

*Legislative Performance Audit Committee*

**Annual Report to the Legislature:  
Fiscal Year 2004-2005**

***September 2005***

*prepared by the*

**Performance  
Audit  
Section**

*Legislative Research Division  
Nebraska Legislature*

## Performance Audit in Nebraska

Performance audits are designed to provide legislative oversight of state agency programs and to improve program efficiency and effectiveness. They are conducted under the supervision of the Legislative Performance Audit Committee (committee), a special committee of the Nebraska Legislature.

Membership on the committee includes the Speaker of the Legislature, chairpersons of the Executive Board and the Appropriations Committee, and four other members of the Legislature, chosen by the Executive Board. The committee's responsibilities include selecting audit topics; defining the scopes of audits; adopting recommendations based on reports prepared by the Performance Audit Section (section); holding public hearings and sponsoring legislation, as necessary, in conjunction with audits; and monitoring agency compliance with committee recommendations.

### Performance Audit Committee

Senator Chris Beutler, Chairperson  
Senator Marian Price, Vice Chairperson  
Speaker Kermit Brashear  
Senator Pat Engel  
Senator Phil Erdman  
Senator Vickie McDonald  
Senator Don Pederson

The section is housed within the Legislative Research Division (LRD) and supervised by the Director of Research. In conducting audits, analysts are subject to the Nebraska statutes and provisions of the Government Auditing Standards published by the Comptroller General of the United States Government Accountability Office. Statutes governing the performance audit process in Nebraska are found in Chapter 50, article 12, of the Nebraska Revised Statutes.

Copies of completed reports can be obtained from LRD (402-471-2221). Other inquiries regarding performance auditing can be addressed to the Director of Research, Cynthia Johnson.

### Performance Audit Section

Cynthia Johnson, Director  
Martha Carter, Audit Manager  
Angela McClelland, Analyst  
André Mick, Analyst  
Sandy Harman, Committee Clerk  
Vacant, Analyst (added 2005)  
Vacant, Analyst (added 2005)  
Vacant, Legal Counsel

# Agency Comments

## ***The Nebraska Medicaid Program's Collection of Improper Payments (May 2005)***

The efforts of the Committee and your staff were determinative in passage of the bill to improve . . . Medicaid's ability to coordinate insurance and ERISA benefits.

❖ *Richard P. Nelson, Director  
Dept. of Health and Human Services  
Finance and Support  
July 25, 2005*

## ***Nebraska Board of Parole (September 2003)***

The Board thanks the Legislative Performance Evaluation Unit for its hard work and its diligent investigation, review, and candid discussion of important Parole issues.

❖ *Ken Vampola, Chairman  
Nebraska Board of Parole  
August 29, 2003*

## ***Nebraska Department of Environmental Quality: Administering the Livestock Waste Management Act (May 2003)***

We found your staff to be very professional, well-versed, and courteous during their discussions with me and my staff.

❖ *Michael L. Linder, Director  
Department of Environmental Quality  
October 2002*

## ***HHSS Personal-Services Contracts (January 2003)***

We want to recognize the professional manner in which Martha Carter and André Mick handled their work on the study. They were respectful of staff, staff time and work space and were responsive to questions and discussions about their work.

❖ *Ron Ross, Director  
Health and Human Services*

❖ *Steve Curtiss, Director  
Health and Human Services Finance and Support  
December 2, 2002*

## ***Nebraska Habitat Fund (January 2002)***

The Commission reviewers praised the report as accurate and well written. . . . It has been a pleasure working with the Legislative Council on this evaluation . . .

The Committee's findings and recommendations are well crafted and constructive. . . . We appreciate the hard work of the Evaluation Unit [in] developing these recommendations and we intend to comply with them.

❖ *Rex Amack, Director  
Nebraska Game and Parks Commission  
November 6, 2001 and December 13, 2001*

**Nebraska Environmental Trust Board (October 2001)**

We wish to commend your staff on their utmost professionalism and courtesy during the course of this review. The individuals involved conducted this process with great sensitivity to the workload of the Trust, objective and candid investigative technique, and a judicious demeanor which reflects highly on the program.

❖ *Dick Mercer, Chairman of  
the Board  
Nebraska Environmental Trust Fund  
July 3, 2001*

**Bureau of Animal Industry:  
An Evaluation of the State Veterinarian's Office (March 2000)**

Your representatives . . . performed their duties in an exemplary fashion. Our staff and I wish to thank them for their professional approach in conducting this evaluation. We were concerned in the beginning knowing how difficult it can be to understand the intricacies of an area as far reaching as livestock disease. However . . . both [staff members] went to great lengths to grasp the concepts and did not make assumptions nor jump to conclusions. They methodically researched the available information and dedicated the necessary time to provide a complete and thorough evaluation. We appreciate the fairness exhibited and thank them for their unbiased efforts.

❖ *Merlyn Carlson, Director  
Department of Agriculture  
February 3, 2000*

**Programs Designed to Increase the Number of Providers  
In Medically Underserved Areas of Nebraska (July 1998)**

I want to express, on behalf of all the UNMC staff involved in this study, our sincere thanks to [your staff members] for their thorough professionalism in conducting this evaluation. At all times, they displayed a willingness to listen, patience, a certain rigor, and the rare ability to expertly gather data and probe for understanding beyond mere facts. They graciously accommodated the busy schedules of UNMC staff, yet stayed on deadline. All of us at UNMC appreciated the opportunity to work with such competent and considerate public servants.

❖ *William O. Berandt, Ph.D., Chancellor  
University of Nebraska Medical Center  
March 18, 1998*

**Nebraska Department of Agriculture (June 1997)**

This evaluation process has been a very positive experience for our agency and was performed by your staff in a respectful, professional manner. . . . We have welcomed the evaluation and view it as an opportunity to improve our agency.

❖ *Larry E. Sitzman, Director  
Department of Agriculture  
March 13, 1997*

**Leaking Underground Storage Tank Program (December 1995)**

I . . . express my appreciation to the Committee and to the staff for the extremely thorough and thoughtful analysis which has been conducted.

❖ *Randolph Wood, P.E., Director  
Department of Environmental Quality  
December 27, 1995*



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**Nebraska Legislative Performance Audit**

# Audit Section Highlights FY2004-05

## *Performance Audit-Driven Bill Expected to Save \$7.5 Million In FY2005-07*

The 2005 enactment of **legislation expected to save taxpayers \$7.5 million** over the next two fiscal years was a **direct result of a performance audit** that focused on the state Medicaid program.

As a result of the audit, the Legislature passed LB 589, which creates penalties for any insurance company that fails to respond to a request from the Nebraska Department of Health and Human Services (HHSS) for information about a Medicaid recipient's private insurance coverage. Such requests are made to determine whether the state or the insurance company is liable for payment. HHSS administers the Medicaid program.

The bill's companion appropriations bill (LB 589A) reduced the HHSS appropriation by \$7.5 million for FY2005-07 (\$3 million in state funds, \$4.5 million in federal funds) in anticipation of the savings.

## *Impact Award for the Lincoln Regional Center Audit*

The Performance Audit Section (section) was awarded a **2005 Certificate of Recognition of Impact from the National Legislative Program Evaluation Society (NLPES)** for its 2004 audit of the Lincoln Regional Center's billing process. NLPES Certificates of Recognition are awarded annually to offices that demonstrate that their audits have led to program improvements through policy changes or legislation. This is the third "Impact Award" received by the section, which was similarly recognized for audits of the Leaking Underground Storage Tank Program in 1997 and of the Nebraska Environmental Trust Board in 2003.

## *NLPES Executive Committee Chairmanship*

Performance audit manager Martha Carter served as the **Chair of the NLPES Executive Committee for 2005**. She has been a member of the Executive Committee for six years.

Martha was also recently appointed to the **Legislative Staff Coordinating Committee (LSCC)** of the National Conference of State Legislatures (NCSL). The LSCC is made up of representatives from NCSL's staff sections who coordinate activities for legislative staff, such as the NCSL annual meeting. Martha was chosen by the LSCC chair to fill one of four discretionary positions on the Committee.

## *Yellow Book Compliance*

As of 1 July 2005, the **Legislative Performance Audit Section began claiming compliance with the Government Accountability Office's Performance Auditing Standards** (more commonly referred to as the Yellow Book Standards). Previously, the Section complied with all standards except peer review and continuing education, as a result of budgetary and staff-size constraints.

## *New Staff Added to the Section*

The Appropriations Committee showed its support for the legislative performance audit process in its 2005 budget bill, LB 425, by **adding two full-time positions to the Section's staff**. These additions bring the number of full-time staff members assigned to the Section to six.

# Performance Audit: An Historical Legislative Function

## *The Model for Legislative Oversight of the Executive Branch: The GAO*

Since the earliest days of the Republic, the concept of “legislative oversight” of the executive branch has been “an integral part of the American system of checks and balances.”<sup>1</sup> The authority of the legislative branch to monitor the activities of the agencies it funds in the executive branch derives from its “implied” constitutional powers, statutes, and legislative rules.<sup>2</sup>

At the national level, the oversight authority of Congress is carried out, in part, by the Government Accountability Office (GAO—formerly the General Accounting Office). The GAO is

an independent, nonpartisan agency that works for Congress. GAO is often called the “congressional watchdog” because it investigates how the federal government spends taxpayer dollars.

GAO gathers information to help Congress determine how well executive branch agencies are doing their jobs. GAO’s work routinely answers such basic questions as whether government programs are meeting their objectives or providing good service to the public. Ultimately, GAO ensures that government is accountable to the American people. To that end, GAO provides Senators and Representatives with the best information available to help them arrive at informed policy decisions--information that is accurate, timely, and balanced.<sup>3</sup>

The GAO’s work “is professional, objective, fact-based, non-partisan, and non-ideological. . . . [and it] relies on a workforce of highly trained professionals who hold degrees in many academic disciplines, such as accounting, law, engineering, public and business administration, economics, and the social and physical sciences.”<sup>4</sup>

The GAO periodically issues and amends the standards—*Government Auditing Standards*, the so-called “Yellow Book”—used by audit organizations charged with auditing government programs throughout the United States. These standards pertain to auditors’ professional qualifications, the quality of audit effort, and the characteristics of professional and meaningful audit reports.<sup>5</sup>

## *Performance Audit in the States*

The importance of performance audit to public officials—and particularly to legislative bodies—is reflected in the following facts:

- 46 of the 50 states have a formal performance audit process in place;

<sup>1</sup> Frederick M. Kaiser, Congressional Research Service, The Library of Congress, *Congressional Oversight*, updated 2 January 2001, p. 1.

<sup>2</sup> *Id.*

<sup>3</sup> “The Background of GAO,” [www.gao.gov/about/history.html](http://www.gao.gov/about/history.html).

<sup>4</sup> “David M. Walker: Supporting Congress and Making GAO a Model Organization for the Government, 1998 to Present,” [http://www.gao.gov/about/history/gaohistory\\_present.html](http://www.gao.gov/about/history/gaohistory_present.html).

<sup>5</sup> *Government Auditing Standards 2003*, “About *Government Auditing Standards*,” [www.gao.gov/govaud/ybk01.htm#ybintr](http://www.gao.gov/govaud/ybk01.htm#ybintr).

- In 32 (70%) of these 46 states, the legislative body is solely responsible for the performance audit function;<sup>6</sup>
- In 8 other states, the legislative body does performance audit and so does an executive officer or agency;
- In 6 states, an elected official—either an auditor or comptroller—is solely responsible for performance audit.

## ***Legislative Performance Audit in Nebraska***

The history of legislative oversight, in the form of performance audit, in the State of Nebraska goes back some 30 years. Following is a brief review of the legislation that has been introduced and, in some cases, passed.

### **LB 280 (1974)—*Appropriations Committee***

LB 280 created the Legislative Audit Review Committee. The bill gave the State Auditor the responsibility for doing performance audits at the request of the legislative committee. It does not appear that anything was done by this group.

### **LB 193 (1977)—*Bereuter***

LB 193 rescinded the State Auditor's authority to do performance audits and eliminated the Legislative Audit Review Committee. Instead, it established the Performance Review and Audit Committee within the Legislature. Staff support was provided by the Fiscal Office. From 1977 to 1983, the committee and the Fiscal Office did systematic sunset reviews of all state agencies. The final sunset report was issued in 1983. At that point, formal performance auditing ceased.

### **LB 493 (1991)—*Schimek, Conway***

Had it passed, LB 493 would have authorized the State Auditor to do performance audits. The bill was supported and promoted by newly elected State Auditor John Breslow. It contemplated adding four professional staff members plus a manager to the Auditor's staff. The bill was advanced to General File but died at the end of the 1992 session.

### **LR 100 (1991)—*Warner***

During the 1991 interim, a study of performance audit/program evaluation in the states was done under the auspices of LR 100, which was introduced by Senator Jerome Warner, a longtime proponent of legislative performance auditing. A report was issued in November 1991.

### **LB 988 (1992)—*Executive Board***

LB 988 passed, establishing the Legislative Program Evaluation Act and placing responsibility for program evaluation/performance audit in the Legislature. The Legislative Research Division (LRD) began doing program evaluation in 1992 with 2 staff members.

### **LB 964 (2002)—*Redfield, Baker, Bruning, Burling, Dierks, Erdman, Foley, Jones, Kremer, and Dwite Pedersen***

Had it passed, LB 964 would have authorized the State Auditor to do performance audits. The bill was supported and promoted by State Auditor Kate Witek. It was not advanced from committee and died at the end of the 2002 session.

### **LB 115 (2003)—*Redfield***

Had it passed, LB 115 would have authorized the State Auditor to conduct performance audits. The bill was supported and promoted by State Auditor Kate Witek. It was indefinitely postponed by the Government Committee.

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<sup>6</sup> In 29 states, the Legislature is solely responsible for *financial* auditing.

**LB 484 (2003)—*Legislative Program Evaluation Committee***  
**LB 607 (2003)—*Schimek***

LB 484 was designed to update and streamline provisions of the Legislative Program Evaluation Act passed in 1992. Among other things, it changed the name of the committee to the Legislative Performance Audit Committee and expanded the committee by two members. The provisions of the bill were ultimately amended into LB 607 (see below), which passed in 2003.

LB 607 requires the Auditor to report agency performance problems to the Legislative Performance Audit Committee, enables the Auditor and the Performance Audit Committee to conduct joint audits, and authorizes the Auditor to do performance audits if the Performance Audit Committee expressly authorizes it. The provisions of LB 484 (see above) were amended into LB 607, which was passed by the Legislature in 2003.

# Audit Projects FY2004-05

## Overview

FY2004-05 marked the twelfth full fiscal year of auditing activity for the Legislative Performance Audit Committee (Committee) and the Legislative Performance Audit Section (Section).<sup>1</sup> During the 12-month period, the Committee and the Section:

- issued two final committee reports, and two preaudit inquiries;
- commenced work on two additional preaudit inquiries; and
- drafted and monitored legislation pertaining to performance auditing and programs that were subject to performance audits.

Tables summarizing all of the performance audits and preaudit inquiries conducted by the Committee since its inception are included in the appendices.

## Performance Audit Reports

A performance audit is an objective examination of a state program to determine, among other things, the program's effectiveness, efficiency, and compliance with legislative intent. The Committee completed two audits in FY2004-05. Following is a description of each.

### *The Lincoln Regional Center's Billing Process (December 2004)*

Administered by the Health and Human Services System (HHSS), the Lincoln Regional Center (LRC) offers inpatient mental healthcare treatment programs to adults and adolescents who often have few financial resources. In an effort to cover the costs of treatment, LRC sends bills to third parties such as Medicaid, Medicare, and private insurance companies.

The Committee was interested in determining whether HHSS' billing processes and associated managerial practices are adequate and whether HHSS is collecting as much money as possible from third-party and private payers. To make this determination, the Section: examined the administrative structure used by the agency to oversee the billing process; analyzed data associated with payments and denied claims; assessed billing processes; and explored whether there is sufficient oversight of those processes.

The Committee found that there is at least a possibility that significant reimbursements are going uncollected because the system used at LRC to bill third-party payers was not functioning effectively. The Section could arrive at no conclusive determination as to how much, if any, money owed to the state was being foregone because the documentation that would allow it to make such a determination was insufficiently gathered and maintained by LRC.

There also appeared to be a significant breakdown in communication between the two LRC offices that have responsibility for different aspects of the billing process. During the audit, the Section found very little evidence that suggested the two offices communicated as needed. As a result, the two offices were hampered in their ability to carry out their collection duties.

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<sup>1</sup>From 1992 to 2003, legislative performance auditing in Nebraska was known as legislative program evaluation. In 2003, with the passage of LB 607, the Legislative Program Evaluation Act was renamed the Legislative Performance Audit Act.

Finally, because of the way the billing process and HHSS are organized, there was effectively no single individual who oversaw the entire process and could require the two offices responsible for the billing process to cooperate.

The Committee recommended that:

- LRC use whatever means necessary to track amounts billed, paid, and denied so that staff would be able to determine whether they were successful in their efforts to collect money owed to the state; and
- HHSS consider a structural reorganization designed to give someone authority to oversee the entire LRC billing process.

The agency's statutorily-required written response made no mention of any disagreements with the Committee's findings and recommendations. However, in September 2004, the Committee held a public hearing on its report, at which the then-director of HHSS Finance and Support, Mr. Steve Curtiss, disagreed with the Committee's finding that there was inadequate documentation in LRC patients' financial files and claimed that the Section's file review had been inadequate. The Section was later able to confirm that Mr. Curtiss's objections to the Committee's finding were based on information that was placed in the patients' financial files after the Section reviewed them.

Three weeks after the hearing, Mr. Curtiss resigned his position as head of HHSS Finance and Support. Subsequently, Mr. Richard Nelson, former director of HHSS Regulation and Licensure, was appointed to fill the position. Mr. Nelson provided the Section with the information referred to by Mr. Curtiss at the September hearing. Additionally, Mr. Nelson later provided an implementation plan to the Committee that put many of its recommendations into practice.

The Committee introduced LB 659 based on the findings and recommendations in the report. (LB 659 is discussed on pg. 8.)

### *The Nebraska Medicaid Program's Collection of Improper Payments (May 2005)*

The Nebraska Medicaid program pays participating physicians, hospitals, and other providers for medical services delivered to eligible members of low-income families and certain disabled individuals. The program is under the jurisdiction of the HHSS Finance and Support Agency, but the other two HHSS agencies (the Regulation and Licensure Agency and the Services Agency) are responsible for some Medicaid functions as well.

The Committee was interested in determining whether HHSS has a reasonable system in place to collect "improper" payments made to Medicaid providers and recipients. Examples of improper payments include any that exceed the Medicaid program's established reimbursement amounts or are made more than once for a single service, as well as payments that should have been made by a liable third party.

In order to determine whether HHSS has a reasonable system in place to collect improper payments, the Section: described and assessed the adequacy and efficiency of HHSS' efforts to identify and collect third-party reimbursements and to prevent, discover, and collect improper payments; identified areas in which HHSS should make additional efforts; and determined whether statutory or regulatory changes were needed to implement improvements.

In general, the Section found that the Medicaid program had in place all the components necessary to an effective collection system. However, the program needed to increase its efforts to identify and recover improper payments caused by provider and recipient fraud. The Section identified several weaknesses in the program's provider- and recipient-fraud efforts and noted that these weaknesses existed, at least in part, because no one was responsible for overseeing and enhancing the Medicaid program's overall approach to such cases.

Additionally, Medicaid program staff members reported that many health insurance companies had been uncooperative with the program's efforts to determine whether an insurance company or the Medicaid program was liable for a Medicaid recipient's services.

The Section recommended that:

- the Medicaid program designate a person or unit to oversee and enhance the program's efforts to identify and recover improper payments caused by fraud; and
- the Committee monitor the level of cooperation between private health insurance companies and the Medicaid program and, if necessary, introduce legislation during the 2005 legislative session to establish penalties for insurance-company noncompliance.

The Committee agreed that the Section's recommendations were necessary at the time they were made. In addition, the Committee noted that the previous agency director, Mr. Steve Curtiss, was dismissive of and uncooperative with the performance audit process, up to and including the Committee's September 2004 public hearing on this audit.

The agency's new director, Mr. Richard Nelson, subsequently has implemented all of the Section's recommendations. Consequently, the Committee found adoption of the recommendations unnecessary.

At the request of HHSS Finance and Support, the Committee introduced LB 589. (LB 589 is discussed on pgs. 7-8.)

## Legislation

The Committee introduced several measures for the Legislature to consider in 2005.

### *LB 588—Access to Confidential Information*

The Committee designated LB 588 as one of its priority bills for the 2005 session. LB 588 is intended to ensure that the Performance Audit Section has access to all agency records, including confidential records, needed for its work. At present, the Section's access to confidential records is arguably implied under Neb. Rev. Stat. 50-1205(8), which gives the Committee the authority to issue subpoenas and compel the production of documents.

LB 588 would amend the Legislative Performance Audit Act and other statutes in order to make the Section's access to confidential information comparable to that of the Auditor of Public Accounts. It also would establish criminal sanctions to ensure that confidential records reviewed by the Section are not disclosed by any member of the Section staff.

LB 588 is on Final Reading.

### *LB 589—Medicaid Coordination of Benefits*

The Committee designated LB 589 as its second priority bill for the 2005 session. LB 589 was intended to address issues raised in the Committee's performance audit of the Nebraska Medicaid Program's Collection of Improper Payments (described on pgs. 6-7). Specifically, LB 589 would require insurance companies to:

- respond to requests from HHSS for health information about individual Medicaid recipients; and
- "coordinate benefits" (i.e., share information) with the Medicaid program so that a determination can be made about whether an individual's private insurance covers a specific medical bill.

LB 589 also allows HHSS to levy fines against insurance companies that do not comply with the bill's requirements.

LB 589 was passed by the Legislature and signed by the Governor. Its companion appropriations bill (LB 589A) reduced the HHSS appropriation by \$7.5 million for FY2005-07 (\$3 million in state funds, \$4.5 million in federal funds) in anticipation of savings resulting from the passage of LB 589.

### ***LB 659—Regional Centers Reporting Requirements***

LB 659 is intended to address issues raised in the Committee's performance audit of the Lincoln Regional Center's billing process. Specifically, LB 659 would require the HHSS Finance and Support Agency to annually report key financial information for regional center patients, (for example, amounts billed to, paid, and denied by third parties such as private insurance companies, Medicare, and Medicaid).

LB 659 is being held by the Appropriations Committee.

## **Preaudit Inquiries**

A preaudit inquiry is conducted when the Committee is interested in a proposed audit topic but needs additional information before it decides whether to proceed with a full audit. In FY2004-05, the Committee completed two preaudit inquiries. Following is a description of each.

### ***Public Assistance Subprograms' Collection of Overpayments (August 2004)***

The Committee asked the Section to conduct a preaudit inquiry into the overpayment-collection efforts of public assistance programs other than Medicaid. To do this, the Section identified the five public assistance subprograms with the largest collection totals and reviewed the collection process for each.

The Section found that HHSS has consolidated the overpayment-collections responsibility for four of these subprograms in order to increase the efficiency of collection efforts. Consequently, the Committee voted to defer a full audit because the entity responsible (HHSS Finance and Support Agency's Issuance and Collection Center) has only recently begun collecting overpayments for selected HHSS public assistance subprograms and has limited collection data available.

### ***The Nebraska State Patrol's Record of its Investigation of State Treasurer Lorelee Byrd (November 2004)***

On 18 June 2004, the Executive Board of the Nebraska Legislature approved a resolution directing the Legislative Research Division to review the investigative record assembled by the State Patrol during the investigation of State Treasurer Lorelee Byrd. The Executive Board asked the Division to determine whether problems identified during the investigation suggested the need for changes in statutes or regulations. On 7 July 2004, the Legislative Performance Audit Committee voted to have the Section, which is housed in the Research Division, conduct the review as a preaudit inquiry.

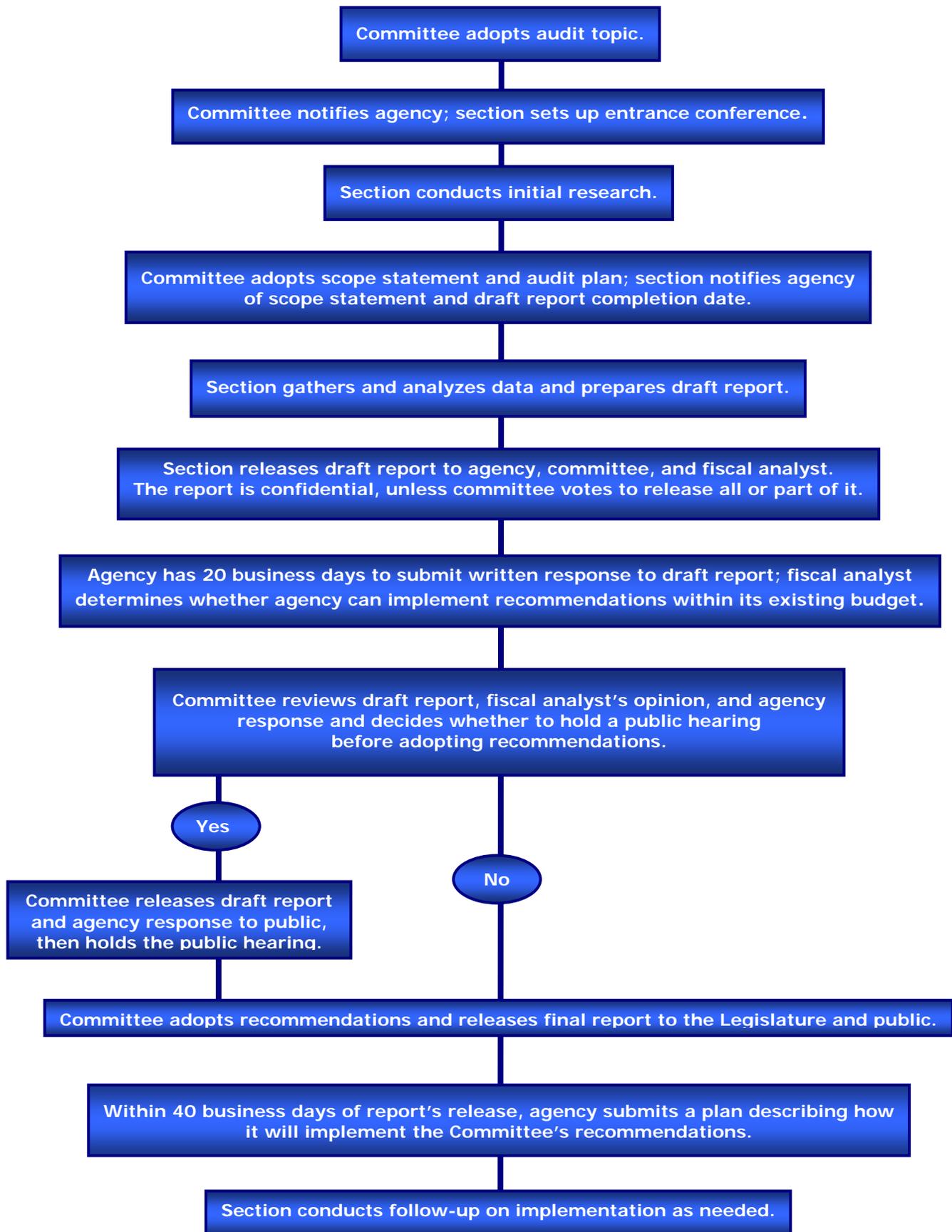
In its preaudit inquiry, the Section addressed issues such as employee protections, accounting practices, wrongdoing by other State Treasurer's Office staff members, and violations of federal law. The Section recommended that the Executive Board should consider:

- encouraging offices and agencies exempt from the state personnel system to include employee grievance procedures in their personnel policies;
- introducing a bill to amend the Whistle Blower Act to include a requirement that employees covered by the Act be notified of the protections it affords; reviewing and harmonizing the statutes that pertain to the Department of Administrative Services' responsibility regarding approval of certain warrant requests; and
- reviewing and, as necessary, revising conflicting statutes relating to accounting requirements governing the purchase of equipment and goods.

# **APPENDICES**

# Nebraska Legislative Performance Audit Process

(Legislative Performance Audit Act, Neb. Rev. Stat. secs. 50-1201 to 50-1215)



## Performance Audit Reports

Audit Topic and Report Release Date	Summary of Major Recommendations	Agency Action Taken	Related Legislation
<p>The Nebraska Medicaid Program's Collection of Improper Payments May 2005</p>	<p>In general, the Section found that the Medicaid program has in place all the components believed to be necessary in an effective collection system. However, the program should increase its efforts to identify and recover improper payments caused by provider and recipient fraud. Additionally, Medicaid program staff members report that many health insurance companies are uncooperative with the program's efforts to determine whether an insurance company or the Medicaid program is liable for a Medicaid recipient's services. The Section recommended that:</p> <ol style="list-style-type: none"> <li>(1) the Medicaid program designate a person or unit to oversee and enhance the program's efforts to identify and recover improper payments caused by fraud; and</li> <li>(2) the Committee monitor the level of cooperation between private health insurance companies and the Medicaid program and, if necessary, introduce legislation during the 2005 legislative session to establish penalties for noncompliance.</li> </ol>	<p>The agency has taken steps to implement all of the Committee's recommendations.</p>	<p>➤ LB 589 (2005) was introduced by the Performance Audit Committee. LB 589 requires private insurance companies to coordinate benefits with the Medicaid program and establishes penalties for failure to do so. (Passed, 2005).</p>
<p>The Lincoln Regional Center's Billing Process December 2004</p>	<p>The Committee concluded that the Lincoln Regional Center's billing processes, computer system, and documentation were inadequate. The Committee also concluded that the regional center should improve communication between the two offices responsible for different aspects of the billing process and improve oversight of the billing process.</p>	<p>The agency has taken steps to implement many of the Committee's recommendations.</p>	<p>➤ LB 659 (2005) was introduced by Senator Beutler. LB 659 requires the state regional centers to annually report specified billing information to the Performance Audit Committee and the Health and Human Services Committee. (Held in committee.)</p>

Audit Topic and Report Release Date	Summary of Major Recommendations	Agency Action Taken	Related Legislation
Nebraska Board of Parole September 2003	<p>The Committee concluded that the Board and its staff members generally conduct reviews and hearings in an efficient and effective manner. The Committee recommended that:</p> <ol style="list-style-type: none"> <li>(1) the Board's statutes and regulations be changed to set out a more clearly-delineated and appropriate management and staffing structure; and</li> <li>(2) the Board develop a record-keeping database and modify its documentation accordingly.</li> </ol>	<p>In October 2003, the Section requested an implementation plan from the Board. In response, the Board stated that it had implemented the Committee's recommendations relating to recordkeeping. However, it did not agree with the Committee's recommendation to clarify the chair's authority and had no plans to implement changes in this area.</p>	<ul style="list-style-type: none"> <li>➤ LB 1131 (2004) was introduced by the Performance Audit Committee. LB 1131 would have given the chairperson more supervisory authority over the other Board members. It also would have established an executive director position to oversee staff members and maintain records. (Indefinitely postponed, 2004).</li> </ul>
Nebraska Department of Environmental Quality: Administering the Livestock Waste Management Act May 2003	<p>The Committee concluded that, on the whole, the requirements of the Act and regulations are comparable to those in other states and can therefore be presumed adequate on their face. The Committee recommended that the department:</p> <ol style="list-style-type: none"> <li>(1) continue to improve its water-quality monitoring efforts through the statewide water-quality monitoring network;</li> <li>(2) improve internal policies regarding its inspection schedule, complaint process, and land-application tracking process; and</li> <li>(3) continue its current groundwater monitoring practices specific to the livestock program.</li> </ol>	<p>In general, the Department responded favorably to the Committee's recommendations; it agreed with the recommendations regarding water-quality monitoring and the complaint process. However, the Department expressed some reservations about suggested changes to the inspection schedule and the land-application-tracking process.</p>	<ul style="list-style-type: none"> <li>➤ The Committee introduced no legislation on this topic; however, Sen. Ed Schrock, Chairperson of the Natural Resources Committee, introduced LB 916 (2004), which dealt with issues discussed in the report. (Passed, 2004).</li> </ul>
HHSS Personal-Services Contracts January 2003	<p>The Committee concluded that the HHSS agencies met the contracting requirements in statute and the executive order most of the time; however, the statutes and executive order were inadequate. Generally, the Committee recommended that:</p> <ol style="list-style-type: none"> <li>(1) personal-services contracts over \$25,000 be let for competitive bid;</li> <li>(2) DAS approve agencies' requisitions before</li> </ol>	<p>The HHSS agencies did not fully agree with the Committee's recommendations. The agencies asserted that the executive order was an adequate tool to govern contracting and that legislation was unnecessary. The agencies also said they were neither willing to create a temporary system to compile and maintain basic contract information nor correct accounting code problems because they felt NIS would do</p>	<ul style="list-style-type: none"> <li>➤ LB 770 (2003) was introduced by the Performance Audit Committee. (Indefinitely postponed, 2003).</li> <li>➤ LB 626 (2003) was introduced by Sen. Don Preister. LB 626 required that: all personal-services contracts over \$50,000 be let for competitive bid, with some exceptions; agency directors maintain accurate documentation of the contracting process with the contract; and all personal-</li> </ul>

Audit Topic and Report Release Date	Summary of Major Recommendations	Agency Action Taken	Related Legislation
	<p>entering into personal-services contracts valued at more than \$25,000; and</p> <p>(3) agencies develop internal contracting policies and report to DAS as required so that they are more accountable to the state.</p>	<p>so. Regardless, LB 626 requires the agencies to meet similar requirements.</p>	<p>services contract information be recorded on the new Nebraska Information System (NIS). (Passed, 2003).</p>
<p>Nebraska Habitat Fund January 2002</p>	<p>The Committee recommended that the Game and Parks Commission:</p> <p>(1) find additional funding for its habitat development programs;</p> <p>(2) assess the long-term effectiveness of its partnering program to ensure benefits on the investments it makes in its partnering agreements continue after the agreements expire; and</p> <p>(3) report on the program's effectiveness in a few years.</p>	<p>The Commission responded favorably to the Committee's recommendations and intended to implement them through operating procedures and its long-term planning efforts.</p> <p>In October 2002, the Section requested an update from the Commission and was satisfied with the Commission's response.</p>	<p>➤ None</p>
<p>State Board of Agriculture (State Fair Board) December 2001</p>	<p>The Committee found that the State Fair Board had an unusual relationship with the state. While the Board was not considered a state agency, it received general funds and was exempt from the state's pari-mutuel and sales taxes. In addition, the Board was not only exempt from the "building renewal assessment" fee usually paid by state agencies, but also had a contract with DAS (Building Division) relative to the Board's use and maintenance of the fairgrounds. Finally, the Committee found that senator-membership on the Board conflicted with the spirit of the separation of powers clause.</p> <p>The Committee recommended that:</p> <p>(1) it consider ways to make the Board more accountable to the state; and</p> <p>(2) if it believed that senators should be prohibited from serving on the Board, it should intro-</p>	<p>The Board did not readily accept the Committee's recommendations, particularly that the Board become more accountable to the state. However, the Board has met the membership requirements.</p>	<p>➤ The Committee introduced no legislation on this topic; however, Sen. Roger Wehrbein, a Committee member, introduced LB 1236 (2002). LB 1236 addressed many of the Committee's concerns about the Board's lack of accountability to the state regarding funding and management practices. LB 1236 also called for an internal restructuring of the Board and placed term limits on the Board members, and statutorily established the State Fair Board Foundation. (Passed, 2002).</p> <p>➤ LB 961 (2002) was introduced by Sen. Don Pederson. LB 961 would have made the State Fair Board a state agency. (Indefinitely postponed, 2002).</p> <p>➤ LR 209CA (2004) was introduced by Sen. David Landis. If approved by voters in the</p>

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	duce legislation to accomplish this.		November 2004 election, LR 209CA would allocate 10 percent of state lottery proceeds to the State Fair Board. (Adopted, 2004).
Nebraska Environmental Trust Board October 2001	<p>The Committee worked with the Board to make administrative changes relative to Section findings and cosponsored legislation to:</p> <p>(1) clarify that the Board is responsible for hiring the executive director;</p> <p>(2) clarify that the Board may use a subcommittee to evaluate grant applications and describe the process that should be used;</p> <p>(3) clarify that when voting on grant applications, members of the Board are subject to the Accountability and Disclosure Act's provisions regarding potential conflicts of interest; and</p> <p>(4) require agency director-members abstain from voting on applications which would primarily fund his or her agency.</p>	<p>The Board accepted the Committee's recommendations and expressed its desire to address them through administrative action.</p> <p>In May 2002, the Board sent the Committee documentation of the policy changes it made in response to the Committee's recommendations.</p>	<p>➤ LB 891 (2002) was introduced by Sen. Doug Kristensen. The Performance Audit Committee co-sponsored this legislation. LB 891 was amended into LB 1003. (Passed, 2002).</p>
Department of Roads: Use of Consultants June 2001	<p>The Committee recommended that the Department should:</p> <p>(1) continue to limit the use of over-programming; and</p> <p>(2) report back to the Committee on ways it could adjust its record keeping to better track staff time and overhead.</p>	<p>The Department agreed to implement the Committee's recommendations.</p> <p>In October 2002, the Section requested an update from the Department and was satisfied with its response.</p>	<p>➤ None</p>
Department of Correctional Services Inmate Welfare Fund November 2000	<p>The Committee recommended legislation that would:</p> <p>(1) statutorily create the Inmate Welfare and Club Accounts Fund;</p> <p>(2) allow for the pooling of trust fund interest and</p>	<p>The Department accepted the Committee's recommendations and agreed to implement them.</p>	<p>➤ LB 604 (2001) was introduced by the Performance Audit Committee. (Passed, 2001).</p>

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	<p>dividing it among the institutions; and</p> <p>(3) require inmate notification of the option to transfer accounts with a minimum balance to a private bank account.</p>		
<p>Bureau of Animal Industry: An Evaluation of the State Veterinarian's Office March 2000</p>	<p>The Committee recommended that:</p> <p>(1) LB 1280, which authorized the Bureau to develop an emergency management system and a herd certification program, be given serious consideration by the Legislature; and</p> <p>(2) either the Nebraska Livestock Market Act or the Livestock Auction Act be repealed, and the other amended, so that one statute governs all livestock sale barns.</p>	<p>The Bureau responded favorably to the report.</p>	<ul style="list-style-type: none"> <li>➤ LB 1280 (2000) was introduced by the Agriculture Committee. (Indefinitely postponed, 2000).</li> <li>➤ LB 438 (2001) was introduced by the Agriculture Committee. This bill reintroduced LB 1280. (Passed, 2001).</li> <li>➤ LB 197 (2001) was introduced by the Agriculture Committee. This bill reconciled the statutes governing sale barns. (Passed, 2001).</li> </ul>
<p>Nebraska Ethanol Board December 1999</p>	<p>The Committee recommended that the Board:</p> <p>(1) set up its budget so that expenditures made in conjunction with separate activities are more easily tracked;</p> <p>(2) establish methods to measure the effectiveness of its market development campaigns; and</p> <p>(3) determine the benefits it receives from membership in national organizations.</p> <p>The Committee also requested that the Board commit its long-term plan to writing and that the Legislature address the future role of the Board in light of that plan.</p>	<p>The Board's implementation plan included a section entitled "Long Term Plan."</p>	<ul style="list-style-type: none"> <li>➤ None</li> </ul>
<p>State Foster Care Review Board January 1999</p>	<p>The Committee recommended that the Board make a number of administrative changes to ensure that the cases of children in foster care are reviewed consistently with federal requirements. The Committee also recommended legislative</p>	<p>The Board accepted all of the Committee's recommendations.</p> <p>In November 1999, the Section asked the Board for an update and was satisfied with the Board's response.</p>	<ul style="list-style-type: none"> <li>➤ LB 240 (1999) was introduced by the Performance Audit Committee. LB 240 required that HHSS report foster care placement information to the Board. It also required that local review boards consist of not less than four and no more than</li> </ul>

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	<p>changes to the statutes governing case reviews.</p> <p>In addition, the Committee recommended that the Health and Human Services System (HHSS) expedite a resolution to problems related to its reporting foster care placement information to the Board in a timely manner.</p>		<p>10 members. (Passed, 1999).</p>
<p>Programs Designed to Increase the Number of Providers in Medically Underserved Areas of Nebraska</p> <p>July 1998</p>	<p>The Committee recommended that when administering certain programs, the Health and Human Services System's (HHSS) Office of Rural Health (ORH) and the University of Nebraska Medical Center (UNMC) should be mindful of the:</p> <p>(1) duplication of effort and other administrative inefficiencies; and</p> <p>(2) lack of enforcement of statutory penalties.</p> <p>In addition, the Committee recommended the elimination of a student loan program administered by UNMC.</p>	<p>Both ORH and UNMC responded favorably to the audit report and accepted all of the Committee's recommendations.</p> <p>In January 1999, the Section received an update on implementation of the Committee's recommendations from HHSS.</p>	<ul style="list-style-type: none"> <li>➤ LB 241(1999), introduced by the Performance Audit Committee, required UNMC and ORH to ensure that an institution requesting funds related to family practice residencies does not receive funds from each group at the same time, and limited the number of residency positions annually available in the ORH program to nine (Passed, 1999).</li> <li>➤ LB 242 (1999), also introduced by the Performance Audit Committee, eliminated the student loan program administered by UNMC and reverted loan repayment funds to the ORH. (Passed, 1999).</li> </ul>
<p>Department of Agriculture</p> <p>June 1997</p>	<p>The Committee's recommendations related primarily to the Department's:</p> <p>(1) tracking of agriculture promotion and development efforts;</p> <p>(2) lack of policies related to reviewing, monitoring, and analyzing cash funds and setting of fees;</p> <p>(3) general fund expenditures for the seed testing program;</p> <p>(4) statutes and licensing fees for the Bureau of Animal Industry;</p> <p>(5) weights and measures statutes and certification fees; and</p>	<p>The Department responded favorably to the audit report and submitted quarterly reports to the Section relative to its progress in implementing the Committee's recommendations.</p>	<ul style="list-style-type: none"> <li>➤ None</li> </ul>

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	(6) food inspections.		
Board of Educational Lands and Funds February 1997	The Committee recommended that the Board work with the Performance Audit Committee and the Education Committee to revise and update statutes governing school lands.	The Board worked with the Committee to introduce the legislation (LB 843, LB 547, and LB 779).	<ul style="list-style-type: none"> <li>➤ LB 843 and LB 547 (1997) were introduced by the Performance Audit Committee. Both updated the statutes governing school lands. (Both Indefinitely postponed, 1997).</li> <li>➤ LB 779 (1999) was introduced by the Performance Audit Committee. LB 779 updated and revised the statutes governing school lands. (Passed, 1999).</li> </ul>
Public Service Commission (PSC) History of Structure, Workload, and Budget April 1996	The Committee recommended that: <ul style="list-style-type: none"> <li>(1) the number of commissioners be reduced from five to three;</li> <li>(2) the PSC develop a strategy for staff reductions; and</li> <li>(3) the PSC prepare a strategic plan to address implementation of commissioner and staff reductions.</li> </ul>	The PSC also conducted an internal staff evaluation in response to statewide telecommunication issues.	<ul style="list-style-type: none"> <li>➤ LB 1218 (1996) was introduced by Sen. Doug Kristensen. The bill, which shifted some responsibility from the PSC, resulted in staff reductions. (Passed, 1996).</li> <li>➤ LB 399 (1997) was introduced by the Performance Audit Committee. (Indefinitely postponed, 1997).</li> </ul>
Public Employees Retirement Board and Nebraska Public Employees Retirement Systems: Review of Compliance-Control Procedures March 1996	The Committee recommended that: <ul style="list-style-type: none"> <li>(1) the Board make changes in the way it administers laws and regulations affecting the retirement systems;</li> <li>(2) Board members have more specific expertise;</li> <li>(3) the Board's director have more specific qualifications; and</li> <li>(4) the Legislature schedule a regular meeting time during legislative sessions for the Retirement Committee.</li> </ul>	The Board accepted all of the Committee's recommendations. To date, the Legislature has not set a regular meeting time for the Retirement Committee.	<ul style="list-style-type: none"> <li>➤ LB 847 (1996) was introduced by the Retirement Committee. Some of the Performance Audit Committee recommendations were incorporated into LB 847. (Passed, 1996).</li> </ul>

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<p>Leaking Underground Storage Tank (LUST) Program December 1995</p>	<p>The Committee recommended legislative and administrative changes in the LUST program relating to:</p> <ul style="list-style-type: none"> <li>(1) all phases of corrective action;</li> <li>(2) the fund used to reimburse tank owners for corrective action costs; and</li> <li>(3) consultants hired by tank owners to undertake corrective actions.</li> </ul> <p>The recommendations included the creation of a technical advisory committee that was to develop and recommend rules and regulations implementing risk-based corrective action to the Department of Environmental Quality (DEQ) and to make recommendations to the Legislature.</p>	<p>The advisory committee issued a report to the Legislature in February 1998.</p> <p>The Environmental Quality Council adopted rules and regulations implementing risk-based corrective action. DEQ has resolved issues relating to the reimbursement fund.</p>	<ul style="list-style-type: none"> <li>➤ LB 1226 (1996) was introduced by Sen. Curt Bromm. LB 1226 implemented all report recommendations related to legislative changes including the creation of a technical advisory committee. (Passed, 1996).</li> </ul>
<p>School Weatherization Fund September 1995</p>	<p>Prior to the issuance of the draft report, the Legislature passed LB 860 (1995), which eliminated the school weatherization program and transferred the program's funds to the School Technology Fund. As a result, the draft report was published, but the Committee did not formulate recommendations.</p>	<p>N/A</p>	<ul style="list-style-type: none"> <li>➤ None</li> </ul>
<p>The Training Academy of the Nebraska State Patrol (NSP) and the Nebraska Law Enforcement Training Center September 1995</p>	<p>The Committee recommended that the NSP and the Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission) work cooperatively toward the goal of expanding the Nebraska Law Enforcement Training Center to meet the training needs of the NSP and the rest of the law enforcement community.</p>	<p>Due to the collective efforts of many, construction to expand the Nebraska Law Enforcement Training Center began in September 1999.</p>	<ul style="list-style-type: none"> <li>➤ LB 1005 (1998) was introduced by Sen. Chris Peterson. LB 1005 proposed funding the expansion of the Law Enforcement Training Center to accommodate training needs of the NSP. The bill was amended into the mainline budget bill, LB 1108. (Passed, 1998).</li> </ul>
<p>Nebraska Equal Opportunity Commission January 1995</p>	<p>The Committee recommended that the:</p> <ul style="list-style-type: none"> <li>(1) Legislature make changes in the NEOC administrative process and in the role of the commissioners; and</li> <li>(2) Commission develop short and long-term stra-</li> </ul>	<p>The agency implemented some of the recommended administrative changes.</p>	<ul style="list-style-type: none"> <li>➤ LB 450 (1995) was introduced by the Performance Audit Committee. (Indefinitely postponed, 1996).</li> <li>➤ LB 548 (1997) was introduced by the Performance Audit Committee. (Indefinitely</li> </ul>

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	tegic plans.		postponed, 1998).
Interstate Agricultural Grain Marketing Compact February 1994	The Committee recommended that: (1) the compact and bylaws be amended; (2) administrative changes be made in tracking and reporting sales activity and market development; and (3) each member state live up to its funding obligations.	The Commission accepted most of the recommendations with the exception of some related to administrative changes and changes in the compact and bylaws. Nebraska withdrew from the compact in 1997 pursuant to LB 6.	➤ None

## Preaudit Inquiries

Audit Topic and Date Completed	Full Audit Pursued	Summary of Report Conclusion
The Nebraska State Patrol's Record of its Investigation of State Treasurer Lorelee Byrd November 2004	No	The report concluded that the State Patrol's records showed that there were significant areas of concern such as employee protections, accounting practices, wrongdoing by other staff members, and violations of federal law.
Public Assistance Subprograms' Collection of Overpayments August 2004	No	The report concluded that HHSS had consolidated the overpayment-collections responsibility for four of the five subprograms with the largest collection totals to the Issuance and Collection Center (ICC) in the HHSS Finance and Support Agency to increase the efficiency of collection efforts. The Committee voted to defer a full audit because the ICC has only recently begun collecting overpayments for these subprograms and has limited collection data.
Nebraska Department of Environmental Quality: Recycling Grant Programs October 2003	No	The report concluded that there were legitimate concerns regarding the risk of duplication between recycling grant programs. It also concluded that the Department may have violated state statute in 2003 by awarding more than the statutory maximum of \$1 million in scrap-tire grants. Additionally, the report questioned the Department director's oversight of both grant-awarding processes and regulatory processes, however, the dual role of the director is a policy question not subject to performance audit.

Audit Topic and Date Completed	Full Audit Pursued	Summary of Report Conclusion
Health and Human Services System's Fee Reimbursements August 2003	Yes	The report concluded that the Health and Human Services System lacks a comprehensive system for identifying and collecting third-party reimbursements or overpayments. The report recommended that a full audit be pursued and suggested several topics worthy of an audit.
Grain Warehouse Licensing in Nebraska May 2003	No	The report concluded that both the state and federal licensing programs were currently undergoing major changes. Consequently, the report recommended retaining the state licensing program for the time being and assessing the need for the program at a later date.
Health and Human Services System's Personal-Services Contracts July 2002	Yes	The report concluded that there were legitimate concerns about the processes the Health and Human Services System agencies use to enter into, track, and monitor personal-services contracts. It also raised several questions about the usefulness of the existing statutes and executive order. The report concluded that a full audit should be pursued and suggested which HHSS programs to audit.
Nebraska Department of Environmental Quality: Administering the Livestock Waste Management Act May 2002	Yes	The report concluded that the Act and the Department's regulations described the permitting process for livestock waste management in detail, however they were less clear about how the Department was to monitor compliance and its enforcement options. The report also suggested several questions worthy of an audit.
Nebraska Telecommunications Universal Service Fund April 2002	No	The report concluded that there were legitimate concerns worthy of an audit, however, given that the Commission was still in the process of implementing policies, a full audit would be premature. The report also concluded that when and if a full audit is undertaken, it should focus on the formula used to calculate support and ramifications of supporting wireless services.
State Board of Health November 2001	No	The report concluded that the most significant issues related to the Board were policy questions and not subject to audit. It also concluded that if the Committee was interested in the area of credentialing health professionals or the elimination of the Department of Health, it should address those issues in an audit undertaken in a broader context than an investigation of the Board.
State Board of Agriculture (State Fair Board) August 2001	Yes	The report concluded that while the legal status of the Board is unusual, it has a significant relationship with the state and the Committee has the authority to evaluate the Board. The report's conclusion also suggested several questions worthy of an audit.
Game and Parks Commission Cash Funds August 1999	No	The report concluded that while the Commission's nine cash funds were its primary source of funding and supported all but three of its operating and capital development programs, the Committee should select a program for auditing rather than a cash fund because expenditures could be tracked more efficiently by looking at programs.

Audit Topic and Date Completed	Full Audit Pursued	Summary of Report Conclusion
Education Technology January 1998	No	The report concluded that a full audit would not be necessary if the goal of the audit was to assess the extent of coordination among agencies providing education technology services. The conclusion was based on the fact that other studies have found that coordination is lacking and efforts are ongoing to remedy the situation.
Nebraska Research and Development Authority April 1997	No	The report concluded that there were significant policy issues, however they were outside the purview of performance auditing.
Department of Agriculture June 1996	Yes	The report concluded that a full audit should be conducted relative to the Department's administrative expenditures, fee review and fee-setting procedures, and inspection compliance.
Department of Correctional Services Cornhusker State Industries (CSI) Program April 1996	No	The report concluded that the inquiry did not raise significant concerns about CSI's program planning, goals, or management and operations.
DAS Duplication of NU Financial Record Keeping February 1995	No	The report concluded that a full audit would not be appropriate because an interim study on the issue had been conducted recently and pending legislation proposed to eliminate a significant portion of the duplication.
Municipal Infrastructure Redevelopment Fund (MIRF) November 1994	No	The report concluded that MIRF was accomplishing what was intended by the Legislature.
The Petroleum Release Remedial Action Act November 1994	Yes	The report identified areas to pursue in a full audit of the Department of Environmental Quality's Leaking Underground Storage Tank Program.
Funding the Education of Wards of the State: Who Should Pay? February 1993	No	The report concluded that there was no clear link between the quality of educational services provided to wards of the state and where the funding for services comes from (the state vs. local school districts). The report also concluded that the funding source question was a policy issue outside the purview of performance auditing.