

Regular Session, 1997

HOUSE BILL NO. 2476

BY REPRESENTATIVE LEBLANC

AN ACT

To amend and reenact R.S. 24:603(1), 653(F), and 655 and R.S. 39:2, 36 (introductory paragraph), and 73(B) and (C)(2) and (3) and to enact R.S. 24:522(C)(10) and (I) and R.S. 39:31, 32(I) and (J), and 51(C) and Subpart D of Part II of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:87.1 through 87.4, relative to operating budgets; to provide for the duties of the legislative auditor and the legislative fiscal officer; to provide for the duties and powers of the Joint Legislative Committee on the Budget; to provide for definitions; to provide for a strategic planning process for certain agencies; to require production and submission of certain planning and budgeting documents; to provide relative to transfers of funds and the impacts of same on performance; to provide for contents of executive budget and the General Appropriation Bill; to provide for performance budgeting requirements and procedures; to provide for performance measures within appropriations; to require reporting of performance data by certain agencies; to provide for provisions for rewards and penalties associated with performance of certain agencies; to authorize the granting of rewards or imposition of penalties by Joint Legislative Committee on the Budget; to provide for

inclusion of provisions granting rewards or imposing penalties within certain instruments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 24:603(1), 653(F), and 655 are hereby amended and reenacted and R.S. 24:522(C)(10) and (I) are hereby enacted to read as follows:

§522. Louisiana Performance Audit Program

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C. In accordance with this program and the powers and duties otherwise provided by law, including approval of the Legislative Audit Advisory Council, the legislative auditor shall:

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(10) Evaluate the methods used by each agency in the estimation, calculation, and reporting of its performance, and evaluate the actual outcomes of each agency's performance with regard to its performance indicators as defined in R.S. 39:2.

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I. The legislative auditor shall establish a schedule for execution of performance audits which shall ensure the completion and publishing of the audits of no less than two different agencies from at least two different executive departments in each year, with such audits published no later than thirty days prior to commencement of the regular session of the legislature. Such schedule shall be constructed to ensure that within the five-year period beginning with the 1997-1998 Fiscal Year at least one performance audit shall be completed and published for each of the twenty departments of the executive branch of state government.

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§603. Duties and functions

Subject to the general direction and supervision of the Joint Legislative Committee on the Budget, the Legislative Fiscal Office shall have the following duties and functions:

(1) To develop and make available to the legislature and its committees such fiscal information as will assist the legislature or any legislative committee in its deliberations with the view of pointing out unnecessary programs, projects, and functions; calling attention to inefficient and uneconomical practices; monitoring, reviewing, and analyzing the performance of state agencies; making recommendations for improvement, and carrying out other similar functions.

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§653. Duties and functions

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F. The committee shall study, review, and approve or disapprove all transfers of funds from one program specified in the allotments established in each agency's budget to another program. Except as provided in R.S. 39:73 and 87.4, no transfer of funds from one program specified in the allotments in an agency's budget to another shall be made without prior approval of the committee.

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§655. Powers

A. The committee shall have the power and authority to hold hearings, subpoena witnesses, administer oaths, require the production of books and records, and do all other things necessary to discharge its duties and responsibilities, including the power to punish for contempt and to initiate the prosecution, in accordance with the laws of this state,

of any individual who refuses to testify or is charged with false swearing or perjury before the committee.

B. The committee shall have the power, by the adoption of a committee resolution, to grant rewards to state agencies or to require the imposition of penalties upon state agencies, as provided in R.S. 39:87.1 et seq. The committee shall also have the power, by the adoption of a committee resolution, to recommend that the legislature provide for a reward or penalty for a state agency, as provided in R.S. 39:87.1 et seq.

Section 2. R.S. 39:2, 36(introductory paragraph), and 73(B) and (C)(2) and (3) are hereby amended and reenacted and R.S. 39:31, 32(I) and (J), and 51(C) and Subpart D of Part II of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:87.1 through 87.3, are hereby enacted to read as follows:

§2. Definitions

As used in this Chapter, except where the context clearly requires otherwise, the words and expressions defined in this Section shall be held to have the meanings here given to them.

(1) "Activity" means a distinct subset of functions or services within a program.

(2) "Agency" means any state office, department, board, commission, institution, division, officer or other person, or functional group, heretofore existing or hereafter created, that is authorized to exercise, or that does exercise, any functions of the government of the state in the executive branch, but not any governing body or officer of any local government or subdivision of the state, or any parochial officer who exercises functions coterminous with the municipality in which he performs those functions.

(3) "Appropriation" means an authorization by the legislature to a budget unit for a program to expend from public funds a sum of money, for purposes designated, under the procedure prescribed in this Chapter.

(4) "Appropriation act" means an act of the legislature that authorizes the expenditure of state money.

(5) "Authorized positions" means the number of positions approved by the legislature in an appropriation bill to be funded by the salaries continuing category of the accounting system for the state. The number may be adjusted during a fiscal year in accordance with procedures provided by law.

(6) "Budget request" means the document with its accompanying explanations, in which a budget unit states its financial requirements and requests appropriations.

(7) "Budget office" means the section of the division of administration which monitors budgeting functions.

(8) "Budget unit" means any spending agency of the state which is declared to be a budget unit by the division of administration and which is identified for accounting purposes by a five-digit number code.

(9) "Capital outlays" means expenditures for acquiring lands, buildings, equipment, or other permanent properties, or for their preservation or development or permanent improvement.

(10) "Consensus estimating conference" means the Economic Estimating Conference, the Demographic Estimating Conference, the Education Estimating Conference, the Criminal Justice Estimating Conference, the Health and Social Services Estimating Conference, and the Transportation Estimating Conference.

(11) "Continuation budget" means that funding level for each budget unit which reflects the financial resources necessary to carry on all existing programs and functions of the budget unit at their current level of service in the ensuing fiscal year including any adjustments necessary to account for the increased cost of services or materials due to inflation and estimated increases in workload requirements resulting from demographic or other changes.

(12) "Efficiency" means cost-effectiveness or productivity relative to achievement of an objective.

(13) "Encumbrance" means a commitment related to unperformed executory contracts for goods or services.

(14) "Executive budget" means the document submitted to the legislature at each regular session, pursuant to the provisions of this Chapter and Article VII, Section 11(A) of the Constitution of Louisiana, presenting the governor's recommended complete financial plan for each year.

(15) "Existing operating budget" means the initial operating budget as adjusted for actions taken by the Joint Legislative Committee on the Budget, the Interim Emergency Board, the legislature, or the governor in accordance with the provisions of this Chapter or any other provision of law.

(16) "Expenses" means amounts represented by cash paid out or by obligations to pay cash or partly by each for maintaining and operating government services.

(17) "Extraordinary expenses" means expenses of unusual character such as in the normal course of events would not be expected to occur in each year, or the excess over the normal requirements due to unusual conditions in any budget year.

(18) "Functions" means duties, jurisdiction, powers, rights, and obligations, conferred or imposed upon, or vested in, any agency by law, or exercised, performed, or discharged by any agency without contravention of any provision of law.

(19) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources together with all related liabilities, obligations, reserves, and equities which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with regulations, restrictions, and limitations.

(20) "Goal" means a general purpose toward which the efforts of an agency are directed.

(21) "Initial operating budget" means the amount of the appropriation on July first of a particular fiscal year for that fiscal year.

(22) "Input" means any resource used to implement a policy, program, or specific service.

(23) "Key objective" means an objective which is included in the executive budget, the General Appropriation Act, or the Ancillary Appropriation Act.

(24) "Key performance indicator" means a performance indicator which is included in the executive budget, the General Appropriation Act, or the Ancillary Appropriation Act.

(25) "Liability" means a debt arising out of a transaction where goods or services have been received or rendered which must be liquidated, renewed, or refunded at some future date.

(26) "Money available for appropriation" means the amount of money to be received for a fiscal year by the state general fund and

dedicated funds, exclusive of federal funds and those amounts appropriated or allocated by the Constitution of Louisiana.

(27) "Nonrecurring revenue" shall mean revenue received by the state from a source identified by the Revenue Estimating Conference as being of a nonrecurring nature. Nonrecurring revenue shall include but not be limited to undesignated general fund balances. "Nonrecurring revenues" shall not include revenues received by the state from any source which has been available for the preceding two fiscal years or which will be available for the succeeding two fiscal years.

(28) "Objective" is a specific and measurable target for achievement which describes the exact results sought, which is expressed in an outcome-oriented statement that may reflect effectiveness, efficiency, or quality of work, and which may be either numeric or non-numeric.

(29) "Obligation" means an amount which a government may be required legally to meet out of its resources. This includes not only actual liabilities, but unliquidated encumbrances.

(30) "Official forecast" means the most recently adopted estimate of money available for appropriation by the Revenue Estimating Conference as provided in R.S. 39:24.

(31) "Official information" means data, forecasts, estimates, analyses, studies, and other information which the principals of a consensus estimating conference may adopt pursuant to a vote of the majority of the principals of that conference.

(32) "Operational plan" means the annual work plan of an agency and its component programs, which indicates the implementation of the agency's strategic plan for a specific fiscal year,

and which describes agency and program missions, goals, objectives, activities, and performance indicators.

(33) "Ordinary recurring expenses" means all expenses of a continuing or recurring character, that in the normal course of administration, may be expected to be necessary in approximately the same amounts each year.

(34) "Outcome" means evidence or demonstration of the actual impact or public benefit of a program.

(35) "Output" means the quantity of actual service or product delivered by an agency or program.

(36) "Performance indicator" means a statement identifying an activity, input, output, outcome, achievement, ratio, efficiency, or quality to be measured relative to a particular goal or objective in order to assess an agency's performance. Performance indicator shall also mean measurement of any other aspect of performance as determined by rule issued by the commissioner of administration under the provisions of the Administrative Procedure Act.

(37) "Program" means a grouping of activities directed toward the accomplishment of a clearly defined objective or set of objectives.

(38) "Performance-based budget" means a budget which relates funding to expected results.

(39) "Performance standard" means the expected level of performance associated with a particular performance indicator for a particular period.

(40) "Quality" means degree or grade of excellence.

(41) "State planning and budgeting system" refers to the processes and functions prescribed in Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950.

(42) "Strategic plan" is the plan developed in the process of strategic planning.

(43) "Strategic planning" is a process of agency self-assessment and objective setting which considers an organization's purpose, capacities and environment, and results in a strategic plan which determines a path for development of the organization's resources in order to achieve meaningful results.

(44) "Strategy" means the method used to accomplish the objectives of an agency.

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§31. Strategic planning

A. Each department of state government and each agency therein shall engage in the process of strategic planning and shall produce a strategic plan to be used to guide its ongoing and proposed activities for the next five years.

B. Initial strategic plans shall be completed no later than July 1, 1998. Thereafter, all plans shall be revised and updated at least every three years. The commissioner of administration shall provide a schedule and other guidance for the timely preparation, revision, and submission of strategic plans. The plans shall be prepared in the manner prescribed by the commissioner of administration, shall be accompanied by such other information as he may require, and shall be submitted to the commissioner of administration and to the standing committee of each house of the legislature having responsibility for oversight of the department or agency as provided in R.S. 49:968.

C. Each strategic plan shall, at a minimum, contain the following:

(1) A mission statement, which shall provide a broad, comprehensive statement of purpose for the entity.

(2) A statement of the goals that reflect the benefits the entity expects to achieve on behalf of the public or specific groups.

(3) A brief statement identifying the principal clients and users of each program and the specific service or benefit derived by such persons.

(4) A statement of objectives relative to each program which the entity expects to achieve in attaining its goals.

(5) An identification of potential external factors which are beyond the control of the entity and which could significantly affect the achievement of its goals or objectives.

(6) A statement of each strategy that the entity shall use in achieving each stated goal and objective.

(7) An explanation of how duplication of effort shall be avoided when the operations of more than one program are directed at achieving a single goal, objective, or strategy.

(8) Specific and measurable performance indicators for each objective, which shall, at a minimum, include indicators of input, output, outcome, and efficiency.

D. Each strategic plan shall include, where applicable, the statutory requirement or other authority for each goal of the plan, a description of any program evaluations used to develop objectives and strategies, and identification of the primary persons who will benefit from or be significantly affected by each objective within the plan.

E. Each agency shall submit documentation to the division of administration as to the validity, reliability, and appropriateness of each performance indicator, as well as the method used to verify and validate the performance indicators as relevant measures of each program's performance. Additionally, each agency shall indicate how each performance indicator is used in management decisionmaking and other agency processes.

F. Each agency shall refer to its strategic plan in the construction of its annual operational plan for budget development purposes in accordance with the provisions of R.S. 39:32(I). The operational plans shall be considered by the commissioner of administration in the preparation of the executive budget and supporting document. However, any information taken from an agency's strategic plan or operational plan for inclusion in the executive budget or supporting document shall be included at the discretion of the commissioner of administration.

§32. Budget request contents

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I. Each budget unit shall submit an operational plan as part of its budget request. To the maximum extent practical, an agency's operational plan shall be consistent with the agency's strategic plan required by R.S. 39:31. The operational plan shall include a statement of the agency's mission and its goals, objectives, performance indicators, and activities, as well as a detailed plan of its operations. The plan shall be prepared in the manner prescribed by the commissioner of administration. Information contained in the operational plan shall be used by the division of administration in the development of the executive budget and supporting document in order

to ensure that performance standards are consistent with the financial plan for the fiscal year.

J. The commissioner of administration shall establish guidelines for the calculation of projected performance standards to be included in each agency's operational plan. Such guidelines shall be submitted to the Joint Legislative Committee on the Budget prior to implementation.

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§36. Contents and format of executive budget

The executive budget shall present a complete financial and programmatic plan for the ensuing year, and it shall be configured in a format so as to clearly present and highlight the programs operated by state government and the financial requirements associated with each of those programs. The executive budget shall be a performance-based budget. It shall include at a minimum the following:

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§51. General Appropriation Bill; other appropriation bills

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C. The General Appropriation Bill shall reflect a performance-based budget, with specific appropriations for each agency and its programs to include key objectives and key performance indicators therefor. The General Appropriation Bill may also contain provisions for specific rewards or penalties for certain agencies as provided in R.S. 39:87.4.

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§73. Allotments to govern expenditures; transfers of allotments

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B. The expenditures of the budget units for which appropriations are made in the General Appropriation Act or other appropriation acts and the incurring of obligations to spend money shall conform strictly to the purposes specified in the appropriations established or revised in accordance with the provisions of Subsection C of this Section for the budget of each program.

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(2) The commissioner of administration may approve the transfer of funds between programs within a budget unit which in the aggregate do not exceed one percent of the total appropriation of the budget unit when sufficient evidence is presented to the commissioner of administration indicating that the operations of the budget unit or programs are being or will be impaired without such transfers. Such transfer shall include adjustment of any performance standards which are impacted by the transfer of funds.

(3) The commissioner of administration, with the approval of the Joint Legislative Committee on the Budget, may approve the transfer of funds between programs within a budget unit, which in the aggregate do not exceed twenty-five percent of the total appropriation of the budget unit when sufficient evidence is presented to the commissioner of administration and the Joint Legislative Committee on the Budget indicating that the operation of the budget unit or programs are being or will be impaired without such transfers. Such transfer shall include adjustment of any performance standards which are impacted by the transfer of funds.

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SUBPART D. GOVERNMENT PERFORMANCE AND  
ACCOUNTABILITY

§87.1. Short title; legislative intent

A. This Subpart may be cited as the "Louisiana Government Performance and Accountability Act".

B. It is the intent of the legislature that performance-based budgeting practices be established throughout Louisiana state government. The legislature recognizes the value of relating funding to expected performance in order to ensure efficiency and economy in the expenditure of state funds.

§87.2. Performance standards; modifications; reporting

A. The legislature may annually specify any reward or penalty as provided in R.S. 39:87.4 for any executive branch agency which receives an appropriation. Such reward or penalty provisions as have been recommended to the legislature by committee resolution adopted by the Joint Legislative Committee on the Budget may be included in an appropriation bill, or any legislative instrument specially introduced for such purpose; or such reward or penalty may be effectuated by committee resolution adopted by the Joint Legislative Committee on the Budget as authorized by R.S. 24:655(B).

B. Beginning in Fiscal Year 1998-1999, and for all fiscal years thereafter, key objectives and key performance indicators contained in the General Appropriation Act, Ancillary Appropriation Act, or any other appropriations act through which an executive branch agency receives its appropriation, shall be included in the agency's appropriation. The availability of funds appropriated shall be conditioned upon each agency's compliance with the provisions of R.S. 39:87.3 relative to reporting of performance.

C.(1) Annually, no later than August fifteenth, an agency may submit to the division of administration any necessary adjustments to its performance standards based on the amounts contained in its appropriation. Such adjustments shall be subject to review and approval by the division of administration and the Joint Legislative Committee on the Budget. The division of administration shall maintain the official record of adjustments to the performance standards as part of the agency's approved operating budget.

(2) Adjustment of performance standards shall be required for transfers of budgeted funds pursuant to R.S. 39:73(C) if such fund transfers impact the performance standards for a budget unit.

#### §87.3. Performance progress reports

A. Each agency receiving an appropriation in the General Appropriation Act or the Ancillary Appropriation Act shall produce a series of performance progress reports. The reports shall provide the legislature with information on the agency's actual progress toward achievement of performance standards for performance indicators contained within the General Appropriation Act or the Ancillary Appropriation Act and the executive budget supporting document. The Joint Legislative Committee on the Budget, hereinafter referred to as the "committee", shall prescribe the format and the method of transmission of the reports. The reports shall be submitted to the committee, the legislative fiscal officer, the legislative auditor, and the commissioner of administration, and shall contain data as provided in Paragraphs (1) through (4) of this Subsection, as well as any other data required by the committee relative to agency performance and accountability. The reporting schedule and specific components of each report are as follows:

(1) The First Quarter Performance Progress Report shall be submitted to the committee, the legislative fiscal officer, the legislative auditor, and the commissioner of administration on or before November first of each year. It shall contain data for the period of July through September of the current fiscal year and shall include for each key performance indicator a comparison of the actual performance with the annual performance standard therefor, including a brief explanation of any variance from the standard which exceeds five percent.

(2) The Mid-year Performance Progress Report shall be submitted to the committee, the legislative fiscal officer, the legislative auditor, and the commissioner of administration on or before February first of each year, and it shall contain data for the period of July through December of the current fiscal year. It shall include:

(a) For each performance indicator included in the executive budget supporting document or the General Appropriation Act or the Ancillary Appropriation Act, a comparison of the actual performance with the annual performance standard therefor contained in the executive budget supporting document or the General Appropriation Act or the Ancillary Appropriation Act, including a brief explanation of any variance from the standard which exceeds five percent.

(b) The prior year actual data for the indicators required by Subparagraph (a).

(3) The Third Quarter Performance Progress Report shall be submitted to the committee, the legislative fiscal officer, the legislative auditor, and the commissioner of administration on or before May first of each year, and it shall contain data for the period of July through March of the current fiscal year. It shall include, for each key performance indicator contained in the General Appropriation Act or

the Ancillary Appropriation Act, a comparison of the actual performance with the annual performance standard therefor, including a brief explanation of any variance from the standard which exceeds five percent.

(4) The Year-end Performance Progress Report shall be submitted to the committee, the legislative fiscal officer, the legislative auditor, and the commissioner of administration on or before September first of each year. It shall contain data from the immediately preceding fiscal year, and it shall cover the period of July through June of that fiscal year, to include:

(a) For each performance indicator included in the executive budget supporting document or the General Appropriation Act or the Ancillary Appropriation Act, a comparison of the actual performance with the annual performance standard therefor contained in the executive budget supporting document or the General Appropriation Act or the Ancillary Appropriation Act, including a brief explanation of any variance from the standard which exceeds five percent.

(b) The prior year actual data for the indicators required by Subparagraph (a).

(5) Performance progress reports which are not submitted within ten days after their respective deadlines shall be delinquent.

B. The performance progress reports shall be used by the committee in the assessment of each agency's progress in achieving the performance standards contained in the General Appropriation Act or the Ancillary Appropriation Act and the executive budget supporting document. Each agency's performance progress reports, particularly the Year-end Performance Progress Report, shall be reviewed and considered by the committee in the development of any

recommendation for or granting of any reward or imposition of any penalty authorized under R.S. 39:87.4.

C. Within thirty days from the date of receipt of the performance progress reports, the legislative fiscal officer shall provide the committee with a summary of the data contained in each agency's performance progress report for the purpose of noting variances in actual performance levels compared to performance standards. The legislative fiscal officer shall identify variances which are greater than five percent or are of a magnitude which he determines to be relevant. Such summary report, or a synopsis thereof, shall also be made available to all of the members of the legislature.

D. The legislative auditor shall, upon the request of the committee, audit and verify the data reported by agencies within specific performance progress reports.

E. The secretary or head of each agency, in consultation with the legislative fiscal office and the division of administration, shall develop a plan for the monitoring and evaluation of the agency's progress in ensuring that performance data are maintained and supported by agency records. By September first of each fiscal year, the legislative fiscal officer shall provide the committee with an assessment of those agencies which are deficient in their capacity to execute the requirements of this Section relative to production of performance progress reports.

F. In order to ensure accuracy and consistency in the reporting of variances between performance standards and actual performance, the commissioner of administration, in consultation with the committee, shall establish guidelines relative to the calculation of variances between performance standards and actual performance.

G. In the event an agency fails to comply with the requirements of this Section and its report is delinquent, the legislative fiscal officer shall notify the committee of the deficiency. Upon receipt of such notification, the committee may require that the agency appear before the committee and explain its failure to submit the report and provide an expected completion date for the delinquent report. The committee may also notify the governor of the agency's noncompliance and may recommend to the governor that he issue an executive order in the form of a freeze order prohibiting the expenditure of monies for the agency until it has achieved compliance with the provisions of this Section.

Section 3. R.S. 39:87.4, to be part of Subpart D of Part II of Chapter 1 of Subtitle I, is hereby enacted to read as follows:

§87.4. Performance rewards and penalties

A.(1) After review of the agency's Year-end Performance Progress Report, and upon finding that an agency has exceeded the performance standards for its performance indicators by at least five percent for a particular fiscal year, the Joint Legislative Committee on the Budget, hereinafter referred to as the "committee", may directly authorize a reward, as provided in Subsection D of this Section, for such agency by adoption of a committee resolution to that effect. The committee may also provide for reward of an agency by recommendation to the legislature that provisions for such reward be included in a subsequent appropriation for the agency, or in any other instrument specially designed for such purpose.

(2) After review of the agency's Year-end Performance Progress Report, and upon finding that an agency has failed to achieve the performance standards for its performance indicators by more than five percent for a particular fiscal year, the committee may directly impose

a penalty, as provided in Subsection E of this Section, upon such agency by adoption of a committee resolution to that effect. The committee may also provide for imposition of a penalty upon an agency by recommendation to the legislature that provisions for such penalty be included in a subsequent appropriation for the agency, or in any other instrument specially designed for such purpose.

(3) In making its determination, the committee shall consider the report's contents, as well as any findings of the Legislative Fiscal Office, any recommendations from the division of administration relative thereto, any reports issued by the legislative auditor, and any information from the agency which the committee deems necessary in its evaluation of the agency's performance.

B. The commissioner of administration may, after reviewing the Year-end Performance Progress Report, recommend to the committee that an agency receive a reward or be imposed a penalty.

C. Provisions for rewards or penalties may apply to an entire agency or may be limited to certain programs within an agency. Such provisions for rewards or penalties are limited in duration to the remainder of the fiscal year in which they are granted, and shall be neither retroactive nor carried forward into the succeeding fiscal year unless specifically provided for in the General Appropriation Act or the Ancillary Appropriation Act or another legislative instrument designed for that purpose, or by committee resolution adopted by the Joint Legislative Committee on the Budget.

D. A reward may include but shall not be limited to:

(1) Notwithstanding the provisions of R.S. 39:73(C)(2) and (3) relative to the requirements for Joint Legislative Committee on the Budget approval of certain transfers of funds, authorization for the

commissioner of administration to approve transfers of up to two percent in the aggregate of an agency's appropriated funds between its programs.

(2) The authority for an agency to exceed the threshold for delegated authority on approval of small purchases of professional, personal, consulting, and social services by up to one hundred percent of the amount established in R.S. 39:1508.

(3) Notwithstanding the provisions of R.S. 39:82(A), (B), and (E), and 352, the authorization for the commissioner of administration to approve an agency's retaining unexpended and unencumbered balances of appropriations, excluding special categories and grants, which may be used for nonrecurring purposes to include new or enhanced employee training, and productivity enhancements including technology and other improvements. Such authorization shall be recommended by committee resolution of the Joint Legislative Committee on the Budget and shall be provided by the legislature within an appropriation for such purpose, or within any other legislative instrument specially introduced for such purpose.

(a) For any reward which contemplates the granting of an exemption from the provisions of R.S. 39:82(A), the Legislative Fiscal Office shall prepare an analysis of the fiscal and performance impacts of such action, which impact analysis shall be submitted to the committee for its review prior to the recommendation for a reward.

(b) Funds retained by agencies by way of a reward shall not be used by the division of administration to supplant funding for the agency in the next executive budget.

(4) Recommendation by the committee to the legislature that the agency receive additional funding for the ensuing fiscal year.

E. A penalty may include but shall not be limited to:

(1) Notwithstanding the provisions of R.S. 39:73(C)(2), the reduction of the commissioner's unilateral authority relative to transfer of funds between programs from one percent to one-half of one percent.

(2) Increased performance reporting requirements or the execution of performance audits, as may be determined by the committee.

(3) Recommendation by the committee for elimination or restructuring of the agency, which may include but not be limited to transfer of the agency to another department, or outsourcing all or a portion of the agency's responsibilities and activities.

(4) Direction that a management audit be conducted by the division of administration or the legislative auditor.

(5) Direction that other remedial or corrective actions be implemented by the agency and reported to the committee.

Section 4. Notwithstanding the provisions of R.S. 39:87.3 relative to the production and submission of the First Quarter and Third Quarter Performance Progress Reports, for Fiscal Year 1997-1998, each agency shall be required to produce only the Mid-year Performance Progress Report and the Year-end Performance Progress Report.

Section 5. Sections 1, 2, 4, and 5 of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the

legislature, this Act shall become effective on the day following such approval.

Section 3 of this Act shall become effective on July 1, 1999.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_