



Committee Report, Vol. 17, No. 2

**Nebraska Department of Roads:
Project Selection, Prioritization and
Funding**

**Performance Audit Committee
Nebraska Legislature**

December 2012

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Prepared by
Dana McNeil
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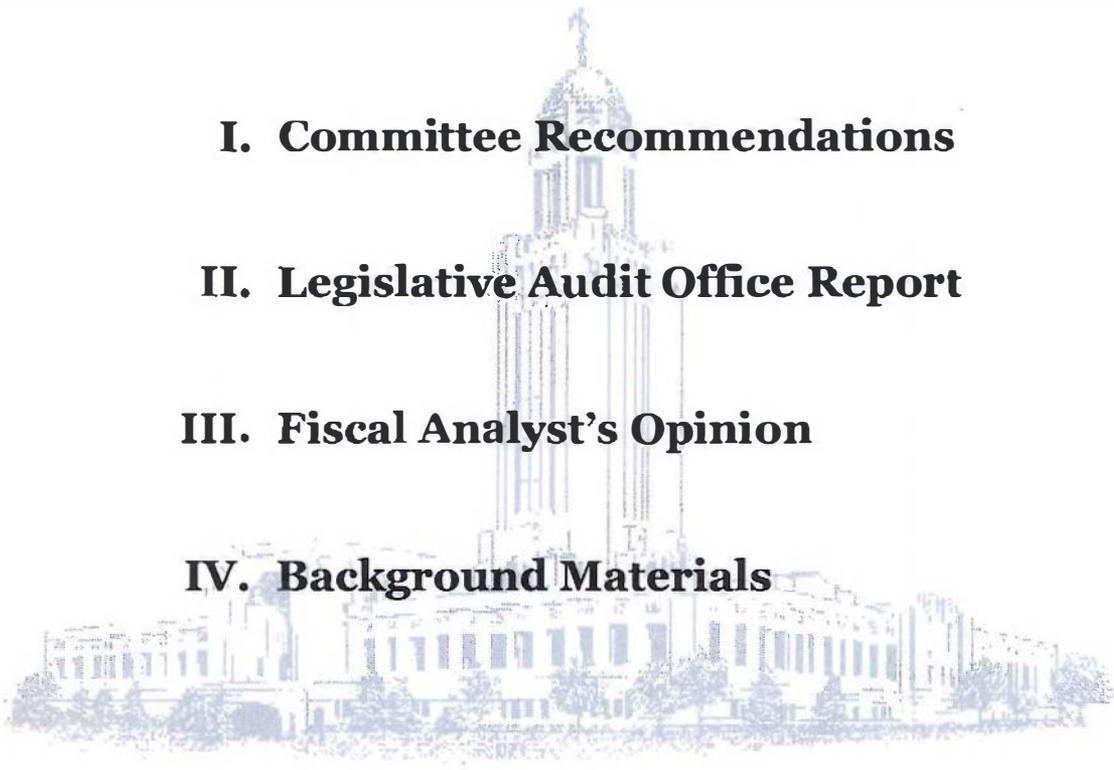
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I. Committee Recommendations

Audit Summary and Committee Recommendations

Audit Summary

Prioritization and selection of roads projects by the Nebraska Department of Roads (NDOR) has been a topic of regular and frequent interest among legislators. Historically, this interest has been generated by the amount of funding received by NDOR and the importance of this resource to Nebraskans. In 2011, it was heightened by the passage of LB 84 as a funding mechanism for construction of capital improvement projects.

The audit staff found that the structure of NDOR is different from most other states' transportation departments, most importantly because Nebraska is one of only three states with a highway commission that acts in an advisory-only capacity.

Audit staff also found that the agency generally prioritizes projects based on need, but in a small number of cases other factors influence project selection, primarily public input. Stakeholders we interviewed generally agreed. NDOR completes the majority of projects as prioritized, in accordance with its internally established goals. NDOR states that the main reason for not meeting its performance goals is because of its practice of "over-programming" in the event that unanticipated funds become available, such as when federal stimulus funds were distributed in 2009.

NDOR also provides a great amount of information to the public, as well as many opportunities for public input into the project selection process. However, audit staff found that NDOR could improve the quality of its communication with the public, by making information more easily accessible and understandable, particularly on its Web site.

The following are the Performance Audit Committee's specific recommendations for this report.

Section I: NDOR and Other State DOT Structures

Finding #1: The structure of NDOR is unlike most other states' transportation departments in these ways: (1) it does not include all modes of transportation; and (2) of the 31 states that have a highway commission, Nebraska is one of only three states with an

oversight board that is advisory-only.

Recommendation: If the Legislature believes there would be a benefit in having a highway commission that shares policy-making responsibility with Director-State Engineer, it should consider introducing legislation to change the commission's role.

Section II: NDOR Projects Funding and Prioritization

Finding #2: Both the legislative history and the statutory language reflect the Legislature's intent that NDOR have broad authority to spend these funds on new construction or maintenance projects.

Recommendation: If it was not the Legislature's intent that funds not dedicated to the completion of the expressway be used for both new construction and maintenance projects, then it should consider introducing legislation to clearly state that these remaining funds be used only for capital improvement projects.

Finding #3: NDOR states that it prioritizes projects primarily based on relative need, while acknowledging that in a small number of cases other factors play a role. Stakeholders we interviewed agreed with this assessment.

Recommendation: The Committee recommends that NDOR develop a written policy of prioritizing restoration of critical resources (bridges, main arteries, etc.) destroyed or incapacitated by natural disasters ahead of other asset preservation or capital improvement projects. The Committee's intent is that NDOR move quickly to restore damaged or destroyed roads and bridges using existing funds and not delay restoration pending receipt of federal emergency funds.

Recommendation: The Committee recommends that NDOR include in its annual Surface Transportation Handbook a listing of the projects that were removed from the previous year's five year and one year plans and a brief explanation of the reason for the removal of each.

Section III: Are Projects Completed as Prioritized?

Finding #4: In six of the last 10 years, NDOR has come within approximately ten percent of meeting its stated goal of delivering 80 percent of projects on the five year program to letting. However, the average number of projects delivered to letting has dropped in recent years.

Finding #5: In six of the last 10 years, NDOR has come within five percent of meeting its stated goal of delivering 100 percent of projects on the one year program to letting. In addition, while some districts have delivery-to-letting percentages of less than 90 percent, the actual number of projects reflected in those percentages is very small.

Discussion: In the absence of statutory goals for the percentage of projects delivered to letting, the department has established its own goals, which appear reasonable. In addition, in the last 10 years the department has come close (between 5 and 10 percent) to meeting them.

Recommendation: If the Legislature is satisfied with the department's goals and progress toward them, no action is needed. If the Legislature has concerns about the department's goals, it should consider establishing goals in statute.

Finding #6: Most of the projects on the FY2006-07 one year program were completed as prioritized and most were completed within one year.

Recommendation: The Committee recommends that NDOR include in its annual joint report to the Appropriations and Transportation and Telecommunications Committee the benchmarks it uses for its five year and one year plans for delivering projects to bid – currently 80 percent and 100 percent, respectively – along with the actual percentage for the most recent completed year and the four previous years.

Section IV: Transparency to the Public

Finding #7: NDOR provides a variety of different opportunities for public input and participation.

Finding #8: While the information contained on the NDOR Web site is very comprehensive, items of particular interest to the public are difficult to identify and access.

Recommendation: NDOR should modify its Web site to make information of interest to the public easier to find. Web sites from other states' transportation departments described in this report could provide examples of relatively simple changes that would be very helpful.

Finding #9: NDOR has a wealth of program information available that it makes available to the public. Where NDOR falls short is in its ability to communicate these often inherently complex issues to the public.

Discussion: We believe the public generally, and policymakers specifically, would benefit from better communication from NDOR, especially about projects that are prioritized based on factors other than need. Although such projects appear to be few in number, interest in them may be high.

Recommendation: NDOR should identify staff who can improve its communication with the public and policymakers especially as it relates to projects that are prioritized based on factors other than strictly need.

II. Legislative Audit Office Report

Legislative Audit Office Report

**Nebraska Department of Roads: Project
Selection, Prioritization and Funding**

December 2012

Prepared by
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INTRODUCTION

Prioritization and selection of roads projects has been a topic of regular and frequent interest among legislators. Historically, this interest has been generated by the amount of funding received by the Nebraska Department of Roads (NDOR) and the importance of this resource to Nebraskans. In 2011, it was heightened by the passage of LB 84 as a funding mechanism for construction of capital improvement projects.

In January 2012, the Legislative Performance Audit Committee (Committee) directed the Legislative Audit Office (Office) to conduct a performance audit of NDOR, focusing on the project selection, prioritization and funding process. Specifically, the Committee directed the Office to answer the following questions in March 2012:

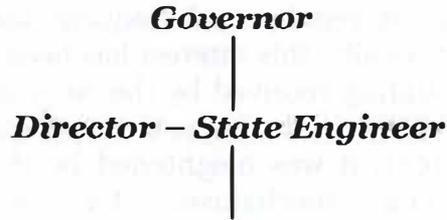
1. What is NDOR's organizational structure and how does it compare to those of other states?
2. What are the different types of projects NDOR selects? What is the selection process, is there a strategic plan for prioritization of projects, and how is each type of project funded?
3. Are projects completed as prioritized?
4. How does NDOR create and maintain transparency to the public in its project selection and funding process?

Sections I through IV of the report discuss each of these questions.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The methodologies used are described briefly at the beginning of each section, with further detail included in the appendix.

We appreciate the cooperation and assistance of NDOR staff and external stakeholders during the audit.

Organizational Chart



Deputy Director of Engineering	Deputy Director of Operations	
Bridge Division	Business Technology and Support Division	
Local Projects Division	Communication Division	
Planning and Project Development Division	Construction Division	
Program Management Division	Controller	Government Affairs Division
Right of Way Division	Human Resource Division	
Roadway Design Division	Materials and Research Division	
Traffic Engineering Division	Operations Division	
	Rail and Public Transportation Division	

SECTION I: NDOR and Other State DOT Structures

In this section, we describe the Nebraska Department of Road's (NDOR's) organizational structure and compare it to the structure of departments of transportation (DOT) in other states. To do this, we reviewed relevant statutes, materials provided by NDOR, and a recent national report on state transportation departments. We conclude the section with a discussion of two recent reports that examined or applied performance measurements for state highway systems nationwide.

NDOR Purview

Broadly speaking, NDOR is responsible for Nebraska's highway, bridge, rail, and public transportation programs. This audit focuses on the department's responsibility for the state highway system, which consists of major roads including Interstate 80, the United States highways, and an expressway system.

NDOR Structure

By law, NDOR is generally responsible for the construction, maintenance, protection, and control of the state highways. State law also obligates NDOR to develop specific, long-range plans for the state highway system. Statute confers on the NDOR Director-State Engineer – who is appointed by the governor and approved by a majority vote of the legislature – full control of the department. The NDOR administrative hierarchy also includes two deputy directors and 16 division heads. (See *Organizational Chart* on page 2.)

NDOR divides its responsibilities into eight geographic districts. The district offices, administered by district engineers, are responsible for state highway maintenance and construction within their boundaries. Each of the eight districts has one member on the Nebraska Highway Commission; the Director-State Engineer is the *ex officio* ninth member, who only votes in the case of a tie.

Among other statutory duties, the Highway Commission conducts studies and investigations, advises the Director in the establishment of broad policies, holds regular public meetings statewide, and advises the public about NDOR policies, conditions and activities. The Highway Commission also provides the public a forum to voice its concerns about roads issues.

Transportation Department Structures in Other States

Like NDOR, transportation departments in other states are executive branch agencies. In most states, departmental leadership is appointed by the governor with the consent of the legislature.¹ However, in eight states, the governor appoints the transportation director without legislative involvement, and in six states, the governor appoints transportation commission members with no formal input from lawmakers. In a handful of states, the legislatures alone, or particular legislative officers, decide some of the leadership appointments.

NDOR also has a few features unlike those in other states. In every other state, the upkeep and construction of state roads and bridges are the responsibility of *transportation* departments—Nebraska is the only state that fulfills those responsibilities through a department of *roads*. The difference in agency names reflects the fact that nearly every state DOT oversees major modes of transit in addition to highway travel. For example, most states have aviation divisions within their DOT, but Nebraska has a separate Department of Aeronautics.

Nebraska is also in a distinct minority in the role played by its highway commission. In 28 states, the directors share administrative authority with highway commissions. Only three states, including Nebraska, have advisory-only highway commissions. The remaining 19 states have no commissions; the directors have sole authority over the agencies.

Finding: *The structure of NDOR is unlike most other states' transportation departments in these ways: (1) it does not include all modes of transportation; and (2) of the 31 states that have a highway commission, Nebraska is one of only three states with an oversight board that is advisory only.*

AASHTO and Reason Reports

In the course of our research on transportation department structures, we reviewed two studies that involved comparing transportation system performance between the states. Although the scope statement for this audit did not direct us to compare Nebraska's performance to that of other states, we believed these re-

¹ The various states refer to transportation department chief executives as directors, commissioners or secretaries. This section uses “director” to refer to all three titles.

ports were of sufficient interest to legislators to include a brief mention of them.

The reports examined the state highway systems as a whole, but with different purposes. The *19th Annual Report on the Performance of State Highway Systems*, published by the Reason Foundation (*Reason Report*), used 11 performance indicators to rank the 50 states on how well they were managing their roads overall – i.e. their costs versus effectiveness ratios – by comparing their performance indicator scores against their highway system budgets on a per mile basis. For example, Nebraska rated fifth in the *Reason Report* in overall management. The state also rated in the top 10 in lowest administrative disbursement per mile, lowest total disbursement per mile (\$63,369 compared to the national average of \$145,127), and in urban interstate pavement conditions. In addition, Nebraska was among 22 states that reported zero percent of rural interstate miles in poor condition.

In contrast, the *State DOT Comparative Performance Measurement: A Progress Report*, published by the American Association of Highway and Transportation Officials (*AASHTO Report*), is an update on national efforts to develop a common set of assessment tools for states to compare their highway systems to those of their peers. The *AASHTO Report* cautions that because of limitations in existing performance measures, cross-state comparisons “must be made with caution.”

These two reports reflect differences in the field regarding the appropriateness of comparing states' performance. Because of this, we also suggest policymakers use caution in relying on such comparisons.

SECTION II: NDOR Project Funding and Prioritization

In this section we discuss project funding sources, and the types of projects that are under the authority and responsibility of NDOR. We also describe the project selection and prioritization process. To address these topics we reviewed NDOR documents and publications, state statutes and legislative histories, and interviewed NDOR officials.

We begin with a general description of funding sources.

Funding

In FY2011-12, NDOR had total revenues of \$721 million, made up primarily of state funds (55%), followed by federal funds (42%). About \$622 million was spent on the maintenance, upgrading and expansion of the approximately 3,500 state bridges and 10,000 miles of state roads.

Federal funds are comprised of user revenues paid into the Federal Highway Trust Fund. Approximately 90 percent of these revenues are derived from federal gasoline and diesel fuel taxes. The money is returned to the states through a reimbursement program in which the states use their own revenues and then bill the federal government.

State funds are comprised mostly of dollars from: fuel taxes (65%); sales taxes on new and used motor vehicles and trailers (23%); and motor vehicle registration fees (9%). According to a recent legislative report, Nebraska relies on the fuel tax more than other states. Since fuel tax revenue has declined in recent years due to decreased fuel demand and more fuel efficient vehicles, the state's reliance on this funding mechanism has created a fiscal deficiency.

In 2011, the Nebraska Legislature passed LB 84, which included a mechanism to make possible larger investments in the state roads infrastructure. The bill created the state highway capital improvement fund, financed with bonded debt and a portion of state sales tax receipts.

According to NDOR, most projects are funded using a combination of state and federal funds. NDOR tries to maximize the use of federal funds, which are more likely to be designated for certain types of projects than are state funds.

Project Types

NDOR separates state highway system projects into two broad categories: asset preservation; and capital improvement.² Generally speaking, asset preservation projects serve to maintain existing roads, bridges and related structures. In contrast, capital improvement projects involve major improvements and usually increase road traffic capacity. According to NDOR, the project type designations are made by consensus of a group consisting of the district engineers and representatives of the department's program management, roadway design, and planning and programming divisions.

NDOR has long considered asset preservation its priority class of highway system projects. In 2008, the NDOR Funding Distribution Team recommended that capital improvement projects receive funding only after all preservation needs have been met.

During the 2010 legislative session, the Legislature responded by statutorily requiring NDOR to prioritize asset preservation projects. However, as mentioned previously, the following year the Legislature recognized the need to increase funding for capital improvement projects, with the passage of LB 84 which required that *at least* 25 percent of the state highway capital improvement fund be spent on the expressway and federally designated highway corridors.

The remaining money is to be used “for surface transportation projects of the highest priority as determined by the department.” Both the legislative history and the statutory language reflect the Legislature's intent that NDOR have broad authority to spend these funds on new construction or maintenance projects. During the course of this audit, NDOR officials stated that they believed the Legislature's intent was that initially funds not dedicated to completion of the expressway (75%), would be spent on capital improvement projects.³ However, in the future, funds could be spent on either capital improvement or asset preservation projects.

Finding: *Both the legislative history and the statutory language reflect the Legislature's intent that NDOR have broad authority*

2 NDOR also identifies a third type of project that is an “intermediate step between asset preservation and capital improvement” called “3R” or rehabilitation, restoration and resurfacing. Because in the course of this audit, NDOR staff identified this as a type of asset preservation, it is not dealt with as a separate category in this report.

3 The expressway is a 600-mile road system begun in 1988. About 425 miles of the road is completed.

to spend these funds on new construction or maintenance projects.

Project Selection and Prioritization

One of the scope questions for this audit asked whether there is a strategic plan for prioritization of NDOR projects. Although not specifically designated as a strategic plan, NDOR is required by law to develop a “long-range” six-year plan that identifies and establishes need-based priorities of highway, road and street improvements. By law, NDOR must also develop a one-year plan containing specific improvements for the current year. In practice, the department meets these requirements by annually adopting one plan for the current fiscal year and another plan that covers the next five fiscal years. These plans, or “programs” as they are referred to by NDOR, consist of both asset preservation and capital improvement projects.

The responsibility for prioritization of asset preservation projects is shared between NDOR administration and the district engineers, while prioritization of capital improvement projects is primarily the responsibility of NDOR administration. The role of the Highway Commission in this process is to communicate public input. Following is a description of each of these processes.

Asset Preservation Selection and Prioritization Process

NDOR uses slightly different processes to prioritize asset preservation projects for roads and bridges. The roads' assessment process begins with a statewide, pavement inventory during which NDOR staff create a video-log of all road and bridge pavement to identify the severity of cracking and deterioration, and ride quality.

Staff enters data from the video-log, along with other information, into a software program (the Pavement Optimization Program, or POP), which estimates the total cost of preservation projects statewide. NDOR's current goal is that 84 percent of the highway system miles will be rated good or in very good condition.

NDOR distributes funds to the engineering districts based on the amount of money needed by each to reach the Nebraska Serviceability Index (NSI)⁴ rating goal. According to NDOR, the total cost

4 A scale of zero to 100 of observed, pavement surface distress.

of all preservation projects always exceeds the amount of money available, so the funds are disbursed on a percentage basis. For example, if one district has 10 percent of the need, and NDOR has \$200 million in allocated preservation funds, then the district would receive \$20 million.

Each district then prioritizes its projects, using POP data, and considering factors such as pavement and bridge conditions, traffic volumes and congestion, accident rates, and input from the public and NDOR central office. According to NDOR, because there is never enough money to address all highway system needs, district engineers sometimes have to do maintenance or asset preservation work until adequate funding for larger projects becomes available. Cost-prohibitive projects are sometimes delayed for this reason.

Inspection and preservation of bridges diverges somewhat from the asset preservation process for roads. NDOR staff collect pavement data during the yearly summer inventory, but also annually inspect fracture-critical, i.e. high-priority, bridges. Every two years, bridge staff inspect all other state bridges for adequacy and structural soundness.

Based on conclusions drawn from these considerations, NDOR staff compile one and five year project lists.

Capital Improvement Selection and Prioritization Process

NDOR uses a user cost-benefit analysis tool to rank capital improvement projects. The tool applies two tiers of scrutiny to proposed projects. In the Tier 1 stage, NDOR personnel weigh the *direct* user benefits of a potential project, such as travel time costs, operating costs, motorist safety, engineering costs and project need. The Tier II stage ranks projects according to their *indirect* benefits and also weighs the importance of a potential project to the entire state. Staff conducting a Tier II analysis consider, among other factors, whether a proposed project already has dedicated state funds, earmarks or local funds; the degree of public support or opposition; and the potential economic and environmental benefits derived from construction of the road.

NDOR converts the information from each tier into comparable form (monetary value and points, respectively). Projects with the highest scores receive the highest prioritization.

LB 84 Capital Improvement Projects

Prior to passage of LB 84, capital improvements were, as a matter of NDOR practice and of state law, subordinate to highway system preservation projects and, generally received funding only as money for system expansion became available. In practice, this has meant NDOR has commenced few capital improvement projects in recent years.

NDOR used its 2010 capital improvement project rankings as a base for prioritizing projects to be completed using the new LB 84 funds. The rankings were in groups of years: 2014-2015; 2016-2019; and 2020-2023, because many projects cannot be completed in one year. NDOR began the process by adding federally designated highway corridors to the list because the department historically had not included these projects in the rankings. Portions of the expressway that had been eliminated from consideration because of lower average daily traffic (ADT) counts were also added.⁵

In addition to the user cost-benefit tier analysis described previously, NDOR also gave weight to the following considerations in ranking LB 84 projects: deliverability; right-of-way issues; maintaining a fair, statewide distribution of LB 84 funds; and whether any projects could be re-classified as asset preservation. Department staff involved in the prioritization stated that creation of an exact ranking formula was impossible because (among other dynamics) public input and pavement conditions frequently change. According to NDOR, the capital improvement projects are prioritized by consensus of a group consisting of the Director-State Engineer, the deputy directors and the project delivery team.⁶

Because there is some subjectivity to this process, we interviewed a selection of potentially interested parties to find out if they believed NDOR's decisions were primarily needs-based or if they believed that external influences, such as pressure from elected officials, played a significant role in project selection. Specifically, we interviewed the immediate-past NDOR Director-State Engineer, district engineers from all eight districts, the highway commission-

5 These segments were removed pursuant to a System Preservation Optimization Team (SPOT) recommendation that expressway segments register at least 10,000 to be warranted.

6 The project delivery team included the Director, the Deputy Director of Operations, the Deputy Director of Engineering, the Roadway Design Engineer, the Planning and Project Development Engineer, the Right-of-Way Manager and Program Management Engineer.

ers from districts two, five, and six,⁷ and two representatives of external stakeholders: the Association of General Contractors (AGCNE) and the Association of County Officials (NACO).⁸

Former Director-State Engineer, Monty Fredrickson, in testimony at a 2011 joint hearing of the Legislative Transportation and Telecommunications and Appropriations Committees, stated that 90 percent of all roads projects (not just capital improvement projects) are selected based on need. The remaining 10 percent refers to other more intangible or unpredictable factors, such as deliverability, permit issues and public opinion about a project. However, he described the public pressure he has received over his 20 year tenure at NDOR as “miniscule.”

In terms of external influence regarding selection of capital improvement projects, the Director also could not cite a situation where he had been pressured to select or prioritize a certain project by an elected official. According to the Director, the process is mostly data-driven, with the exception of factors such as deliverability and funding, which cannot be programmed into a formula. He stated that it is not always possible for NDOR to choose roads projects solely based on needs.

The other stakeholders interviewed generally acknowledged the existence of political pressures, but the consensus among them was that the NDOR project selection and prioritization process is primarily needs-based and fair. Some district engineers and highway commissioners stated they had received political pressure on a particular project, e.g., being contacted by a mayor or senator, and referred them to NDOR Central Office. Others simply treated this type of contact like any other comment from a member of the public. No one we talked to cited any evidence that a project's prioritization had been significantly influenced by factors outside the needs assessment process.

Finding: *NDOR states that it prioritizes projects primarily based on relative need, while acknowledging that in a small number of cases other factors play a role. Stakeholders we interviewed agreed with this assessment.*

7 We selected these three districts because they geographically represent both urban and rural areas of the state. District Six is centrally located, District Five is located in the west and District Two is located in the east and includes the city of Omaha. Additionally, the current Chair of the Highway Commission is located in District Six and the Vice Chair in District Two.

8 The Nebraska League of Municipalities was also contacted but did not respond to our requests for an interview.

SECTION III: Are Projects Completed as Prioritized?

In this section, we report the results of our analysis of whether the Nebraska Department of Roads (NDOR) completes projects as prioritized. Specifically, we analyzed (1) whether projects on the one and five year programs are outsourced to contractors (i.e. let for bid) during those periods and (2) whether the projects being let are being completed. We also report on factors that delay project completion. Our evaluation is based on our review of NDOR publications, interviews with NDOR staff and analysis of NDOR data.

Before presenting the results of our analysis, we describe the types of projects from the most recent completed one year program.

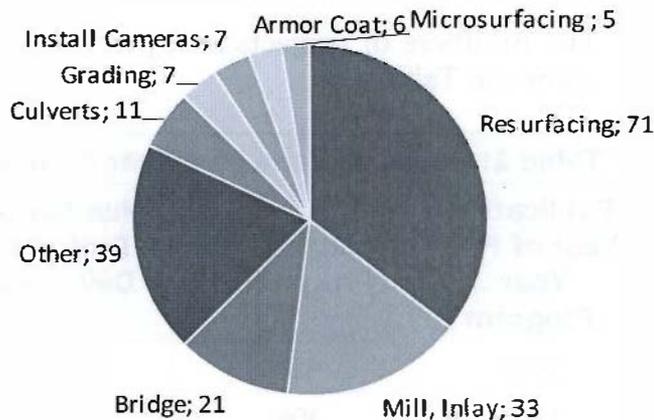
Types of Projects

To give an example of the types of projects NDOR plans for a given year, we reviewed the completed one year program for FY2011-12. That program contains 200 improvements in 143 projects. Most projects contained a single improvement, although some contained as many as three improvements.

More than half (104) of the improvements were made to increase rideability and roadway strength through either resurfacing alone (adding a layer of surfacing material to an existing hard-surfaced roadway), or resurfacing combined with milling (grinding, removing and replacing the top layer of asphalt). Of the remaining 96 improvements, the most frequent types were made to bridges (21) and culverts (11); followed by many types of improvement that occurred infrequently.

These figures are reflected in the pie chart below. The “Other” category contains improvements that occurred fewer than five times during the year. (See *Appendix* for more detail on the items in that category.)

FY 2012 Types of Improvements



Source: Graph prepared by the Legislative Audit Office using NDOR data.

Analysis: Projects Delivered to Letting

As discussed in Section II of this report, NDOR is required to prioritize projects on both a one year and a five year program, which together are the six year plan required by statute. NDOR annually reports the percentage of projects that were delivered to letting from the one year program and the five year program in their *Performance Measures* publication.

There is no statutory goal for the number of projects contained in either program that will, in fact, be delivered to letting. NDOR has established goals of 80 percent for the five year program and 100 percent for the one year program. The lower rate for the longer plan reflects the reality that more factors can change over the longer period of time, causing more projects to be delayed or removed from the program entirely. Further, NDOR states that its policy is to over-program—that is, to prioritize more projects than it expects to be able to let—to a small extent, in order to be prepared for any additional, unanticipated funds it might receive.

Five Year Program

NDOR has used the goal of delivering 80 percent of the projects on the five year program to letting within five years since 2005. Prior to that, the goal had been 65 percent but after exceeding it for several years, NDOR raised it to 80 percent.

NDOR did not meet that goal for eight of the 10 five year programs

since 1997. For those years, letting rates ranged from 57 percent to 77 percent. However, NDOR *exceeded* the goal for the programs published in 2000 and 2001, delivering 85 percent and 82 percent to letting respectively.

The numbers of projects and percentages delivered to letting are shown in Table 1.

Table 1: Projects in the Five Year Program				
Five Year Program Time Period	Publication Year of Five Year Program	Number of Projects in the Program*	Number of Projects Delivered	Percentage of Projects Delivered
1998-2002	1997	428	329	77%
1999-2003	1998	406	312	77%
2000-2004	1999	472	351	74%
2001-2005	2000	408	345	85%
2002-2006	2001	412	337	82%
2003-2007	2002	363	277	76%
2004-2008	2003	346	252	73%
2005-2009	2004	312	214	69%
2006-2010	2005	347	197	57%
2007-2011	2006	342	215	63%
	Total	3836	2829	74%

Source: Nebraska Department of Roads (NDOR), *Performance Measures: A Performance Based Transportation Agency*, October 2011

*Number does not include projects that were removed from the original program by NDOR

The delivery percentage rates for the districts' five year programs have dropped in recent years, from 79 percent to 68 percent. While this may be attributed in part to reduced resources during recent years, NDOR seems to have taken that into account by including fewer projects in the five year programs since 2002—a total of 1,710 compared to 2,126 in the earlier period. Despite having fewer projects prioritized, the percent of projects delivered to letting was still lower—68 percent in the more recent period compared to 79 percent in the earlier period.

These figures are shown in Table 2 and Table 3.

Table 2: Five Year Program: From 1999-2002 through 2002-2006				
Five Year Program Time Period	Publication Year of Five Year Program	Number of Projects in the Program*	Number of Projects Delivered	Percentage of Projects Delivered
1998-2002	1997	428	329	77%
1999-2003	1998	406	312	77%
2000-2004	1999	472	351	74%
2001-2005	2000	408	345	85%
2002-2006	2001	412	337	82%
	Total	2126	1674	79%

Source: Nebraska Department of Roads (NDOR), *Performance Measures: A Performance Based Transportation Agency*, October 2011

*Number does not include projects that were removed from the original program by NDOR

Table 3: Five Year Program: From 2003-2007 through 2007-2011				
Five Year Program Time Period	Publication Year of Five Year Program	Number of Projects in the Program*	Number of Projects Delivered	Percentage of Projects Delivered
2003-2007	2002	363	277	76%
2004-2008	2003	346	252	73%
2005-2009	2004	312	214	69%
2006-2010	2005	347	197	57%
2007-2011	2006	342	215	63%
	Total	1710	1155	68%

Source: Nebraska Department of Roads (NDOR), *Performance Measures: A Performance Based Transportation Agency*, October 2011

*Number does not include projects that were removed from the original program by NDOR

Finding: In six of the last 10 years, NDOR has come within approximately ten percent of meeting its stated goal of delivering 80 percent of projects on the five year program to letting. However, the average number of projects delivered to letting has dropped in recent years.

One Year Program

The five year program reflects future projects, while the one year program reflects the projects NDOR expects to actually let for bid in a given year. To assess whether NDOR has met its goal of delivering 100 percent of these projects to letting, we compared the number of projects in the one year programs to the number actually let for bid for the 10 years from FY2001-02 to FY2010-11. In those years, NDOR did not let 100 percent of the prioritized projects in any single year. However, it came within five percent of that goal in six of the years, and within eight percent in three others.

The only year that the letting rate was noticeably lower was 2010. According to NDOR, this drop in projects delivered to letting was caused by the receipt of unexpected stimulus funds from the federal government which had to be spent in a short amount of time. NDOR used these funds to complete a number of previously unfunded capital improvement projects, which pushed back the delivery of several projects that had been on the one year program.

The numbers of projects and percentages delivered to letting are shown in Table 4.

Fiscal Year	Number of Projects in the Program*	Number of Projects Delivered	Percentage of Projects Delivered
2002	161	160	99%
2003	157	154	98%
2004	175	170	97%
2005	109	107	98%
2006	129	119	92%
2007	124	117	94%
2008	113	106	94%
2009	142	136	96%
2010	160	138	86%
2011	144	138	96%

Source: Nebraska Department of Roads (NDOR), *Performance Measures: A Performance Based Transportation Agency*, October 2011

*Number does not include projects that were removed from the original program by NDOR

We also reviewed the letting rate for each individual district for the most recent complete fiscal year. As with the analysis of the districts' five year programs, this breakdown shows a slightly different picture than the state-wide figures. In FY2010-11, four districts delivered 100 percent of their projects to letting, while two districts delivered 88 percent. (However, the lower percentages reflect a very small number of projects—three in one district and one in the other.) The remaining two districts delivered 93 percent and 97 percent respectively.

The numbers of projects and percentages delivered to letting are shown in Table 5.

Table 5: Fiscal Year 2011 Percentage of Projects in the One Year Program Delivered to Letting by District			
District	Number of Projects in the Program*	Number of Projects Delivered	Percentage of Projects Delivered
1	34	33	97%
2	16	16	100%
3	22	22	100%
4	24	21	88%
5	19	19	100%
6	14	13	93%
7	8	7	88%
8	7	7	100%
Total	144	138	96%

Source: Nebraska Department of Roads (NDOR), *Performance Measures: A Performance Based Transportation Agency*, October 2011

*Number does not include projects that were removed from the original program by NDOR

According to NDOR, the most common reason a project on the one year program is not let within the year is that the program is developed using projections of the funding the department will receive from the federal government and the actual funds received are less than what is projected.

We discuss further delaying factors below.

Finding: *In six of the last 10 years, NDOR has come within five percent of meeting its stated goal of delivering 100 percent of projects on the one year program to letting. In addition, while some districts have delivery-to-letting percentages of less than 90 percent, the actual number of projects reflected in those percentages is very small.*

Reasons Projects are not Delivered for Letting as Prioritized

According to NDOR, there are many reasons why projects are delayed. Examples of these include:

- federal funding for a project may not come through as anticipated,
- unexpected needs for further right-of-way;
- endangered species or other environmental issues (for example, wetlands mitigation);
- coordination of right-of-way acquisitions with tribal governments; or
- new public concerns develop.

Additionally, some aspects of a project may simply take longer than NDOR could have anticipated, such as condemnation or right-of-way proceedings or railroad easements.

Projects can also drop off the five year program entirely, due to changing traffic needs (for example, the average daily traffic of a stretch of highway may drop so further work on the road is no longer necessary) or a city may complete a project fully using its own funds rather than waiting for NDOR funding.

Analysis: Projects Being Completed as Prioritized

In order to analyze whether NDOR is actually *completing* projects as prioritized (as opposed to letting the projects out to contract), we looked at the statewide one year program from FY2006-07 to determine what projects have been completed to date. We selected the program from five years ago to ensure enough time had passed for most projects to be completed.

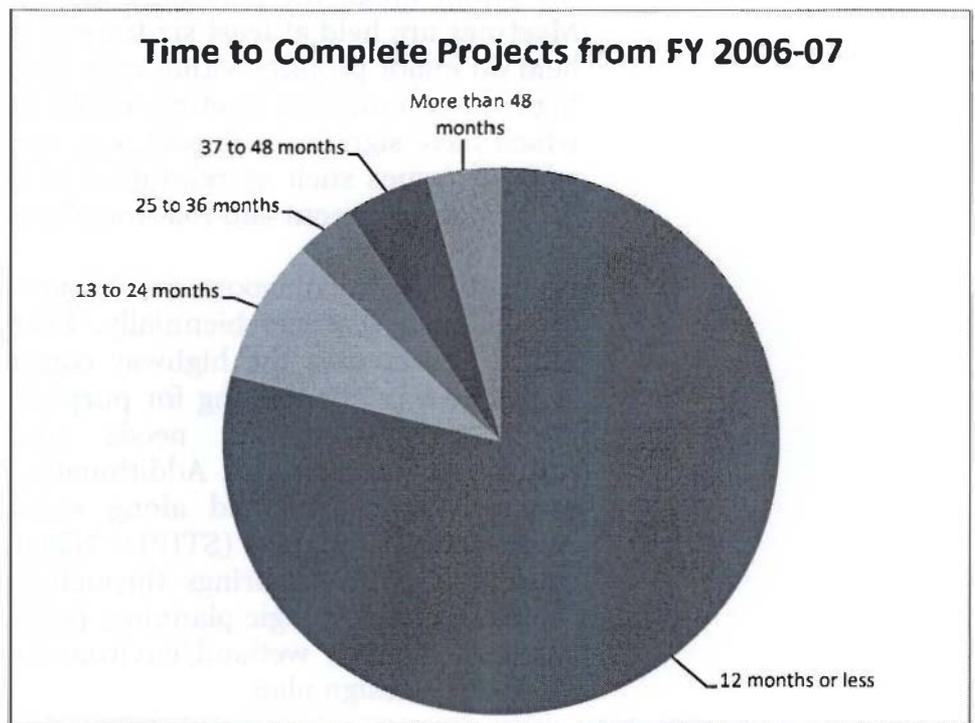
As of the writing of this report in October 2012, of the 152 projects prioritized, 142 projects have been completed.⁹ This represents 93

⁹ According to NDOR, this number is different than the FY2007 number on Table 4, as the number on Table 4 does not

percent of the projects on the FY2006-07 one year program. According to NDOR, of the 10 projects that have not been completed, all have been removed from prioritization for the following reasons: eight were canceled entirely; one is being let by the county instead of the state; and one was combined into another project to be completed in the future.

Finding: *Most of the projects on the FY2006-07 one year program were completed as prioritized and most were completed within one year.*

We also calculated the amount of time it took for the projects to be completed and found that the overwhelming majority (79%) were completed in less than one year. The breakdown is shown in the pie graph below.



Source: Graph prepared by the Legislative Audit Office using NDOR data.

include projects that were withdrawn or killed, or projects that are on their second year of funding.

SECTION IV: Transparency to the Public

In this section we report the results of our analysis of how the Nebraska Department of Roads (NDOR) creates and maintains transparency to the public in its project selection and funding process. Our evaluation is based on interviews with NDOR staff, the Highway Commission, and external stakeholders; and our review of NDOR publications, the NDOR Web site, and the Web sites of selected other states' transportation departments.

Opportunities for Public Input and Involvement

NDOR provides numerous ways for the public to communicate with the Department regarding roads projects. Perhaps the most visible ways are through Highway Commission meetings and public hearings. The Highway Commission is responsible for advising the public about the policies, conditions and activities of NDOR. Meetings are held at least six times a year, in addition to hearings held on major projects within each district. Anyone may speak at a highway commission meeting. Public hearings are held for projects which have significant impact, e.g., expressway development, and address issues such as relaxation of standards, corridor studies, project development and roadway design.

District Surface Transportation Program meetings are held in each of the eight districts biennially. Every two years, each district jointly meets with the highway commission. This joint meeting serves as a public hearing for purposes of input to future project programming, district needs and other public surface transportation concerns. Additionally, NDOR's one and five year programs are presented along with the State Transportation Improvement Program (STIP).¹⁰ NDOR holds public information, open houses and hearings throughout the year on a variety of topics such as strategic planning, public transit planning, highway corridor studies, wetland/environmental issues and change of location or design plan.

Other public participation opportunities are: informal meetings with NDOR staff,¹¹ Statewide Long Range Transportation Planning

¹⁰ A four year listing of projects for which federal funding is proposed. The STIP is a programming tool approved annually and that is developed through a cooperative effort with the metropolitan planning organizations of Omaha, South Sioux City and Lincoln.

¹¹ These meetings can be by appointment, or walk-ins to NDOR offices for individuals or small groups. These often occur when conditions change which affect a particular project.

meetings to develop the state's Long Range Transportation Plan,¹² and Board of Public Roads Classifications and Standards meetings. This body meets 10 times annually and oversees annual construction planning and fiscal reporting for state and local highways, roads and streets, as well as the application of minimum design, construction and maintenance standards for public roadways.¹³

In addition to the opportunity to attend meetings and hearing, members of the public have access to meeting minutes and, in some cases, transcripts. Table 7 shows which type of public record is kept for each meeting/hearing. All public records are available upon request to the NDOR Communications Division.

Table 7: Public Meetings & Records Available	
Type of Meeting/Hearing	Record Kept
State Highway Commission Meetings	Transcript, Minutes
District Transportation Meetings	Transcript
Public Information/Open House Meetings	Report
Informal Meetings with NDOR Staff	Individual notes, Follow up correspondence
Pre-appraisal Meetings	Report
Public Hearings for Relaxation of Standards	Report, Minutes
Statewide Long Range Transportation Planning Meetings	Transcript, Report
Board of Public Roads Classifications and Standards Meetings	Minutes

Source: E-mail correspondence from Mary Jo Oie, NDOR Communication Director, September 11, 2012.

Finding: NDOR provides a variety of different opportunities for public input and participation.

¹² The Long Range Transportation Plan, published once every five years, is an implementation plan for future transportation development; meetings are held as often as necessary to develop the plan and meeting notices are published on the NDOR Web site.

¹³ The standards ensure that each segment can safely handle the traffic pattern and volume it is expected to carry. Relaxation standards hearings are held in conjunction with the Board's regular meetings.

Web Site

Another way NDOR communicates with, and provides transparency to, the public is through publication of information on its Web site. While the information published on the NDOR Web site is very comprehensive, in utilizing the site for this audit, and when we compared it to the Web sites of other states' transportation departments,¹⁴ we found the Nebraska site to be significantly less user-friendly. Specific areas where we would suggest improvements based on our review of the Web sites of these states and NDOR, are:

- The use of more color and a larger font to make information more readable and draw the reader's attention to specific topics, especially information that is likely to be most useful, and of interest to, the general public.
- Organization of information by the type of audience likely to be seeking it, for example, the public, businesses (e.g., contractors, consultants, motor carriers), government (colleges, city, county, state, tribal and federal officials), employees, etc.
- Creation of fewer main links from the homepage with the included information visible without having to move the cursor over the link. For example, Iowa's Web site has three basic links entitled: Doing Business, Motor Vehicle, and Travel Information; Texas' main links are: Topical Resources, Local Information, Quick Links and What's New and New Mexico's are: Travel Information, Business Resources and News and Information.
- Design of a singular, all-inclusive "Contact Us," section which is prominent and visible, rather than the current "Ask a Question or Report a Highway Concern." Arguably, the ability to contact a government agency is one of the most important functions of its Web site, however, the link to contact NDOR staff is not immediately visible and is located at the bottom of the Web page. Additionally, Oregon has a "How can we help?" link and Massachusetts has a "How do

¹⁴ In reaching this conclusion, we compared Nebraska's Web site to the Web sites of 10 other states. Five states—North Dakota, Montana, Kansas, New Mexico and South Carolina—were chosen based on their ranking (1 through 4 and 6, respectively) in overall performance by the *Reason Foundation's 19th Annual Report on the Performance of State Highway Systems (1984-2008)*. The other five—Texas, Oregon, Michigan, Massachusetts and Iowa—were randomly chosen from different geographical regions of the country.

I?” link both of which more clearly communicate the agency's interest in communicating effectively with the public, as well as a willingness to assist in resolving problems or concerns.

- Creation of one link for “Publications and Reports” and “Public Involvement” which is accessible directly from the homepage. The NDOR site provides this information under one of the main topic links, but these are important and should be immediately visible to the public. This may also eliminate the need for some of the separate links to specific reports or public participation opportunities.

Finding: *While the information contained on the NDOR Web site is very comprehensive, items of particular interest to the public are difficult to identify and access.*

Communication and Transparency

In the course of conducting this audit, legislative audit staff requested and received a multitude of data and information. Likewise, and as discussed above, the NDOR Web site provides an enormous amount of valuable information to the public. From this we concluded that NDOR has a great deal of information and is willing to share it.

Where NDOR falls short, is in its ability to communicate these often inherently complex issues to the public, particularly when projects involve the “10 percent” factors referred to by the NDOR Director in his joint hearing testimony. If there was any feedback that could be characterized as negative from our interviews with the highway commissioners and external stakeholders, it was that NDOR's communication needed improvement, particularly when projects get reprioritized. While explaining these issues may be more difficult, especially to an audience not comprised of roads' experts, NDOR staff must remember that the agency receives and manages an extremely large pool of money for an important resource to all Nebraskans. Good communication about how this money is spent is vital.

Finding: *NDOR has a wealth of program information available that it makes available to the public. Where NDOR falls short is in its ability to communicate these often inherently complex issues to the public.*

Appendix: Other Types of Improvements

As noted in Section III of the report, this appendix provides the list of the types of improvements that fall into the “other” category on the pie chart. There were 39 total types of improvements that fell into this category. The definitions are from the Nebraska Department of Roads' *Nebraska Surface Transportation Program Book: Fiscal Years 2012-2017*, except as noted below.

- 4 – Joint Seal (The replacement of the seal at the transverse and longitudinal joints in concrete pavements with a hot-pour type sealer.)
- 4 – Crack Seal (The sealing of random and reflective cracks in concrete and bituminous pavements with a hot-pour type sealer.)
- 3 – Fog Seal (A light application of a diluted slow-setting asphalt emulsion to the surface of an aged pavement surface.)
- 2 – Concrete
- 2 – Surfacing (Hard surfacing, either concrete or bituminous.)
- 2 – Viaduct (Structure over a railroad or other roadway.)
- 2 – Anti-Icing System
- 1 – Grinding (Diamond grinding to smooth the surface of a concrete pavement.)
- 1 – Surfaced Shoulders (Hard surfacing the shoulders of an existing or new hard-surfaced road. May include minor grading and structure widening.)
- 1 – Urban (Construction of divided or undivided curbed roadway in an urban area. May include grading, structure and incidental work.)
- 1 – Turn Lanes
- 1 – Widen
- 1 – Municipal Resurfacing
- 1 – Replace Dynamic Message Signs
- 1 – Wetland Bank
- 1 – Landscaping
- 1 – Joint Repair
- 1 – Shoulder Repair
- 1 – Intersection
- 1 – Traffic Signals
- 1 – Curb Ramps
- 1 – High Mast Towers
- 1 – Structure Removal
- 1 – Repair
- 1 – Right-of-way
- 1 – Drainage
- 1 – Signing

III. Fiscal Analyst's Opinion

State of Nebraska

LEGISLATIVE COUNCIL

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OCT 16 2012

LEGISLATIVE AUDIT



www.nebraskalegislature.gov

Legislative Fiscal Office
PO Box 94604, State Capitol
Lincoln, NE 68509-4604

October 15, 2012

Martha Carter, Legislative Auditor
Legislative Audit Office
P.O. Box 94604, State Capitol
Lincoln, NE 68509

Dear Martha,

Per your request, the Legislative Fiscal Office has reviewed the draft report titled Nebraska Department of Roads: Project Selection, Prioritization and Funding. It is the opinion of the Legislative Fiscal Office that the recommendations currently contained in the report can be carried out using the existing appropriations and staffing resources of the Department of Roads.

If you have any questions, please contact me at 471-0050.

Sincerely,

A handwritten signature in cursive script that reads "Mike Lovelace".

Mike Lovelace, Program Analyst
Legislative Fiscal Office

10150303 ML.doc

PATRICK J. O'DONNELL
Clerk of the Legislature

NANCY CYR
Director of Research

MARTHA CARTER
Legislative Auditor

JOANNE PEPPERL
Revisor of Statutes

MICHAEL CALVERT
Legislative Fiscal Analyst

MARSHALL LUX
Ombudsman

IV. Background Materials

BACKGROUND MATERIALS

The “background materials” provided here are materials (in addition to the Office’s report) that were available to the Committee when it issued the findings and recommendations contained in Part I of this report. They include:

- the Office’s draft findings and recommendations (provided for context);
- the agency’s response to a draft of the Office’s report; and
- the Legislative Auditor’s summary of the agencies’ response.

Draft Findings and Recommendations

The following are the Legislative Audit Office's findings and recommendations for this report.

Section I: NDOR and Other State DOT Structures

Finding #1: The structure of NDOR is unlike most other states' transportation departments in these ways: (1) it does not include all modes of transportation; and (2) of the 31 states that have a highway commission, Nebraska is one of only three states with an oversight board that is advisory-only.

Recommendation: If the Committee believes there would be a benefit in having a highway commission that shares policy-making responsibility with Director-State Engineer, it should consider introducing legislation to change the commission's role.

Section II: NDOR Projects Funding and Prioritization

Finding #2: Both the legislative history and the statutory language reflect the Legislature's intent that NDOR have broad authority to spend these funds on new construction or maintenance projects.

Recommendation: If it was not the Legislature's intent that funds not dedicated to the completion of the expressway be used for both new construction and maintenance projects, then it should consider introducing legislation to clearly state that these remaining funds be used only for capital improvement projects.

Finding #3: NDOR states that it prioritizes projects primarily based on relative need, while acknowledging that in a small number of cases other factors play a role. Stakeholders we interviewed agreed with this assessment.

Recommendation: If the Committee is concerned about the non-need based factors considered by the department in prioritizing projects it should consider introducing legislation that sets forth the factors it believes are appropriate and how they should be considered in relation to need.

Section III: Are Projects Completed as Prioritized?

Finding #4: In six of the last 10 years, NDOR has come within approximately ten percent of meeting its stated goal of delivering 80 percent of projects on the five year program to letting. However, the average number of projects delivered to letting has dropped in recent years.

Finding #5: In six of the last 10 years, NDOR has come within five percent of meeting its stated goal of delivering 100 percent of projects on the one year program to letting. In addition, while some districts have delivery-to-letting percentages of less than 90 percent, the actual number of projects reflected in those percentages is very small.

Discussion: In the absence of statutory goals for the percentage of projects delivered to letting, the department has established its own goals, which appear reasonable. In addition, in the last 10 years the department has come close (between 5 and 10 percent) to meeting them.

Recommendation: If the Committee is satisfied with the department's goals and progress toward them, no action is needed. If the Committee has concerns about the department's goals, it should consider establishing goals in statute.

Finding #6: Most of the projects on the FY2006-07 one year program were completed as prioritized and most were completed within one year.

Recommendation: If the Committee is satisfied with the department's project completion rate, no action is needed. If the Committee has concerns about the length of time it is taking for projects to be completed, it should consider establishing goals in statute.

Section IV: Transparency to the Public

Finding #7: NDOR provides a variety of different opportunities for public input and participation.

Finding #8: While the information contained on the NDOR Web site is very comprehensive, items of particular interest to the public are difficult to identify and access.

Recommendation: NDOR should modify its Web site to make information of interest to the public easier to find. Web sites from other states' transportation departments described in this report could provide examples of relatively simple changes that would be very helpful.

Finding #9: NDOR has a wealth of program information available that it makes available to the public. Where NDOR falls short is in its ability to communicate these often inherently complex issues to the public.

Discussion: We believe the public generally, and policymakers specifically, would benefit from better communication from NDOR, especially about projects that are prioritized based on factors other than need. Although such projects appear to be few in number, interest in them may be high.

Recommendation: NDOR should identify staff who can improve its communication with the public and policymakers especially as it relates to projects that are prioritized based on factors other than strictly need.



Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF ROADS

Randall D. Peters, P.E., Director - State Engineer
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • transportation.nebraska.gov

November 8, 2012

Ms. Martha Carter
Legislative Auditor
Legislative Audit Office
P.O. Box 94945
Lincoln, NE 68509

Dear Ms. Carter:

On behalf of the Nebraska Department of Roads (NDOR), I thank the Legislative Performance Audit staff for their hard work, diligence, and patience in understanding and evaluating our complex activities. We are also appreciative of the opportunity to provide substantive feedback to the team's findings and recommendations.

In general, we find the report comprehensive and descriptive of our processes and procedures. It provides adequate information regarding project selection, prioritization and funding. However, we disagree with some of the recommendations and maintain confidence in the direction of our organization and its mission, as is detailed below.

Section V: Findings and Recommendations

Section I: NDOR and Other State DOT Structures

Finding #1: The structure of NDOR is unlike most other states' transportation departments in these ways: (1) it does not include all modes of transportation; and (2) of the 31 states that have a highway commission, Nebraska is one of only three states with an oversight board that is advisory-only.

Recommendation: If the Committee believes there would be a benefit in having a highway commission that shares policy-making responsibility with the Director-State Engineer, it should consider introducing legislation to change the commission's role.

NDOR Response: NDOR's focus and structure are well suited for our state. Nebraskans have valued the role of the State Highway Commission since its creation in 1953. The liaison responsibilities of the Commission have well represented the public voice and have played a key role in countless decisions over the years. Therefore, we do not recommend changes to the Commission's roles and responsibilities.

Section II: NDOR Projects Funding and Prioritization

Finding #2: Although it appears that the Legislature intended LB 84 funds to be used primarily for capital improvement projects, the actual statutory language does not reflect that intent.

Discussion: Although the language does not reflect legislative intent, the department's current leadership has pledged to use the funds as the Legislature intended.

Recommendation: If the Committee wants to ensure that future interpretations of the relevant language do not conflict with legislative intent, it should consider introducing legislation to clearly state that 75 percent of LB 84 funds not already dedicated be dedicated to capital improvement projects.

NDOR Response: We believe that Neb.Rev.Stat. §39-2704 provides much needed flexibility and clear direction which enhances the selection of projects based on highest needs. The statute defines surface transportation projects as expansion or reconstruction of roads or bridges which are part or will be part of the State Highway System.

Finding #3: NDOR states that it prioritizes projects primarily based on relative need, while acknowledging that in a small number of cases other factors play a role. The stakeholders we interviewed agree with this assessment.

Recommendation: If the Committee is concerned about the non-need based factors considered by the department in prioritizing projects, it should consider introducing legislation that sets forth the factors it believes are appropriate and how they should be considered in relation to need.

NDOR Response: NDOR stands behind the direction provided by Neb.Rev.Stat. §39-1365, 39-1365.01 and 39-1365.02 and believes every project selected is designed to enhance the state transportation system. Consequently, NDOR believes no additional statutory guidance to be required.

Section III: Are Projects Completed as Prioritized?

Finding #4: In six of the last ten years, NDOR has come within approximately ten percent of meeting its stated goal of delivering 80 percent on the five-year program to letting. However, the average number of projects has dropped in recent years.

Finding #5: In six of the last ten years, NDOR has come within five percent of meeting its stated goal of delivering 100 percent of projects on the one-year program to letting. In addition, while some districts have delivery-to-letting percentages of less than 90 percent, the actual number of projects reflected in those percentages is very small.

Discussion: In the absence of statutory goals for the percentage of projects delivered to letting, the department has established its own goals, which appear reasonable. In addition, in the last ten years the department has come close (between five and ten percent) to meeting them.

Recommendation: If the Committee is satisfied with the department's goals and progress toward them, no action is needed. If the Committee has concerns about the department's goals, it should consider establishing goals in statute.

Finding #6: Most of the projects on the FY2006-07 one-year program were completed as prioritized, and most were completed within one year.

Recommendation: If the Committee is satisfied with the department's project completion rate, no action is needed. If the Committee has concerns about the length of time it is taking for projects to be completed, it should consider establishing goals in statute.

NDOR Response: The department strives for excellence and continuous improvement in project delivery. From the Director-State Engineer on down, our goal is to deliver quality projects ahead of schedule and under budget. We strive to maximize efficiencies wherever possible, and we hold ourselves accountable through performance measures. We set challenging goals for ourselves, knowing that we do not control all decisions that affect timely delivery of our projects. We believe the Legislature fully supports our efforts in this regard, and we question the feasibility and value of setting performance goals in statute.

Section IV: Transparency to the Public

Finding #6: NDOR provides a variety of different opportunities for public input and participation.

Finding #7: While the information contained on the NDOR website is very comprehensive, items of particular interest to the public are difficult to identify and access.

Recommendation: NDOR should modify its website to make information of interest to the public easier to find. Websites from other states' transportation departments described in this report could provide examples of relatively simple changes that would be very helpful.

NDOR Response: We will reevaluate NDOR's website by conducting a public users' focus group to identify where improvements may be made.

Finding #8: NDOR has a wealth of program information available that it makes available to the public. Where NDOR falls short is in its ability to communicate these often inherently complex issues to the public.

Discussion: We believe the public generally, and policymakers specifically, would benefit from better communication from NDOR, especially about projects that are prioritized based on factors other than need. Although such projects appear to be few in number, interest in them may be high.

Recommendation: NDOR should identify staff who can improve its communication with the public and policymakers especially as it relates to projects that are prioritized based on factors other than strictly need.

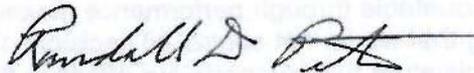
Ms. Martha Carter
November 8, 2012
Page Four

NDOR Response: We have charted a team of experts to complete a Public Involvement Manual and set performance measures to assess the health of our communication tools.

Finally, we have called your attention to certain errata by separate communication.

Again, we thank the Performance Audit Team for their work and appreciate the opportunity to respond and, as always, we strive to deliver the best value for the public's investment in a safe, reliable and affordable manner.

Sincerely,



Randall D. Peters, P.E.
Director – State Engineer

RDP:KJ:z

Legislative Auditor's Summary of Agency Response

This summary meets the statutory requirement that the Legislative Auditor “prepare a brief written summary of the response, including a description of any significant disagreements the agency has with the Section’s report or recommendations.”(Neb. Rev. Stat. § 50.1210.)

On November 8, 2012, the Director-State Engineer submitted NDOR’s response to a draft of the Performance Audit Section’s audit report. The director indicated that NDOR accepted the conclusions contained in the report and made recommendations to the Legislature where appropriate for possible future legislative action. NDOR’s response also stated that it was in the process of conducting a public users’ focus group to identify potential Web site improvements, in addition to identifying a team of experts to complete a Public Involvement Manual and to set performance measures for its communication tools.