**NEBRASKA DEPARTMENT OF AGRICULTURE**
**EVALUATION SUMMARY**
**JULY 1, 2005 THROUGH JANUARY 31, 2008**



**Issued on June 12, 2008**

Nebraska Department of Agriculture
Evaluation Summary

The Nebraska Auditor of Public Accounts (APA) evaluated the accounting records and other selected areas of the Nebraska Department of Agriculture (Department). This evaluation was conducted in accordance with the APA's authority under Neb. Rev. Stat. Section 84-304 R.S.Supp., 2007.

**APA Procedures:**

Our evaluation included the following procedures:

1. Testing as necessary to determine the current disposition of prior findings.

2. Application of certain tests and procedures in the evaluation of accounting transactions of the Department. This included testing of expenditures to determine they were valid and necessary, adequately documented, and in accordance with State statute.

3. Other testing as deemed necessary.

**Evaluation Results:**

**1. <u>Fines and Penalties</u>**

Article VII, Section 5(1), of the Nebraska State Constitution requires "all fines, penalties, and license money arising under the general laws of the state" to "belong and be paid over to the counties respectively where the same may be levied or imposed." In addition, that same constitutional provision mandates, "All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue . . ."

Conversely, Article VII, Section 7, of the Nebraska State Constitution sets out five categories of funds "declared to be perpetual funds for common school purposes" and limits appropriation from them to "annual interest or income only." Likewise, Article VII, Section 8, of the Nebraska State Constitution states, "All funds belonging to the state for common school purposes . . . , the interest and income whereof only are to be used, shall be deemed trust funds."

Neb. Rev. Stat. Section 79-1035.01 R.R.S. 2003 designates the Permanent School Fund as "the fund described in Article VII, sections 7 and 8, of the Constitution of Nebraska" and directs the principal therein to "be held and invested in perpetuity by the state in trust for the support of its common schools." The statute also directs "annual interest and other income" of the Fund to be "subject to use for the support and maintenance of the common schools in each public school district of the state as the Legislature provides in accordance with Article VII, section 9, of the Constitution of Nebraska."

In apparent contravention of the requirement under Article VII, Section 5(1) of the Nebraska State Constitution that fines and penalties be paid to the counties in which they were levied for the support of the schools in those respective subdivisions, various State statutes direct the

Department to deposit fines that it collects into the Permanent School Fund or Administrative Cash Funds. Complying with these statutory directives, the Department deposited $73,266 to the Permanent School Fund and the Administrative Cash Funds in fiscal year 2007.

In our prior examination of the Department for the fiscal year ending June 30, 2005, the APA reported this discrepancy between the statutes governing the disposition of Department fines and the seemingly incompatible provisions of Article VII, Section 5(1) of the Nebraska State Constitution. At that time, the APA recommended the Department seek guidance from the Nebraska Attorney General as to the appropriate fund in which to deposit the fines that it collects. In addition, we recommended the Department work with the Legislature to resolve the presumable conflict between current State statutes and the Nebraska State Constitution.

During its regular examination of other State agencies, the APA has reported numerous instances in which those agencies' statutes appear to conflict with Article VII, Section 5(1) of the Nebraska State Constitution. In our opinion, such statutes are similarly constitutionally suspect with regard to the disposition of fines.

## 2. Adequate Timesheets

Neb. Rev. Stat. Section 84-1001(1) R.R.S. 1999 states, "All State officers and heads of departments and their deputies, assistants, and employees, except permanent part-time employees, temporary employees, and members of any board or commission not required to render full-time service, shall render not less than forty hours of labor each week except any week in which a paid holiday may occur." Good internal control requires procedures to ensure adequate documentation is on file to support forty hours of work each week.

We noted 48 employees did not have timesheets that reflected a forty hour work week. These employees were salaried, exempt employees who only recorded absences from work and did not indicate in any way a forty hour work week was completed.

Without adequate procedures to ensure there is documentation to support a forty hour work week for all employees, there is an increased risk for noncompliance with statute.

> We recommend the Department report actual hours worked or include a statement on each timesheet that certifies the employee worked or was on approved leave for at least forty hours each week to support compliance with State statute.

*Department's Response: In June 2008, the Department will transition from a monthly to biweekly payroll. As part of this transition, the Department will review how best to record time worked to be in compliance with state and federal statutes and rules and regulations.*

**3. Allocation of Payroll Costs**

Good internal control requires documentation to ensure the allocation of payroll costs is adequately supported. Legislative appropriation bills limit expenditures for personal services by program. Various Department funds have certain State and Federal requirements regarding use which must be adhered to.

During our evaluation, we noted 3 of 4 employees tested had payroll costs allocated between multiple programs and funds, and the Department did not have adequate documentation to support the percentages used to allocate these payroll costs between programs and funds.

Without adequate documentation to support the allocation of payroll costs between programs and funds, there is an increased risk of inaccurate allocation of payroll costs to Department programs and funds. This may also result in noncompliance with legislative restrictions or State and Federal requirements. There was a similar finding in our previous report.

> We recommend the Department ensure the method used to allocate payroll costs to multiple programs and funds is adequately supported.

*Department's Response: Each budgeted program in the Department directly pays a small percentage of administrative support. The allocation is adjusted each fiscal year based on legislated appropriation by program. Different positions are coded to different programs to account for their percentage of administrative costs allocated. The Department believes the allocations are reasonable.*

*For positions partially funded by federal funds, the Department policy is to perform time studies to justify the use of federal dollars and meet the federal reporting requirements. During this audit period, the Department failed to have the studies done and have documentation on file. Corrective action will be taken to ensure our agency is in compliance with federal reporting standards.*

The APA staff involved in this evaluation were:

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This letter is intended solely for the information and use of the Department. However, this letter is a matter of public record and its distribution is not limited.

We appreciate the cooperation and courtesy extended to our staff during the course of the evaluation.

Signed Original On File

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