

**STATE OF NEBRASKA  
ATTESTATION REVIEW  
OF THE  
NEBRASKA DEPARTMENT OF INSURANCE  
APRIL 1, 2008 THROUGH MARCH 31, 2009**

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**Issued on June 26, 2009**

NEBRASKA DEPARTMENT OF INSURANCE  
ATTESTATION REVIEW

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## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley  
State Auditor

Mike.Foley@nebraska.gov  
P.O. Box 98917  
State Capitol, Suite 2303  
Lincoln, Nebraska 68509  
402-471-2111, FAX 402-471-3301  
[www.auditors.state.ne.us](http://www.auditors.state.ne.us)

### Independent Accountant's Report

Citizens of the State of Nebraska:

We have reviewed the expenditures, revenues and receivables, payroll, and capital assets of the Nebraska Department of Insurance for the period April 1, 2008, through March 31, 2009. The Nebraska Department of Insurance's management is responsible for the expenditures, revenues and receivables, payroll, and capital assets. We did not obtain a written assertion regarding such matters from management.

Our review 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. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the expenditures, revenues and receivables, payroll, and capital assets. Accordingly, we do not express such an opinion.

Based on our review, nothing came to our attention that caused us to believe that the expenditures, revenues and receivables, payroll, and capital assets are not presented, in all material respects, in conformity with the criteria set forth in the Criteria section.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Nebraska Department of Insurance's expenditures, revenues and receivables, payroll, and capital assets and any fraud and illegal acts that are more than inconsequential that come to our attention during our review. We are also required to obtain the views of management on those matters. We did not perform our review for the purpose of expressing an opinion on the internal control over the Nebraska Department of Insurance's expenditures, revenues and receivables, payroll, and capital assets or on compliance and other matters; accordingly, we express no such opinions.

Our review disclosed no findings that are required to be reported under *Government Auditing Standards*. However, we noted certain other matters, and those findings, along with the views of management, are described below in the Summary of Results.

This report is intended solely for the information and use of the Citizens of the State of Nebraska, management of the Nebraska Department of Insurance, others within the Nebraska Department of Insurance, and the appropriate Federal and regulatory agencies; however, this report is a matter of public record, and its distribution is not limited.

Signed Original on File

Mike Foley  
Auditor of Public Accounts

Timothy J. Channer, CPA  
Assistant Deputy Auditor

June 26, 2009

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**Background**

The Nebraska Department of Insurance (Department) is responsible for the general supervision, control, and regulation of insurance companies, associations, and societies, and the business of insurance in Nebraska, including companies in the process of organization. The Director of Insurance is appointed by the Governor, and is charged with the duty to enforce and execute all the insurance laws of Nebraska and to make necessary rules and regulations to carry out the laws. The Department is funded with revenue received from occupational licenses and administrative fees. The major responsibilities of the Department are to:

1. Supervise, license, and regulate insurance companies, agents, agencies, brokers, and consultants;
2. Issue Certificates of Authority permitting companies to sell insurance in the State;
3. Institute corrective action when an insurance company is faced with financial difficulties;
4. Perform financial and market conduct examinations of domestic and foreign insurance companies;
5. Approve and evaluate continuing education courses;
6. Investigate inquiries from consumers and alleged violations of insurance laws;
7. Act as a depository for domestic insurers required to maintain securities for the benefit of their policyholders;
8. Review and approve/disapprove all forms for insurance policies, riders, endorsements, and rates for property and casualty insurance sold in Nebraska;
9. Administer the Nebraska Medical Malpractice Excess Liability Fund; and
10. License and regulate ancillary, but related, areas of health maintenance organizations, prepaid legal service corporations, service contract companies, motor clubs, prepaid dental corporations, the comprehensive health insurance pool (CHIP), intergovernmental risk management pools, risk retention and purchasing groups, and pre-need burial services.

Domestic Insurance Companies as of December 31, 2007	107
Active Licenses as of December 31, 2007:	
Resident Agents	16,711
Nonresident Agents	44,600
Resident Consultants	181
Nonresident Consultants	53
Agent's Appointments	282,277
Insurance Agencies	7,456
Companies with Securities being held by the Department at December 31, 2008	133

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Amount of Securities held at December 31, 2008	\$	195,058,966
Premium Tax Activity for the calendar year ended December 31, 2008:		
Premium Tax	\$	49,780,810
Fire Insurance Tax	\$	2,638,324
Premium Tax Transferred to CHIP	\$	23,381,858
Total Taxes	\$	75,800,992
Total Interest and Penalties	\$	1,266,038
Total Distributed to Other Governmental Entities and State Funds	\$	77,067,030

Neb. Rev. Stat. § 77-908 (Reissue 2003) requires insurance companies that transact business in the State of Nebraska to pay Premium Taxes based on the amounts and types of insurance lines they sell. Neb. Rev. Stat. § 77-912 (Reissue 2003) requires the Department transfer 100% of the fire insurance taxes to the State General Fund, 100% of the tax paid by insurers writing health insurance to CHIP, 50% of the remaining taxes to the Insurance Tax Fund, 40% of the remaining taxes to the State General Fund, and the remaining 10% to the Mutual Finance Assistance Fund. The State Treasurer allocates the funds in the Insurance Tax Fund, 10% to counties, 30% to the Municipal Equalization Fund, and 60% to the Department of Education for distribution to school districts. The State Treasurer also allocates the funds in the Mutual Finance Assistance Fund to fire protection districts and mutual finance organizations.

**Comprehensive Health Insurance Pool (CHIP)**

CHIP is not an agency of the State of Nebraska but is a non-profit program. CHIP provides health care coverage at an affordable price to Nebraska residents who are unable to purchase insurance as a result of pre-existing medical conditions. CHIP was established in 1985 under Neb. Rev. Stat. §§ 44-4201 through 44-4235 (Reissue 2004). CHIP is managed by a Board of seven Directors who are selected by the Director of the Nebraska Department of Insurance. The Board of Directors selects the plan administrator. Blue Cross and Blue Shield of Nebraska is the current plan administrator and is responsible for determining applicant eligibility, collecting premiums, and paying claims. The payments by the Department come from the premium tax collected from insurers writing health insurance in Nebraska and are made to the plan administrator for losses resulting from claims.

Payments by the Department to CHIP	\$	27,173,931
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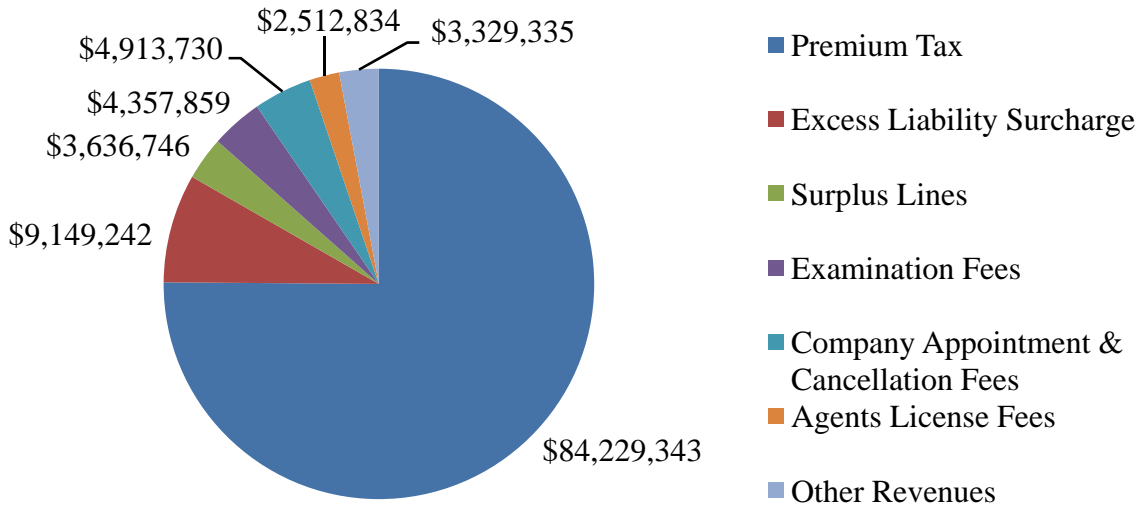
The information below comes from CHIP's audited financial statements and does not represent activity of the State of Nebraska or the Nebraska Department of Insurance.

CHIP Activity for the Calendar Year Ended December 31, 2008

Assets	\$	5,819,905
Reserve for Incurred Claims	\$	5,200,000
Premium Income	\$	30,892,348
Claims Incurred	\$	54,558,979
Net Loss	\$	27,173,931

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## Revenues for April 1, 2008 - March 31, 2009



**Note:** The chart shows premium tax collection gross and does not net out the distributions of premium tax. The chart also does not include transfers in and out and the investment loss of \$1.7 million.

### Criteria

The criteria used in this review were Nebraska State Statutes, Nebraska Rules and Regulations, Nebraska Accounting Manual, Nebraska Information System, Nebraska Personnel Rules and Regulations, and Federal Office of Management and Budget (OMB) Circulars.

### Summary of Procedures

Pursuant to Neb. Rev. Stat. § 84-304 (Reissue 2008), the Auditor of Public Accounts (APA) conducted an attestation review of the expenditures, revenues and receivables, payroll, and capital assets for the period April 1, 2008, through March 31, 2009, in accordance with standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The APA's attestation review consisted of the following procedures:

1. Reviewing internal controls over expenditures, revenues and receivables, payroll, and capital assets.
2. Analytical procedures for expenditures, payroll, and revenue accounts.
3. Detail testing of travel, payroll, and other expenditures.
4. Review of contracting procedures.
5. Testing of journal entry and negative account transactions for expenditures and revenues.
6. Confirmation of securities.
7. Detail testing of revenues and receivables.
8. Testing of premium tax collection and distribution.

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9. Testing of applicable State statute compliance.
10. Testing of applicable Federal grant compliance.
11. Testing of employee leave earnings, usage, and balances.
12. Follow-up of prior findings.

**Summary of Results**

The summary of our attestation review noted the following findings and recommendations:

**1. Capital Asset Controls**

Good internal control requires an adequate segregation of duties be in place over capital assets to ensure no one individual is in a position to both perpetrate and conceal errors or irregularities.

During our review of the Department's capital asset procedures, we noted one employee maintained the capital asset listing, recorded additions and deletions to the capital asset inventory listing, reviewed exception reports, prepared surplus property to be removed, and approved surplus property notification forms. We also noted there was no independent review of the additions and retirements report to ensure assets were properly added and removed from the system.

As of March 31, 2009, the Department had 210 items totalling \$453,764 on their capital asset listing. Without proper internal controls there is an increased risk of loss or misuse of State assets.

This was a comment in our fiscal year 1995, 1999, and 2001 reports. The finding was corrected for our fiscal year 2005 attestation but again exists for this period.

We recommend the Department implement procedures to ensure an adequate segregation of duties exists. Procedures could include a documented independent review of the additions and retirements report by a knowledgeable, second individual.

*Department's Response: The department will assign the duties of reviewing the F/A No Cost Integrity and the Unposted F/A reports to the Accounting Clerk that currently has responsibility for the physical inventory as well as preparing the disbursement documents. We feel this person has adequate knowledge of what should be included on the F/A inventory. The department believes the fact that AS – Surplus Property Division is responsible for removing all items from the F/A inventory listing provides sufficient segregation of duties for deletions.*

**2. Contracts**

Neb. Rev. Stat. § 73-507 (Reissue 2003) exempts the Department from the contract requirements set forth in Neb. Rev. Stat. §§ 73-504, 73-508, and 73-509 (Reissue 2003) for financial or actuarial examinations, for rehabilitation, conservation, reorganization, or liquidation of licensees, and for professional services related to residual pools or excess funds under the



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agency's control. However, the Department is required to comply with Neb. Rev. Stat. § 73-505 (Reissue 2003), which states, "State agency directors shall be responsible for maintaining accurate documentation of the process used for selection of all contracts for services and for ensuring and documenting that services required under the contract are being performed in compliance with the terms of the contract for services. Such documentation shall be kept with each contract for services."

During our review of contracts, we noted the Department did not have documentation on file to support the basis used for the selection of the vendor for three of four contracts tested. The total of the three contracts that did not have documentation of the selection process was \$1,295,000. The APA understands the selection of two vendors, with contracts totaling \$1,270,000, was based on past working experience with the vendors, but there was no documentation available to support this decision.

Without documentation to support the basis for vendor selection for contractual services there is an increased risk of loss or misuse of State funds.

This was a comment in our prior report.

We recommend the Department improve their procedures for documenting the basis for vendor selection and file that documentation with the contract for services as required by statute.

*Department's Response: The department will begin documenting the "process used for the selection of all contracts for services".*

**Overall Conclusion**

The Department needs to improve their capital asset procedures to ensure one individual is not in the position to both perpetrate and conceal errors or irregularities.

The Department should document their decision process for selecting service vendors as required by statute.

The APA staff members involved in this attestation review were:

Timothy J. Channer, CPA, Assistant Deputy Auditor  
Tom Bliemeister, Auditor in Charge  
Joan Arnold, Auditor II  
Erica Kellogg, Auditor II

If you have any questions regarding the above information, please contact our office.

**EXHIBIT**

NEBRASKA DEPARTMENT OF INSURANCE  
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**SCHEDULE OF EXPENDITURES**  
 April 1, 2008, Through March 31, 2009

	Insurance Cash Fund 22210	Federal Fund 40000	Medical Malpractice Excess Liability Fund 62220	Totals (Memorandum Only)
EXPENDITURES:				
Personal Services	\$ 6,723,672	\$ 117,234	\$ -	\$ 6,840,906
Operating	3,055,208	1,620,390	14,821,485	19,497,083
Travel	371,520	11,736	-	383,256
Capital Outlay	746	-	-	746
<b>TOTAL EXPENDITURES</b>	<b>\$ 10,151,146</b>	<b>\$ 1,749,360</b>	<b>\$ 14,821,485</b>	<b>\$ 26,721,991</b>

Note: The Medical Malpractice Excess Liability Fund is a Trust Fund. The Nebraska State Treasurer maintains and has responsibility for this Fund. The majority of the operating expenditures made were payments on malpractice claim settlements and judgements.

Neb. Rev. Stat. § 44-2829 (Reissue 2004) requires all annual surcharges levied on qualified health care providers in Nebraska collected by the Department be deposited into the Fund. The Department may use money from the Fund to aid in protecting the Fund against claims. All expenses of collecting, protecting, and administering the Fund are paid from the Fund. Neb. Rev. Stat. § 44-2832 (Reissue 2004) requires the Director of DAS to issue a warrant drawn on the Fund in the amount of each claim submitted by the Director of the Department.