Chair’s Corner
Martha Carter (Nebraska)

I hope everyone’s had a good start to the New Year. I’m sure most of us are well into our legislative sessions by now and inundated with legislative work on top of our on-going audit work. In Nebraska, our session got off to an interesting start when our former Governor was appointed to be the USDA’s Secretary of Agriculture. Before our Lieutenant Governor took over as Governor, speculation about the candidates for a new Lieutenant Governor kept the Capitol abuzz for weeks. (Ultimately, the mayor of a central-Nebraska town was tapped for the honor.)

In my last column, I described discussions taking place at Legislative Staff Coordinating Committee (LSCC) meetings regarding staff sections combining their training efforts and sponsoring joint conferences. Specifically, LSCC had been encouraging staff sections to hold their 2006 training conferences together in Denver. At last month’s LSCC meeting, however, staff section officers decided not to pursue the Denver joint conference. We found that most sections like the idea of joining with one or two other sections but have concerns about a larger gathering. Also, some sections “fit” better together than others. So, LSCC will continue to encourage sections to join together and the staff section officers will work to assist staff sections when they choose to do so.

One incentive for meeting with other sections is that NCSL will reduce the amount of overhead costs the sections have to pay. But NLPES doesn’t have to worry about that right now thanks to the terrific work of Florida’s Office of Program Policy Analysis and Government Accountability (OPPAGA) in running last year’s conference. OPPAGA not only cleared the overhead NLPES was expected to cover last year but also put a significant amount of money in the bank for future years. Thanks again to Gary VanLandingham and the many OPPAGA staff who made the conference such a huge success—both financially and programmatically.

We’re going north for our 2005 training conference, which will be held in Harrisburg, PA, from September 28 to October 1. I hope many of you will be able to join us there.

I also want to remind everyone that it’s almost time for our annual election of new members to the Executive Committee. I hope that the directors reading this article will consider running for a seat on the Committee or allowing one of their staff to do so. While there’s a cost to the time and travel necessary to participating in NLPES at that level, there are some terrific benefits—to you and to other offices—as well.

As always, if you have any questions or concerns, feel free to contact me or other members of the Executive Committee.

Legislative Staff Management Institute
Sacramento, California
July 23-30

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Learning Opportunities at the NLPES Fall Training Conference

“Adding Value to the Legislative Process” was the title of the Fall Training Conference hosted by the Florida’s Office of Program Policy Analysis and Government Accountability (OPPAGA) in Tallahassee. The 2004 fall conference was co-sponsored by the National Legislative Program Evaluation Society and Legislative Research Librarians on October 27-30, 2004. Legislative staff from 32 states participated in the conference as well as staff from state agencies, local governments, the federal government, universities and private consultants.

A large number of conferees participated in one of three half-day workshops that preceded the conference. Workshop sessions included Surveying in the Public Sector conducted by Dr. Mary Stutzman, Florida State University; Team Building and Interpersonal Communication conducted by Dr. Dan Vicker; and Report Writing: Moving from Data to Message conducted by Stan Stenersen, SGS Writing Workshops. A highlight of the conference was the keynote address presented by David Walker, Comptroller General of the Government Accountability Office on the topic of Transformation Challenges.

In addition, the conference included over 30 breakout sessions that included presentations by nearly 50 presenters over two-and-one-half days. The breakout sessions covered a wide range of topics including health, education, corrections/juvenile justice, general government, management, and library related issues.

The 275 conference participants had many opportunities to meet and exchange ideas with their colleagues from other states starting with the opening reception held on Wednesday evening at the Florida Capitol. On Thursday evening conference guests were transported to the Tallahassee Museum of History and Natural Science for dinner at a turn-of-the-century Florida farm that included live farm animals, and a collection of endangered animals. The Friday afternoon networking activities of kayaking, hiking, boating, golfing, and sightseeing culminated in a reception at the Museum of Florida History. Reception participants were offered a glimpse of Florida’s history through the museum’s many collections including antiquities from Florida’s sunken treasures, wood canoes made by Florida’s earliest settlers, and photos made by renowned photographer Clyde Butcher.

The success of the training conference was revealed in the very positive and high evaluation of the conference by attendees. Our thanks to OPPAGA Director Gary VanLandingham and his staff for all their hard work in hosting the 2004 fall training conference.

For additional information about the conference sessions, you may visit the NLPES website and review speaker power points of sessions held during the conference.

Lessons Learned While Evaluating Education Programs

Nancy Zajano (Ohio Legislative Office of Education Oversight)

Created in 1990, the Legislative Office of Education Oversight (LOEO) focuses on evaluating state-funded education programs in Ohio. Although we are in our adolescence and still learning, the occasion of our 15th anniversary has caused us to reflect on a few lessons learned:

Everyone's an expert, except for the evaluator

Unlike other fields of evaluation where legislators have little to no exposure, everyone has been to school. Therefore, legislators are interested in, and feel particularly knowledgeable about, the education arena. This sounds good, and it is, unless they are willing to substitute their personal experience for careful and thorough evaluation.

Additionally, staff of the program being evaluated will argue that “since you are not a (fill in the blank: college professor, teacher, principal, superintendent, counselor, etc.), you are not in a position to evaluate our program.”

Lesson: Maintaining a healthy balance of dazzling confidence and earnest humility helps to ward off all but the most determined critics.

The “story” is important

Although it’s tempting to complete an education study as quickly as we can, taking the time to meet with people, tour a school, and maybe even eat the school lunch is time well spent. The knowledge gained from just “being there” cannot be learned anywhere else and it leads to interesting stories. Given the oral culture of the legislature, we’ve
found it’s important to provide stories that represent the data and capture the findings in a compelling way.

**Lesson:** Although deadlines are looming, stop and smell the Johnny Marzetti.

**It ain’t over when the report is written**

In this culture, the committee presentation is often more important than the carefully crafted, and sometimes, never-read report itself.

We’ve found it’s helpful to gain a “legislative perspective” on how the findings will be heard by asking legislative staff to listen to the presentation ahead of time. In addition to what is presented, we ask the rehearsal audience to provide feedback on how it is presented. Neutrality is crucial when presenting. Any facial expression or body language could be misconstrued as supporting a partisan position.

**Lesson:** Although the presentation comes at the end of a very long and tiring data collection-analysis-writing process, don’t ease up.

**The thick-skinned and intrinsically motivated will survive**

It’s best to prepare as if each study will be controversial. Even the most unassuming topics can turn into a focus for heated debate. To avoid surprising the legislative committee with our findings and recommendations, we generally brief them before the report is released. Also, it’s helpful to avoid surprising the agency running the program under study. Conducting an exit conference with agency staff to explain the findings and recommendations can minimize later conflicts.

On the other hand, we never begin a study expecting its findings and recommendations to be used as soon as the results are reported. They may never be used, regardless of how well the study is done. The political landscape may have changed or the study may have been requested as a way to appease feuding stakeholders. In other words, we may have answers to questions no one wants answered.

**Lesson:** Anticipate that people will care and anticipate that people will not care.

**Limitations as ammunition**

One of the canons of research, particularly in academia, is to report the limitations of one’s study. Within the legislative environment, where competing views are seeking the upper hand of persuasion, there must be balance between reporting “practical” limitations versus providing ammunition for competing parties to discredit your report.

**Lesson:** Don’t provide the bullets for your critics to use to shoot you.

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The Adventures of Aldric of York: Medieval Auditor

In the year 1156, still in the first year of his apprenticeship, Aldric received a commission from his master stating “thou shalt investigate the Royal Meat Inspection Program to determine if sellers of animal flesh are following royal directives and good management practices.” Aldric, studying the decrees establishing the program, noted that the Meat Guild was required to use modern sanitary practices (avoid dragging meat down horse paths), fully divulge the content and quality of their wares (type of beast and year of death), and to undergo periodic inspections by the Royal Food Inspector (Sir Ronald, the Golden Archer).

Aldric spent several months examining program operations, and, mindful of his earlier error, carefully documented his work. While he found that all of the required inspections were performed by Sir Ronald, many unfortunate conditions yet persisted. For example, Aldric noted that meat sellers typically did not sell their products for over three months after the animals were slaughtered. Also, on one occasion, the entire clientele of a pub were killed by eating tainted meat salad, while in another case a meat vendor was observed marketing cavalry horses as pork. Additionally, the Guild was unable to punish one vendor—the Lady Louise—when she fled to a neighboring kingdom after someone had leaked notice of her arrest warrant.

Seized with righteous indignation, Aldric spent several fortights drafting a preliminary and tentative draft of
the report, which was sent to Sir Ronald for his comment. Much to his surprise, Sir Ronald agreed with the report findings, but held that as the single inspector, he could not fully safeguard the quality of foodstuffs. His response pleaded for more resources, holding that “the peasants doth deserve a break today.” Sir Ronald also asserted that the three-month sales period for meat was an industry standard, and stated that “the Guild sees no need for faster food.”

Aldric celebrated the release of the report with a trip to his favorite tavern, the Quill and Scroll. After several ales, he was joined at his table by several persons who were traveling minstrels. The bards professed great interests in Aldric’s exploits, and the lad soon found himself telling many tales of his audit and findings. As the night grew late, Aldric left for his cell, but not until after he had carefully spelled his name and title for his new friends.

The next day, Aldric stumbled in, somewhat late, to his master’s office to receive his new assignment. Alas, instead of greeting his apprentice with his usual good cheer, his master thrust several transcripts in Aldric’s face of town crier reports made during that morning; “Hold the pickles, hold the lettuce, lest they salad come and get us”; “Guild sings ‘Run for the border, Louise!’”; and “Sellers of pork play peasants for dorks, sayeth Aldric of York.” Aldric shamefacedly told the master of his meeting with the bards, but expressed disbelief that they had not correctly reported the conversation. “But not did I say these things this way!” Aldric cried in dismay. “How could’st the knaves have put such words into my mouth?” The wise master patiently explained the cunning ways of bards, and counseled much more caution in Aldric’s future dealings with the media. After spending the next two weeks cleaning the guild stables, Aldric retired to his cell and drowned his sorrows in a cask of ale, resolved to commit this error no more.

Texas Sunset Advisory Commission’s
Occupational Licensing Model
Meredith Whitten (Texas Sunset Advisory Commission)

At first glance, land surveyors and podiatrists may not seem to have much in common. But, take a closer look at how states regulate these – and other – professions and you will find that they are, in fact, quite similar.

This rings true in Texas, where land surveyors, podiatrists, and more than 50 other professions adhere to state regulation. In 1977, the Texas Legislature created the Sunset Advisory Commission, in part as a response to the increase of occupational licensing programs in the state. Since then, the Commission has completed more than 80 reviews of occupational agencies. Through this experience, the Commission identified six basic areas common to almost all of the state’s occupational regulatory agencies, including need for the agency, overall structure, policy body, administration, licensing, and enforcement.

Recognizing that these common factors provide a template for how a regulatory agency should operate, the Commission, in 2001, developed the Sunset Occupational Licensing Model to serve as a detailed guide to evaluating regulatory agencies, regardless of the profession. The basic premise behind the licensing model is that while the scope of practice for professions – from architects to acupuncturists to auctioneers – may vary immensely, the way the state structures regulation of these professions should not.

The model addresses the six general areas mentioned above. Each of these general areas is then divided into subjects intended to cover all major activities of a licensing agency. Each subject area includes a number of related standards. For example, under the general area of enforcement, the model includes nine subjects, one of which is investigation of complaints. The model expands on this subject to include three standards that deal with how an agency should conduct complaint investigations. Currently, the model has 91 standards, although because trends in occupational regulation change and the
Commission’s experience with licensing agencies continue to grow, the model remains a fluid matrix of evolving standards of practices.

The Sunset Commission first used the licensing model during the 2002-2003 review cycle. Sunset staff applied the model to eight agencies. The Texas Legislature passed all 61 of the Sunset Commission’s recommendations that originated from the licensing model.

Although the model contains nearly 100 standards, not every standard needs to be applied to each agency under review, as an agency typically already meets some standards and some standards do not relate to every agency’s operations. On average, the Sunset Commission applies about 10 standards to each agency under review.

- Review the agency’s statutes, policies, operations, and procedures and compare them with all the standards in the model. For each standard, determine the current situation for the agency. This includes citing state laws that give the agency authority related to the standard, as well as agency rules, policies, and practices. The model includes a detailed explanation and a set of beginning questions for each standard to help in deciding if a standard is appropriate to apply to an agency.

- Once you have whittled the list of standards to those that the agency does not meet or those from which the agency deviates, determine a possible recommended action.

- Next, meet with agency staff to discuss why the agency does not meet the standards and what the ramifications of applying the standard would be. An agency may not meet a standard because statute does not specifically authorize it. For example, the model indicates that policy body members should receive travel reimbursement. However, Texas state law specifically prohibits Texas Pharmacy Board members from receiving reimbursement for any travel expenses, including meals and lodging, other than transportation expenses. The Sunset Commission recommended bringing the agency in line with current standards.

In other situations, an agency simply may not have established the standard as agency practice, although statutory authority exists. For example, the model notes that an agency should place complaints in priority order so that the agency addresses the most serious problems first. Although the Plumbing Board had authority needed to do so, the agency had not established a priority order for complaints. In this case, the Sunset Commission decided to specify in statute that the Board must prioritize complaints. However, if existing statutory authority is sufficient, the Commission may opt for a management action, which is a directive to an agency to do something, but does not become part of the agency’s statute.

- After hearing the agency’s perspective, decide whether to apply the remaining standards. Because the licensing model is not a one-size-fits-all tool, only apply standards when you can identify a problem and analysis shows that the agency’s operations will improve by applying the standard. In some cases, analysis may show that an agency needs to be brought in line with the model’s standards. In other instances, however, you may find that sufficient reason exists for the agency to deviate from standard regulatory practices.

- After establishing a final list of standards to apply to the agency, write an issue or report describing the problem and the recommendation. Typically, the problem describes the standard from the model being applied, focusing on why it is a desirable practice; explains the agency’s current practices, including how or why the agency does not meet the standard; and establishes what the harm is from the agency not meeting the standard practice. Each problem should have a corresponding recommendation.

Although thoughtful analysis is required when working with the licensing model, the model does not require an analyst to identify as deep of a problem as more traditional Sunset issues do. As a result, the model provides an opportunity to cover more ground during a review. Also, when the model uncovers larger, more global problems within an agency, you can address these in a more thorough in-depth issue. For example, Sunset Commission staff found that the Texas Board of Professional Engineers deviated from a number of model standards related to enforcement. While Sunset staff could have addressed these issues through the model, the review team chose to highlight the problems and make related recommendations in a larger, separate issue that addressed the enforcement program specifically.

During the 2004-2005 review cycle, the Sunset Commission applied the model to 19 agencies, most of
which regulate health professions, such as physicians, pharmacists, and psychologists. The Commission has made 136 recommendations from the model, which will be evaluated by the full Texas Legislature this spring.

Based on feedback from agencies, regulated professions, and the Legislature, the Commission continues to evaluate the licensing model. Doing so provides the Commission with a stronger tool to use when evaluating licensing agencies, from those that regulate land surveyors to podiatrists, and everything in between. Ultimately, this results in an increased efficiency of operations, enhanced administrative flexibility, increased fairness to license holders, and greater public protection.

To see the Sunset Occupational Licensing Model, go to http://www.sunset.state.tx.us/licensemodel05.pdf. Reports that include licensing model recommendations can also be found on the Sunset Commission's Web site.

State Profile
New Hampshire Office of Legislative Budget Assistant Audit Division

Year Established  The Legislature established the Office of Legislative Budget Assistant in 1953, with the audit division being created in 1969. The division issued its first performance audit in 1984.

Governing Body and Duties  We report to two joint legislative committees. The Legislative Performance Audit and Oversight Committee recommends our performance audit topics. The Legislative Fiscal Committee approves the topics, receives our reports, and releases them to the public.

Audit Work  Performance and financial audits

Annual Budget  $2,650,000

Number & Background of Staff  Current staff size is 27, although we are authorized for 34. Twelve authorized positions are performance audit, 20 are financial audit, plus the audit director and one administrative assistant. We currently have two performance audit vacancies. Performance auditors have at least a master's degree, while financial auditors have at least a bachelor's degree

Number of Reports Issued  In the 2003-2004 biennium, we issued 6 performance audits and 11 financial audits; for a total of 340 observations and recommendations.

Recent Performance Audits and Studies  Education Trust Fund; Board Of Mental Health Practitioners; Department Of Corrections Field Services; Home Care For Children With Severe Disabilities; and, Judicial Branch Administration.

Hot Topics for 2004-05  State insurance procurement practices; E-911; budget deficits; and, will the Red Sox repeat before another 86 years?

Office Mantra  We use a variation of our state motto, which is “Live Free Or Die.” The office mantra is “Audit Free Or Die.” Neither seems to leave much room for compromise.

Best Thing About Where We Work  We’re located 2.5 blocks from the capitol building, which is just far enough to prevent legislators from dropping by to see what’s up. With the recent demolition of the concrete plant next door, those of us with windows have an unfettered view of the woods and hills on Concord’s east side.

Common Questions Asked by Agencies  Who audits you? Do you ever say anything positive? What qualifications do you have to evaluate this program/agency/department/function?

Biggest Challenge We Have To Overcome  Auditees don’t believe us when we say, “we’re here to help.”

Biggest Mistake Made While On an Audit Site-Visit  While taking an inventory of items in the International Trade Resource Center library, including desks used by staff, we returned to our office to find a call had gone from the Center’s director to her commissioner, who then called our director of audits. We apparently had failed to communicate clearly the purpose of our inventory and found we were being accused of “rifling through desks.”

Best Thing We’ve Overheard a Lobbyist Say About Us Lately  Nothing, and that’s just how we like it!
Least Flattering Description of an Agency  A former state treasurer described our role as auditors as going onto the battlefield after the battle and bayoneting the wounded.

Longest Audits  A) State Liquor Commission (18 months) We waited six months for the attorney general to investigate questionable practices we identified. B) Judicial Branch Administration (2 years plus) We started the audit, suspended it when the Supreme Court Chief Justice was impeached, and then negotiated audit issues with the court for several months before bringing the audit out of suspense.

Most Disconcerting Audit Experience  Finding out that probation and parole officers will not eat in many local restaurants because these establishments regularly employ parolees.

Adventures in Auditing  We held an end-of-audits conference for our Judicial Branch Administration performance audit at the state Supreme Court’s well appointed conference room. During the meeting, which was attended by the top judges from the four levels of court, the supreme court legal counsel, the court administrator, as well as the director of audits and audit supervisor from our office, one of the court’s security guards came into the room, looked around, and then excused himself from the room. At the conclusion of the meeting the auditors left the conference room and proceeded to the front door where a high intensity light was flashing. When asked what the light was, the security officer told them that it was the distress signal from the conference room, which can be triggered by a button under the table in the conference room. The security officer stated it has gone off several times but when he investigated there did not seem to be a problem. At that point the auditor-in-charge realized he had been triggering the distress button throughout the meeting, thinking it was just some sort of latch on the underside of the table!

Dream Assignment  Evaluating staffing patterns and needs of the Marine Patrol headquartered on beautiful Lake Winnipesaukee; however in reality fieldwork took place in the middle of winter!

What We Want You to Know About New Hampshire  It has the largest state legislature in the country: 400 representatives and 24 senators. Since an 1889 constitutional amendment, the biennial salary for legislators has been $200; however, the speaker of the house receives $250.

How Small Is New Hampshire?  In 1957 the current house speaker’s father, who himself was speaker at the time, appointed the current minority leader’s father as the minority leader.

Not so Great Moments in New Hampshire History  In April 2004, the Old Man Of The Mountain, New Hampshire’s enduring symbol, fell off of the mountain and into oblivion and the memories of those who had personally seen the real thing.

Best Thing About New Hampshire  We’re not “Taxachusetts”

Office Happenings

Georgia

The Performance Audit Operations of the Georgia Department of Audits recently added the following employees to its staff as management analysts—Shunti Taylor, Michael Reeves, and Debra Brady.

North Carolina

The Fiscal Research Division of the North Carolina General Assembly has recently hired Marshall Barnes, Rodney Bizzell, Joy Hicks, Karlynn O’Shaughnessy, and Andrea Russo as new employees. The following staff have also recently retired: Jim Newlin, Sam Byrd, and Charlotte Todd.

Texas

In December, John Keel, former head of the Legislative Budget Board, was named by the Legislative Audit Committee as Texas State Auditor. Keel replaces Lawrence Alwin, who recently retired.

“We are happy to announce the selection of John as the new state auditor,” said House Speaker Tom Craddick. “He’s a great resource and, of course, has lots of experience in state government. He will be a great auditor.”

Keel, a certified public accountant, retired in June as director of the Legislative Budget Board, a position he held for ten years. Prior to that, Keel was special assistant for budget and projects for former Lieutenant Governor Bob Bullock.
More From Fall Training Conference

David M. Walker, Comptroller General, U.S. Government Accountability Office, served as a plenary speaker during the NLPES Fall Training Conference in Tallahassee, Florida. Mr. Walker’s topic was “Transformation Challenges.”

From the Editor

Two items of interest. Governing magazine recently released its 2005 special issue on grading the states. Katherine Barrett, who was a speaker during the NLPES fall training conference in Kansas City, Missouri, and her husband, Richard Greene, head the grading project. One criterion on which the states were graded is information, which includes program evaluation. The program evaluation function in nine states (California; Florida; Louisiana; Mississippi; Missouri; New Mexico; Pennsylvania; Virginia; and, Wisconsin) was rated as a strength in those states. Congratulations to NLPES member offices in the nine states for a job well done!

Second, the registration deadline of March 15, 2005, is quickly approaching for the upcoming Legislative Staff Management Institute (LSMI) to be held in Sacramento, California, on July 23-30. The University of Southern California Capital Center and California State University Sacramento will jointly cosponsor LSMI with NCSL. The University of Southern California has an outstanding training facility in Sacramento dedicated to providing executive management training to state and local government officials. LSMI participants will be housed at a four-star Sheraton Hotel a block from the state capitol. Go to the NCSL website for further information.

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