

**ATTESTATION REPORT  
OF THE  
NEBRASKA COMMISSION ON PUBLIC ADVOCACY**

**JULY 1, 2006 THROUGH JUNE 30, 2007**

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**Issued on February 27, 2008**

NEBRASKA COMMISSION ON PUBLIC ADVOCACY

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## NEBRASKA COMMISSION ON PUBLIC ADVOCACY

### **BACKGROUND**

The Nebraska Commission on Public Advocacy (Commission) was created in 1995 to provide property tax relief to counties in their representation of indigent defendants who are charged with first-degree murder and serious violent or drug-related felonies, including juvenile cases at trial and on direct appeal. The Commission also provides legal assistance to public defenders and court-appointed attorneys. This system provides property tax relief because counties pay nothing for such legal services and associated costs.

The Commission consists of nine members appointed by the Governor from a list of attorneys submitted by the Executive Council of the Nebraska State Bar Association after consultation with the Board of Directors of the Nebraska Criminal Defense Attorneys Association. A member is appointed from each of the six State Supreme Court districts, and three members are appointed at large. Members must belong to the Nebraska State Bar Association and have substantial experience in criminal defense work. Commission members may not be prosecutors, law enforcement officials, or judges during their terms of office. Members serve six-year terms. The Governor designates the chairperson of the Commission. Members are reimbursed for expenses.

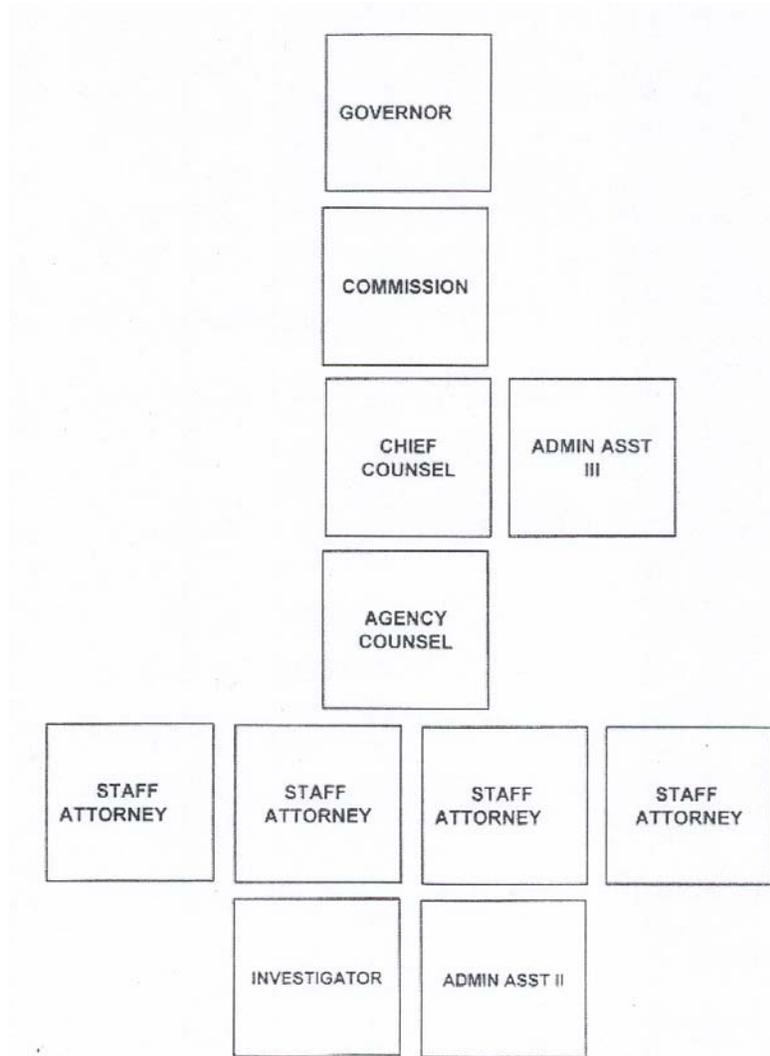
The Commission appoints a chief counsel to supervise the divisions of the Commission. These divisions are the capital litigation division, which helps in the defense of Nebraska capital cases; the violent crime and drug defense division, which helps in the defense of such cases; the appellate division, which prosecutes appeals to the State Court of Appeals and Supreme Court; the DNA testing division, which helps in representation in such cases and to pay for DNA testing; and the major case resource center, which helps public defenders, contracting attorneys, or court-appointed attorneys with the defense of a felony offense. The chief counsel also manages the Legal Aid and Services Fund.

### **MISSION STATEMENT**

The mission of the Commission is to assist Nebraska counties in providing indigent defense services, which are mandated by the State and Federal constitutions and State laws establishing crime and penalties, and to assist indigent citizens who are in need of civil legal services and cannot afford to hire an attorney. The Commission's mission also includes reimbursing qualifying counties for adherence to indigent defense standards and to represent qualifying indigent prisoners under the DNA Testing Act, both efforts which have been affected by funding cuts.

NEBRASKA COMMISSION ON PUBLIC ADVOCACY

**ORGANIZATIONAL CHART**



NEBRASKA COMMISSION ON PUBLIC ADVOCACY

**EXIT CONFERENCE**

An exit conference was held February 8, 2008, with the Commission to discuss the results of our examination. Those in attendance for the Nebraska Commission on Public Advocacy were:

<b>NAME</b>	<b>TITLE</b>
James Mowbray	Chief Counsel
Rita Wesely	Administrative Assistant III

## NEBRASKA COMMISSION ON PUBLIC ADVOCACY

### SUMMARY OF COMMENTS

During our examination of the Nebraska Commission on Public Advocacy, we noted certain matters involving the internal control over financial reporting and other operational matters that are presented here.

1. ***Excessive Cash Fund Balance:*** The Commission's fund balance at June 30, 2007, was \$1,292,543 which was more than 1.4 times the annual expenditures of the Commission.
2. ***Travel Expenses:*** During our review of travel, we noted two expense reimbursements which were not submitted in a timely manner and one employee did not submit detailed receipts for four meals totaling \$60.

More detailed information on the above items is provided hereafter. It should be noted this report is critical in nature as it contains only our comments and recommendations on the areas noted for improvement.

Draft copies of this report were furnished to the Commission to provide them an opportunity to review the report and to respond to the comments and recommendations included in this report. The Commission declined to respond.

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

**COMMENTS AND RECOMMENDATIONS**

**1. Excessive Cash Fund Balance**

Sound business practice and good internal control require a review of fees charged for services to ensure the appropriateness of the fees charged in relation to the costs.

The Operations Cash Fund balance increased from \$969,931 at June 30, 2006, to \$1,292,543 at June 30, 2007. The Operations Cash Fund balance appears excessive as it was more than 1.4 times the fiscal year 2007 expenditures. It was also noted that the Operations Cash Fund balance has steadily increased over the last five years.

The excessive fund balance in the Operations Cash Fund may indicate fees were too high.

We recommend the Commission periodically review the balance in the Operations Cash Fund to ensure the fees charged are appropriate in relation to the costs.

**2. Travel Expenses**

Neb. Rev. Stat. Section 81-1174 R.S.Supp., 2006 requires expense reimbursement requests to be submitted each month. Good internal control requires procedures to ensure expense reimbursements are supported by adequate documentation and in accordance with State Statute.

We tested eight travel documents and noted the following:

- Two expense reimbursement documents were not submitted timely in accordance with statute. One document was for March 2007 and was submitted in May 2007; the other document was for expenses incurred for January 2007 through March 2007.
- Substantiating evidence was not on file to support meal expenses for one document tested totaling \$60. The employee did not submit detailed receipts for four meals. The Commission's policy requires employees to submit receipts; the employee submitted only credit card receipts. A similar finding was noted in our prior report.

Without adequate review and documentation of expenses, there is an increased risk for loss or errors to occur.

We recommend the Commission implement procedures to ensure travel expenses are adequately documented and in compliance with State Statutes.



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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### NEBRASKA COMMISSION ON PUBLIC ADVOCACY

#### INDEPENDENT ACCOUNTANT'S REPORT

Nebraska Commission on Public Advocacy  
Lincoln, Nebraska

We have examined the accompanying schedule of revenues, expenditures, and changes in fund balances of the Nebraska Commission on Public Advocacy (Commission) for the fiscal year ended June 30, 2007. The Commission's management is responsible for the schedule of revenues, expenditures, and changes in fund balances. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and accordingly, included examining, on a test basis, evidence supporting the schedule of revenues, expenditures, and changes in fund balances and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents, in all material respects, the revenues, expenditures, and changes in fund balances of the Nebraska Commission on Public Advocacy for the fiscal year ended June 30, 2007, based on the accounting system and procedures prescribed by the State of Nebraska Director of Administrative Services as described in Note 1.

In accordance with *Government Auditing Standards*, we have also issued our report dated February 21, 2008, on our consideration of the Nebraska Commission on Public Advocacy's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, and contracts, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an attestation engagement performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our examination.

This report is intended solely for the information and use of management, the Commissioners, others within the Commission, and the appropriate Federal and regulatory agencies. However, this report is a matter of public record and its distribution is not limited.

Handwritten signature of Timothy J. Channer CPA in black ink.

Assistant Deputy Auditor

February 21, 2008

NEBRASKA COMMISSION ON PUBLIC ADVOCACY  
**SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**  
For the Fiscal Year Ended June 30, 2007

	Operations Cash Fund 29410	Legal Aid and Services Fund 29420	<b>Totals (Memorandum Only)</b>
<b>REVENUES:</b>			
Sales & Charges	\$ 1,191,201	\$ 2,184,533	\$ 3,375,734
Miscellaneous	53,833	16,774	70,607
<b>TOTAL REVENUES</b>	<u>1,245,034</u>	<u>2,201,307</u>	<u>3,446,341</u>
<b>EXPENDITURES:</b>			
Personal Services	774,469	-	774,469
Operating	122,769	-	122,769
Travel	23,479	-	23,479
Capital Outlay	1,707	-	1,707
Government Aid	-	2,145,264	2,145,264
<b>TOTAL EXPENDITURES</b>	<u>922,424</u>	<u>2,145,264</u>	<u>3,067,688</u>
Excess of Revenues Over Expenditures	<u>322,610</u>	<u>56,043</u>	<u>378,653</u>
<b>OTHER FINANCING SOURCES:</b>			
Sales of Assets	2	-	2
<b>TOTAL OTHER FINANCING SOURCES</b>	<u>2</u>	<u>-</u>	<u>2</u>
Net Change in Fund Balances	322,612	56,043	378,655
FUND BALANCES, JULY 1, 2006	<u>969,931</u>	<u>273,733</u>	<u>1,243,664</u>
FUND BALANCES, JUNE 30, 2007	<u>\$ 1,292,543</u>	<u>\$ 329,776</u>	<u>\$ 1,622,319</u>
<b>FUND BALANCES CONSIST OF:</b>			
General Cash	\$ 1,292,543	\$ 329,776	\$ 1,622,319
<b>TOTAL FUND BALANCES</b>	<u>\$ 1,292,543</u>	<u>\$ 329,776</u>	<u>\$ 1,622,319</u>

The accompanying notes are an integral part of the schedule.

NEBRASKA COMMISSION ON PUBLIC ADVOCACY

NOTES TO THE SCHEDULE

For the Fiscal Year Ended June 30, 2007

1. Criteria

The accounting policies of the Nebraska Commission on Public Advocacy (Commission) are on the basis of accounting as prescribed by the State of Nebraska Department of Administrative Services (DAS).

Per Neb. Rev. Stat. Section 81-1107(2) R.S.Supp., 2006, the State of Nebraska Director of Administrative Services duties include “The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes.”

In accordance with Neb. Rev. Stat. Section 81-1111(1) R.R.S. 1999, The State Accounting Administrator has prescribed the system of accounts and accounting to be maintained by the State and its departments and agencies and has developed necessary accounting policies and procedures. The prescribed accounting system currently utilizes the Nebraska Information System (NIS) to maintain the general ledger and all detail accounting records. Policies and procedures are detailed in the Nebraska State Accounting Manual published by DAS State Accounting Division (State Accounting) and are available to the public. The financial information used to prepare the schedule of revenues, expenditures, and changes in fund balances was obtained directly from the general ledger and fund balance information kept on NIS. As transactions occur, the agencies record the accounts receivables and accounts payable in the general ledger. As such, certain revenues are recorded when earned and expenditures are recorded when a liability is incurred, regardless of the timing of related cash flows. The expenditures and related accounts payables recorded in the general ledger as of June 30, 2007, include only those payables posted in the general ledger before June 30, 2007, and not yet paid as of that date. The amount recorded as expenditures as of June 30, 2007, **does not** include amounts for goods and services received before June 30, 2007, which had not been posted to the general ledger as of June 30, 2007.

The Commission had no accounts receivable at June 30, 2007. Liabilities for accrued payroll and compensated absences are not recorded in the general ledger.

The fund type established by the State that are used by the Commission are:

**20000 – Cash Funds** – account for revenues generated by specific activities from sources outside of State government and the expenditures directly related to the generation of the revenues. Cash funds are established by State statutes and must be used in accordance with those statutes.

NEBRASKA COMMISSION ON PUBLIC ADVOCACY

**NOTES TO THE SCHEDULE**

(Continued)

**1. Criteria** (Continued)

The major revenue account classifications established by State Accounting used by the Commission are:

**Sales & Charges** – Income derived from sales of merchandise and commodities, compensation for services rendered, and charges for various licenses, permits, and fees. Included in sales and charges are amounts collected by the courts for legal aid fees and indigent defense fees.

**Miscellaneous** – Revenue from sources not covered by other major categories, such as investment income.

The major expenditure account classifications established by State Accounting used by the Commission are:

**Personal Services** – Salaries, wages, and related employee benefits provided for all persons employed by the Commission.

**Operating** – Expenditures directly related to a program's primary service activities.

**Travel** – All travel expenses for any state officer, employee, or member of any commission, council, committee, or board of the State.

**Capital Outlay** – Expenditures which result in the acquisition of or an addition to capital assets. Capital assets are resources of a long-term character, owned or held by the government.

**Government Aid** – Payment of Federal and/or State money to governmental subdivisions, State agencies, local health and welfare offices, individuals, etc., in furtherance of local activities and accomplishment of State programs.

Other significant accounting classifications and procedures established by State Accounting and used by the Commission include:

**Assets** – Resources owned or held by a government that have monetary value. Assets include cash accounts. Cash accounts are also included in fund balance and are reported as recorded in the general ledger.

**Liabilities** – Legal obligations arising out of transactions in the past that must be liquidated, renewed, or refunded at some future date. Accounts payable transactions are recorded as expenditures resulting in a decrease to fund balance.

NEBRASKA COMMISSION ON PUBLIC ADVOCACY

**NOTES TO THE SCHEDULE**

(Continued)

**1. Criteria** (Concluded)

**Other Financing Sources** – Proceeds of fixed asset dispositions.

**2. Reporting Entity**

The Nebraska Commission on Public Advocacy is a State agency established under and governed by the laws of the State of Nebraska. As such, the Commission is exempt from State and Federal income taxes. The schedule includes all funds of the Commission included in the general ledger.

The Nebraska Commission on Public Advocacy is part of the primary government for the State of Nebraska.

**3. Totals**

The Totals "Memorandum Only" column represents an aggregation of individual account balances. The column is presented for overview informational purposes and does not present consolidated financial information because interfund balances and transactions have not been eliminated.

**4. General Cash**

General cash accounts are under the control of the State Treasurer or other administrative bodies as determined by law. All cash deposited with the State Treasurer is initially maintained in a pooled cash account. On a daily basis, the State Treasurer invests cash not needed for current operations with the State's Investment Council that maintains an operating investment pool for such investments. Interest earned on those investments is allocated to funds based on their percentage of the investment pool.

**5. Capital Assets**

Capital assets include land, buildings, equipment, improvements to buildings, construction in progress and infrastructure assets (e.g., roads, bridges, sidewalks, and similar items). Under State Accounting policies, expenditures for such capital assets are not capitalized as an asset in the funds used to acquire or construct them. Rather, costs of obtaining the capital assets are reflected as expenditures in the general ledger and are reported as such on the Schedule.

However, State Accounting does adjust such expenditures and reports the capital assets as assets for the State of Nebraska in the Comprehensive Annual Financial Report (CAFR). In addition, the Commission takes an annual inventory and accounts for all equipment that has a cost of \$500 or more at the date of acquisition and all computers in the State Accounting System.

NEBRASKA COMMISSION ON PUBLIC ADVOCACY

**NOTES TO THE SCHEDULE**

(Continued)

**5. Capital Assets (Concluded)**

For the CAFR, the State requires the Commission to value all capital assets at cost where historical records are available and at estimated historical cost where no historical records exist. Donated capital assets are valued at their estimated fair market value on the date received. Generally, equipment that has a cost of \$5,000 or more at the date of acquisition and has an expected useful life of two or more years is capitalized. Depreciation expenses are reported in the CAFR in the funds used to acquire or construct them for the State of Nebraska. The cost of normal maintenance and repairs that does not add to the value of the asset or extend the asset's life is not capitalized.

Equipment is depreciated in the CAFR using the straight-line method with estimated useful lives of three to ten years.

Capital asset activity of the Commission recorded in the State Accounting System for the fiscal year ended June 30, 2007, was as follows:

	<u>Beginning Balance</u>	<u>Increases</u>	<u>Decreases</u>	<u>Ending Balance</u>
Capital Assets				
Equipment	\$ 42,614	\$ 1,707	\$ 1,445	\$ 42,876
Less accumulated depreciation for:				
Equipment				<u>32,207</u>
Total capital assets, net of depreciation				<u>\$ 10,669</u>

**6. Reconciliation of Bank Records to the State's General Ledger**

Through their bank reconciliation procedures, State Accounting has identified a large unknown statewide variance between the State Treasurer's bank statements and the State's balances in the general ledger. This unknown variance indicates the bank records are short as compared to the accounting records. Some adjustments to the accounting records may be needed and may affect the fund balances of the Commission. At this time, it has not been determined how or when adjustments to the accounting records might be made. State Accounting is unable to determine the affect of such adjustment, if any, on the Commission's balances; however, State Accounting believes it will not have a material impact on the Commission's operations.



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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NEBRASKA COMMISSION ON PUBLIC ADVOCACY  
**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON  
COMPLIANCE AND OTHER MATTERS BASED ON AN EXAMINATION OF THE  
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND  
BALANCES PERFORMED IN ACCORDANCE WITH  
GOVERNMENT AUDITING STANDARDS**

Nebraska Commission on Public Advocacy  
Lincoln, Nebraska

We have examined the accompanying schedule of revenues, expenditures, and changes in fund balances of the Nebraska Commission on Public Advocacy as of and for the year ended June 30, 2007, and have issued our report thereon dated February 21, 2008. We conducted our examination in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

### Internal Control Over Financial Reporting

In planning and performing our examination, we considered the Nebraska Commission on Public Advocacy's internal control over financial reporting as a basis for designing our procedures for the purpose of expressing our opinion on the schedule of revenues, expenditures, and changes in fund balances, but not for the purpose of expressing an opinion on the effectiveness of the Nebraska Commission on Public Advocacy's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Nebraska Commission on Public Advocacy's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Nebraska Commission on Public Advocacy's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the accounting system and procedures prescribed by the State of Nebraska Director of

Administrative Services such that there is more than a remote likelihood that a misstatement of the Nebraska Commission on Public Advocacy's financial schedule that is more than inconsequential will not be prevented or detected by the Nebraska Commission on Public Advocacy's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial schedule will not be prevented or detected by the Nebraska Commission on Public Advocacy's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

#### Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Nebraska Commission on Public Advocacy's financial schedule is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial schedule amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We also noted certain additional items that we reported to management of the Nebraska Commission on Public Advocacy in the Comments Section of this report as Comment Number 1 (Excessive Cash Fund Balance) and Comment Number 2 (Travel Expenses).

The Nebraska Commission on Public Advocacy's written response to the findings identified in our audit are described in the Comments Section of the report. We did not examine the Nebraska Commission on Public Advocacy's response and accordingly, we express no opinion on it. Where no response is indicated, the Commission declined to respond.

This report is intended solely for the information and use of management, the Commissioners, others within the Commission, and the appropriate Federal and regulatory agencies. However, this report is a matter of public record and its distribution is not limited.



Assistant Deputy Auditor

February 21, 2008

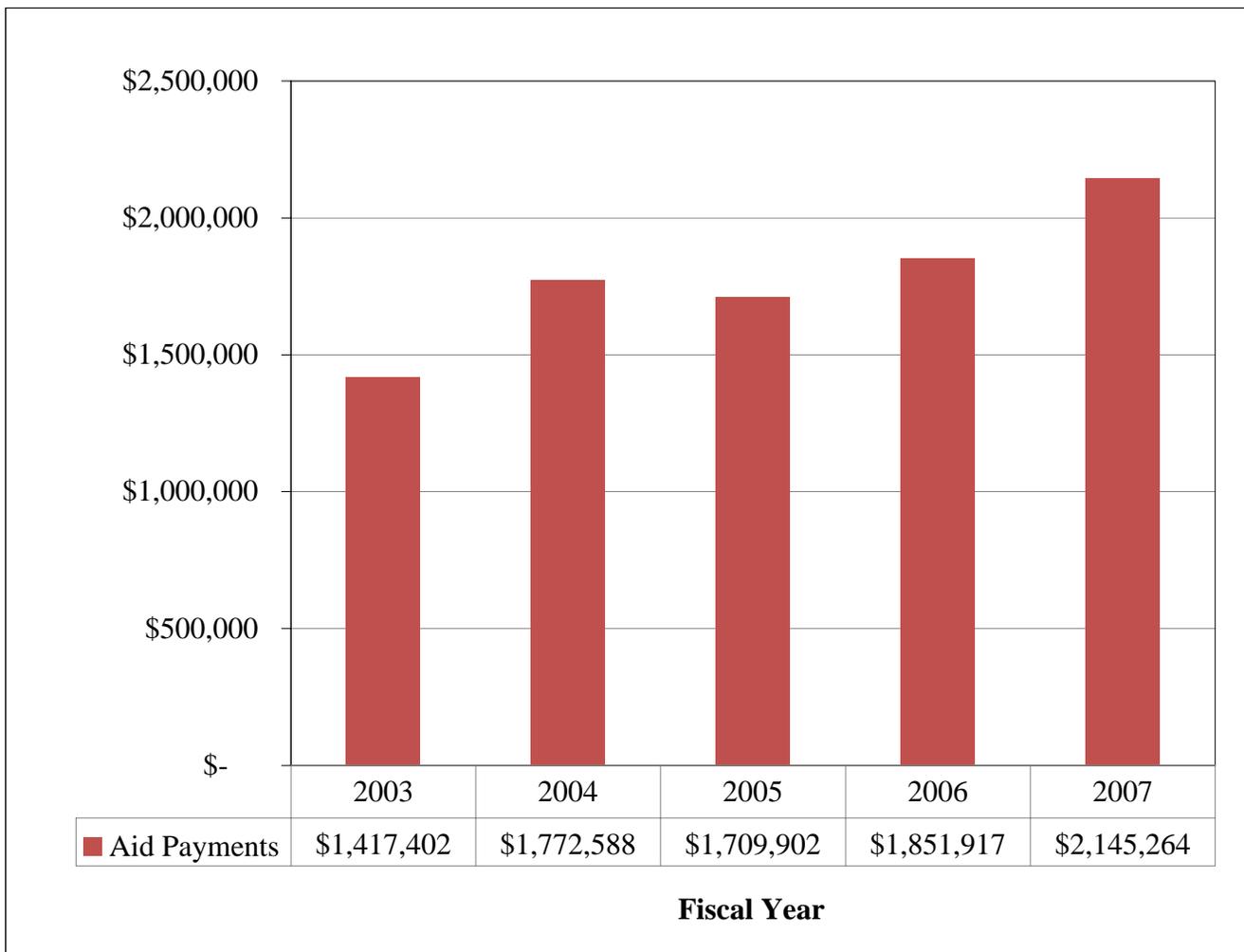
NEBRASKA COMMISSION ON PUBLIC ADVOCACY

**STATISTICAL SECTION**

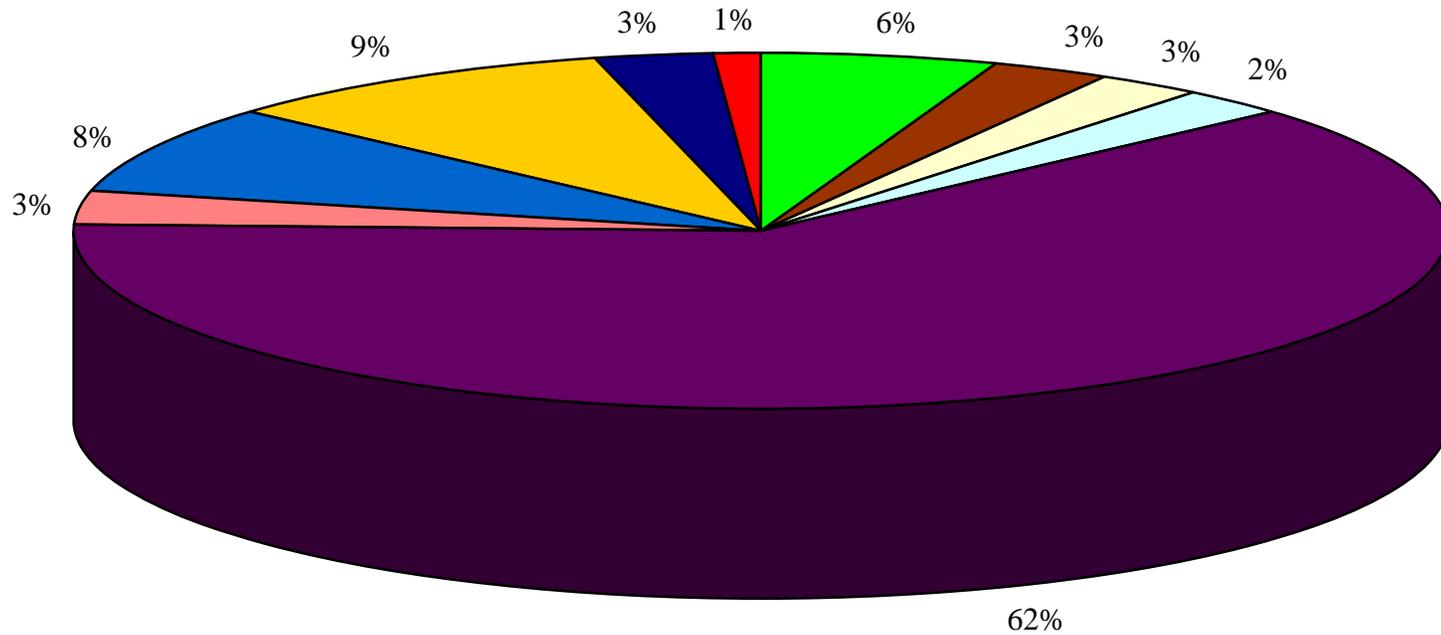
Our examination was conducted for the purpose of forming an opinion on the schedule of revenues, expenditures, and changes in fund balances. Statistical Section information is presented for purposes of additional analysis. Such information has not been subjected to the procedures applied in the examination of the schedule of revenues, expenditures, and changes in fund balances, and, accordingly, we express no opinion on it.

**NEBRASKA COMMISSION ON PUBLIC ADVOCACY**  
**LEGAL AID PAYMENTS TO QUALIFYING CIVIL LEGAL SERVICE ENTITIES**  
For the Fiscal Years Ended June 30, 2003 Through 2007

In accordance with Neb. Rev. Stat. Sections 25-3001 through 25-3004 and Neb. Rev. Stat. Sections 33-107.01 and 33-107.02, the Legal Aid and Services Fund receives court costs and docket fees for juvenile, county, and district court cases, appeals to the Court of Appeals and Supreme Court and action to modify decrees of dissolution, annulment, child support, and custody and visitation cases deposited throughout counties in the State. The Commission on a yearly basis publishes the availability of such legal aid service funds, receives applications, and awards funds to qualifying civil legal service entities serving the indigent. Legal aid service funds are disbursed to qualified civil legal service entities on a monthly basis.



NEBRASKA COMMISSION ON PUBLIC ADVOCACY  
**LEGAL SERVICE AID RECIPIENTS**  
 For the Fiscal Year Ended June 30, 2007



- |   |  |   |
|---|--|---|
| <span style="color: green;">■</span> Catholic Charities, Omaha      | <span style="color: brown;">■</span> Other                         | <span style="color: yellow;">■</span> Creighton University          |
| <span style="color: cyan;">■</span> Justice for our Neighbors       | <span style="color: purple;">■</span> Legal Aid of Nebraska        | <span style="color: pink;">■</span> Lutheran Family Services        |
| <span style="color: blue;">■</span> Nebraska Appleseed Center       | <span style="color: gold;">■</span> Nebraska State Bar Association | <span style="color: darkblue;">■</span> United Methodist Ministries |
| <span style="color: red;">■</span> University of Nebraska - Lincoln |  |   |

Note: Other category includes payments made to the Center for Conflict Resolution, the Central Mediation Center, the Concord Center, the Mediation Center, the Nebraska Justice Center, and the Resolution Center.