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**Nebraska Environmental Trust Board**

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# EXECUTIVE SUMMARY

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## ***Introduction***

The program evaluation described in this report was undertaken by the Legislative Program Evaluation Unit (unit) on behalf of the Legislative Program Evaluation Committee (committee). The unit evaluated the Nebraska Environmental Trust Board's (board's) management of the Nebraska Environmental Trust Fund (trust fund), which the board uses to award grants for projects that preserve and restore the state's natural environment. The purposes of the evaluation were to describe the grant recipients and the types of projects funded by the board and to determine whether the board's administration of the trust fund is consistent with statutory and regulatory requirements.

The board is governed by requirements of the Nebraska Environmental Trust Act (act) and regulations it has promulgated to implement those requirements. The act sets forth the board's responsibilities and prescribes both broad goals and specific requirements for the grant-award process. The act also directs the board to contract with the Game and Parks Commission (commission) for administrative support.

## ***Trust Fund Revenue and Expenditures***

Revenue for the trust fund comes from state lottery proceeds and the interest earned on them. From FY1994-95 through the third quarter of FY2000-01, the trust fund received a total of more than \$48 million from the lottery and earned approximately \$4 million more in interest. Currently, the board is receiving almost \$9 million annually in lottery proceeds.

The vast majority of the board's expenditures from the trust fund are for grant awards. The entities that have received grants and the types of projects funded with them are described below.

## ***Grant Recipients and Projects Funded***

We analyzed the types of entities which received trust fund grants between 1995 and 2001. During this period, the board awarded 496 grants to 233 different recipients, which we grouped into seven categories. The categories, and the approximate total grant funding received by each, are:

- Political subdivisions, \$16 million;
- Nonprofit organizations, \$12 million;
- Miscellaneous, \$7 million;
- Federal entities, \$6 million;
- State entities, \$5 million;
- For-profit companies, \$4 million; and
- Individual citizens and private citizen groups, less than \$500,000.

We found that almost half of the 233 recipients received a relatively small amount of money (\$50,000 or less) in connection with the grant or grants they received during this period, while thirteen recipients received more than \$1 million each. The top grant recipient was the Game and Parks Commission, which received 25 grants, totaling more than \$3 million.

In addition to analyzing the types of entities which received grants, we also analyzed the types of projects funded during this period. For this analysis, we used a random sample of 85 projects, which we grouped into seven categories. The categories and the number of

projects in each, are: rural habitat (26); water quality (11); bank stabilization (11); education (10); recycling (8); dam construction (7); lake or river rehabilitation (4); research (3); urban habitat (3); and other (2).

### ***The Board's Compliance with Statutory and Regulatory Requirements***

We evaluated the board's compliance with the requirements of the Nebraska Environmental Trust Act (act) and the regulations the board has promulgated. We found that the board complies with most of these requirements. Specifically, it has met requirements regarding board member qualifications, the frequency of board meetings, the periodic establishment of environmental priorities, and the creation of an annual grant-award process that includes a grant-application eligibility and rating systems. However, due to inadequate documentation, we were unable to determine whether the board consistently applies its rating criteria, which are used to determine which applications receive funding.

While we found the board to be in substantial compliance with the act, we identified three instances in which the board's actions appear to violate legislative intent. We also identified a potential violation of the state's Accountability and Disclosure Act by some board members.

#### *Grant Recipients and Projects Funded*

The act authorizes the board to award grants to all types of entities—public and private, individuals and organizations. We found that the board complied with the act relative to the entities which received grants. However, we believe that it is unlikely that the Legislature wanted the trust fund to become, as it has, a significant source of revenue for state agencies, political subdivisions, and large nonprofit corporations.

The act also gives the board broad discretion in the types of projects it may fund. We found that the board complied with the act relative to the types of projects it funded. We did note, however, that it is not entirely clear whether the Legislature intended education-related and research projects to be funded.

#### *Administrative Relationship With the Game and Parks Commission*

The act requires the Game and Parks Commission (commission) to provide the board with administrative support, such as handling the board's payroll and accounting functions, and it does provide this support. In addition, however, the commission director is in charge of the board's operations: he hires the board's executive director and approves its budget. We believe the Legislature intended a lesser role in the board's administration for the commission director and that his current role is inappropriate.

The commission's relationship with the board is problematic because (1) it deprives the board of autonomy over its executive director and budget; and (2) the appearance of, and potential for, undue influence by the commission director in the grant-award process is significant. The relationship is particularly troubling because the commission director is a statutory member of the board and also heads the agency which has, over time, received the largest amount of trust fund grant money.

#### *Role of a Subcommittee in Awarding Grants*

The act assigns the responsibility for awarding grants to the board. In practice, however, this responsibility has been delegated almost completely to a subcommittee, which makes recommendations to the board regarding which applications to fund. While the board has the authority to modify the subcommittee's recommendations, it has never done so.

We believe that the board's extensive reliance on a subcommittee to determine which grant applications to fund conflicts with the Legislature's intention that this responsibility rest with the full board. Additionally, the delegation of this responsibility to the subcommittee has undermined the accountability of the grant-award process because the subcommittee is not subject certain requirements, such as the state's open meetings law, which do apply to the full board.

The committee's findings and the recommendations, which address the problems we identified, are found in Part III of this report.

### *The Accountability and Disclosure Act*

The conflict of interest portion of the Accountability and Disclosure Act (accountability act) covers public officials who, while acting in their official capacity, must take an action that would cause a financial benefit or detriment to themselves, a member of their family, or a business with which they are associated. A person who meets these criteria is legally required to file a notice of the potential conflict of interest with the Accountability and Disclosure Commission (commission).

During the 2000 grant-award cycle, some board members held office in organizations which applied for grants, and they voted on whether or not to fund these applications without filing the required notice with the commission. We believe these board members may have been in violation of the accountability act.

## **Conclusion**

The unit found that, for the most part, the board complies with the Nebraska Environmental Trust Act. However, we identified several concerns including the commission director's role in the board's administration, the board's extensive use of a subcommittee to award grants, and a potential violation by board members of the Accountability and Disclosure Act.