the enacting clause and  
3 inserting in lieu thereof the following:

4 "Section 1. NEW SECTION. INTENT. It is the  
5 intent of the general assembly to establish in the  
6 legislative branch of government the capability to  
7 independently and intensively review the performance  
8 of agencies in operating their programs, to evaluate  
9 their efficiency and effectiveness and to recommend  
10 alternatives which may improve the benefits of a  
11 program or reduce its costs to the citizens. The  
12 bureau established by this Act is intended to provide  
13 the technical and professional support for the general  
14 assembly's oversight responsibility.

15 Sec. 2. NEW SECTION. PERFORMANCE AUDIT BUPEAU.

16 1. There is established the performance audit  
17 bureau. The administrative head of the performance  
18 audit bureau shall be the performance auditor.

19 2. The performance auditor shall be appointed  
20 upon the nomination of the legislative council and  
21 the confirmation of that nomination by two-thirds  
22 of the members of each house of the general assembly.  
23 When a vacancy in the office of the performance auditor  
24 occurs during the legislative interim, the nomination  
25 shall be submitted to the general assembly within  
26 thirty days of its convening and shall be acted upon  
27 by each house within sixty days of its submission.  
28 When a vacancy occurs during the legislative session,  
29 the nomination shall be submitted within sixty days  
30 of the occurrence of the vacancy and shall be acted  
31 upon by each house within sixty days of its submission  
32 unless the general assembly adjourns prior to the  
33 expiration of this schedule. If the general assembly  
34 adjourns prior to the expiration of this schedule,  
35 a nomination shall be submitted as though the vacancy  
36 occurred during the legislative interim. The  
37 performance auditor may be removed from office for  
38 just cause by a vote of two-thirds of the members  
39 of each house of the general assembly. Each  
40 performance auditor shall be appointed to a term of  
41 five years. A person nominated by the legislative  
42 council may serve as an acting performance auditor  
43 until the nomination is confirmed or rejected by the  
44 general assembly.

45 Sec. 3. NEW SECTION. DUTIES OF THE PERFORMANCE  
46 AUDITOR. The performance auditor shall have the  
47 following powers and duties:

48 1. The performance auditor shall employ and  
49 supervise the employees of the performance audit  
50 bureau at such salaries and in such positions and

professional disciplines as are within the limits of its appropriation.

2. The performance auditor shall establish policies and procedures for the operations of the performance audit bureau.

3. The performance auditor shall direct the performance audit bureau to examine an agency or program of the state government and its political subdivisions upon the request of a standing committee or budget subcommittee of the general assembly. The performance auditor may direct the performance audit bureau to examine an agency or program of the state government upon the request of a member of the general assembly or upon his or her own initiative.

4. The performance auditor shall determine the priorities and allocate the workload of the performance audit bureau.

5. The performance auditor shall make an annual report to the general assembly on the examinations conducted by and the condition of the performance audit bureau.

6. The performance auditor shall maintain as a public record an index of all performance audit and program evaluation requests, including those of the performance auditor's initiative showing the requesting party, the subject agency, the date the request was made, and the estimated date the work will commence.

7. The performance auditor may employ such technical assistance as may be necessary to conduct the assignments of the performance audit bureau.

Sec. 4. NEW SECTION. ACCESS TO RECORDS. The performance auditor and the agents and employees of the performance audit bureau shall at all times have access to all offices, departments, agencies, boards, bureaus, and commissions of the state, its political subdivisions and private organizations providing services to individuals under a contract with a state agency, and to the books, records, and other instrumentalities and properties used in the performance of their statutory duties, and all offices, departments, agencies, boards, bureaus, and commissions of the state, its political subdivisions and such private organizations shall cooperate with the performance auditor in the performance of the foregoing duty, and shall make available such books, records, instrumentalities, and property.

The performance auditor shall have the power to issue subpoenas for production of any records, books, or papers to which the performance auditor is authorized to have access. If any person subpoenaed

1 refuses to produce the records, books, or papers,  
2 the performance auditor may apply to the district  
3 court having jurisdiction over that person for the  
4 enforcement of the subpoena.

5 If the information sought by the performance audit  
6 bureau is required by law to be kept confidential,  
7 the performance audit bureau shall have access to  
8 the information, but shall maintain the confidentiality  
9 of the information and shall be subject to the same  
10 penalties for dissemination of the information. The  
11 performance auditor shall inform the administrative  
12 head of the agency or political subdivision as to  
13 the reason for the investigation of its confidential  
14 records.

15 Sec. 5. NEW SECTION. DUTIES OF THE PERFORMANCE  
16 AUDIT BUREAU. The performance audit bureau at the  
17 direction of the performance auditor shall  
18 independently examine agencies and programs to  
19 determine the following:

20 1. Whether the agency or program is managing or  
21 using its resources in a legal, efficient and  
22 economical manner and whether the causes of any  
23 inefficient or uneconomical practices have been  
24 determined.

25 2. Whether the desired results or benefits are  
26 being achieved, whether the objectives established  
27 by the general assembly are being met, and whether  
28 alternatives which might produce the desired results  
29 at a lower cost have been considered.

30 3. Whether administrative or statutory changes  
31 are needed to achieve the intent of the general  
32 assembly.

33 4. Other criteria determined by the performance  
34 auditor.

35 The performance auditor after consulting with the  
36 responsible official and the requesting party, if  
37 any, shall determine the goals of the agency or program  
38 for the purpose of the performance audit or program  
39 evaluation. The legislative service bureau,  
40 legislative fiscal bureau, auditor of state, state  
41 comptroller, and citizens' aide shall cooperate with  
42 the performance audit bureau in providing information  
43 which they may have concerning the agency or program  
44 to be evaluated. Employees of the legislative fiscal  
45 bureau may be interchanged with the performance audit  
46 bureau pursuant to chapter twenty-eight D (28D) of  
47 the Code. The performance audit bureau shall not  
48 require an agency to collect any information unless  
49 that agency has statutory authority to collect such  
50 information. The performance audit bureau shall only

1 require information which an agency is presently  
2 collecting unless the performance auditor determines  
3 that additional information is essential to the  
4 performance audit.

5 The performance auditor shall not require any  
6 broadcasting facility under the control of the state  
7 board of regents, the board of directors of a merged  
8 area or the state educational radio and television  
9 facility board to do any act which would be contrary  
10 to the rules of the federal communications commission  
11 nor shall the performance auditor conduct an  
12 examination of the programming of such a broadcasting  
13 facility. The performance auditor shall not do any  
14 act which would be contrary to the academic freedom  
15 or academic integrity of institutions under the state  
16 board of regents nor shall the performance auditor  
17 conduct an examination of instruction or research  
18 methods or of the contents of the curricula of said  
19 institutions.

20 Sec. 6. NEW SECTION. REPORTS OF THE PERFORMANCE  
21 AUDIT BUREAU. At the conclusion of an audit or  
22 evaluation, the performance auditor shall provide  
23 copies to the official whose office is the subject  
24 of the audit or evaluation. The official shall be  
25 given a period of not less than twenty days nor more  
26 than sixty days by the performance auditor to respond  
27 to the findings and recommendations of the audit or  
28 evaluation, and the response shall be included in  
29 the report. A brief summary of the findings and  
30 recommendations shall accompany each report. A report  
31 of an audit or evaluation shall be released for  
32 publication upon its completion. The report shall  
33 be regarded as confidential by all persons properly  
34 having custody of it until the report is released  
35 as provided by this section. Release of the report  
36 in violation of the provisions of this section shall  
37 be a simple misdemeanor. Upon the release of a report,  
38 the performance auditor shall provide a copy to the  
39 governor and copies to the presiding officer of each  
40 house of the general assembly for referral to the  
41 appropriate standing committee and budget subcommittee.

42 Sec. 7. Section two point forty-two (2.42), Code  
43 1977, is amended by adding the following new  
44 subsection:

45 NEW SUBSECTION. To fix the compensation of the  
46 performance auditor.

47 Sec. 8. Section two point forty-six (2.46), Code  
48 1977, is amended by striking subsection four (4).

49 Sec. 9. This Act, being deemed of immediate  
50 importance, shall take effect and be in force from

H-3600

- 1 Amend H-3598 amending House File 246 as follows:  
2 1. Page 5, line 8, by striking the word "and"  
3 and inserting in lieu thereof a comma.  
4 2. Page 5, line 9, by inserting after the word  
5 "duties" the words ", and providing a penalty".

H-3600 FILED - *Amended 4/18/77* BY BRANDT of Black Hawk  
APRIL 18, 1977 *(p. 1566)*

HOUSE FILE 246

H-3601

- 1 Amend amendment H-3598, to House File 246, as  
2 follows:  
3 1. Page 1, line 20, by striking the words  
4 "the legislative council" and inserting in lieu  
5 thereof the following: "a committee composed of  
6 the majority and minority leaders of each house  
7 of the general assembly".

H-3601 FILED - *Amended 4/19/77* BY HANSEN of O'Brien  
APRIL 18, 1977

HOUSE FILE 246

H-3602

- 1 Amend amendment H-3598 to House File 246 as  
2 follows:  
3 1. Page 1, line 41, by striking the word "five"  
4 and inserting in lieu thereof the word "nine".

H-3602 FILED - *Amended 4/19/77* BY SVOBODA of Iowa  
APRIL 18, 1977

HOUSE FILE 246

H-3617

- 1 Amend amendment H-3598, to House File 246, as  
2 follows:  
3 1. Page 1, by striking all of lines 4 through  
4 50 and inserting in lieu thereof the following:  
5 "Section. 1. Section eleven point four (11.4),  
6 Code 1977, is amended by adding the following new  
7 subsection:  
8 NEW SUBSECTION. Conduct a performance audit  
9 and evaluation of an agency or program of the state  
10 government and its political subdivisions, either  
11 upon the direction of the general assembly by resolu-  
12 tion or by the legislative council during interims  
13 between sessions.  
14 Performance auditing is an extension of the  
15 auditing function which examines the operating,  
16 managerial or administrative performance of  
17 selected aspects of an activity or organization  
18 to identify opportunities for greater efficiency and  
19 economy or for improved effectiveness in carrying  
20 out procedures or operations in relation to the  
21 goals of the organizations."  
22 2. By striking all of pages 2, 3, and 4.  
23 3. Page 5, by striking lines 1 through 9  
24 and inserting in lieu thereof the following:  
25 "2. Amend the title by striking all of lines 1  
26 through 5 and inserting in lieu thereof the follow-  
27 ing:  
28 "An Act relating to performance auditing and  
29 evaluation by the auditor of state."

H-3617 FILED - *Amended 4/19/77* BY CRABB of Crawford  
APRIL 18, 1977 *(p. 1471)*

1 and after its publication in The Waterloo Courier,  
 2 a newspaper published in Waterloo, Iowa, and in the  
 3 Bettendorf News, a newspaper published in Bettendorf,  
 4 Iowa."

5 2. Amend the title, by striking lines 1 through  
 6 5 and inserting in lieu thereof the following: "An  
 7 Act creating a performance audit bureau under the  
 8 direction of a performance auditor and specifying  
 9 its powers and duties."

H-3598 FILED - *Adjusted* BY BRANDT of Black Hawk  
 APRIL 15, 1977 *as amended* BRUNOW of Appanoose  
*by 2628, 2626, 2630, 2631,* HANSEN of O'Brien  
*2634, 2639, 2643, 2648,* HARVEY of Scott  
*2669, and 2600, and 2673* MONROE of Des Moines  
 STROMER of Hancock  
 AVENSON of Fayette  
 SVOBODA of Iowa  
 WEST of Marshall  
 JUNKER of Woodbury  
 HOWELL of Floyd  
 RINAS of Linn

HOUSE FILE 246

H-3676

1 Amend amendment H-3598, to House File 246, as  
 2 follows:

3 1. Page 2, line 8, by inserting after the word  
 4 "government" the following: ", area education  
 5 agencies established in chapter two hundred seventy-  
 6 three (273), of the Code, and area vocational schools  
 7 and community colleges defined in chapter two  
 8 hundred eighty A (280A), of the Code."

H-3676 FILED, MOVED TO BY GILSON of Guthrie  
 SUSPEND RULES TO CON- PERKINS of Greene  
 sider, LOST (*7/15/88*)  
 APRIL 20, 1977

H-3597

1 Amend H-3586 amending House File 246 as follows:

2 1. Page 1, line 2, by striking the words "the  
3 enacting clause." and inserting in lieu thereof the  
4 words "everything after the enacting clause and  
5 inserting in lieu thereof the following:

6 "Section 1. NEW SECTION. PERFORMANCE AUDIT AND  
7 EVALUATION DIVISION OF THE LEGISLATIVE FISCAL BUREAU-  
8 -APPOINTMENT AND REMOVAL OF PERFORMANCE AUDITOR.

9 1. There is established a performance audit and  
10 evaluation division of the legislative fiscal bureau  
11 which shall operate under the direction and control  
12 of the fiscal and performance audit committee and  
13 which shall be placed under the administrative  
14 supervision of the director of the legislative fiscal  
15 bureau.

16 2. The administrative head of the performance  
17 audit and evaluation division shall be the performance  
18 auditor. The performance auditor shall be appointed  
19 as provided in section two point fifty (2.50) of the  
20 Code.

21 3. The employment of the performance auditor may  
22 be terminated upon recommendation of the legislative  
23 fiscal director and by a majority vote of the members  
24 of the fiscal and performance audit committee. An  
25 appeal of the termination decision may be taken to  
26 the legislative council which shall affirm or reject  
27 the termination action by a majority vote of its  
28 members.

29 Sec. 2. NEW SECTION. DUTIES RELATING TO THE PER-  
30 FORMANCE AUDIT AND EVALUATION DIVISION.

31 1. The fiscal and performance audit committee  
32 shall prepare and recommend a list of state agencies  
33 for performance audit and evaluation to the legislative  
34 council. The legislative council shall establish  
35 a priority ranking for the list and return the approved  
36 list to the committee. A state agency may be removed  
37 from the list by the legislative council by a two-  
38 thirds vote of its members.

39 2. Subject to subsection one (1) of this section,  
40 the fiscal and performance audit committee may make  
41 performance audits and reviews of operations of state  
42 agencies to ascertain that sums appropriated have  
43 been, or are being expended for the purposes for which  
44 such appropriations were made and to evaluate the  
45 effectiveness of programs in accomplishing legislative  
46 intent. The committee may direct the performance  
47 audit and evaluation of a state agency out of the  
48 order of its priority on the list as staff, time,  
49 and budgetary limitations may require. Audits may  
50 be made by teams consisting of staff members of both

1 the fiscal division and the performance audit division.  
2 3. The fiscal and performance audit committee  
3 may study on a continuing basis the operations,  
4 practices and duties of state agencies, as they relate  
5 to efficiency in the utilization of space, personnel,  
6 equipment and facilities.  
7 4. The fiscal and performance audit committee  
8 may make such special studies and reports of the  
9 operations, costs, and functions of state agencies  
10 as it deems appropriate and as may be requested by  
11 the general assembly.  
12 5. The fiscal and performance audit committee  
13 may make such reports on its findings and  
14 recommendations at such time and in such manner as  
15 the committee deems proper submitting such reports  
16 to the state agencies concerned, to the governor and  
17 to the general assembly. Such reports as are submitted  
18 shall relate to the following matters:  
19 a. Ways in which the state agencies may operate  
20 more economically and efficiently;  
21 b. Ways in which state agencies can provide better  
22 services to the state and the public; and  
23 c. Areas in which functions of state agencies  
24 are duplicative, overlapping, or failing to accomplish  
25 legislative objectives or for any other reason should  
26 be redefined or redistributed.  
27 d. Before such reports are issued, the state  
28 agency affected shall be given an opportunity to  
29 review it and submit written comments or rebuttal  
30 to the report. The comments or rebuttal shall be  
31 included in the final report.  
32 e. A report shall not be issued until the fiscal  
33 and performance audit committee has approved the  
34 report.  
35 6. As used in this section, "state agency" means  
36 any state office, department, board, bureau, commission  
37 or other public or private agency supported in whole  
38 or in part by state appropriations.  
39 Sec. 3. NEW SECTION. DUTIES OF THE PERFORMANCE  
40 AUDITOR. Under the administrative supervision of  
41 the legislative fiscal director, the performance  
42 auditor shall:  
43 1. Recommend for employment and supervise employees  
44 of the performance audit division in such positions  
45 and at such salaries as shall be authorized by the  
46 fiscal and performance audit committee and approved  
47 by the legislative council.  
48 2. Supervise expenditures of the performance audit  
49 and evaluation division under the direction of the  
50 fiscal and performance audit committee and subject

1 to the approval of the legislative council.

2 3. Carry out the duties prescribed in section  
3 two (2) of this Act pursuant to the directions of  
4 the fiscal and performance audit committee.

5 Sec. 4. NEW SECTION. ACCESS TO STATE OFFICES  
6 AND DEPARTMENTS--COOPERATION WITH STATE AGENCIES--  
7 SUBPOENA POWER.

8 1. The performance auditor and employees of the  
9 performance audit and evaluation division shall at  
10 all times have access to any state agency as defined  
11 in section two (2), subsection six (6) of this Act,  
12 and to all books, records, and other instrumentalities  
13 and properties used in the performance of statutory  
14 duties. However, the fiscal and performance audit  
15 committee and employees of the division shall not  
16 have access to confidential records unless they are  
17 data or records from which individual identities are  
18 not ascertainable or data or records which have been  
19 masked so that individual identities are not  
20 ascertainable. Such state agency shall cooperate  
21 with the performance auditor in the performance of  
22 the auditor's duties and shall make available to the  
23 performance auditor such books, records,  
24 instrumentalities, and property that may be requested  
25 by the performance auditor.

26 2. The performance auditor shall cooperate with  
27 the auditor of state and may request information from  
28 the auditor of state who shall provide such information  
29 as provided in subsection one (1) of this section.

30 3. a. The performance auditor shall, in all  
31 matters pertaining to the auditor's duties, have power  
32 with the approval of the fiscal and performance audit  
33 committee to issue subpoenas of all kinds, administer  
34 oaths and examine witnesses, either orally or in  
35 writing. Expenses incurred in carrying out such  
36 powers shall be paid as in the case of other expenses  
37 of the legislative fiscal bureau.

38 b. In case any witness subpoenaed refuses to  
39 attend, or produce documents, books, and papers, or  
40 shall attend and refuse to make oath, or being sworn  
41 refuses to testify, the performance auditor may apply  
42 to the district court for the enforcement of attendance  
43 and answers to questions as provided by law in the  
44 matter of taking depositions.

45 Sec. 5. Section two point forty-two (2.42), Code  
46 1977, is amended by striking subsection twelve (12).

47 Sec. 6. Section two point forty-four (2.44),  
48 unnumbered paragraph two (2), Code 1977, is amended  
49 to read as follows:

50 Members of special interim study committees which

7

1 may from time to time be created and members of the  
2 legislative fiscal and performance audit committee  
3 who are not members of the legislative council shall  
4 be entitled to receive the same expenses and  
5 compensation provided for the members of the  
6 legislative council.

7 Sec. 7. Section two point forty-five (2.45), Code  
8 1977, is amended by striking subsection two (2) and  
9 inserting in lieu thereof the following:

10 2. The fiscal and performance audit committee  
11 shall be composed of the chairpersons and the ranking  
12 minority party members of the committees on budget  
13 of the house and senate, three members of the house  
14 of representatives appointed by the speaker of the  
15 house and three members of the senate appointed by  
16 the president of the senate. The chairpersons of  
17 the budget subcommittees of the house of  
18 representatives and the senate may participate as  
19 ex officio members of the committee when performance  
20 audits and evaluations are conducted on state agencies  
21 or programs which are the responsibility of the  
22 respective subcommittees. Of the three members  
23 appointed by the president of the senate and the  
24 speaker of the house, two from each house shall be  
25 appointed from the majority party and one from each  
26 house shall be appointed from the minority party.  
27 Each member of the committee shall serve a two-year  
28 term of office commencing with the fourth Monday of  
29 January in each odd-numbered year and ending December  
30 thirty-first of each even-numbered year. Vacancies  
31 in membership shall be filled by the speaker of the  
32 house in the case of house members, and the president  
33 of the senate in the case of senate members, for the  
34 remainder of the unexpired term. To the extent  
35 possible, upon appointment of the members of the  
36 fiscal and performance audit committee during the  
37 first regular session of the general assembly, at  
38 least two members of the committee from each house  
39 shall be reappointed.

40 The fiscal and performance audit committee shall  
41 determine policies for the legislative fiscal bureau  
42 and its divisions and shall direct the administration  
43 of performance audits in accordance with rules adopted  
44 by the committee and approved by the legislative  
45 council. A performance audit shall not be commenced  
46 until the rules have been approved by the legislative  
47 council and disseminated to affected state agencies.  
48 Rules and actions of the committee shall be exempt  
49 from chapter seventeen A (17A) of the Code. The  
50 fiscal and performance audit committee may coordinate

1 the work of the staff of the legislative fiscal bureau  
2 and its divisions. When authorized by the committee,  
3 the legislative fiscal director may transfer the staff  
4 of the fiscal division to the performance audit and  
5 evaluation division of the legislative fiscal bureau  
6 on a temporary basis to assist in conducting  
7 performance audits.

8 Sec. 8. Section two point forty-six (2.46),  
9 unnumbered paragraph one (1), Code 1977, is amended  
10 to read as follows:

11 The legislative fiscal and performance audit  
12 committee may, subject to the approval of the  
13 legislative council:

14 Sec. 9. Section two point forty-six (2.46), sub-  
15 section one (1), Code 1977, is amended by adding the  
16 following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. The committee shall  
18 implement procedures for budgets for the fiscal year  
19 beginning July 1, 1978 and thereafter which will  
20 direct state agencies to submit budgets to the general  
21 assembly developed on a performance basis specifying  
22 the purposes and objectives for which funds are  
23 requested, the costs of the programs proposed for  
24 achieving these objectives and quantitative data  
25 measuring the accomplishments and work performed under  
26 each program.

27 Sec. 10. Section two point forty-six (2.46), Code  
28 1977, is amended by striking subsection four (4).

29 Sec. 11. Section two point forty-seven (2.47),  
30 Code 1977, is amended by striking the section and  
31 inserting in lieu thereof the following:

32 2.47 ELECTION OF CHAIRPERSON--PROCEDURES. The  
33 fiscal and performance audit committee shall hold  
34 its initial meeting before the first of February of  
35 each odd-numbered year upon notification by the  
36 legislative fiscal director. The committee shall  
37 organize by electing a chairperson and vice chairperson  
38 and adopting rules of procedure. Thereafter the  
39 committee shall meet at the call of the chairperson  
40 or at such other time as may be decided by rule.

41 The committee shall keep a record of its proceedings  
42 which shall be open to public inspection, and it shall  
43 inform the legislative council in advance concerning  
44 the dates of meetings of the committee.

45 Sec. 12. Section two point forty-eight (2.48),  
46 Code 1977, is amended to read as follows:

47 2.48 LEGISLATIVE FISCAL BUREAU ESTABLISHED. There  
48 is established a legislative fiscal bureau which shall  
49 operate under the direction and control of the  
50 legislative fiscal and performance audit committee

1 ~~subject to the approval of the legislative council.~~  
2 The legislative fiscal bureau shall be administratively  
3 divided into two divisions; the performance audit  
4 and evaluation division and the fiscal division.  
5 The administrative head of the legislative fiscal  
6 bureau shall be the legislative fiscal director.  
7 The administrator of the performance audit and  
8 evaluation division shall be the performance auditor  
9 appointed as provided in section one (1) of this Act  
10 and subject to the administrative supervision of the  
11 legislative fiscal director. The legislative fiscal  
12 bureau shall co-operate with and serve all members  
13 of the general assembly, the ~~legislative fiscal and~~  
14 performance audit committee, and committees of the  
15 general assembly.

16 The legislative fiscal director shall be appointed  
17 by the legislative council, upon recommendation of  
18 the ~~legislative fiscal and performance audit~~ committee.  
19 His ~~The~~ compensation, and the compensation of employees  
20 of the legislative fiscal bureau, shall be fixed by  
21 the legislative council.

22 Sec. 13. Section two point forty-nine (2.49),  
23 subsection one (1), Code 1977, is amended by adding  
24 the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. Recommend to the fiscal  
26 and performance audit committee no later than August  
27 1, 1977 procedures for the implementation of  
28 performance budgeting as defined in section two point  
29 forty-six (2.46), subsection one (1), of the Code.

30 Sec. 14. Section two point forty-nine (2.49),  
31 subsection two (2), Code 1977, is amended to read  
32 as follows:

33 2. Report to the ~~legislative fiscal and performance~~  
34 audit committee as required by the ~~legislative fiscal~~  
35 and performance audit committee and the legislative  
36 council and to the general assembly after the convening  
37 of each legislative session of a general assembly  
38 and make such other reports as may be required by  
39 either the legislative council or the general assembly.

40 Sec. 15. Section two point fifty-one (2.51), Code  
41 1977, is amended to read as follows:

42 2.51 VISITATIONS. The ~~legislative fiscal and~~  
43 performance audit committee, ~~with the approval upon~~  
44 direction of the legislative council, ~~may shall~~ direct  
45 a subcommittee, which shall be composed of the ~~chairmen~~  
46 chairpersons and minority party ranking members of  
47 the appropriate subcommittees of the committees on  
48 appropriations budget of the senate and the house  
49 of representatives and the ~~chairmen~~ chairpersons of  
50 the appropriate standing committees of the general

APRIL 20, 1977

PAGE 5

FISCAL NOTE  
HOUSE FILE 246

Date Prepared April 18, 1977

Requested by Representative Byerly

Prepared in regard to H.F. 246, Amendment H-3597, An Act to establish a legislative auditor's office by transferring the duties of the legislative fiscal bureau, transferring the duty of the auditor of state to audit state agencies, and establishing a duty of conducting performance audits. Following is the fiscal effect in dollars of the legislative proposal as required by Joint Rule 16:

The following cost estimate, which was prepared in the office of the Legislative Fiscal Bureau, is based on the assumption that the Performance Audit and Evaluation Division would be staffed with a Performance Auditor and a staff of six full-time personnel using a full-time equivalency of two to three personnel from the Fiscal Bureau. We have further assumed that the staff would be organized into two audit teams and would complete five to seven major performance audits per year. The first-year cost assumes that there will be a lag in hiring the personnel and that a major portion of the time will be consumed in preparing rules and audit programs.

<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>	<u>Fourth Year</u>	<u>Fifth Year</u>
\$150,000	\$200,000	\$225,000	\$225,000	\$225,000

FILED  
APRIL 19, 1977

GERRY D. RANKIN  
LEGISLATIVE FISCAL BUREAU

FISCAL NOTE  
HOUSE FILE 246

Date Prepared April 18, 1977

Requested by Representative Crabb

Prepared in regard to H.F. 246, An Act to establish a legislative auditor's office by transferring the duties of the legislative fiscal bureau, transferring the duty of the auditor of state to audit state agencies, and establishing a duty of conducting performance audits. Following is the fiscal effect in dollars of the legislative proposal as required by Joint Rule 16:

Several weeks ago, the Fiscal Bureau requested that the Auditor of State, The Honorable Lloyd Smith, provide his opinion concerning a cost estimate for this proposed legislation. The Auditor did not reply.

It is the Fiscal Bureau's opinion that the general fund money presently appropriated to the Auditor of State's office, combined with the appropriation currently made to the Fiscal Bureau, would be sufficient to carry out the duties of the Legislative Auditor as outlined in H.F. 246.

FILED  
APRIL 19, 1977

GERRY D. RANKIN  
LEGISLATIVE FISCAL BUREAU

FISCAL NOTE  
HOUSE FILE 246

Date Prepared April 18, 1977

Requested by Representative Brandt

Prepared in regard to H.F. 246, Amendment H-3598, An Act to establish a legislative auditor's office by transferring the duties of the legislative fiscal bureau, transferring the duty of the auditor of state to audit state agencies, and establishing a duty of conducting performance audits. Following is the fiscal effect in dollars of the legislative proposal as required by Joint Rule 16:

The following cost estimate, which was prepared in the office of the Legislative Fiscal Bureau, is based on the assumption that the Performance Audit Bureau would be staffed with a Performance Auditor and a staff of six full-time personnel using a full-time equivalency of two to three personnel from the Fiscal Bureau. We have further assumed that the staff would be organized into two audit teams and would complete five to seven major performance audits per year. The first-year cost assumes that there will be a lag in hiring the personnel and that a major portion of the time will be consumed in preparing rules and audit programs.

<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>	<u>Fourth Year</u>	<u>Fifth Year</u>
\$150,000	\$200,000	\$225,000	\$225,000	\$225,000

FILED  
APRIL 19, 1977

GERRY D. RANKIN  
LEGISLATIVE FISCAL BUREAU

1 assembly, as determined by the legislative council,  
 2 to visit the offices and facilities of any state  
 3 office, department, agency, board, bureau, or  
 4 commission to review programs authorized by the general  
 5 assembly and the administration of the programs.  
 6 ~~When the legislative fiscal committee visits the~~  
 7 ~~offices and facilities of any state office, department,~~  
 8 ~~agency, board, bureau, or commission to review programs~~  
 9 ~~authorized by the general assembly and the~~  
 10 ~~administration of the programs, there shall be included~~  
 11 ~~the chairmen and minority party ranking members of~~  
 12 ~~the appropriate subcommittees of the committees on~~  
 13 ~~appropriations of the senate and the house of~~  
 14 ~~representatives. The visitation subcommittee and~~  
 15 ~~the legislative fiscal committee shall be provided~~  
 16 with information by the appropriate division of the  
 17 legislative fiscal bureau concerning budgets, programs,  
 18 and legislation authorizing programs prior to any  
 19 visitation. Members of a committee subcommittee shall  
 20 be compensated pursuant to section 2.10, subsection  
 21 6. The subcommittee shall make reports and  
 22 recommendations as required by the legislative fiscal  
 23 council.

24 Sec. 16. There is appropriated from the general  
 25 fund of the state to the legislative fiscal bureau  
 26 for the fiscal year beginning July 1, 1977 and ending  
 27 June 30, 1978 the sum of fifty thousand (50,000)  
 28 dollars, or so much thereof as is necessary to carry  
 29 out the purposes of this Act and for salaries, support,  
 30 maintenance, and miscellaneous purposes.

31 Sec. 17. This Act, except sections nine (9) and  
 32 thirteen (13) of this Act which shall be effective  
 33 July 1, 1977, shall be effective January 1, 1978."

34 2. Page 2, by inserting after line 2 the follow-  
 35 ing:

36 "2. Amend the title, by striking lines 1 through  
 37 5 and inserting in lieu thereof the following:

38 "An Act creating a performance audit and evalua-  
 39 tion division within the legislative fiscal bureau  
 40 and a fiscal and performance audit committee, providing  
 41 for their respective powers and duties and making  
 42 and appropriation."

H-3597 FILED - *Last 4/19*  
 APRIL 15, 1977 (*g. 1464*)  
*Motion to reconsider (g. 1432)*  
*" w. s. 4/20*

- BY BYERLY of Polk
- VARLEY of Adair
- SCHROEDER of Pottawattamie
- PERKINS of Greene
- HUSAK of Tama
- NIELSEN of Polk
- WOODS of Polk
- HALVORSON of Clayton
- KOGLER of Mahaska
- HORN of Linn
- CHIODO of Polk
- WYCKOFF Of Benton
- BAKER of Buena Vista
- PONCY of Wapello
- CONNORS of Polk
- NEWHARD of Jones
- WALTER of Pottawattamie
- MILLER of Buchanan

HOUSE FILE 246  
FISCAL NOTE

Date Prepared: May 13, 1977  
Requested By: Senator Palmer  
Prepared in regard to House File 246, Amendment S-3550,  
An Act to establish a legislative auditor's office by  
transferring the duties of the legislative fiscal  
bureau, transferring the duty of the auditor of state  
to audit state agencies, and establishing a duty of  
conducting performance audits.

Following is the fiscal effect in dollars of the legislative proposal as  
required by Joint Rule 16.

The following cost estimate, which was prepared in the office of the  
Legislative Fiscal Bureau, is based on the assumption that the Legislative  
Oversight Bureau to be staffed with a director and a staff of six full-time  
personnel using a full-time equivalency of two to three personnel from  
the Fiscal Bureau. We have further assumed that the staff would be organized  
into two audit teams and would complete three to five major audits per year.  
The first-year cost assumes that there will be a lag in hiring the personnel  
and that a major portion of the time will be consumed in preparing rules  
and audit programs.

<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>	<u>Fourth Year</u>	<u>Fifth Year</u>
\$150,000	\$200,000	\$225,000	\$225,000	\$225,000

FILED  
MAY 13, 1977

GERRY RANKIN  
Legislative Fiscal Director

HOUSE FILE 246

State Government  
Kelly, Chairperson  
Slater  
Doderer

HOUSE FILE 246

By COMMITTEE ON STATE GOVERNMENT

(As Amended and Passed by the House)

Passed House, Date see below Passed Senate, Date 5-16-77 (p. 1550)

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 33 Nays 16

Approved April 27, 1978

### A BILL FOR

1 An Act creating a performance audit bureau under the  
2 direction of a performance auditor, specifying its  
3 powers and duties, and providing a penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5 *Conference Committee Appointed*  
6 *Representation Brandt (Chair), Morrison, Brunner, Stricker, and Harney 5/19 (p. 2409)*  
7 *Senators Doderer, Chair; Kelly, Hall of Park, Buel, Slater 5/18 (p. 1671)*

8  
9

10  
11

House Amendments \_\_\_\_\_

12 *Passed House for Conference Committee Report* 3-14-79 (p. 974)  
13 *" " " " " " " " " " " "* 81-10

14 *Passed Senate per* " " " " " " " " " " " "  
15 *" " " " " " " " " " " "* 4-6-78 (p. 768)  
16 *" " " " " " " " " " " "* 36-8

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24  
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1 Section 1. NEW SECTION. INTENT. It is the intent of  
2 the general assembly to establish in the legislative branch  
3 of government the capability to independently and intensively  
4 review the performance of agencies in operating their programs,  
5 to evaluate their efficiency and effectiveness and to recommend  
6 alternatives which may improve the benefits of a program or  
7 reduce its costs to the citizens. The bureau established  
8 by this Act is intended to provide the technical and  
9 professional support for the general assembly's oversight  
10 responsibility.

11 Sec. 2. NEW SECTION. PERFORMANCE AUDIT BUREAU.

12 1. There is established the performance audit bureau.

13 The administrative head of the performance audit bureau shall  
14 be the performance auditor.

15 2. The performance auditor shall be appointed upon the  
16 nomination of the legislative council and the confirmation  
17 of that nomination by two-thirds of the members of each house  
18 of the general assembly. When a vacancy in the office of  
19 the performance auditor occurs during the legislative interim,  
20 the nomination shall be submitted to the general assembly  
21 within thirty days of its convening and shall be acted upon  
22 by each house within sixty days of its submission. When a  
23 vacancy occurs during the legislative session, the nomination  
24 shall be submitted within sixty days of the occurrence of  
25 the vacancy and shall be acted upon by each house within sixty  
26 days of its submission unless the general assembly adjourns  
27 prior to the expiration of this schedule. If the general  
28 assembly adjourns prior to the expiration of this schedule,  
29 a nomination shall be submitted as though the vacancy occurred  
30 during the legislative interim. The performance auditor may  
31 be removed from office for just cause by a vote of two-thirds  
32 of the members of either house of the general assembly. Each  
33 performance auditor shall be appointed to a term of five  
34 years. A person nominated by the legislative council may  
35 serve as an acting performance auditor until the nomination

1 is confirmed or rejected by the general assembly. A person  
2 shall not become a candidate for any elective state office  
3 while serving as performance auditor or acting performance  
4 auditor, and any person who becomes a candidate contrary to  
5 this provision shall thereby be deemed to have resigned from  
6 the office of auditor.

7 Sec. 3. NEW SECTION. DUTIES OF THE PERFORMANCE AUDITOR.

8 The performance auditor shall have the following powers and  
9 duties:

10 1. The performance auditor shall employ and supervise  
11 the employees of the performance audit bureau at such salaries  
12 and in such positions and professional disciplines as are  
13 within the limits of its appropriation.

14 2. The performance auditor shall establish policies and  
15 procedures for the operations of the performance audit bureau.

16 3. The performance auditor shall direct the performance  
17 audit bureau to examine an agency or program of the state  
18 government, area education agencies established in chapter  
19 two hundred seventy-three (273), of the Code, public school  
20 districts provided for in chapter two hundred seventy-four  
21 (274), of the Code, and area vocational schools and community  
22 colleges defined in chapter two hundred eighty A (280A), of  
23 the Code, upon the request of a standing committee or budget  
24 subcommittee of the general assembly.

25 4. The performance auditor shall determine the priorities  
26 and allocate the workload of the performance audit bureau.

27 5. The performance auditor shall make an annual report  
28 to the general assembly on the examinations conducted by and  
29 the condition of the performance audit bureau.

30 6. The performance auditor shall maintain as a public  
31 record an index of all performance audit and program evaluation  
32 requests showing the requesting party, the subject agency,  
33 the date the request was made, and the estimated date the  
34 work will commence.

35 7. The performance auditor may employ such technical

1 assistance as may be necessary to conduct the assignments  
2 of the performance audit bureau.

3 Sec. 4. NEW SECTION. ACCESS TO RECORDS. The performance  
4 auditor and the agents and employees of the performance audit  
5 bureau shall at all times have access to all offices,  
6 departments, agencies, boards, bureaus, and commissions of  
7 the state, its political subdivisions and private organizations  
8 providing services to individuals under a contract with a  
9 state agency, and to the books, records, and other  
10 instrumentalities and properties used in the performance of  
11 their statutory duties, and all offices, departments, agencies,  
12 boards, bureaus, and commissions of the state, its political  
13 subdivisions and such private organizations shall cooperate  
14 with the performance auditor in the performance of the  
15 foregoing duty, and shall make available such books, records,  
16 instrumentalities, and property.

17 The performance auditor shall have the power to issue  
18 subpoenas for production of any records, books, or papers  
19 to which the performance auditor is authorized to have access.  
20 If any person subpoenaed refuses to produce the records,  
21 books, or papers, the performance auditor may apply to the  
22 district court having jurisdiction over that person for the  
23 enforcement of the subpoena.

24 If the information sought by the performance audit bureau  
25 is required by law to be kept confidential, the performance  
26 audit bureau shall have access to the information, but shall  
27 maintain the confidentiality of the information and shall  
28 be subject to the same penalties for dissemination of the  
29 information. The performance auditor shall inform the  
30 administrative head of the agency or political subdivision  
31 as to the reason for the investigation of its confidential  
32 records.

33 Sec. 5. NEW SECTION. DUTIES OF THE PERFORMANCE AUDIT  
34 BUREAU. The performance audit bureau at the direction of  
35 the performance auditor shall independently examine agencies

1 and programs to determine the following:

2 1. The organizational framework of the agency, its adequacy  
3 and relationship to the overall structure of the state  
4 government.

5 2. Areas in which significant inconsistency, duplication,  
6 or overlapping of activities or programs occur either within  
7 the agency or with respect to other agencies or programs.

8 3. Statewide or interagency coordinating or administration  
9 practices and their impact upon specific programs or agencies.

10 4. Whether the program under the agency's jurisdiction  
11 could be more effective if consolidated with another program,  
12 transferred to another agency, modified or abolished.

13 5. The productivity of the agency's operations measured  
14 in terms of cost-benefit relationships or other accepted  
15 measures of effectiveness.

16 6. The agency's attainment of or progress toward  
17 identifiable goals established by statute, specific legislative  
18 intent, the budget, the governor, or a long range plan.

19 7. Agency and statewide management systems and housekeeping  
20 functions including accounting procedures, personnel practices,  
21 planning activities, reporting and recordkeeping applications,  
22 staff qualifications, employment ratios, budget controls,  
23 purchasing transactions, communications patterns, public  
24 relations, and other related functions.

25 8. Agency or statewide administrative or program delivery  
26 techniques which are innovative, novel, experimental or unique  
27 in achieving greater efficiency, reduced costs, improved use  
28 of resources or increased responsiveness to expressed or  
29 anticipated needs.

30 9. Agency or statewide state-federal relationships,  
31 financial exchanges, program coordination, administration  
32 and other joint activities.

33 10. Agency and program relationships between the state  
34 and its political subdivisions analyzing significant areas  
35 of state and local government contact and identifying mutual

1 or opposing program directions and areas of duplicatory or  
2 overlapping programs.

3 11. The agency's or program's adherence to statutory  
4 requirements and diligence in executing functions assigned  
5 by law or policies established by the governor.

6 12. The agency's or program's responsiveness to anticipated  
7 public attitudes, citizen needs, or state problems.

8 13. The statewide, agency or program regulatory, reporting  
9 or recordkeeping requirements and the burdens imposed upon  
10 the general public, political subdivisions, commercial  
11 enterprise or other entities in the state.

12 14. Whether the agency or program is managing or using  
13 its resources in a legal, efficient and economical manner  
14 and whether the causes of any inefficient or uneconomical  
15 practices have been determined.

16 15. Whether the desired results or benefits are being  
17 achieved, whether the objectives established by the general  
18 assembly are being met, and whether alternatives which might  
19 produce the desired results at a lower cost have been  
20 considered.

21 16. Whether administrative or statutory changes are needed  
22 to achieve the intent of the general assembly.

23 17. Other criteria determined by the performance auditor.

24 The performance auditor after consulting with the  
25 responsible official and the requesting party, if any, shall  
26 determine the goals of the agency or program for the purpose  
27 of the performance audit or program evaluation. The  
28 legislative service bureau, legislative fiscal bureau, auditor  
29 of state, state comptroller, and citizens' aide shall cooperate  
30 with the performance audit bureau in providing information  
31 which they may have concerning the agency or program to be  
32 evaluated. Employees of the legislative fiscal bureau may  
33 be interchanged with the performance audit bureau pursuant  
34 to chapter twenty-eight D (23D) of the Code. The performance  
35 audit bureau shall not require an agency to collect any

1 information unless that agency has statutory authority to  
2 collect such information. The performance audit bureau shall  
3 only require information which an agency is presently  
4 collecting unless the performance auditor determines that  
5 additional information is essential to the performance audit.

6 The performance auditor shall not require any broadcasting  
7 facility under the control of the state board of regents,  
8 the board of directors of a merged area or the state  
9 educational radio and television facility board to do any  
10 act which would be contrary to the rules of the federal  
11 communications commission nor shall the performance auditor  
12 conduct an examination of the programming of such a  
13 broadcasting facility. The performance auditor shall not  
14 do any act which would be contrary to the academic freedom  
15 of area community colleges and institutions under the state  
16 board of regents nor shall the performance auditor conduct  
17 an examination of instruction or research methods or of the  
18 contents of the curricula of said institutions.

19 Sec. 6. NEW SECTION. REPORTS OF THE PERFORMANCE AUDIT  
20 BUREAU. At the conclusion of an audit or evaluation, the  
21 performance auditor shall provide copies to the Governor and  
22 the official whose office is the subject of the audit or  
23 evaluation. The official shall be given a period of not less  
24 than twenty days nor more than sixty days by the performance  
25 auditor to respond to the findings and recommendations of  
26 the audit or evaluation, and the response shall be included  
27 in the report. A brief summary of the findings and  
28 recommendations shall accompany each report. A report of  
29 an audit or evaluation shall be released for publication upon  
30 its completion. The report shall be regarded as confidential  
31 by all persons properly having custody of it until the report  
32 is released as provided by this section. Release of the  
33 report in violation of the provisions of this section shall  
34 be a simple misdemeanor. Upon the release of a report, the  
35 performance auditor shall provide a copy to the governor and

1 copies to the presiding officer of each house of the general  
2 assembly for referral to the appropriate standing committee  
3 and budget subcommittee.

4 At the conclusion of an audit or evaluation, the performance  
5 auditor shall report the total costs of conducting each audit  
6 including the total costs to the agency or program being  
7 audited as a part of the audit report.

8 Sec. 7. Section two point forty-two (2.42), Code 1977,  
9 is amended by adding the following new subsection:

10 NEW SUBSECTION. To fix the compensation of the performance  
11 auditor.

12 Sec. 8. Section two point forty-six (2.46), Code 1977,  
13 is amended by striking subsection four (4).

14 Sec. 9. This Act is repealed January 1, 1986.

15 Sec. 10. This Act, being deemed of immediate importance  
16 shall take effect and be in force from and after its  
17 publication in The Waterloo Courier, a newspaper published  
18 in Waterloo, Iowa, and in the Bettendorf News, a newspaper  
19 published in Bettendorf, Iowa.

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SENATE AMENDMENT TO  
HOUSE FILE 246

H-4211

1 Amend House File 246 as amended, passed and  
2 reprinted by the House as follows:

3 1. By striking all after the enacting clause and  
4 inserting in lieu thereof the following:

5 "Section 1. Chapter two (2), Code 1977, is amended  
6 by adding sections two (2) through seven (7) of this  
7 Act.

8 Sec. 2. NEW SECTION. INTENT. It is the intent  
9 of the general assembly to establish in the legislative  
10 branch of government the capability to independently  
11 and intensively review the performance of state  
12 agencies in operating the programs established by  
13 the general assembly, to evaluate their efficiency  
14 and effectiveness and to consider alternatives which  
15 may improve the benefits of a program or may reduce  
16 its costs to the citizens. The bureau established  
17 by this Act is intended to provide the technical and  
18 professional support for the general assembly's  
19 oversight responsibility.

20 Sec. 3. NEW SECTION. LEGISLATIVE OVERSIGHT BUREAU.  
21 There is established a legislative oversight bureau.  
22 The director of the legislative oversight bureau shall  
23 be a person of extensive experience and recognized  
24 qualification in the field of governmental procedures  
25 and accounting. The director shall be appointed upon  
26 the nomination of the legislative council and the  
27 confirmation of that nomination by two-thirds of the  
28 members of each house of the general assembly.

29 When a vacancy in the office of the director occurs  
30 during the legislative interim, the nomination shall  
31 be submitted to the general assembly within thirty  
32 days of its convening and must be acted upon by each  
33 house within sixty days of its submission. When a  
34 vacancy occurs during the legislative session, the  
35 nomination shall be submitted within sixty days of  
36 the occurrence of the vacancy and must be acted upon  
37 by each house within sixty days of its submission  
38 unless the general assembly adjourns prior to the  
39 expiration of this schedule. If the general assembly  
40 adjourns prior to the expiration of this schedule,  
41 the nomination may be resubmitted as though the vacancy  
42 occurred during the legislative interim. The director  
43 may be removed from office for cause by a vote of  
44 two-thirds of the members of each house of the general  
45 assembly.

46 Each director shall be appointed to a term of ten  
47 years and shall be eligible for only one reappointment.  
48 A person nominated as director may serve as an acting  
49 director until the nomination is confirmed or rejected  
50 by the general assembly. The compensation of the

1 director shall not be reduced during the director's  
2 term in office.

3 A person shall not become a candidate for any elec-  
4 tive office nor participate in any partisan political  
5 activity while serving as director or acting director.  
6 Any director who becomes a candidate contrary to this  
7 provision shall thereby be deemed to have resigned.

8 Sec. 4. NEW SECTION. POWERS AND DUTIES OF THE  
9 DIRECTOR. The director of the legislative oversight  
10 bureau shall:

11 1. Employ and supervise all employees of the  
12 legislative oversight bureau at such salaries and  
13 in such positions and professional disciplines as  
14 are within the limits of its appropriation.

15 2. Supervise and assist the staff of the  
16 administrative rules review committee.

17 3. Establish policies and procedures for the  
18 conduct of performance audits and program evaluations.

19 4. Conduct performance audits and program  
20 evaluations of agencies and programs of the state  
21 government, area education agencies established in  
22 chapter two hundred seventy-three (273) of the Code,  
23 and area vocational schools and community colleges  
24 defined in chapter two hundred eighty A (280A) of  
25 the Code upon the request of a standing committee  
26 or budget subcommittee of the general assembly.

27 5. Determine the priority of performance audit  
28 and program evaluation requests and allocate the  
29 workload of the legislative oversight bureau.

30 6. Make an annual report to the general assembly  
31 of the performance audits and program evaluations  
32 conducted and in progress and of the condition of  
33 the legislative oversight bureau. The director shall  
34 submit and obtain consent for the policies established  
35 under subsections one (1), three (3) and five (5)  
36 of this paragraph from the administrative rules review  
37 committee.

38 The director of the legislative oversight bureau  
39 may:

40 1. Employ such technical consultants as may be  
41 necessary to conduct a performance audit or program  
42 evaluation.

43 2. Conduct performance audits and program  
44 evaluations upon the request of a member of the general  
45 assembly if the request is cosigned by two other  
46 members.

47 3. Conduct performance audit evaluations upon  
48 request of the governor.

49 4. Conduct performance audits and program  
50 evaluations upon the director's initiative.

1 The director shall not conduct an examination of  
2 the programming of a broadcasting facility under the  
3 control of the state board of regents, the board of  
4 directors of a merged area, or the state educational  
5 radio and television facility board.

6 The director shall not conduct an examination of  
7 the programs or departments of institutions under  
8 the state board of regents which would be contrary  
9 to academic freedom. The director shall not conduct  
10 an examination of an activity under the state board  
11 of regents which is substantially academic in nature.  
12 For the purposes of this paragraph, "academic" includes  
13 teaching, research, educational or scholarly  
14 activities.

15 Sec. 5. NEW SECTION. ACCESS TO RECORDS. The  
16 director and the agents and employees of the  
17 legislative oversight bureau shall at all times have  
18 access to all offices, departments, agencies, boards,  
19 bureaus, and commissions of the state, its political  
20 subdivisions and private organizations providing  
21 services to individuals under a contract with a state  
22 agency, and to the books, records, and other  
23 instrumentalities and properties used in the  
24 performance of their statutory duties or contractual  
25 arrangements. All offices, departments, agencies,  
26 boards, bureaus, and commissions of the state, its  
27 political subdivisions and such private organizations  
28 shall cooperate with the director in the performance  
29 of the foregoing duty, and shall make available such  
30 books, records, instrumentalities, and property.

31 The director shall have the power to issue subpoenas  
32 for production of any records, books, or papers to  
33 which the director is authorized to have access.  
34 If any person subpoenaed refuses to produce the  
35 records, books, or papers, the director may apply  
36 to the district court having jurisdiction over that  
37 person for the enforcement of the subpoena.

38 If the information sought by the legislative  
39 oversight bureau is required by law to be kept  
40 confidential, the bureau shall have access to the  
41 information, but shall maintain the confidentiality  
42 of the information and shall be subject to the same  
43 penalties for dissemination of the information.  
44 However, the bureau shall not have access to personal  
45 information in academic records regarding a student,  
46 prospective student, or former student of the  
47 educational institution or agency maintaining the  
48 records, or to medical and hospital records of the  
49 condition, diagnosis, care or treatment of a patient  
50 or former patient, including outpatients. The director

1 shall inform the administrative head of the agency  
2 or political subdivision as to the reason for the  
3 investigation of its confidential records.

4 The legislative oversight bureau shall only require  
5 information which an agency is presently collecting  
6 unless the director determines that additional  
7 information is necessary to the performance audit  
8 and is within the agency's authority to collect.

9 Sec. 6. NEW SECTION. PERFORMANCE AUDITS AND PRO-  
10 GRAM EVALUATIONS.

11 1. The director after consulting with the  
12 responsible official and the requesting party, if  
13 any, shall determine the goals of the agency or program  
14 for the purpose of the performance audit or program  
15 evaluation.

16 2. The legislative oversight bureau at the  
17 direction of the director shall independently examine  
18 state agencies and programs to determine the following:

19 a. The organizational framework of the agency,  
20 its adequacy and relationship to the overall structure  
21 of the state government.

22 b. Areas in which significant inconsistency,  
23 duplication, or overlapping of activities or programs  
24 occur either within the agency or with respect to  
25 other agencies or programs.

26 c. Statewide or interagency coordinating or  
27 administration practices and their impact upon specific  
28 programs or agencies.

29 d. Whether the program under the agency's  
30 jurisdiction could be more effective if consolidated  
31 with another program, transferred to another agency,  
32 modified or abolished.

33 e. The productivity of the agency's operations  
34 measured in terms of cost-benefit relationships or  
35 other accepted measures of effectiveness.

36 f. The agency's attainment of or progress toward  
37 identifiable goals established by statute, specific  
38 legislative intent, the budget, the governor, or a  
39 long range plan.

40 g. Agency and statewide management systems and  
41 housekeeping functions including accounting procedures,  
42 personnel practices, planning activities, reporting  
43 and recordkeeping applications, staff qualifications,  
44 employment ratios, budget controls, purchasing  
45 transactions, communications patterns, public  
46 relations, and other related functions.

47 h. Agency or statewide administrative or program  
48 delivery techniques which are innovative, novel,  
49 experimental or unique in achieving greater efficiency,  
50 reduced costs, improved use of resources or increased

1 Responsiveness to expressed or anticipated needs.

2 i. Agency or statewide state-federal relationships,  
3 financial exchanges, program coordination, administra-  
4 tion and other joint activities.

5 j. Agency and program relationships between the  
6 state and its political subdivisions analyzing  
7 significant areas of state and local government contact  
8 and identifying mutual or opposing program directions  
9 and areas of duplicatory or overlapping programs.

10 k. The agency's or program's adherence to statutory  
11 requirements and diligence in executing functions  
12 assigned by law or policies established by the  
13 governor.

14 l. The agency's or program's responsiveness to  
15 anticipated public attitudes, citizen needs, or state  
16 problems.

17 m. The statewide, agency or program regulatory,  
18 reporting or recordkeeping requirements and the burdens  
19 imposed upon the general public, political  
20 subdivisions, commercial enterprise or other entities  
21 in the state.

22 n. Whether the financial operations of the agency  
23 or program are properly conducted, its financial  
24 reports are presented fairly, and whether the agency  
25 or program has complied with the applicable laws.

26 o. Whether the agency or program is managing or  
27 using its resources in an efficient and economical  
28 manner and if not, to determine the causes.

29 p. Whether the objectives established by the  
30 general assembly are being met, and whether  
31 alternatives which might produce the desired results  
32 at a lower cost have been considered.

33 q. Whether administrative or statutory changes  
34 are needed to achieve the intent of the general  
35 assembly.

36 r. Other criteria determined by the director.

37 3. The legislative service bureau, legislative  
38 fiscal bureau, auditor of state, state comptroller,  
39 and citizens' aide shall cooperate with the legislative  
40 oversight bureau in providing information which they  
41 may have concerning the agency or program to be  
42 evaluated. Employees of the legislative fiscal bureau  
43 may be interchanged with the legislative oversight  
44 bureau pursuant to chapter twenty-eight D (28D) of  
45 the Code.

46 Sec. 7. NEW SECTION. REPORTS. At the conclusion  
47 of an audit or evaluation, the director of the  
48 legislative oversight bureau shall provide copies  
49 to the governor and to the official whose office is  
50 the subject of the audit or evaluation. The official

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Page 6

1 shall be given thirty days by the director to respond  
2 to the findings and recommendations of the audit or  
3 evaluation, and the response shall be included in  
4 the report. A summary of the findings and  
5 recommendations shall accompany each report. A report  
6 of an audit or evaluation initiated by the director  
7 shall be released upon its completion. A report of  
8 a requested audit or evaluation shall be submitted  
9 to the requesting party and released thirty days after  
10 submission if the requesting party is a standing  
11 committee or budget subcommittee or ten days if the  
12 requesting party is a member of the general assembly  
13 unless the requesting party directs an earlier re-  
14 lease. The report shall be regarded as confidential  
15 by all persons properly having custody of it until  
16 the report is released as provided by this section.  
17 Upon the release of a report, the director shall  
18 provide copies to the presiding officer of each house  
19 of the general assembly for referral to the appropriate  
20 standing committee and budget subcommittee. At the  
21 conclusion of an audit or evaluation, the director  
22 shall report the total costs of conducting each audit  
23 including the total costs to the agency or program  
24 being audited as a part of the audit report.

25 Sec. 8. Section two point forty-two (2.42), Code  
26 1977, is amended by adding the following new  
27 subsection:

28 NEW SUBSECTION. To fix the compensation of the  
29 director of the legislative oversight bureau.

30 Sec. 9. Section two point forty-six (2.46), Code  
31 1977, is amended by striking subsection four (4).

32 Sec. 10. This Act is repealed January 1, 1987."

33 2. Amend the title, by striking lines 1 through  
34 3 and inserting in lieu thereof the following: "An  
35 Act creating a legislative oversight bureau and  
36 specifying its powers and duties."

H-4211 FILED

RECEIVED FROM SENATE

MAY 16, 1977

*Have refused to concur 5/17 (p. 2301)*  
*Senate insisted 5/17 (p. 1655)*

SENATE 60  
MAY 17, 1977

HOUSE FILE 246

S-3617

1 Amend the Committee on State Government  
2 amendment, S-3550, to House File 246, as amended,  
3 passed and reprinted by the House as follows:  
4 1. Page 2, line 11, by striking the word  
5 "all" and inserting in lieu thereof the words "a  
6 staff of not more than six full-time".  
7 2. Page 2, lines 11 and 12, by striking the words  
8 "of the legislative oversight bureau".

S-3617 FILED & LOST (p 1549) BY RICHARD R. RAMSEY  
MAY 16, 1977

HOUSE FILE 246

S-3615

1 Amend the committee on state government amendment  
2 S--3550 to House File 246 as amended, passed and  
3 reprinted by the House, as follows:  
4 1. Page 2, by inserting after line 46 the follow-  
5 ing:  
6 " Conduct performance audit <sup>and program</sup> evaluations upon  
7 the request of the governor."

S-3615 FILED & ADOPTED (p 1548) BY RICHARD R. RAMSEY  
MAY 16, 1977

HOUSE FILE 246

S-3616

1 Amend the Committee on State Government amendment,  
2 S-3550, to House File 246 as amended, passed and  
3 reprinted by the House as follows:  
4 1. Page 2, by striking lines 47 and 48, and  
5 inserting in lieu thereof the following:  
6 "The director of the legislative oversight bureau  
7 shall, upon the adoption by the general assembly of  
8 a concurrent resolution, conduct performance audits  
9 and program evaluations."

S-3616 FILED & WITHDRAWN BY RICHARD R. RAMSEY  
MAY 16, 1977

HOUSE FILE 246

S-3600

- 1 Amend the State Government Committee Amendment,
- 2 S-3550, to House File 246 as amended, passed and
- 3 reprinted by the House as follows:
- 4 1. Page 2, line 34, by inserting after the word
- 5 "submit" the words "and obtain consent for".

S-3600 FILED - *Adopted 5/16* BY TOM SLATER  
MAY 13, 1977 (*p. 1547*)

HOUSE FILE 246

S-3612

- 1 Amend the Committee on State Government
- 2 amendment, S-3550, to House File 246 as amended,
- 3 passed and reprinted by the House as follows:
- 4 1. Page 2, line 36, by striking the word
- 5 "to" and inserting in lieu thereof the word "from".

S-3612 FILED & ADOPTED (*p. 1548*) BY TOM SLATER  
MAY 16, 1977

S-3550

1 Amend House File 246 as amended, passed and  
2 reprinted by the House as follows:

3 1. By striking all after the enacting clause and  
4 inserting in lieu thereof the following:

5 "Section 1. Chapter two (2), Code 1977, is amended  
6 by adding sections two (2) through seven (7) of this  
7 Act.

8 Sec. 2. NEW SECTION. INTENT. It is the intent  
9 of the general assembly to establish in the legislative  
10 branch of government the capability to independently  
11 and intensively review the performance of state  
12 agencies in operating the programs established by  
13 the general assembly, to evaluate their efficiency  
14 and effectiveness and to consider alternatives which  
15 may improve the benefits of a program or may reduce  
16 its costs to the citizens. The bureau established  
17 by this Act is intended to provide the technical and  
18 professional support for the general assembly's  
19 oversight responsibility.

20 Sec. 3. NEW SECTION. LEGISLATIVE OVERSIGHT BUREAU.  
21 There is established a legislative oversight bureau.  
22 The director of the legislative oversight bureau shall  
23 be a person of extensive experience and recognized  
24 qualification in the field of governmental procedures  
25 and accounting. The director shall be appointed  
26 upon the nomination of the legislative council and  
27 the confirmation of that nomination by two-thirds  
28 of the members of each house of the general assembly.

29 When a vacancy in the office of the director occurs  
30 during the legislative interim, the nomination shall  
31 be submitted to the general assembly within thirty  
32 days of its convening and must be acted upon by each  
33 house within sixty days of its submission. When a  
34 vacancy occurs during the legislative session, the  
35 nomination shall be submitted within sixty days of  
36 the occurrence of the vacancy and must be acted upon  
37 by each house within sixty days of its submission  
38 unless the general assembly adjourns prior to the  
39 expiration of this schedule. If the general assembly  
40 adjourns prior to the expiration of this schedule,  
41 the nomination may be resubmitted as though the vacancy  
42 occurred during the legislative interim. The director  
43 may be removed from office for cause by a vote of  
44 two-thirds of the members of each house of the general  
45 assembly.

46 Each director shall be appointed to a term of ten  
47 years and shall be eligible for only one reappointment.  
48 A person nominated as director may serve as an acting  
49 director until the nomination is confirmed or rejected  
50 by the general assembly. The compensation of the

1 director shall not be reduced during the director's  
2 term in office.

3 A person shall not become a candidate for any elec-  
4 tive office nor participate in any partisan political  
5 activity while serving as director or acting director.

6 Any director who becomes a candidate contrary to this  
7 provision shall thereby be deemed to have resigned.

8 Sec. 4. NEW SECTION. POWERS AND DUTIES OF THE  
9 DIRECTOR. The director of the legislative oversight

10 bureau shall:

11 1. Employ and supervise all employees of the  
12 legislative oversight bureau at such salaries and  
13 in such positions and professional disciplines as  
14 are within the limits of its appropriation.

15 2. Supervise and assist the staff of the  
16 administrative rules review committee.

17 3. Establish policies and procedures for the  
18 conduct of performance audits and program evaluations.

19 4. Conduct performance audits and program

20 evaluations of agencies and programs of the state

21 government, area education agencies established in

22 chapter two hundred seventy-three (273) of the Code,

23 and area vocational schools and community colleges

24 defined in chapter two hundred eighty A (280A) of

25 the Code upon the request of a standing committee

26 or budget subcommittee of the general assembly.

27 5. Determine the priority of performance audit

28 and program evaluation requests and allocate the

29 workload of the legislative oversight bureau.

30 6. Make an annual report to the general assembly

31 of the performance audits and program evaluations

32 conducted and in progress and of the condition of

33 the legislative oversight bureau.

34 The director shall submit the policies established

35 under subsections one (1), three (3) and five (5)

36 of this paragraph to the administrative rules review

37 committee.

38 <sup>FROM</sup> The director of the legislative oversight bureau

39 may:

40 1. Employ such technical consultants as may be  
41 necessary to conduct a performance audit or program

42 evaluation.

43 2. Conduct performance audits and program

44 evaluations upon the request of a member of the general

45 assembly if the request is signed by two other

46 members.

47 3. Conduct performance audits and program

48 evaluations upon the director's initiative.

49 The director shall not require any agency or

50 department of the state government to do any act which

1 would be contrary to any applicable rule of the federal  
2 government. Any disagreement between the director  
3 and a state agency regarding the applicability of  
4 this paragraph shall be decided by the attorney  
5 general.

6 The director shall not conduct an examination of  
7 the programming of a broadcasting facility under the  
8 control of the state board of regents, the board of  
9 directors of a merged area, or the state educational  
10 radio and television facility board.

11 The director shall not conduct an examination of  
12 the programs or departments of institutions under  
13 the state board of regents which would be contrary  
14 to academic freedom. The director shall not conduct  
15 an examination of an activity under the state board  
16 of regents which is substantially academic in nature.  
17 For the purposes of this paragraph, "academic" includes  
18 teaching, research, educational or scholarly  
19 activities.

20 Sec. 5. NEW SECTION. ACCESS TO RECORDS. The  
21 director and the agents and employees of the  
22 legislative oversight bureau shall at all times have  
23 access to all offices, departments, agencies, boards,  
24 bureaus, and commissions of the state, its political  
25 subdivisions and private organizations providing  
26 services to individuals under a contract with a state  
27 agency, and to the books, records, and other  
28 instrumentalities and properties used in the  
29 performance of their statutory duties or contractual  
30 arrangements. All offices, departments, agencies,  
31 boards, bureaus, and commissions of the state, its  
32 political subdivisions and such private organizations  
33 shall cooperate with the director in the performance  
34 of the foregoing duty, and shall make available such  
35 books, records, instrumentalities, and property.

36 The director shall have the power to issue subpoenas  
37 for production of any records, books, or papers to  
38 which the director is authorized to have access.  
39 If any person subpoenaed refuses to produce the  
40 records, books, or papers, the director may apply  
41 to the district court having jurisdiction over that  
42 person for the enforcement of the subpoena.

43 If the information sought by the legislative  
44 oversight bureau is required by law to be kept  
45 confidential, the bureau shall have access to the  
46 information, but shall maintain the confidentiality  
47 of the information and shall be subject to the same  
48 penalties for dissemination of the information.  
49 However, the bureau shall not have access to personal  
50 information in academic records regarding a student,

1 prospective student, or former student of the  
2 educational institution or agency maintaining the  
3 records, or to medical and hospital records of the  
4 condition, diagnosis, care or treatment of a patient  
5 or former patient, including outpatients. The director  
6 shall inform the administrative head of the agency  
7 or political subdivision as to the reason for the  
8 investigation of its confidential records.

9 The legislative oversight bureau shall only require  
10 information which an agency is presently collecting  
11 unless the director determines that additional  
12 information is necessary to the performance audit  
13 and is within the agency's authority to collect.

14 Sec. 6. NEW SECTION. PERFORMANCE AUDITS AND PRO-  
15 GRAM EVALUATIONS.

16 1. The director after consulting with the  
17 responsible official and the requesting party, if  
18 any, shall determine the goals of the agency or program  
19 for the purpose of the performance audit or program  
20 evaluation.

21 2. The legislative oversight bureau at the  
22 direction of the director shall independently examine  
23 state agencies and programs to determine the following:

24 a. The organizational framework of the agency,  
25 its adequacy and relationship to the overall structure  
26 of the state government.

27 b. Areas in which significant inconsistency,  
28 duplication, or overlapping of activities or programs  
29 occur either within the agency or with respect to  
30 other agencies or programs.

31 c. Statewide or interagency coordinating or  
32 administration practices and their impact upon specific  
33 programs or agencies.

34 d. Whether the program under the agency's  
35 jurisdiction could be more effective if consolidated  
36 with another program, transferred to another agency,  
37 modified or abolished.

38 e. The productivity of the agency's operations  
39 measured in terms of cost-benefit relationships or  
40 other accepted measures of effectiveness.

41 f. The agency's attainment of or progress toward  
42 identifiable goals established by statute, specific  
43 legislative intent, the budget, the governor, or a  
44 long range plan.

45 g. Agency and statewide management systems and  
46 housekeeping functions including accounting procedures,  
47 personnel practices, planning activities, reporting  
48 and recordkeeping applications, staff qualifications,  
49 employment ratios, budget controls, purchasing  
50 transactions, communications patterns, public

1 relations, and other related functions.

2 h. Agency or statewide administrative or program  
3 delivery techniques which are innovative, novel,  
4 experimental or unique in achieving greater efficiency,  
5 reduced costs, improved use of resources or increased  
6 responsiveness to expressed or anticipated needs.

7 i. Agency or statewide state-federal relationships,  
8 financial exchanges, program coordination, administra-  
9 tion and other joint activities.

10 j. Agency and program relationships between the  
11 state and its political subdivisions analyzing  
12 significant areas of state and local government contact  
13 and identifying mutual or opposing program directions  
14 and areas of duplicatory or overlapping programs.

15 k. The agency's or program's adherence to statutory  
16 requirements and diligence in executing functions  
17 assigned by law or policies established by the  
18 governor.

19 l. The agency's or program's responsiveness to  
20 anticipated public attitudes, citizen needs, or state  
21 problems.

22 m. The statewide, agency or program regulatory,  
23 reporting or recordkeeping requirements and the burdens  
24 imposed upon the general public, political  
25 subdivisions, commercial enterprise or other entities  
26 in the state.

27 n. Whether the financial operations of the agency  
28 or program are properly conducted, its financial  
29 reports are presented fairly, and whether the agency  
30 or program has complied with the applicable laws.

31 o. Whether the agency or program is managing or  
32 using its resources in an efficient and economical  
33 manner and if not, to determine the causes.

34 p. Whether the objectives established by the  
35 general assembly are being met, and whether  
36 alternatives which might produce the desired results  
37 at a lower cost have been considered.

38 q. Whether administrative or statutory changes  
39 are needed to achieve the intent of the general  
40 assembly.

41 r. Other criteria determined by the director.

42 3. The legislative service bureau, legislative  
43 fiscal bureau, auditor of state, state comptroller,  
44 and citizens' aide shall cooperate with the legislative  
45 oversight bureau in providing information which they  
46 may have concerning the agency or program to be  
47 evaluated. Employees of the legislative fiscal bureau  
48 may be interchanged with the legislative oversight  
49 bureau pursuant to chapter twenty-eight D (28D) of  
50 the Code.

1       Sec. 7. NEW SECTION. REPORTS. At the conclusion  
2 of an audit or evaluation, the director of the  
3 legislative oversight bureau shall provide copies  
4 to the governor and to the official whose office is  
5 the subject of the audit or evaluation. The official  
6 shall be given thirty days by the director to respond  
7 to the findings and recommendations of the audit or  
8 evaluation, and the response shall be included in  
9 the report. A summary of the findings and  
10 recommendations shall accompany each report. A report  
11 of an audit or evaluation initiated by the director  
12 shall be released upon its completion. A report of  
13 a requested audit or evaluation shall be submitted  
14 to the requesting party and released thirty days after  
15 submission if the requesting party is a standing  
16 committee or budget subcommittee or ten days if the  
17 requesting party is a member of the general assembly  
18 unless the requesting party directs an earlier re-  
19 lease. The report shall be regarded as confidential  
20 by all persons properly having custody of it until  
21 the report is released as provided by this section.  
22 Upon the release of a report, the director shall  
23 provide copies to the presiding officer of each house  
24 of the general assembly for referral to the appropriate  
25 standing committee and budget subcommittee. At the  
26 conclusion of an audit or evaluation, the director  
27 shall report the total costs of conducting each audit  
28 including the total costs to the agency or program  
29 being audited as a part of the audit report.

30       Sec. 8. Section two point forty-six (2.46), Code  
31 1977, is amended by striking subsection four (4).

32       Sec. 9. This Act is repealed January 1, 1987."

33       2. Amend the title, by striking lines 1 through  
34 3 and inserting in lieu thereof the following: An  
35 Act creating a legislative oversight bureau and  
36 specifying its powers and duties."

S-3550 FILED *Adopted* BY COMMITTEE ON STATE GOVERNMENT  
MAY 11, 1977 MINNETTE DODERER, CHAIRPERSON

*as amended by 3590, 3600,  
3612, 3615 and 3569 5/16 (p. 1550)*

S-3610

HOUSE FILE 246

- 1 Amend the Committee on State Government amendment  
2 S-3550 amending House File 246 as follows:  
3 1. Page 1, by striking line 5 through page 2,  
4 line 39 and inserting in lieu thereof the following:  
5 "Section 1. Chapter eleven (11), Code 1977, is  
6 amended by adding sections two (2) through five (5)  
7 of this Act.  
8 Sec. 2. NEW SECTION. AUTHORITY TO CONDUCT  
9 PERFORMANCE AUDITS. The auditor of the state may:  
10 1. Establish policies and procedures for the  
11 conduct of performance audits and program evaluations.  
12 2. Conduct performance audits and program  
13 evaluations of agencies and programs of the state  
14 government, area education agencies established in  
15 chapter two hundred seventy-three (273) of the Code,  
16 and area vocational schools and community colleges  
17 defined in chapter two hundred eighty A (280A) of  
18 the Code.  
19 3. Determine the priority of performance audits  
20 and program evaluations.  
21 4. Make an annual report to the general assembly  
22 of the performance audits and program evaluations  
23 conducted and in progress."  
24 2. Page 2, by striking lines 47 and 48.  
25 3. Page 2, line 49, by striking the word "director"  
26 and inserting in lieu thereof the words "auditor of  
27 state".  
28 4. Page 3, line 2, by striking the word "director"  
29 and inserting in lieu thereof the words "auditor of  
30 state".  
31 5. Page 3, line 6, by striking the word "director"  
32 and inserting in lieu thereof the words "auditor of  
33 state".  
34 6. Page 3, line 11, by striking the word "director"  
35 and inserting in lieu thereof the words "auditor of  
36 state".  
37 7. Page 3, line 14, by striking the word "director"  
38 and inserting in lieu thereof the words "auditor of  
39 state".  
40 8. Page 3, by striking lines 21 and 22 and  
41 inserting in lieu thereof the words "auditor of state  
42 in conducting a performance audit or program evaluation  
43 shall at all times have".  
44 9. Page 3, line 33, by striking the word "director"  
45 and inserting in lieu thereof the words "auditor of  
46 state".  
47 10. Page 3, line 36, by striking the word  
48 "director" and inserting in lieu thereof the words  
49 "auditor of state".  
50 11. Page 3, line 40, by striking the word

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Page 2

1 "director" and inserting in lieu thereof the words  
2 "auditor of state".

3 12. Page 3, lines 43 and 44, by striking the words  
4 "legislative oversight bureau" and inserting in lieu  
5 thereof the words "auditor of state".

6 13. Page 3, line 45, by striking the word "bureau"  
7 and inserting in lieu thereof the words "auditor of  
8 state".

9 14. Page 3, line 49, by striking the word "bureau"  
10 and inserting in lieu thereof the words "auditor of  
11 state".

12 15. Page 4, line 5, by striking the word "director"  
13 and inserting in lieu thereof the words "auditor of  
14 state".

15 16. Page 4, line 9, by striking the words  
16 "legislative oversight bureau" and inserting in lieu  
17 thereof the words "auditor of state".

18 17. Page 4, line 11, by striking the word  
19 "director" and inserting in lieu thereof the words  
20 "auditor of state".

21 18. Page 4, line 16, by striking the word  
22 "director" and inserting in lieu thereof the words  
23 "auditor of state".

24 19. Page 4, by striking lines 21 and 22 and  
25 inserting in lieu thereof the following:

26 "2. The auditor of state shall independently  
27 examine".

28 20. Page 5, line 41, by striking the word  
29 "director" and inserting in lieu thereof the words  
30 "auditor of state".

31 21. Page 5, line 43, by striking the words "auditor  
32 of state,".

33 22. Page 5, lines 44 and 45, by striking the words  
34 "legislative oversight bureau" and inserting in lieu  
35 thereof the words "auditor of state".

36 23. Page 5, by striking lines 47 through 50 and  
37 inserting in lieu thereof the word "evaluated."

38 24. Page 6, by striking lines 2 and 3 and inserting  
39 in lieu thereof the following: "of a performance  
40 audit or program evaluation, the auditor of state  
41 shall provide copies".

42 25. Page 6, by striking lines 11 through 19 and  
43 inserting in lieu thereof the following: "of a  
44 performance audit or program evaluation shall be  
45 released upon its completion. The report shall be  
46 regarded as confidential".

47 26. Page 6, line 22, by striking the word  
48 "director" and inserting in lieu thereof the words  
49 "auditor of state".

50 27. Page 6, line 26, by striking the word

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Page 3

1 "director" and inserting in lieu thereof the words  
2 "auditor of state".

3 28. Page 6, by striking lines 35 and 36 and  
4 inserting in lieu thereof the words "Act providing  
5 for the conduct of performance audits and program  
6 evaluations by the auditor of state."

7 29. By renumbering the sections and subsections  
8 to conform with this amendment.

S3610 FILED & LOST (*p. 15-48*) BY PHILIP B. HILL  
MAY 16, 1977 RAY TAYLOR

HOUSE FILE 246

S-3590

1 Amend the Committee on State Government  
2 amendment, S-3550, to House File 246, as amended,  
3 passed and reprinted by the House as follows:  
4 1. Page 2, by striking line 49 through page 3,  
5 line 5.

S-3590 FILED - *adopted 5/16 (1547)* BY WILLIAM D. PALMER  
MAY 13, 1977

HOUSE FILE 246

S-3599

1 Amend the Committee on State Government  
2 amendment, S-3550, to House File 246, as amended,  
3 passed and reprinted by the House, as follows:  
4 1. Page 2, by striking lines 43 through 48.

S-3599 FILED - *Last 5/16 (1547)* BY LUCAS J. DE KOSTER  
MAY 13, 1977

HOUSE FILE 246

S-3569

1 Amend the Committee on State Government amendment,  
2 S-3550, to House File 246 as amended, passed and  
3 reprinted by the House as follows:

4 1. Page 6, by inserting after line 29, the  
5 following:

6 "Sec. \_\_\_\_\_. Section two point forty-two (2.42),  
7 Code 1977, is amended by adding the following new  
8 subsection:

9 NEW SECTION. To fix the compensation of the director  
10 of the legislative oversight bureau."

S-3569 FILED *adopted 5/16* BY E. KEVIN KELLY  
MAY 13 1977

REPORT OF THE CONFERENCE COMMITTEE

ON HOUSE FILE 246

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the differences between the Senate and the House of Representatives on House File 246 as amended, passed and reprinted by the House, a bill for an Act creating a performance audit bureau under the direction of a performance auditor, specifying its powers and duties and providing a penalty, respectfully make the following report:

1. That the Senate amendment H-4211 to House File 246 as amended, passed and reprinted by the House be amended as follows:

1. Page 1, by striking lines 23 and 24 and inserting in lieu thereof the words "be a person qualified by education, training and experience."

2. Page 1, line 25, by striking the words "and accounting."

3. Page 1, line 28, by inserting after the word "assembly." the following: "The initial director shall not be an employee of the state of Iowa."

4. Page 1, line 46, by striking the word "ten" and inserting in lieu thereof the word "eight".

5. Page 2, by striking lines 15 and 16.

6. Page 2, line 29, by inserting after the word "bureau." the following: "The director shall submit the priority ranking of the requests for approval to a committee composed of two members of the majority party and two members of the minority party of each house of the general assembly. The presiding officer of each house of the general assembly shall appoint the members from that house for a term of four years and shall consider, in making the appointments, the membership of the appropriate standing committees. The votes of five members of the committee shall be required to disapprove of the priority ranking."

7. Page 2, line 33, by striking the words "The director shall".

8. Page 2, by striking lines 34 through 37.

9. Page 2, line 44, by striking the words "a member" and inserting in lieu thereof the words "six members".

10. Page 2, by striking lines 45 and 46 and inserting in lieu thereof the word "assembly."

11. Page 2, by striking lines 47 and 48.

12. Page 2, line 50, by striking the words "director's initiative" and inserting in lieu thereof the words "request of the governor".

13. Page 3, by striking lines 6 through 11 and inserting in lieu thereof the following:

"The director shall not conduct an examination which would be contrary to the academic freedom of area community colleges or the institutions under the state board of regents. The director shall not conduct an examination of the instruction or research methods or the contents of the curricula of such institutions."

14. Page 3, line 13, by striking the words ", educational or scholarly" and inserting in lieu thereof the words "or educational".

15. Page 3, by striking lines 44 through 50 and inserting in lieu thereof the following:

"However, the bureau shall not have access to the following:

1. Personal information in academic records regarding a student, prospective student, or former student of the educational institution or agency maintaining the records.

2. Medical and hospital records of the condition, diagnosis, care or treatment of a patient or former patient, including outpatients.

3. Intraoffice memoranda and working papers of the governor and the governor's staff and of the judges of supreme, appellate, and district courts and their clerks and assistants.

The director".

16. Page 4, lines 12 and 13, by striking the words ", if any,".

17. Page 5, by inserting after line 45 the following:

"4. The director shall maintain as a public record an index of all performance audit and program evaluation requests showing the requesting party, the subject agency and the date the request was made."

18. Page 6, line 9, by striking the word "thirty" and inserting in lieu thereof the word "fifteen".

19. Page 6, line 12, by striking the words "a member of the general assembly" and inserting in lieu thereof the words "other than a standing committee or budget subcommittee".

20. Page 6, line 32, by striking the number "1987" and inserting in lieu thereof the number "1988".

21. Renumber the sections and subsections to conform with this amendment.

ON THE PART OF THE HOUSE:

Diane Brandt, Chair  
John B. Brunow  
LaVern R. Harvey  
W. R. Monroe, Jr.  
Delwyn Stromer

ON THE PART OF THE SENATE:

Minnette F. Doderer, Chair  
E. Kevin Kelly  
Bob Rush  
Tom Slater

FILED

MARCH 6, 1978

*House adopted 3/13 (p. 913)*  
*Senate adopted 4/6 (p. 767)*

## HOUSE FILE 246

## AN ACT

CREATING A LEGISLATIVE OVERSIGHT BUREAU AND SPECIFYING  
ITS POWERS AND DUTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter two (2), Code 1977, is amended by adding sections two (2) through seven (7) of this Act.

Sec. 2. NEW SECTION. INTENT. It is the intent of the general assembly to establish in the legislative branch of government the capability to independently and intensively review the performance of state agencies in operating the programs established by the general assembly, to evaluate their efficiency and effectiveness and to consider alternatives which may improve the benefits of a program or may reduce its costs to the citizens. The bureau established by this Act is intended to provide the technical and professional support for the general assembly's oversight responsibility.

Sec. 3. NEW SECTION. LEGISLATIVE OVERSIGHT BUREAU. There is established a legislative oversight bureau. The director of the legislative oversight bureau shall be a person qualified by education, training and experience. The director shall be appointed upon the nomination of the legislative council and the confirmation of that nomination by two-thirds of the members of each house of the general assembly. The initial director shall not be an employee of the state of Iowa.

When a vacancy in the office of the director occurs during the legislative interim, the nomination shall be submitted to the general assembly within thirty days of its convening and must be acted upon by each house within sixty days of its submission. When a vacancy occurs during the legislative

session, the nomination shall be submitted within sixty days of the occurrence of the vacancy and must be acted upon by each house within sixty days of its submission unless the general assembly adjourns prior to the expiration of this schedule. If the general assembly adjourns prior to the expiration of this schedule, the nomination may be resubmitted as though the vacancy occurred during the legislative interim. The director may be removed from office for cause by a vote of two-thirds of the members of each house of the general assembly.

Each director shall be appointed to a term of eight years and shall be eligible for only one reappointment. A person nominated as director may serve as an acting director until the nomination is confirmed or rejected by the general assembly. The compensation of the director shall not be reduced during the director's term in office.

A person shall not become a candidate for any elective office nor participate in any partisan political activity while serving as director or acting director. Any director who becomes a candidate contrary to this provision shall thereby be deemed to have resigned.

Sec. 4. NEW SECTION. POWERS AND DUTIES OF THE DIRECTOR. The director of the legislative oversight bureau shall:

1. Employ and supervise all employees of the legislative oversight bureau at such salaries and in such positions and professional disciplines as are within the limits of its appropriation.
2. Establish policies and procedures for the conduct of performance audits and program evaluations.
3. Conduct performance audits and program evaluations of agencies and programs of the state government, area education agencies established in chapter two hundred seventy-three (273) of the Code, and area vocational schools and

community colleges defined in chapter two hundred eighty A (280A) of the Code upon the request of a standing committee or budget subcommittee of the general assembly.

4. Determine the priority of performance audit and program evaluation requests and allocate the workload of the legislative oversight bureau. The director shall submit the priority ranking of the requests for approval to a committee composed of two members of the majority party and two members of the minority party of each house of the general assembly. The presiding officer of each house of the general assembly shall appoint the members from that house for a term of four years and shall consider, in making the appointments, the membership of the appropriate standing committees. The votes of five members of the committee shall be required to disapprove of the priority ranking.

5. Make an annual report to the general assembly of the performance audits and program evaluations conducted and in progress and of the condition of the legislative oversight bureau.

The director of the legislative oversight bureau may:

1. Employ such technical consultants as may be necessary to conduct a performance audit or program evaluation.
2. Conduct performance audits and program evaluations upon the request of six members of the general assembly.
3. Conduct performance audits and program evaluations upon the request of the governor.

The director shall not conduct an examination of the programming of a broadcasting facility under the control of the state board of regents, the board of directors of a merged area, or the state educational radio and television facility board.

The director shall not conduct an examination which would be contrary to the academic freedom of area community colleges

or the institutions under the state board of regents. The director shall not conduct an examination of the instruction or research methods or the contents of the curricula of such institutions. For the purposes of this paragraph, "academic" includes teaching, research or educational activities.

Sec. 5. NEW SECTION. ACCESS TO RECORDS. The director and the agents and employees of the legislative oversight bureau shall at all times have access to all offices, departments, agencies, boards, bureaus, and commissions of the state, its political subdivisions and private organizations providing services to individuals under a contract with a state agency, and to the books, records, and other instrumentalities and properties used in the performance of their statutory duties or contractual arrangements. All offices, departments, agencies, boards, bureaus, and commissions of the state, its political subdivisions and such private organizations shall cooperate with the director in the performance of the foregoing duty, and shall make available such books, records, instrumentalities, and property.

The director shall have the power to issue subpoenas for production of any records, books, or papers to which the director is authorized to have access. If any person subpoenaed refuses to produce the records, books, or papers, the director may apply to the district court having jurisdiction over that person for the enforcement of the subpoena.

If the information sought by the legislative oversight bureau is required by law to be kept confidential, the bureau shall have access to the information, but shall maintain the confidentiality of the information and shall be subject to the same penalties for dissemination of the information.

However, the bureau shall not have access to the following:

1. Personal information in academic records regarding a student, prospective student, or former student of the educational institution or agency maintaining the records.

2. Medical and hospital records of the condition, diagnosis, care or treatment of a patient or former patient, including outpatients.

3. Intraoffice memoranda and working papers of the governor and the governor's staff and of the judges of supreme, appellate, and district courts and their clerks and assistants. The director shall inform the administrative head of the agency or political subdivision as to the reason for the investigation of its confidential records.

The legislative oversight bureau shall only require information which an agency is presently collecting unless the director determines that additional information is necessary to the performance audit and is within the agency's authority to collect.

Sec. 6. NEW SECTION. PERFORMANCE AUDITS AND PROGRAM EVALUATIONS.

1. The director after consulting with the responsible official and the requesting party shall determine the goals of the agency or program for the purpose of the performance audit or program evaluation.

2. The legislative oversight bureau at the direction of the director shall independently examine state agencies and programs to determine the following:

a. The organizational framework of the agency, its adequacy and relationship to the overall structure of the state government.

b. Areas in which significant inconsistency, duplication, or overlapping of activities or programs occur either within the agency or with respect to other agencies or programs.

c. Statewide or interagency coordinating or administration practices and their impact upon specific programs or agencies.

d. Whether the program under the agency's jurisdiction could be more effective if consolidated with another program, transferred to another agency, modified or abolished.

e. The productivity of the agency's operations measured in terms of cost-benefit relationships or other accepted measures of effectiveness.

f. The agency's attainment of or progress toward identifiable goals established by statute, specific legislative intent, the budget, the governor, or a long range plan.

g. Agency and statewide management systems and housekeeping functions including accounting procedures, personnel practices, planning activities, reporting and recordkeeping applications, staff qualifications, employment ratios, budget controls, purchasing transactions, communications patterns, public relations, and other related functions.

h. Agency or statewide administrative or program delivery techniques which are innovative, novel, experimental or unique in achieving greater efficiency, reduced costs, improved use of resources or increased responsiveness to expressed or anticipated needs.

i. Agency or statewide state-federal relationships, financial exchanges, program coordination, administration and other joint activities.

j. Agency and program relationships between the state and its political subdivisions analyzing significant areas of state and local government contact and identifying mutual or opposing program directions and areas of duplicatory or overlapping programs.

k. The agency's or program's adherence to statutory requirements and diligence in executing functions assigned by law or policies established by the governor.

1. The agency's or program's responsiveness to anticipated public attitudes, citizen needs, or state problems.

m. The statewide, agency or program regulatory, reporting or recordkeeping requirements and the burdens imposed upon the general public, political subdivisions, commercial enterprise or other entities in the state.

n. Whether the financial operations of the agency or program are properly conducted, its financial reports are presented fairly, and whether the agency or program has complied with the applicable laws.

o. Whether the agency or program is managing or using its resources in an efficient and economical manner and if not, to determine the causes.

p. Whether the objectives established by the general assembly are being met, and whether alternatives which might produce the desired results at a lower cost have been considered.

q. Whether administrative or statutory changes are needed to achieve the intent of the general assembly.

r. Other criteria determined by the director.

3. The legislative service bureau, legislative fiscal bureau, auditor of state, state comptroller, and citizens' aide shall cooperate with the legislative oversight bureau in providing information which they may have concerning the agency or program to be evaluated. Employees of the legislative fiscal bureau may be interchanged with the legislative oversight bureau pursuant to chapter twenty-eight D (28D) of the Code.

4. The director shall maintain as a public record an index of all performance audit and program evaluation requests

showing the requesting party, the subject agency and the date the request was made.

Sec. 7. NEW SECTION. REPORTS. At the conclusion of an audit or evaluation, the director of the legislative oversight bureau shall provide copies to the governor and to the official whose office is the subject of the audit or evaluation. The official shall be given thirty days by the director to respond to the findings and recommendations of the audit or evaluation, and the response shall be included in the report. A summary of the findings and recommendations shall accompany each report. A report of an audit or evaluation initiated by the director shall be released upon its completion. A report of a requested audit or evaluation shall be submitted to the requesting party and released fifteen days after submission if the requesting party is a standing committee or budget subcommittee or ten days if the requesting party is other than a standing committee or budget subcommittee unless the requesting party directs an earlier release. The report shall be regarded as confidential by all persons properly having custody of it until the report is released as provided by this section. Upon the release of a report, the director shall provide copies to the presiding officer of each house of the general assembly for referral to the appropriate standing committee and budget subcommittee. At the conclusion of an audit or evaluation, the director shall report the total costs of conducting each audit including the total costs to the agency or program being audited as a part of the audit report.

Sec. 8. Section two point forty-two (2.42), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. To fix the compensation of the director of the legislative oversight bureau.

Sec. 9. Section two point forty-six (2.46), Code 1977, is amended by striking subsection four (4).

Sec. 10. This Act is repealed January 1, 1988.

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DALE M. COCHRAN  
Speaker of the House

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ARTHUR A. NEU  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 246, Sixty-seventh General Assembly.

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DAVID L. WRAY  
Chief Clerk of the House

Approved \_\_\_\_\_, 1978

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ROBERT D. RAY  
Governor