

Senator Suzanne Geist
Committee Chair
P.O. Box 94604, State Capitol
Lincoln, NE 68509
402-471-2731

Legislative Performance Audit Committee

Legislative Audit Office
Martha Carter, Legislative Auditor
P.O. Box 94604, State Capitol
Lincoln, NE 68509
402-471-1282

Memorandum

To: Members of the Legislature
From: Legislative Audit Office
Date: 9/26/2022
Re: Overdue Regulations Report

Overview

Under the Nebraska Administrative Procedure Act (APA), if the Legislature passes a bill requiring an administrative agency to promulgate regulations the agency must promulgate the regulation within two years of the bill going into effect. Agencies are required to report the status of these regulations to the Legislative Audit Office (LAO) by July 1 each year. Additionally, if mandatory regulations are not promulgated within three years of a bill's effective date, the law requires the relevant legislative standing committee to hold a public hearing.

2022 Report

We received reports from 66 agencies. Three agencies, the Foster Care Review Office, the Latino American Commission, and the Tax Equalization and Review Committee, did not submit a report to the Office.

Of those agencies who did report, only three reported regulations that may be overdue. The Department of Correctional Services, the Department of Education, and the Public Service Commission all reported regulations required by bills passed in 2020 or earlier that have not been promulgated. Those reports are attached to this memo. As per LAO practice, the reports were forwarded to Committee Counsels and Committee Chairpersons of the relevant standing committees. We did not verify whether the regulations were in fact mandatory or overdue.

**Legislative Performance Audit Committee
2022 Regulations Report**

1. Agency: Nebraska Public Service Commission
2. Were any bills passed **in 2022** that will require your agency to promulgate regulations?
 - Yes
 - No (If no, go to question 3.)

If yes, what is the bill number and subject of the regulation?

Year Passed	Bill Number	Subject of Regulation
2022		
2022		
2022		
2022		
2022		

3. Were any bills passed **in 2021** that required your agency to promulgate regulations?
 - Yes
 - No (If no, go to question 5.)

If yes, what is the bill number, effective date of the bill, public hearing date, and regulation status?

Year Passed	Bill Number	Subject of Regulation	Effective Date of Bill	Date of Public Hearing	Status of Regulation
2021	LB 338	Nebraska Telecommunications Universal Service Fund Support	5/5/2021	Expected during Summer 2022	Rule & regulation proceeding is in initial drafting stages due to staff workload and turnover during 2021. Staff anticipates opening the proceeding in summer 2022.
2021					
2021					

2021					
2021					

4. Did any of the bills passed **in 2021** have an appropriation?

Yes

No (If no, go to question 5.)

If yes, how are the funds being used while the promulgation process takes place?

Year Passed	Bill Number	Appropriation Status
2021		
2021		
2021		
2021		
2021		

5. Does your agency have any regulations required by bills passed **in 2020 or any year before 2020** that have not yet gone into effect?

Yes

No (If no, go to question 8.)

If yes, what is the bill number, year passed, effective date of the bill, public hearing date, and regulation status?

Year Passed	Bill Number	Subject of Regulation	Effective Date of Bill	Date of Public Hearing	Status of Regulation
2018	LB 993	Technical quality assurance, training, and funding standards	04/4/2018	Pending	LB 993 calls for the Commission to adopt rules and regulations necessary to carry out the 911 Service System Act. However, LB 993 also created the 911 Service System Advisory Committee which has responsibility to recommend the regulations to be

		governing next generation 911 service statewide.			<p>adopted to implement Next Generation 911 service in Nebraska.</p> <p>As required by the Act, 14 members of the Advisory Committee have been appointed, representing local government and public safety agencies from all regions of the Nebraska. The Advisory Committee has created several working groups that are actively developing recommendations for system design, funding, call center operations, call taker training, and disaster recovery. These recommendations are being developed into the technical and operational standards that will be adoption by the Commission as new rules and regulations to guide Next Generation 911 service in Nebraska. This process may require several years to fully complete.</p> <p>A preliminary draft of proposed regulations has been prepared by Commission staff. The Commission will move forward with adoption of the new rules and regulations as the 911 Service System Advisory Committee completes its recommendations and submits them to the Commission for approval.</p>

6. For any bill your agency listed in question 5, please explain why the regulation has not been promulgated. If an explanation was provided in the question five table, simply write “see above explanation”.

Year Passed	Bill Number	Explanation for Timeframe of Promulgation
2018	LB 993	See above explanation

7. Did any of the bills passed **in 2020 or earlier** have an appropriation?

Yes

No

If yes, how has the agency used the funds while the promulgation process takes place?

Year Passed	Bill Number	Appropriation Status
2018	LB 993	Cash funds were transferred into the 911Service System Fund to hire staff and consultants as well as to obtain contractual services to implement next generation 911. Funds have been used for that purpose.

8. Who should our office contact with questions about this report?

Name: Jamie Reyes

Email address: jamie.reyes@nebraska.gov

Phone number: 402-471-0232

**Legislative Performance Audit Committee
2022 Regulations Report**

1. Agency: Education
2. Were any bills passed **in 2022** that will require your agency to promulgate regulations?
 - Yes
 - No (If no, go to question 3.)

If yes, what is the bill number and subject of the regulation?

Year Passed	Bill Number	Subject of Regulation
2022		
2022		
2022		
2022		
2022		

3. Were any bills passed **in 2021** that required your agency to promulgate regulations?
 - Yes
 - No (If no, go to question 5.)

If yes, what is the bill number, effective date of the bill, public hearing date, and regulation status?

Year Passed	Bill Number	Subject of Regulation	Effective Date of Bill	Date of Public Hearing	Status of Regulation
2021	LB 389	Military-Teacher Cert. Endorsement			Rule 21 is currently being revised to introduce a proposed hearing draft in 2022
2021	LB 639	Safety Seizure protocol in schools			Rule 59 is currently being revised to introduce a proposed hearing draft in 2022

4. Did any of the bills passed **in 2021** have an appropriation?

Yes

No (If no, go to question 5.)

If yes, how are the funds being used while the promulgation process takes place?

Year Passed	Bill Number	Appropriation Status
2021		
2021		
2021		
2021		
2021		

5. Does your agency have any regulations required by bills passed **in 2020 or any year before 2020** that have not yet gone into effect?

Yes

No (If no, go to question 8.)

If yes, what is the bill number, year passed, effective date of the bill, public hearing date, and regulation status?

Year Passed	Bill Number	Subject of Regulation	Effective Date of Bill	Date of Public Hearing	Status of Regulation
2019	LB 399	Social Studies/Character Ed			Rule 10 is currently being revised to introduce a proposed hearing draft in 2022.

6. For any bill your agency listed in question 5, please explain why the regulation has not been promulgated. If an explanation was provided in the question five table, simply write “see above explanation”.

Year Passed	Bill Number	Explanation for Timeframe of Promulgation
2019	LB 399	Please see response above in #5

7. Did any of the bills passed **in 2020 or earlier** have an appropriation?
 Yes
 No

If yes, how has the agency used the funds while the promulgation process takes place?

Year Passed	Bill Number	Appropriation Status

8. Who should our office contact with questions about this report?

Name: Ryan Foor

Email address: ryan.foor@nebraska.gov

Phone number: 402 471-5030

**Legislative Performance Audit Committee
2022 Regulations Report**

1. Agency: Department of Correctional Services
2. Were any bills passed **in 2022** that will require your agency to promulgate regulations?
 - Yes
 - No (If no, go to question 3.)

If yes, what is the bill number and subject of the regulation?

Year Passed	Bill Number	Subject of Regulation
2022		
2022		
2022		
2022		
2022		

3. Were any bills passed **in 2021** that required your agency to promulgate regulations?
 - Yes
 - No (If no, go to question 5.)

If yes, what is the bill number, effective date of the bill, public hearing date, and regulation status?

Year Passed	Bill Number	Subject of Regulation	Effective Date of Bill	Date of Public Hearing	Status of Regulation
2021					
2021					
2021					
2021					
2021					

4. Did any of the bills passed **in 2021** have an appropriation?

- Yes
- No (If no, go to question 5.)

If yes, how are the funds being used while the promulgation process takes place?

Year Passed	Bill Number	Appropriation Status
2021		
2021		
2021		
2021		

5. Does your agency have any regulations required by bills passed **in 2020 or any year before 2020** that have not yet gone into effect?

- Yes
- No (If no, go to question 8.)

If yes, what is the bill number, year passed, effective date of the bill, public hearing date, and regulation status?

Year Passed	Bill Number	Subject of Regulation	Effective Date of Bill	Date of Public Hearing	Status of Regulation
2019	690	Healthy Pregnancies for Incarcerated Women Act	9/1/2019	N/A	The agency has implemented all the required sections of law. The agency will seek a 2023 statute change because the regulations are not needed to implement the law. The statute is self-executing.

6. For any bill your agency listed in question 5, please explain why the regulation has not been promulgated. If an explanation was provided in the question five table, simply write “see above explanation”.

Year Passed	Bill Number	Explanation for Timeframe of Promulgation
2019	690	See above explanation

7. Did any of the bills passed **in 2020 or earlier** have an appropriation?

- Yes
- No

If yes, how has the agency used the funds while the promulgation process takes place?

Year Passed	Bill Number	Appropriation Status

8. Who should our office contact with questions about this report?

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