

**ATTESTATION REPORT
OF THE
NEBRASKA BOARD OF PARDONS
AND BOARD OF PAROLE**

JULY 1, 2015, THROUGH DECEMBER 31, 2016

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Issued on May 23, 2017

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NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

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NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

BACKGROUND

The Agency is comprised of two (2) separate Boards: the Board of Pardons and the Board of Parole.

Created by the Constitution of the State of Nebraska, Article IV, § 13, the Board of Pardons is comprised of the Governor, Attorney General, and Secretary of State. The Board of Pardons has the authority to do the following:

1. Remit fines and forfeitures; and
2. Grant respites, reprieves, pardons, or commutations after conviction.

The Board of Parole was created in 1968 by constitutional amendment and, for administrative purposes, was placed within the Board of Pardons. The Board of Parole consists of five (5) full-time members appointed by the Governor to six-year terms. The duties of the Board of Parole include the following:

1. Review the records of each confined adult offender, whether eligible for parole or not;
2. Grant or revoke parole as deemed appropriate by a majority vote of the Board; and
3. Review all institutional requests to ascertain if approval is warranted for all furloughs and community placements of offenders leaving the confines of a facility.

The Office of Parole Administration administers parole services in correctional facilities and in the community. Until July 1, 2016, the Office of Parole Administration was within the Department of Correctional Services. On July 1, 2016, under LB 598, the Office of Parole Administration became a part of the Board of Parole.

The Department of Correctional Services continues to support the Agency with budget, accounting, and payroll services at no expense to the Boards.

MISSION STATEMENT

The Board of Parole provides the following mission statement:

It is the mission of the Nebraska Board of Parole and the Division of Parole Supervision to continue its research, understanding and implementation of evidence-based approaches as it pertains to the release of clients who have appropriately been prepared for community supervision. The Board and the Division of Parole Supervision are dedicated to maintaining public safety, reducing recidivism and addressing the need of victims, while integrating clients into society through a balance of best practice supervision and treatment strategies.

BOARD OF PARDONS AND BOARD OF PAROLE

KEY OFFICIALS AND AGENCY CONTACT INFORMATION

Pardons Board Members

Name	Position	Elected Office
Pete Ricketts	Chairperson	Governor
John Gale	Secretary	Secretary of State
Doug Peterson	Member	Attorney General

Nebraska Board of Pardons
P.O. Box 94754
Lincoln, NE 68509
(402) 479-2756
pardons.nebraska.gov

Parole Board Members

Name	Title	Term Ending
Rosalyn Cotton	Chairperson	September 9, 2020
Rex Richard	Vice-Chair	September 9, 2018
Randall Rehmeier	Member	September 9, 2017
Teresa Bittinger	Member	September 9, 2019
Virgil Patlan	Member	September 9, 2021

Nebraska Board of Parole
P.O. Box 94754
Lincoln, NE 68509
(402) 471-2156
parole.nebraska.gov

BOARD OF PARDONS AND BOARD OF PAROLE

SUMMARY OF COMMENTS

During our examination of the Nebraska Board of Pardons and Board of Parole, we noted certain deficiencies and other operational matters that are presented here. The following comments are required to be reported in accordance with *Government Auditing Standards: Comments #1* (Programming Fee Issues) and *#2* (Board Members Earning Leave), which are considered to be significant deficiencies.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***Programming Fee Issues:*** State statute requires parolees to pay a monthly programming fee of \$25. We noted issues with the administration of this fee, including inadequate internal control and procedures to collect the fees, and a cash fund balance from fees collected that was nearly double the calendar year 2016 expenditures.
2. ***Board Members Earning Leave:*** Members of the Board of Parole earned leave similar to that of other State employees. However, per review of the State Constitution, State statutes, and Attorney General's opinions, Board of Parole members are not entitled to leave benefits.
3. ***Parole Officer Pay and Training:*** Legislative Bill 598, which was signed by the Governor on May 27, 2015, required parole officers to receive pay raises, so their pay would be similar to that of other State employees doing similar work, and to receive increased training by January 1, 2017. The pay raises have not been implemented, and the training is currently underway but was not complete by the statutorily required date.
4. ***Timesheets Not Approved by a Supervisor:*** Unless they used leave during the pay period, overtime exempt employees of the Board of Parole who submit their time using the KRONOS timekeeping system did not have their timesheets approved by a supervisor.
5. ***Lack of Controls Over Electronic Monitoring Expenditures:*** The Board of Parole lacked procedures to ensure the propriety of the \$58,623 paid for electronic monitoring of parolees during the examination period. This is due to parolees failing to pay the electronic monitoring fees required, resulting in the Board of Parole covering those expenses.
6. ***Lack of Expenditure Review Procedures:*** The Board of Parole did not review the General Ledger Detail Report to ensure that transactions posted to its accounts were correct.
7. ***Capital Assets Issues:*** The Board of Parole did not review the Additions and Retirements Report or other capital assets reports to ensure that capital assets posted to its accounts were correct. Had such reviews occurred, the asset reporting errors that we noted could have been identified and corrected.

BOARD OF PARDONS AND BOARD OF PAROLE

SUMMARY OF COMMENTS

(Concluded)

More detailed information on the above items is provided hereinafter. It should be noted that this report is critical in nature, containing only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Nebraska Board of Pardons and Board of Parole.

Draft copies of this report were furnished to the Nebraska Board of Pardons and Board of Parole to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this report. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next examination.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

1. Programming Fee Issues

The Board of Parole (Board) requires parolees to pay a monthly programming fee of \$25 via money order unless it is waived by the Board. The fees are deposited into the Parole Program Cash Fund (Fund), and proceeds are supposed to benefit the parolees. The Fund was administered by the Department of Correctional Services until July 1, 2016. After that, it was administered by the Board's Office of Parole Administration. Programming fees totaled \$94,861 for the six-month period July 1, 2016, through December 31, 2016. We noted the following issues during our testing of this fee:

- Programming fee receipts were not deposited timely in accordance with Neb. Rev. Stat. § 84-710 (Reissue 2014). Parolees could either mail their money orders directly to administrative staff or give the payment to their parole officers. Parole officers bundled the money orders and periodically sent them to the central office for deposit. We noted that several of the money orders in the bundle tested were deposited more than one month after the money order date. The money orders were not stamped to document the date they were received by the Board.
- Parolees did not receive receipts from their parole officers or from administrative staff. The money orders were not restrictively endorsed until they were received by administrative staff.
- The Board focuses collection efforts on current parolees only.
 - The total receivable balance for *current* parolees at December 31, 2016, was \$270,578. The total receivable balance for *all* parolees past and present was much higher – \$1,249,362. The additional \$978,784 was not being reviewed, written off, or collected in any way.
 - During testing of 15 programming fee receipts, we noted four discharged parolees with balances, totaling \$100, that were no longer being pursued. We also noted one absconded parolee with a balance of \$305 that was no longer being pursued.
 - During testing of 15 parolees who had not paid the monthly programming fee of \$25 during the period July 1, 2016, through December 31, 2016, we noted two discharged parolees with balances, totaling \$50, whose balances were no longer being pursued.
- If a parolee is returned to custody, any programming fee balance is transferred to his or her inmate account. If collected, the funds go to the Department of Correctional Services and are not deposited to the Fund. During testing, we noted one instance of a \$17 balance being transferred to the inmate account after the parolee was returned to custody.
- During testing of parolees who did not pay the monthly programming fee of \$25 during the period July 1, 2016, through December 31, 2016, we noted two parolees were not assessed fees when they should have been, totaling \$32. Both instances involved partial months between when fees were no longer waived and when parole ended. The Board

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

1. **Programming Fee Issues** (Continued)

did not calculate fees for these partial months. We also noted one parolee was inappropriately assessed \$72 in fees. Fees were supposed to be waived while the parolee was on electronic monitoring, and the parolee was on electronic monitoring for the entire duration of his parole.

- The Fund's balance was \$481,866 at December 31, 2016, while expenditures for calendar year 2016 were \$250,662. The Fund balance appeared excessive, as it was almost twice the Fund's total calendar year 2016 expenditures.

A similar finding was noted in our attestation of the Department of Correctional Services for the period July 1, 2013, through December 31, 2014. We consider this finding to be a significant deficiency.

Neb. Rev. Stat. § 83-1,107.02 (Reissue 2014) establishes the Fund:

The Parole Program Cash Fund is created The fund shall be utilized by the Office of Parole Administration for the purposes stated in subdivision (8) of section 83-1,102.

Neb. Rev. Stat. § 83-1,107.01(2) requires a parole programming fee, as follows:

Parolees under the supervision of the Office of Parole Administration shall pay a monthly parole programming fee of twenty-five dollars, not later than the tenth day of each month, beginning the second month of parole supervision and continuing for the duration of the parole.

Neb. Rev. Stat. § 83-1,107.01(5) gives the Board authority to impose sanctions on parolees who do not pay their fees:

The Office of Parole Administration with the approval of the Board of Parole shall implement sanctions if a parolee defaults in the payment of monthly parole programming fees or any installment thereof as established by subsection (2) of this section, except that parole shall not be revoked nor shall the parolee be imprisoned for such nonpayment if the parolee is financially unable to make the payment.

Neb. Rev. Stat. § 83-1,102 specifies how money in the Fund is to be spent:

The Parole Administrator shall . . . (8) Use the funds provided under section 83-1,107.02 to augment operational or personnel costs associated with the development, implementation, and evaluation of enhanced parole-based programs and purchase services to provide such programs aimed at enhancing adult parolee supervision in the community and treatment needs of parolees. Such enhanced parole-based programs include, but are not limited to, specialized units of supervision, related equipment purchases and training, and programs that address a parolee's vocational, educational, mental health, behavioral, or substance abuse treatment needs[.]

Neb. Rev. Stat. § 84-710 (Reissue 2014) requires any money belonging to the State to be deposited to the State Treasury within three business days of receipt when the amount is \$500 or more and within seven days of receipt when the amount is less than \$500.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

1. **Programming Fee Issues** (Concluded)

A good internal control plan requires procedures to ensure money orders are restrictively endorsed, deposited timely, and reconciled to deposits. Additionally, receipts should be issued to parolees when fees are collected. A good internal control plan also requires procedures to ensure reasonable attempts are made to collect fees due. Good fiscal policy and good internal control requires fund balances to be periodically reviewed and maintained at reasonable levels.

Without procedures to accurately calculate, review, and follow up on parole account balances, there is an increased risk programming fees will not be received. The excessive fund balance in the Parole Program Cash Fund may indicate that the Board did not provide enough parole programming or that administrative costs were not properly charged to the Fund throughout the fiscal year. It may also indicate fees were too high or appropriations were excessive.

We recommend the Board implement procedures to ensure receipts are restrictively endorsed, deposited timely, and reconciled. We also recommend issuing receipts at the time fees are collected. We further recommend the Board strengthen procedures to calculate accurately, follow up on, and collect parole account balances. Finally, we recommend the Board review its Fund balance on a regular basis. Such review should ensure costs are properly allocated to the Fund and also evaluate if revenues in excess of expenditures are the result of the statutory fee amount being too high. The Board should take steps to reduce balances to a reasonable level.

Board's Response: Programming Fee Protocol and Fee Handling Protocol provide procedures being followed by Parole Supervision since adopting the protocol after the development of our new Division 07/1/2016. Parole is currently reviewing programming fee procedures and will require parole officers to document in the case management system any discussion and resulting plan to bring programming fees current. An Ability to Pay form will be instituted for officer use to determine if client has resources to make payment. A Financial budget management class will be started soon and may become part of the Sanction Matrix for client failure to pay. Nebraska Department of Correctional Services (NDCS) will send Fund reports monthly to Parole Administration Administrative Assistant II starting immediately. 2016 expenditures were prior to above date.

2. **Board Members Earning Leave**

Board of Parole (Board) members earned sick and vacation leave, but they do not actually qualify for leave earning and payout based on our review of the Nebraska Constitution, State statutes, and Attorney General's opinions. Sick and vacation payouts totaled \$57,954 during State fiscal year 2015 for three departing Board members. However, these payouts were not allowable under current law.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Board Members Earning Leave** (Continued)

The improper payouts contributed to the Board's personal service limitation being completely depleted by the end of State fiscal year 2015. The Board was short \$641. In an attempt to alleviate this deficit, the Board's chairperson deferred \$641 of her salary from State fiscal year 2015 to State fiscal year 2016. However, this was not appropriate because the Legislature's approval is required to exceed the personal service limitation contained in an appropriations bill. This arrangement effectively exceeded the limitation set for fiscal year 2015.

Additionally, we noted that one Board member used sick leave for 17 consecutive days without written support from a doctor. According to the Board, no formal policy is needed for such circumstances because the Board is a constitutional creation, and its members are not regular State employees.

We consider this finding to be a significant deficiency.

Article IV, § 13, of the Nebraska Constitution states, in part, "The Legislature shall provide by law for the establishment of a Board of Parole and the qualifications of its members."

Neb. Rev. Stat. § 83-191 (Reissue 2014) provides, as is relevant, "The members of the Board of Parole shall devote full time to their duties with such board and shall not engage in any other business or profession or hold any other public office Each member of the board shall receive an annual salary to be fixed by the Governor." State statute contains no specific provision authorizing vacation and/or sick leave for Board members.

To the contrary, Neb. Rev. Stat. § 81-1328(4) (Cum. Supp. 2016) defines "state employee" for purposes of earning vacation leave as follows:

As used in this section, state employee shall mean any person or officer employed by the state including the head of any department or agency, except when such a head is a board or commission, and who works a full-time or part-time schedule on an ongoing basis.

(Emphasis added.) Likewise, Neb. Rev. Stat. § 81-1321 (Cum. Supp. 2016) provides almost identical language for sick leave:

As used in sections 81-1320 to 81-1326, state employee shall mean any person or officer employed by the state including the head of any department or agency, except when such head is a board or commission, and who works a full-time or part-time schedule on an ongoing basis.

(Emphasis added.) In Op. Att'y Gen. No. 99047 (Nov. 9, 1999), the Attorney General answered questions about State employee sick leave based upon the following fact scenario:

An employee of the Nebraska State Patrol retired at age 50, was subsequently appointed to the Board of Parole, and is now retiring a second time at age 55 after five years and five months of service with the Board. When he first retired, in addition to payment of one-quarter of the sick leave as provided in . . . [§ 81-1325], the employee received a lump sum payout of unused vacation leave as provided in Neb. Rev. Stat. § 81-1328.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Board Members Earning Leave** (Continued)

Specifically, the Attorney General considered this question:

Can a person 'retire' from an appointed board position for purposes of entitlement to the payout of unused leave benefits?

Responding in the negative, the Attorney General provided the following analysis:

[T]he Nebraska statutes dealing with the sick leave benefits afforded to state employees are found at §§ 81-1320 through 81-1326. With respect to that group of statutes, § 81-1321 (Cum. Supp. 1998) provides:

*As used in sections 81-1320 to 81-1326, state employee shall mean any person or officer employed by the state including the head of any department or agency, **except when such head is a board or commission**, and who works a full-time or part-time schedule on an ongoing basis.*

(emphasis added).

In Nebraska, in the absence of anything to the contrary, statutory language is to be given its plain and ordinary meaning. With that rule in mind, it seems to us that the plain language of § 81-1321 emphasized above clearly excludes members of boards and commissions in Nebraska from the definition of state employee used in connection with the statutory provisions dealing with sick leave. As a result, members of boards and commissions are not subject to the provisions of §§ 81-1320 through 81-1326. For that reason, we do not believe that a member of a state board or commission is entitled to "retire" from state employment and receive a payout of unused sick leave benefits under § 81-1325.

(Internal citations omitted.) When Board members retire or their appointments end and they receive sick and/or vacation leave payouts, the Board is not in compliance with State statute, as Board Members are not entitled to those benefits.

We recommend the Board either discontinue allowing its members to earn sick and vacation leave or work with the Legislature to amend the current law accordingly. Additionally, if its members are ever authorized to earn sick and/or vacation leave, the Board should implement a formal policy containing leave usage requirements to hold its members to the same standards as it holds its employees to.

Board's Response (as submitted by Board Chair Rosalyn Cotton): The agency appreciates the auditor's comment that Board Members are not entitled to leave benefits, but we respectfully disagree. It has been the longstanding practice of this agency that Board Members are treated as State employees. The agency will pursue to seek legislative clarification on this matter.

APA Response: Longstanding practice notwithstanding, the relevant statutory provisions expressly exclude board and commission members from the definition of "state employee" for purposes of sick and vacation leave. This is acknowledged by various Attorney General's opinions, including that quoted at length in the comment. Consequently, legislative action is indeed necessary in order for Board members to statutorily receive the employee benefits at issue.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Board Members Earning Leave (Concluded)

Board Member Randall Rehmeier Response: Ms. Cotton's response appears to suggest that the Board as a whole disagrees with the audit report deficiency finding regarding Board Members' Leave when she states, "we respectfully disagree." This representation is not factual. For approximately two (2) years, I have raised this issue with Ms. Cotton and the Board citing the same authority contained in the audit report, both statutory and Attorney General Opinions. For several months, I have attempted to submit to the Attorney General the question of whether the Board Members earning leave benefits is proper, but Ms. Cotton as recently as April 4, 2017 has refused to facilitate that submission. When the Board was apprised of the audit and Ms. Cotton's proposed response, within a couple of days I communicated to Ms. Cotton that I believed the response should contain the following language: "Parole Board members will discontinue submitting monthly time sheets claiming earned sick and/or vacation leave." I am in total agreement with the Audit Report from your office and the finding that Board Members' Leave is improper. I had not heard any Board member express that they disagreed with the audit on this point until I read Ms. Cotton's response. My concern is that the Board should follow the law and not submit claims in the future for purported earned leave benefits to which Board members are not entitled – particularly in light of the audit report and my unqualified belief that it is correct.

Board Member Virgil Patlan Sr. Response: I believe it is my duty to inform you that as a member of the Board of Parole, a misleading statement was given to you on the response to the audit dated May 3, 2017, specifically concerning vacation and sick leave for Parole Board members. The Board was not given a copy of the final audit response until May 3; therefore, the Board was not able to provide input to response #2 as delivered to you. The statement "We respectfully disagree" was possibly Chairperson Rosalyn Cotton's sole opinion. I wanted to add that I agree that Board Members should not receive sick and vacation leave as the statutes clearly state. State law 83-196 provides: "Three members of the Board of Parole shall constitute a quorum for the purpose of transacting any official business. The decisions of the Board of Parole shall be by majority vote." To my knowledge, this provision was not followed and, consequently, the audit response presented to you was not approved by the Nebraska Board of Parole.

3. Parole Officer Pay and Training

LB 598, which was signed by the Governor on May 27, 2015, requires parole officers to be "compensated with salaries substantially equal to other state employees who have similar responsibilities" The Legislative session ended on May 29, 2015, so the law went into effect on August 30, 2015, and the pay raises should have been implemented soon thereafter; however, they were not. Instead, the Board of Parole (Board) indicated that it is planning on raising parole officer wages on July 1, 2017, almost two years after the effective date of the law.

Additionally, LB 605 (2015) required parole officers to receive increased training by July 1, 2016. The following year, LB 1094 (2016) extended that date to January 1, 2017. Regardless, the required training has still not been provided.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

3. Parole Officer Pay and Training (Concluded)

The Board's yearly General Fund allotment was only 33.1% expended as of midway through the State's fiscal year – December 31, 2016 – which gives the definite impression that sufficient funds were available to carry out both legislative mandates.

As amended by LB 598 (2015), Neb. Rev. Stat. § 83-1,100(2) (Cum. Supp. 2016) states the following:

Parole officers shall be compensated with salaries substantially equal to other state employees who have similar responsibilities, including employees of the Office of Probation Administration. This subsection shall apply only to field parole service officers and support staff and shall not apply to the Parole Administrator, any deputy parole administrator, or any other similarly established management position.

As amended by LB 1094 (2016), Neb. Rev. Stat. § 83-1,100.02(6) states, in relevant part, the following:

The office shall provide training to its parole officers on use or a risk and needs assessment, risk-based supervision strategies, relationship skills, cognitive behavioral interventions, community-based resources, criminal risk factors, targeting criminal risk factors to reduce recidivism, and proper use of a matrix of administrative sanctions, custodial sanctions, and rewards developed pursuant to section 83-1,119. All parole officers employed on August 30, 2015, shall complete the training requirements set forth in this subsection on or before January 1, 2017.

A good internal control plan requires procedures to be in place to ensure that statutory changes are implemented timely.

The Nebraska Legislature has taken unequivocal action to improve the State's correctional system through increased reviews and the implementation of new laws. Included in those legislative efforts were directives to make pay more equitable for parole officers and to increase their training. The Board has failed, however, to implement the mandated changes in a timely manner. This delay has resulted in not only noncompliance with State statute but also the hindrance of any functional improvements intended by the legislation. For example, we noted that the average probation officer's hourly wage in March 2017 was \$22.12, while the average hourly wage for a parole officer was only \$20.17 – a difference of \$1.95 lower per hour.

We recommend the Board implement procedures to ensure changes in laws are implemented timely. In doing so, the Board should complete the training of parole officers and increase their pay as soon as possible.

Board's Response: State statute increased parole officer raises. No funding was appropriated by the legislature for the pay increases. The Board of Parole requested appropriations in the FY 2017-18 biennium budget request for the increase in parole officer pay. Training is now complete.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

4. **Timesheets Not Approved by a Supervisor**

The Board of Parole (Board) had 73 employees at December 31, 2016. Twelve of those employees were overtime exempt and used the KRONOS system to record time worked. We noted that, if those employees did not record any leave used in a biweekly pay period, their timesheet was not approved by a supervisor because the KRONOS system was not set up to facilitate this.

Neb. Rev. Stat. § 84-1001(1) (Reissue 2014) states, in relevant part, the following:

All state officers and heads of departments and their deputies, assistants, and employees, except permanent part-time employees . . . not required to render full-time service, shall render not less than forty hours of labor each week in which a paid holiday may occur.

A good internal control plan requires that procedures be in place to ensure all hours worked are approved by a supervisor.

There is an increased risk of fraud, incorrect time reporting, or incorrect leave earning when timesheets are not approved by a supervisor.

We recommend the Board implement procedures to ensure all timesheets are approved by supervisors.

Board's Response: Based upon the Fair Labor Standards Act, exempt employees must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked, unless certain exceptions are met. With these situations, we believe exception reporting of leave is an appropriate process. Exempt employees are expected to work 40 hours per week, except when taking leave, and they often work more than 40 hours per week.

APA Response: All timesheets should be approved by a supervisor to ensure time reporting by employees is correct.

5. **Lack of Controls Over Electronic Monitoring Expenditures**

The Board of Parole's (Board) Office of Parole Administration contracted with a private vendor, Satellite Tracking of People (STOP) to provide electronic monitoring services for some parolees. The parolees are supposed to pay STOP for the cost of the electronic monitoring. However, if the parolee fails to pay, STOP bills the Board, which then makes the missed payment.

No procedures were in place to ensure that the amounts the Board paid to STOP had not been paid already by the parolee. This could include following up with parolees whose names appear on a STOP billing report. If any such inquiries occurred, they were not documented. During the six-month period from July 1, 2016, through December 31, 2016, the Board paid STOP \$58,624 for unpaid electronic monitoring fees. According to the most recent data available from STOP, parolees paid only 41% of the fees assessed to them.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

5. **Lack of Controls Over Electronic Monitoring Expenditures** (Continued)

The Board did not establish receivable accounts to collect from parolees who did not make their STOP payments. Additionally, the Board did not impose any sanctions on parolees who failed to pay STOP.

A similar finding was noted in our attestation of the Department of Correctional Services for the period July 1, 2013, through December 31, 2014.

Neb. Rev. Stat. § 83-1,116(1) (Reissue 2014) states, in relevant part, the following:

The board [of parole] may also require, either at the time of the offender's release on parole or at any time while the offender remains on parole, that the offender conform to any of the following conditions of parole:

* * * *

(d) Report, as directed to his or her district parole officer;

* * * *

(h) Satisfy any other conditions specially related to the cause of his or her offense and not unduly restrictive of his or her liberty or conscience.

In Op. Att'y Gen. No. 96047 (June 7, 1996), the Attorney General recognized not only the authority of the Board to require electronic monitoring as a condition of parole but also the obligation of the paroled inmate to pay the costs of such monitoring. The Attorney General explained that conclusion as follows:

If the Board concludes that electronic monitoring is an appropriate condition of parole for any of these reasons, the burden of complying with the condition of parole would rest with the parolee. Just as a parolee would be expected to pay the cost of room, board, and transportation to and from a place of employment, a parolee whose parole is conditioned upon electronic monitoring could be required to pay for the cost of that service.

Reflecting the Attorney General's above determination, Administrative Regulation (AR) 410.15(I), "Electronic Monitoring – Adult Parole Administration," contains the following:

A parolee being monitored will be responsible for paying the daily costs of electronic monitoring and for any loss of or damage to the monitoring equipment while in his/her possession. Parolees will be billed monthly by the monitoring company and will be responsible for keeping the balance paid.

Without procedures to verify when, or if, parolees pay STOP for electronic monitoring, there is an increased risk that STOP could receive duplicate payments from both the parolee and the Board.

We recommend the Board implement procedures to ensure the amounts billed for electronic monitoring are correct and proper. We further recommend the Board document discussions with parolees about electronic monitoring fees and the reasons parolees

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Continued)

5. **Lack of Controls Over Electronic Monitoring Expenditures** (Concluded)

are unable to pay their balances. The Board should consider imposing sanctions on parolees who do not pay their balances. Alternatively, the Board could begin collecting all electronic monitoring fees to be paid to STOP in order to ensure the vendor is properly paid. We further recommend the Board establish receivable accounts and attempt to recover the outstanding balances from parolees.

Board's Response: Issues were detected after 7/1/2016 and vendor was requested to provide earlier notice of past due at 30 days instead of 90 days including current balance information. This information is forwarded to Supervisors, to review with Parole officers to facilitate payment with the client. The protocol will require officers to document discussions and action plans with clients regarding paying the electronic monitoring fees. A financial budget management class will be offered to clients and may be part of Sanction Matrix to be used with client's failure to pay fees.

6. **Lack of Expenditure Review Procedures**

We noted that the Board of Parole (Board) did not review the EnterpriseOne General Ledger Detail Report to ensure that all transactions posted to the Board's business units were authorized, complete, and correct. Specifically, we noted that the Board did not ensure rent charged to its business units, totaling \$93,447, was correct. A similar finding was noted in our attestation of the Board of Pardons and Board of Parole for the period January 1, 2010, through December 31, 2010.

The Department of Correctional Services performs the Board's accounting, while the Department of Administrative Services posts expenditures, such as rent, directly to the Board's accounts. This makes it all the more important for the Board to implement procedures for a periodic documented review of the EnterpriseOne General Ledger Detail Report to ensure the propriety of all transactions posted to the Board's business units.

Without such procedures, there is an increased risk that unauthorized, incomplete, or incorrect transactions could be posted to the Board's business units.

We recommend the Board implement procedures for a periodic documented review of the EnterpriseOne General Ledger Detail Report to ensure the propriety of all transactions posted to the Board's business units.

Board's Response: All expenditures are reviewed in detail including where transactions are posted monthly since reviews were put in place after 7/1/2016. NDCS Accounting will send the General Ledger review monthly which will be reviewed and signed off starting immediately.

BOARD OF PARDONS AND BOARD OF PAROLE

COMMENTS AND RECOMMENDATIONS

(Concluded)

7. Capital Asset Issues

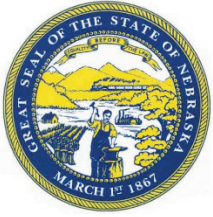
The Board of Parole (Board) did not review the Additions and Retirements Report or other capital asset reports to ensure that capital assets posted to its accounts were correct. We noted the following asset reporting errors, which could have been avoided through a sufficient review of the capital asset and General Ledger Detail Reports:

- Effective February 1, 2016, State agencies were supposed to stop coding computer equipment and software purchases to the generic object account 583300 Computer Equipment & Software. Instead, they were supposed to use one of the new, more detailed codes provided by the Department of Administrative Services. The Board continued, however, to code transactions to 583300 through June 2016 – miscoding a total of five transactions for \$9,047.
- A computer purchase for \$1,272 was tagged as an asset with the Department of Correctional Services. The computer was purchased with Board funds and was for Board use.
- A laptop computer purchased for \$3,573 could not be found on the Board’s general ledger. Additionally, it had a tag number that started with “16” (Department of Revenue). The asset was acquired by the Department of Revenue in September 2015 and tagged in December 2015. When entering the agency number into EnterpriseOne, a Department of Revenue employee appears to have inadvertently typed agency “15” (the Board) instead of “16” (Department of Revenue).

There is an increased risk of fraud or error occurring when capital asset reports are not subject to periodic documented reviews to ensure that items are coded correctly in the accounting system.

We recommend the Board implement procedures to ensure transactions are coded properly in the accounting system. The Board should perform periodic documented reviews of the General Ledger Detail and capital asset reports to identify and resolve any errors.

Board’s Response: Asset reports and capital assets posted to Board of Parole accounts are being reviewed by agency management monthly. NDCS Accounting and/or NDCS Purchasing will send Parole a Fixed Capital Assets report for review starting immediately.



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NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

INDEPENDENT ACCOUNTANT'S REPORT

Nebraska Board of Pardons and Board of Parole
Lincoln, Nebraska

We have examined the accompanying Schedule of Revenues, Expenditures, and Changes in Fund Balances of the Nebraska Board of Pardons and Board of Parole for the period July 1, 2015, through December 31, 2016. The Nebraska Board of Pardons and Board of Parole's management is responsible for the Schedule of Revenues, Expenditures, and Changes in Fund Balances based on the accounting system and procedures set forth in Note 1. Our responsibility is to express an opinion based on the Schedule of Revenues, Expenditures, and Changes in Fund Balances 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances is based on the accounting and procedures set forth in Note 1, in all material respects. An examination involves performing procedures to obtain evidence about the Schedule of Revenues, Expenditures, and Changes in Fund Balances. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Schedule of Revenues, Expenditures, and Changes in Fund Balances, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

In our opinion, the Schedule of Revenues, Expenditures, and Changes in Fund Balances for the period July 1, 2015, through December 31, 2016, is based on the accounting system and procedures prescribed by the State of Nebraska's Director of the Department of Administrative Services, as set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies and material weaknesses in internal control; instances of fraud and noncompliance with provisions of laws or regulations that have a material effect on the subject matter or an assertion about the subject matter and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements that has a material effect on the subject matter or an assertion about the subject matter of the examination engagement; and abuse that has a material effect on the subject matter or an assertion about the subject matter of the examination engagement. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Revenues, Expenditures, and Changes in Fund Balances or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments Section of the report.

This report is intended solely for the information and use of management, the Boards, others within the Nebraska Board of Pardons and Board of Parole, and the appropriate Federal and regulatory agencies, and it is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record, and its distribution is not limited.

A handwritten signature in black ink, appearing to read "C. J. Janssen", with a long horizontal flourish extending to the right.

Charlie Janssen
Auditor of Public Accounts
Lincoln, Nebraska

May 3, 2017

NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
For the Period July 1, 2015, through December 31, 2016

	General Fund 10000	Parole Program Cash Fund 24610	Totals (Memorandum Only)
REVENUES:			
Appropriations	\$ 3,419,389	\$ -	\$ 3,419,389
Sales & Charges	175	94,861	95,036
Miscellaneous	184	5,769	5,953
TOTAL REVENUES	<u>3,419,748</u>	<u>100,630</u>	<u>3,520,378</u>
EXPENDITURES:			
Personal Services	2,931,407	-	2,931,407
Operating	411,168	174,617	585,785
Travel	61,093	-	61,093
Capital Outlay	15,721	-	15,721
TOTAL EXPENDITURES	<u>3,419,389</u>	<u>174,617</u>	<u>3,594,006</u>
Excess (Deficiency) of Revenues Over (Under) Expenditures	<u>359</u>	<u>(73,987)</u>	<u>(73,628)</u>
OTHER FINANCING SOURCES (USES):			
Sales of Assets	173	-	173
Deposit to General Fund	(532)	-	(532)
TOTAL OTHER FINANCING SOURCES (USES)	<u>(359)</u>	<u>-</u>	<u>(359)</u>
Net Change in Fund Balances	-	(73,987)	(73,987)
FUND BALANCES, JULY 1, 2015 NOTE	<u>231</u>	<u>555,852</u>	<u>556,083</u>
FUND BALANCES, DECEMBER 31, 2016	<u>\$ 231</u>	<u>\$ 481,865</u>	<u>\$ 482,096</u>
FUND BALANCES CONSIST OF:			
General Cash	\$ -	\$ 481,866	\$ 481,866
Deposits with Vendors	231	-	231
Due to Vendors	-	-	-
TOTAL FUND BALANCES	<u>\$ 231</u>	<u>\$ 481,866</u>	<u>\$ 482,097</u>

The accompanying notes are an integral part of the schedule.

NOTE: The General Fund beginning balance is presented as of July 1, 2015, and the Parole Program Cash Fund beginning balance is presented as of July 1, 2016, the date the Board of Parole took over the Adult Parole Administration from the Department of Correctional Services.

Activity relating to the Adult Parole Administration is only presented for the period July 1, 2016, through December 31, 2016. Previously, that entity resided within the Department of Correctional Services. See **EXHIBIT B** for Revenues, Expenditures, and Changes in Fund Balances for the period July 1, 2016, through December 31, 2016.

NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

NOTES TO THE SCHEDULE

For the Period July 1, 2015, through December 31, 2016

1. Criteria

The accounting policies of the Nebraska Board of Pardons and Board of Parole (Board) are on the basis of accounting as prescribed by the State of Nebraska Department of Administrative Services.

Per Neb. Rev. Stat. § 81-1107(2) (Reissue 2014), the duties of the State of Nebraska's Director of the Department of Administrative Services (DAS) 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. § 81-1111(1) (Reissue 2014), 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 EnterpriseOne, an accounting resource software, to maintain the general ledger and all detailed 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 maintained on EnterpriseOne. EnterpriseOne is not an accrual accounting system; instead, accounts are maintained on a modified cash basis. As revenue transactions occur, the agencies record the accounts receivable and related revenues in the general ledger. As such, certain revenues are recorded when earned, regardless of the timing of related cash flows. State Accounting does not require the Board to record all accounts receivable and related revenues in EnterpriseOne; as such, the Board's schedule does not include all accounts receivable and related revenues. In a like manner, expenditures and related accounts payable are recorded in the general ledger as transactions occur. As such, the schedule includes those expenditures and related accounts payable posted in the general ledger as of December 31, 2016, and not yet paid as of that date. The amount recorded as expenditures on the schedule, as of December 31, 2016, **does not** include amounts for goods and services received before December 31, 2016, which had not been posted to the general ledger as of December 31, 2016.

The Board had accounts receivable not included in the Schedule of \$1,249,362 from unpaid parole programming fees. State Accounting did not require the Department to record its receivables on the general ledger, and these amounts are not reflected in revenues or fund balances on the Schedule. Liabilities for accrued payroll and compensated absences are not recorded in the general ledger.

The fund types established by the State that are used by the Board are:

10000 – General Fund – accounts for activities funded by general tax dollars and related expenditures and transfers.

NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

NOTES TO THE SCHEDULE

(Continued)

1. Criteria (Concluded)

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.

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

Appropriations – Appropriations are granted by the Legislature to make expenditures and to incur obligations. The amount of appropriations reported as revenue is the amount of expenditures.

Sales & Charges – Income derived from sales of merchandise and commodities, compensation for services rendered, and charges for various licenses, permits, and fees.

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

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

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

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 that 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.

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

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

Other Financing Sources – Proceeds of fixed asset dispositions and deposits to the General Fund.

NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

NOTES TO THE SCHEDULE

(Continued)

2. Reporting Entity

The Board makes up one State agency established under and governed by the laws of the State of Nebraska. As such, the Board is exempt from State and Federal income taxes. The Schedule includes all funds of the Board included in the general ledger.

The Board is part of the primary government for the State of Nebraska.

3. Office of Parole Administration

The Schedule reflects activity of the Office of Parole Administration only for the period July 1, 2016, through December 31, 2016. Previously, the Office of Parole Administration resided within the Department of Correctional Services. Therefore, the Schedule shows the beginning fund balance as of July 1, 2016, instead of the beginning of the period of review, which is July 1, 2015.

After the Office of Parole Administration transferred between agencies, some transactions continued to be recorded to the Department of Correctional Services' business units. Those transactions have been included in the Schedule. Transactions totaled \$36,200 in operating expenditures and \$59,878 in revenues, of which \$54,109 was programming fees and \$5,769 was interest.

4. 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.

5. 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, which 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.

6. 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.

NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

NOTES TO THE SCHEDULE
(Concluded)

6. Capital Assets (Concluded)

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 Board takes an annual inventory, recording in the State Accounting System all equipment that has a cost of \$1,500 or more at the date of acquisition.

For the CAFR, the State requires the Board 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 more than one year 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 years.

Capital asset activity of the Board recorded in the State Accounting System for the period July 1, 2015, through December 31, 2016, was as follows:

	<u>Beginning Balance</u>	<u>Increases</u>	<u>Decreases</u>	<u>Ending Balance</u>
Capital Assets				
Equipment	\$ 24,913	\$ 15,721	\$ -	\$ 40,634
Less accumulated depreciation for:				
Equipment				<u>\$ 19,903</u>
Total capital assets, net of depreciation				<u>\$ 20,731</u>

Note: The accumulated depreciation noted in the table above was calculated in the accounting system through November 30, 2016.

NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE

SUPPLEMENTARY INFORMATION

Our examination was conducted for the purpose of forming an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balances. Supplementary 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 BOARD OF PARDONS AND BOARD OF PAROLE
REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**

For the Period July 1, 2015, through June 30, 2016

	General Fund 10000	Parole Program Cash Fund 24610 Note	Totals (Memorandum Only)
REVENUES:			
Appropriations	\$ 951,353	\$ -	\$ 951,353
Sales & Charges	142	-	142
Miscellaneous	184	-	184
TOTAL REVENUES	951,679	-	951,679
EXPENDITURES:			
Personal Services	800,732	-	800,732
Operating	134,444	-	134,444
Travel	5,591	-	5,591
Capital Outlay	10,586	-	10,586
TOTAL EXPENDITURES	951,353	-	951,353
Excess (Deficiency) of Revenues Over (Under) Expenditures	326	-	326
OTHER FINANCING SOURCES (USES):			
Sales of Assets	173	-	173
Deposit to General Fund	(499)	-	(499)
TOTAL OTHER FINANCING SOURCES (USES)	(326)	-	(326)
Net Change in Fund Balances	-	-	-
FUND BALANCES, JULY 1, 2015	231	-	231
FUND BALANCES, JUNE 30, 2016	\$ 231	\$ -	\$ 231
FUND BALANCES CONSIST OF:			
General Cash	\$ -	\$ -	\$ -
Deposits with Vendors	231	-	231
Due to Vendors	-	-	-
TOTAL FUND BALANCES	\$ 231	\$ -	\$ 231

Note: The Parole Program Cash Fund supports the Office of Parole Administration which operated under the Department of Correctional Services until July 1, 2016. As such, the fund had no activity recorded under the Board of Parole until July 1, 2016.

**NEBRASKA BOARD OF PARDONS AND BOARD OF PAROLE
REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**

For the Period July 1, 2016, through December 31, 2016

	General Fund 10000	Parole Program Cash Fund 24610	Totals (Memorandum Only)
REVENUES:			
Appropriations	\$ 2,468,036	\$ -	\$ 2,468,036
Sales & Charges	33	94,861	94,894
Miscellaneous	-	5,769	5,769
TOTAL REVENUES	<u>2,468,069</u>	<u>100,630</u>	<u>2,568,699</u>
EXPENDITURES:			
Personal Services	2,130,675	-	2,130,675
Operating	276,724	174,617	451,341
Travel	55,502	-	55,502
Capital Outlay	5,135	-	5,135
TOTAL EXPENDITURES	<u>2,468,036</u>	<u>174,617</u>	<u>2,642,653</u>
Excess (Deficiency) of Revenues Over (Under) Expenditures	<u>33</u>	<u>(73,987)</u>	<u>(73,954)</u>
OTHER FINANCING SOURCES (USES):			
Sales of Assets	-	-	-
Deposit to General Fund	(33)	-	(33)
TOTAL OTHER FINANCING SOURCES (USES)	<u>(33)</u>	<u>-</u>	<u>(33)</u>
Net Change in Fund Balances	-	(73,987)	(73,987)
FUND BALANCES, JULY 1, 2016	<u>231</u>	<u>555,852</u>	<u>556,083</u>
FUND BALANCES, DECEMBER 31, 2016	<u>\$ 231</u>	<u>\$ 481,865</u>	<u>\$ 482,096</u>
FUND BALANCES CONSIST OF:			
General Cash	\$ -	\$ 481,866	\$ 481,866
Deposits with Vendors	231	-	231
Due to Vendors	-	-	-
TOTAL FUND BALANCES	<u>\$ 231</u>	<u>\$ 481,866</u>	<u>\$ 482,097</u>