AUDIT REPORT
OF THE
NEBRASKA PUBLIC EMPLOYEES
RETIREMENT SYSTEMS - STATE AND
COUNTY EMPLOYEES RETIREMENT PLANS

PENSION TRUST FUNDS
OF THE STATE OF NEBRASKA

JANUARY 1, 2009 THROUGH DECEMBER 31, 2009

Issued on August 30, 2010

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE AND COUNTY EMPLOYEES RETIREMENT PLANS

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NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE AND COUNTY EMPLOYEES RETIREMENT PLANS

BACKGROUND

The Nebraska Public Employees Retirement Board (the Board) was created in 1971 to administer Nebraska retirement plans for school employees, State employees, judges, and the State Patrol. The Board assumed administration of the retirement system for Nebraska counties in 1973.

The Board has eight members appointed by the Governor, with legislative approval, to five-year terms. Six of the appointed members shall be active or retired participants in the retirement system. The six members include:

- ♦ Two participants in the Nebraska School Employees Retirement System, consisting of one administrator and one teacher;
- ♦ One participant in the Nebraska Judges Retirement System;
- ♦ One participant in the Nebraska State Patrol Retirement System;
- ♦ One participant in the Retirement System for Nebraska Counties; and
- ♦ One participant in the State Employees Retirement System.

Two appointment members must meet the following requirements:

- ♦ One member shall not be an employee of the State of Nebraska or any of its political subdivisions; and
- ♦ One member shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan.

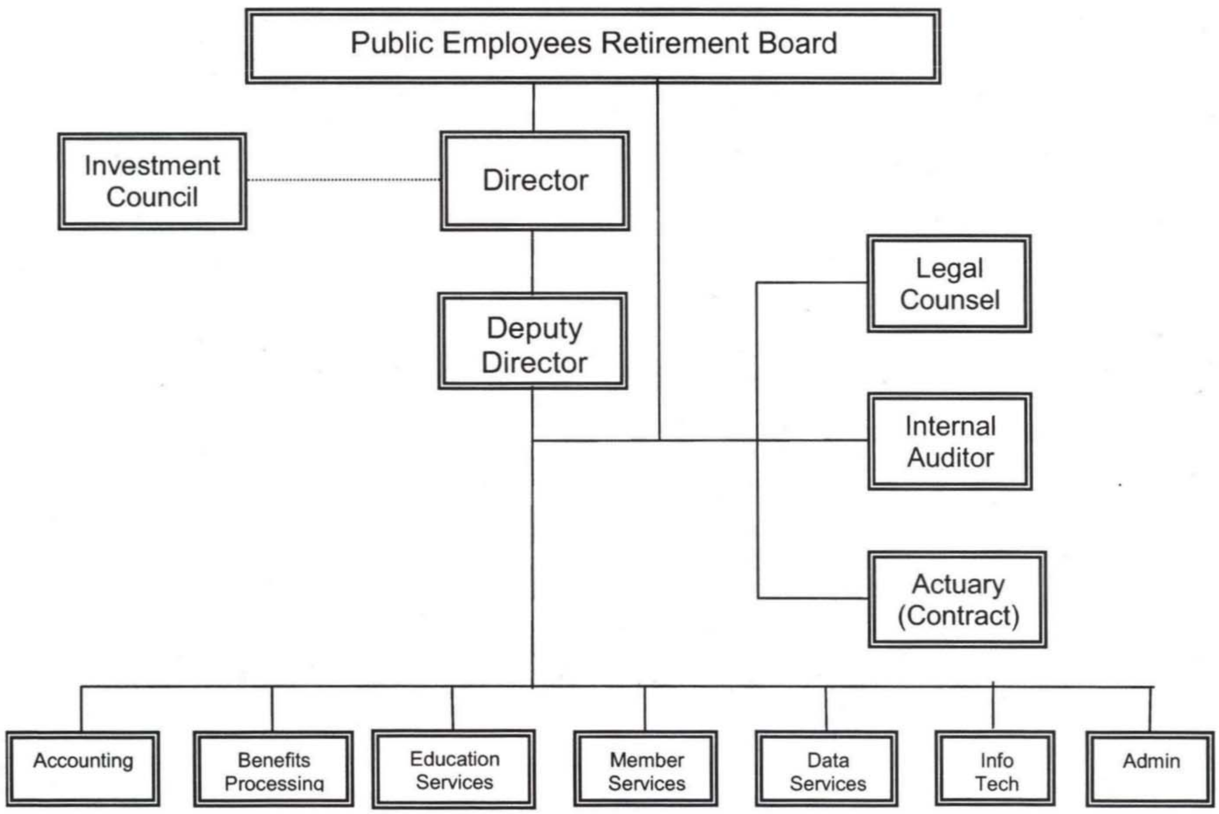
Furthermore, the State Investment Officer serves as a nonvoting, ex-officio member.

All appointed members must be Nebraska citizens. The Board meets monthly. Members of the Board shall be paid fifty dollars per diem, and all members shall be reimbursed for actual and necessary expenses. The Board hires a director to manage the day-to-day operations. Expenses are to be equitably distributed among the retirement systems. All expenses must be provided from investment income earned by various retirement funds, unless other fund sources to pay expenses are specified by law.

MISSION STATEMENT

The Nebraska Public Employees Retirement Systems recognizes the importance of a successful retirement and is dedicated to providing the highest quality service necessary to assist members in achieving this goal.

ORGANIZATIONAL CHART



EXIT CONFERENCE

An exit conference was held August 16, 2010, with the Nebraska Public Employees Retirement Systems (NPERS) to discuss the results of our examination. Those in attendance for NPERS were:

NAME	TITLE
Phyllis Chambers	Director
Glenn Elwell	Board Member
Randy Gerke	Deputy Director and Accounting and Finance Manager
Teresa Zulauf	Internal Auditor
Miden Ebert	Benefits Manager
Missy Jochum	Internal Auditor
Sheryl Hesseltein	Accountant
Clint Holmes	Accountant
Teresa Miller	Benefits Specialist
Nancy Reimer	Ameritas
Mary Klug	Ameritas

SUMMARY OF COMMENTS

During our audit of the Nebraska Public Employees Retirement Systems (NPERS) - State and County Employees Retirement Plans, we noted certain matters involving the internal control over financial reporting and other operational matters that are presented here.

1. ***Accounting Issues:*** There were several errors in the financial information prepared by NPERS accounting staff ranging from an overstatement of $2,098,149 to an understatement of $16,679 in certain line items on the financial statements.

2. ***Benefit Payments and Procedural Issues:*** NPERS lacked adequate procedures for the review and audit of benefit calculations to ensure payments were proper. We noted incorrect calculations of annuity payments causing excess monthly payments of $20 and $13 to two individuals and noncompliance with the Federal law requiring distributions by age 70 ½.

3. ***County Plan Payroll Procedures:*** During our review of NPERS' internal audit staff testing of entities participating in the County Plan, we determined the procedures performed by the staff were not adequate for our reliance. We performed further testing of 13 entities; we noted 2 members' compensation included expense reimbursements totaling $35, which was not appropriate in accordance with State statute. We also selected 37 non-contributing employees from the 13 entities and noted 3 met mandatory participation in the Plan but did not enroll timely.

4. ***Determination of Vesting Status:*** NPERS did not have adequate policies and procedures to ensure vesting dates were properly recorded in the record-keeping system. There were two County Plan members with incorrect vesting dates in the record-keeping system. There were also two State Plan members whose employer accounts were improperly paid out or forfeited upon termination totaling $11,395. Additionally, NPERS did not consistently apply vesting dates to members of the State and County Plans.

5. ***Supreme Court Law Clerks:*** During testing it was noted that 14 Supreme Court Law Clerks were not properly enrolled and contributing to the Plan in accordance with State statute. The employees began employment, as law clerks with the Supreme Court, between August 2007 and August 2009 and were all full-time employees.

6. ***Members Not Properly Notified of Account Changes:*** NPERS did not have adequate procedures to ensure State and County Plan members or beneficiaries were properly notified of remaining account balances. Five Plan members tested had not been notified of accounts remaining totaling $138,681 at December 31, 2009. Furthermore, two members were not properly notified of the transfer of their balances to the non-interest bearing account.

7. ***Inadequate Resolution of Prior Year Findings:*** NPERS did not appropriately resolve prior audit findings from calendar year 2008 back to calendar year 2001 for the State and County Plans.

SUMMARY OF COMMENTS
(Continued)

8. ***Inconsistent Plan Documents:*** NPERS had several plan documents (State statutes, Rules and Regulations, Plan handbooks, and member forms) that were not consistent with each other. Additionally, NPERS did not have a Board approved policy for assessing late fees to employers who did not remit retirement contributions timely.

9. ***Disaster Recovery Plan:*** NPERS did not have a completed disaster recovery plan to safeguard data of the Plans.

More detailed information on the above items is provided hereafter. It should be noted this report is critical in nature since it contains only our comments and recommendations on the areas noted for improvement.

Draft copies of this report were furnished to NPERS to provide them an opportunity to review the report and to respond to the comments and recommendations included in this report. All formal responses received have been incorporated into this report. Responses have been objectively evaluated and recognized, as appropriate, in the report. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next audit.

We appreciate the cooperation and courtesy extended to our auditors during the course of the audit.

COMMENTS AND RECOMMENDATIONS

1. Accounting Issues

A good internal control plan and sound accounting practice require financial information and report disclosures to be complete and accurate. Sound accounting practice further requires correct calculations of data included in the financial information.

There were several errors in the financial information prepared by NPERS accounting staff. Errors noted were due to the accumulation of amounts for the financial statements and report disclosures and not due to errors in the accounting system or member accounts. The accounting staff prepared and reviewed the financial statements prior to submission to the Auditor of Public Accounts (APA). It is unknown why the errors were not corrected prior to submission to the APA.

The APA was provided with three versions of the Cash Balance Plan statements and two versions of the Defined Contribution Plan statements. During our review we noted the following:

- Beginning of the year balances were not proper on the statements. The variances ranged from an overstatement of $2,098,149 to an understatement of $16,679. There were additional line items noted on the statements that did not agree to supporting documentation for administrative expenses, investment income, and benefit and refund deductions.

- The securities lending calculation for the Defined Contribution Plans was not proper resulting in an understatement of $446,446 for the State Plan and $106,212 for the County Plan.

- Benefits payable was not properly calculated resulting in an understatement of $470,473 for the State Cash Balance Plan.

- Furthermore, there were several footnote disclosures that did not agree to supporting documentation and/or the financial statements.

NPERS agreed with the findings and adjusted the errors reported. Although the financial statement errors noted had reduced from previous years, significant errors continue to exist. A similar finding was noted in the previous four audit reports.

Without strong internal control procedures to ensure financial information is complete, accurate, and in accordance with accounting standards, there is a risk for materially misstated financial statements.

> We recommend NPERS develop procedures to ensure financial information presented is accurate, complete, and in accordance with accounting standards.

COMMENTS AND RECOMMENDATIONS
(Continued)

1. <u>Accounting Issues</u> (Concluded)

NPERS' Response: NPERS agreed with the APA and adjusted the financial statements which appear in this report. The variances were related to using market value for computing securities lending rather than cash collateral value, improper treatment of a prior year error when computing beginning balances and some differences in classifications of line items with the APA. NPERS will use the past audited financial statements for the beginning point for next plan year. There was also an error in a formula on a spreadsheet that was used to calculate one of the accrual entries. The error on the spreadsheet has been corrected.

2. <u>Benefit Payments and Procedural Issues</u>

During testing of member benefit payments, we noted several concerns regarding payment reviews and procedures to ensure payments were accurate and paid timely. The following concerns were noted:

<u>Inadequate Secondary Reviews and System Controls</u>

A good internal control plan and sound business practice require written policies and procedures for the review of payment calculations to ensure staff are knowledgeable of what is required to perform job functions. Furthermore, a good internal control plan and good accounting practice require accurate system calculations and system recording of transactions to ensure information and payments are proper.

When a member retires or terminates and requests payment in the form of an annuity or refund payment, an NPERS staff person calculates the monthly benefit payments or processes the refund to be received by the member. NPERS' system requires a secondary review to be performed by an individual separate from the individual who originally processed the member's payment. The system simply required the individual to check a box that the review was performed. NPERS did not have written procedures to ensure staff performed the review processes adequately and consistently. Without procedures to ensure staff review the proper documentation, there is an increased risk payments will not be made properly.

During testing we noted one State Plan member and one County Plan member did not receive the proper benefit amount upon retirement. One member's joint and survivor annuity payment was not properly calculated by the system causing the member to receive excess payments of $20 each month. The second member's annuity payment was manually miscalculated by NPERS' staff causing the member to receive $13 monthly in excess of the proper amount. The manual calculation was reviewed by a second individual; however, the error was not caught.

COMMENTS AND RECOMMENDATIONS
(Continued)

2. Benefit Payments and Procedural Issues (Continued)

Lack of Distribution Payment Reviews

A good internal control plan requires a review of benefits paid and processed by the record-keeper to ensure payments to members are proper. Furthermore, according to the record-keeper's *Statement on Auditing Standards No. 70 (SAS 70) Report on Controls Placed in Operation and Tests of Operating Effectiveness*, NPERS was responsible for establishing control procedures for the timely review of reports to ensure the accuracy of balances and activity processed. This would require NPERS to ensure distributions were complete, properly authorized, and in accordance with Plan requirements.

NPERS did not perform a review of member benefit payments processed and paid by the record-keeper to ensure payments were proper. NPERS' process was to approve the members' requests for distribution and send the paperwork to the record-keeper to be paid. NPERS then received a report from the record-keeper of benefits paid. However, NPERS did not review the report to ensure all benefits approved agreed to what was actually paid by the record-keeper. Benefits processed by the record-keeper totaled approximately $60 million for the State Plan and $16 million for the County Plan. Without procedures for the review of activity, there is an increased risk member payments will not be proper. A similar finding was noted in the previous audit report.

Lack of Adequate Procedures Regarding Required Minimum Distributions

26 U.S.C. § 401(a) and Neb. Rev. Stat. §§ 23-2315 (Supp. 2009) and 84-1317 (Supp. 2009) require members to take a minimum distribution every year beginning when the member is 70 ½ and terminated. The first minimum distribution is to be made by April 1 of the calendar year following the later of: i) the calendar year in which the employee attains age 70 ½ or ii) the calendar year in which the employee retires.

NPERS received a report from the record-keeper of members that were age 70 ½ by December 31, 2009, for NPERS to review and ensure required minimum distribution (RMD) payments were made. There was no documentation that NPERS reviewed the report. During testing of the report we noted the following:

- For Cash Balance members tested, two of six State Plan and two of six County Plan members tested did not receive RMD payments in accordance with § 401(a). One of the four members was not paid the 2009 RMD of $527. This member was also noted in the prior year audit and did not receive the 2008 RMD. The remaining three members rolled over their account to a private company; however, the 2009 RMD was not paid prior to the roll over in accordance with Federal requirements. The RMD payments should have been $12,088, $676, and $246 respectively. Furthermore, NPERS did not have procedures to notify the member or the rollover company when an RMD was not paid prior to the rollover.

COMMENTS AND RECOMMENDATIONS
(Continued)

2. Benefit Payments and Procedural Issues (Concluded)

During testing of the 2009 RMD we also noted one State Plan member did not receive the 2010 RMD prior to rolling over their account. The RMD should have been $482. The 2009 RMD was properly paid prior to the rollover.

- The *Worker, Retiree, and Employer Recovery Act*, signed into law in December 2008, waived the 2009 RMD for members in the Defined Contribution Plans. Therefore, Defined Contribution Plan members were sent letters asking if they wanted to waive the 2009 RMD or receive the 2009 RMD in the regular manner. If the forms were not received from the members, payments were not required as the form did not specify the action that would be taken if a reply was not received.

  One State Plan member tested was paid the 2009 RMD; however, a letter was not received from the member indicating they wanted payment. The RMD paid totaled $2,753. Additionally, one State Plan member was not paid the 2009 RMD; however, the member had submitted a form indicating they wanted payment. Per discussion with NPERS' staff, the member called and requested the 2009 RMD payment be waived. The RMD of $488 should have been paid or documentation should have been received from the member indicating their selection change.

A similar finding, regarding NPERS' procedures for RMD payments, was also noted in the previous four audit reports.

Without adequate procedures for the review of member benefit payments there is an increased risk payments will not be accurate or paid timely.

> We recommend NPERS develop written policies and procedures to ensure benefit payments are calculated and paid properly. We also recommend NPERS establish procedures for the review of payments processed by the record-keeper to ensure payments are accurate. Lastly, we recommend NPERS establish procedures to ensure payments are made timely in accordance with Federal regulations.

NPERS' Response: NPERS does audit each member benefit payment. NPERS will review the policies and procedures pertaining to benefit payments and ensure the processes are properly documented. Documentation will be provided on reports received from the record keeper. NPERS has implemented a process to review at least 10% of payments processed on a daily basis. NPERS is committed to making sure that our members receive their funds correctly and in a timely manner.

COMMENTS AND RECOMMENDATIONS
(Continued)

3. County Plan Payroll Procedures

Neb. Rev. Stat. § 84-1503(1) (Reissue 2008) states, "It shall be the duty of the Public Employees Retirement Board:…(g) To adopt and implement procedures for reporting information by employers, as well as testing and monitoring procedures in order to verify the accuracy of such information. The information necessary to determine membership shall be provided by the employer."

A good internal control plan requires adequate policies and procedures for internal audits performed to ensure individuals are properly contributing or not contributing to the Plan in accordance with State statutes.

During the audit it was noted NPERS' internal audit staff performed testing procedures on 13 of 109 entities participating in the County Plan during the calendar year. To determine if the work of the internal audit staff was adequate for our audit reliance, we reviewed 5 of the 13 entities. We noted the following:

- NPERS did not obtain payroll registers to document all employees not contributing to the County Plan for 3 of 5 counties tested. NPERS instead obtained a listing generated by the employer. There is a risk the listing would not include all employees paid by the counties and; therefore, testing would not be complete.
- Procedures performed by NPERS were not adequately documented for 3 of 5 counties tested. Tick marks, to indicate the results of testing performed, were not applied for all individuals tested.
- For 3 of 5 counties tested NPERS did not perform testing based upon the proper part-time policy for employees not contributing to the County Plan. NPERS revised their policy regarding part-time employment for mandatory participation. The revised policy, effective November 2009, was applied to testing performed prior to this date. The use of the improper policy did not cause errors during NPERS' testing.
- Additionally, NPERS did not perform procedures to verify temporary employment status reported by one county. Further documentation was necessary to verify the employees met the temporary status and were properly not contributing to the County Plan. The APA performed additional procedures and agreed the employees were properly not contributing to the County Plan.

As we noted issues with the testing procedures performed by NPERS, we performed additional procedures during the audit. We selected 13 entities participating in the County Plan to ensure contributing members' wages from the payroll registers agreed to NPERS' records. We also obtained support for the composition of wages earned to ensure retirement contributions were being properly withheld in compliance with State statutes. During testing we noted 2 of 67 members had compensation which included $25 and $10 for expense reimbursements which were not allowable per State statute.

COMMENTS AND RECOMMENDATIONS
(Continued)

3. <u>County Plan Payroll Procedures</u> (Concluded)

Additionally, we performed testing on 37 non-contributing employees from the same 13 entities selected for testing above. We performed testing to ensure employees were properly not contributing to the County Plan and noted the following:

- Scottsbluff County did not have adequate procedures in place to monitor non-participating, part-time employees, to ensure they properly entered the Plan in accordance with State statute. One of five employees tested worked at two counties and met mandatory enrollment as early as August 2008, but did not contribute to the County Plan. The employee terminated employment with Scottsbluff County in November 2009.

- Two of five employees tested, from Saunders County Medical Center, should have begun contributing to the County Plan in February 2009 and June 2009. The first individual had a make-up agreement on file, but the make-up agreement did not include the proper periods of missed contributions and NPERS did not have adequate procedures in place to ensure the agreement was proper. The second individual did not contribute to the County Plan prior to terminating employment in November 2009.

Without adequate documentation to support procedures performed, reliance cannot be placed on testing as there is no assurance testing was accurate or complete. Additionally, without adequate procedures to ensure entities are properly adhering to State statutes and NPERS' policies and procedures there is an increased risk wages remitted will not be proper or employees will not properly contribute to the County Plan when required. A similar finding was noted in the previous nine audit reports.

> We recommend NPERS ensure County Plan testing is adequately documented. Additionally, we recommend NPERS ensure proper education is given to entities participating in the County Plan to ensure employees are properly contributing or not contributing to the County Plan and that compensation is proper in accordance with State statute.

NPERS' Response: NPERS has improved the audit program being used to audit the county employers. NPERS has been working with the county employers on our procedures and improving the reporting process. NPERS is still on track to audit all county employers over the next four years to ensure that employees are properly contributing to the plans and their information is correct. We will continue to work with the county employers to resolve the issues brought forward by the APA.

COMMENTS AND RECOMMENDATIONS
(Continued)

4. Determination of Vesting Status

Neb. Rev. Stat. §§ 23-2319 (Supp. 2009) and 84-1321 (Supp. 2009) state members of the retirement system shall be vested after a total of three years of participation in the system as a member, including vesting credit.

A good internal control plan requires procedures to ensure vesting dates recorded in the system are accurate and years of participation are reviewed to ensure the proper payout of member account balances upon retirement or termination.

During testing we noted the following:

- Two of five State Plan members' employer account balances were not properly paid upon termination. One member's employer account balance, totaling $6,446, was improperly forfeited. The member was vested and the employer account balance should have been paid to the member. The second member's employer account balance, totaling $4,949, was paid in error. The member was not vested in the State Plan and; therefore, the account balance should have been forfeited.

- NPERS did not have adequate policies and procedures in place to ensure vesting dates were properly recorded in the record-keeping system. Two of 25 County Plan members tested had incorrect vesting dates in the record-keeping system. The members both had prior vesting credit for past employment. One member's vesting date should have been recorded as December 2006; however, the vesting date was recorded as February 2009. The second member's vesting date should have been recorded as January 2006; however, the vesting date was recorded as July 2009. If the members terminated employment they would not be vested according to the system, as vesting is calculated from the system vesting date, and their employer funds would be improperly forfeited.

- Furthermore, NPERS did not consistently apply vesting dates to members of the State and County Plans. For new members the vesting date was automatically recorded as the first of the month in which the members' first contribution posted in the record-keeping system. Frequently, the first contribution would post in the month following the month in which the member was hired. However, for members that submitted vesting applications for prior service, the vesting date was calculated from the members' hire date along with any additional vesting credit. Therefore, members that submitted vesting credit would have a vesting date recorded at an earlier date than those members that entered the State and County Plans normally. We noted 2 of 25 State Plan members tested had their vesting dates entered as their hire date, while the remaining members tested had vesting dates as the first of the month in which the members' first contribution posted in the record-keeping system.

A similar finding was noted in the previous five audit reports.

COMMENTS AND RECOMMENDATIONS
(Continued)

4. Determination of Vesting Status (Concluded)

Without adequate procedures to ensure vesting dates are accurate, there is an increased risk members' employer accounts will not be properly paid upon termination.

> We recommend NPERS implement procedures to ensure vesting dates are calculated and recorded in the record-keeping system consistently and accurately. Furthermore, we recommend NPERS ensure the improper forfeiture and payment noted above are resolved with the members.

NPERS' Response: NPERS continues to improve the vesting credit procedures. There have been numerous vesting credit rules in place over the years making it difficult to calculate vesting credit. Employers do not always submit accurate dates of hires for employees. NPERS will work with the record keeper to ensure vesting credit data is accurately recorded. NPERS will resolve member payment issues brought forward by the auditors.

5. Supreme Court Law Clerks

Neb. Rev. Stat. §§ 84-1301 to 84-1331 (Reissue 2008, Supp. 2009) shall be known as the State Employees Retirement Act (Act). The Act contains the following provisions:

Neb. Rev. Stat. § 84-1307(2) states, in relevant part, "The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment[.]"

Neb. Rev. Stat. § 84-1307(7) provides, "State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee."

Neb. Rev. Stat. § 84-1301(9) (Reissue 2008) defines "employee" to include "any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities."

During the prior two audits of the State and County Employee Retirement Plans, as well as in the attestation report of the Nebraska Supreme Court (Court) for the fiscal year ended June 30, 2006, it was noted that several employees of the Court had not been enrolled in the retirement system upon hire. The employees were hired as non-career law clerks and, pursuant to the Court's policies, are not given retirement benefits if they have less than five years of employment.

COMMENTS AND RECOMMENDATIONS
(Continued)

5. Supreme Court Law Clerks (Continued)

In calendar year 2009, 14 law clerks were identified as working for the Court and not participating in the retirement system. Employed between August 2007 and August 2009, all of the law clerks in question were reported in the State accounting system as full-time employees. Thus, it appears that, pursuant to § 84-1307(7), the Court should have ensured that those law clerks were enrolled in, as well as had begun making contributions to, the retirement system immediately upon employment.

During the prior audit, NPERS concurred with the APA's audit finding regarding the applicability of the Act to law clerks employed by the Court. NPERS subsequently informed the Court of their concurrence.

In a September 14, 2009, letter addressed to both the APA and the Director of NPERS, the State Court Administrator defended the policy of the Administrative Office of the Courts and Probation not to extend retirement benefits to "non-career law clerks with less than five years experience." That letter, which cites both case law and Attorney General's opinions, asserts that such policy is supported by both the Nebraska Constitution's distribution of powers clause and the *Board of Regents v. Exon* decision. (**See the State Court Administrator Letter in Exhibit A**.)

The APA believes the separation of powers argument to be potentially problematic. Legislatively mandating all State employees, including full-time law clerks, to participate in the retirement system does not necessarily intrude upon the Court's performance of its inherent or constitutionally assigned functions. Additionally, Op. Att'y Gen. No. 95099 (Dec. 20, 1995) concludes that both the Governor and his staff, all of whom belong to the executive branch of government, must participate in the retirement system – apparently, without risk of violating the distribution of powers clause.

The APA is similarly cautious regarding the *Board of Regents v. Exon* claim. Unlike the constitutional language discussed in that case, Art. 5, § 8 of the Nebraska Constitution vests the Court with judicial administrative authority based on rules "not in conflict with . . . the laws governing such matters." According to Op. Att'y Gen. No. 98006 (Jan. 21, 1998), moreover, legislation of general application not purporting to assume direction over matters central to the University's educational function or governance are permissible.

In June 2007, more than two years before the State Court Administrator's letter, the APA had, pursuant to Neb. Rev. Stat. § 84-205(4) (Reissue 2008), requested a formal opinion from the Attorney General regarding whether the Court's law clerks should be enrolled in the retirement system. There has been no opinion.

COMMENTS AND RECOMMENDATIONS
(Continued)

5. **Supreme Court Law Clerks** (Concluded)

Unlike a formal opinion from the Attorney General or a ruling by a court of competent jurisdiction, the State Court Administrator's letter is not authoritative in this matter. Thus, due to the ongoing uncertainty, the APA believes that the issue of whether the Court's law clerks are subject to the Act remains unresolved.

> We recommend NPERS work with the Administrative Office of the Courts and Probation, as well as with possibly the Attorney General or even a court of competent jurisdiction, to arrive at a definitive answer as to whether law clerks for the Court must participate in the retirement system.

NPERS' Response: NPERS has received valid arguments from the State Auditor and the Supreme Court Administrator why the law clerks should or should not be participants in the State retirement plan. NPERS is caught in the middle. We will work to see if this matter can be resolved.

6. **Members Not Properly Notified of Account Changes**

A good internal control plan and good business practice require policies and procedures to ensure members or beneficiaries are notified of account balances and/or changes to their accounts timely.

Terminated members that are paid their entire account balance are given a system status of 31. We requested a report of members with a system status of 31, but that still had an account balance, and performed testing to ensure the account balance was proper and also verified NPERS had performed procedures to contact the member or beneficiary timely in regard to the account balance remaining. The State report totaled $507,506 and the County report totaled $351,475 in balances remaining at December 31, 2009. During testing we noted the following:

- One State Plan member and one County Plan member had earned dividends after their account had been paid in full. For members with cash balance accounts NPERS' policy for dividends that post after an account had been paid out was to place the monies in a non-interest bearing account, which was subject to fees, until the member requested distribution. Both members received dividends in October 2008, totaling $11,933 and $1,259 respectively. Their account balances were transferred to the non-interest bearing account in December 2008; however, NPERS did not notify the members of the transfer and no further correspondence had been made to notify the members during the calendar year tested. The members' balances at December 31, 2009, totaled $1,254 and $12,043 respectively.

- Additionally, three State Plan members or beneficiaries were not properly notified of their account balances remaining.

6. Members Not Properly Notified of Account Changes (Concluded)

- One beneficiary was notified in December 2007 of the deceased member's remaining account balance; however, NPERS had not performed any further procedures to contact the beneficiary for payment. The account balance totaled $88,271 at December 31, 2009.

- One member's beneficiary had not been contacted since the member's death in November 2006. The account balance totaled $35,111 at December 31, 2009.

- One member had their employer account balance improperly forfeited upon termination. The member's employer account was reinstated in November 2009; however, NPERS had not contacted the member regarding the balance. The account balance totaled $2,002 at December 31, 2009.

Without adequate procedures to ensure members are contacted timely regarding account balances or changes to their accounts, there is an increased risk members' will not be aware of outstanding balances for payment and monies in the non-interest bearing account will be reduced and possibly consumed by fees.

> We recommend NPERS implement procedures to ensure members are notified of remaining balances timely. We also recommend NPERS notify members of balances transferred to the non-interest bearing account prior to the change.

NPERS' Response: NPERS provides quarterly statements to all plan members. The quarterly statements provide the member with account balances and important information regarding their retirement account. In September of 2008, all cash balance plan members who had taken a refund and then received a cash balance dividend were notified via the newsletter and the account statement that residual account balances would be moved to a non-interest bearing account. In 2009, NPERS did not send additional correspondence to members because of the mailing costs and because the information is found on the quarterly statements. In August 2010, NPERS notified all plan members with funds in the non-interest bearing account of their balances and how to receive a disbursement.

7. Inadequate Resolution of Prior Year Findings

A good internal control plan requires the timely and thorough resolution of prior audit findings. In addition, a good internal control plan and sound accounting practice require policies be established for determining when account adjustments will or will not be performed.

During our review of NPERS' procedures to resolve prior audit findings we noted the following:

COMMENTS AND RECOMMENDATIONS
(Continued)

7. <u>Inadequate Resolution of Prior Year Findings</u> (Continued)

- 27 findings from the 2008 audit of the County Plan and 2 findings from the State Plan were not adequately resolved. The findings included incorrect or ineligible contributions; employees who should have been contributing to the Plans or making up contributions; inadequate employer procedures to ensure enrollment requirements were met; members not notified their account balances were transferred to a non-interest bearing account; and distributions not being paid timely in accordance with 26 U.S.C. § 401(a).

  NPERS did not resolve one finding from the County Plan as NPERS stated the ineligible contributions did not meet materiality levels for adjustment; however, ineligible contributions were not included in the Board's materiality policy.

- 3 findings from the 2007 audit and 4 findings from the 2006 audit of the County Plan were not adequately resolved. Findings included incorrect compensation amounts used to calculate contributions; employees who should have been contributing to the County Plan or making up contributions; and inadequate procedures to ensure enrollment requirements were met.

- 3 findings from the 2005 audit of the County Plan and 2 findings from the State Plan were not adequately resolved. Additionally, 1 finding noted in the 2005 audit of the County Plan was also noted in the 2001 audit. Findings included the improper payment of a member's employer account upon termination, NPERS had not attempted to make contact with the member to reclaim the monies; ineligible contributions; and the improper transfer of a member's reinstated employer account into the non-interest bearing account.

- Additionally, 1 finding from the 2004 audit and 1 finding from the 2003 audit of the County Plan were not adequately resolved. The findings included inadequate employer procedures to ensure enrollment requirements were met and an employee who was not but should have been contributing to the Plan.

This finding has been reported to NPERS in the previous nine audit reports.

Without adequate procedures for the timely follow-up of previously identified problems, errors detected in testing remain unresolved. When employee errors are not properly addressed to ensure the proper resolution, employees continue to miss contributions, contribute improperly, receive incorrect benefit payments, etc.

> We continue to recommend NPERS implement procedures to ensure all audit exceptions are adequately followed up and resolved in a timely manner. We also recommend NPERS ensure the Board's materiality policy include materiality levels for improper contributions to ensure adjustments are proper and consistent.

COMMENTS AND RECOMMENDATIONS
(Continued)

7. Inadequate Resolution of Prior Year Findings (Concluded)

NPERS' Response: NPERS has significantly reduced the number of prior audit points. Since the previous audit, we have resolved numerous state and county audit points. NPERS will continue to work to ensure all audit exceptions are reviewed and followed up. We will continue to work with county employers and state agency contacts to resolve the issues brought forward by the auditors.

8. Inconsistent Plan Documents

A good internal control plan and good business practice require procedures to ensure plan documents are consistent and accurate.

We noted several plan documents (State statutes, Rules and Regulations, Plan handbooks, and member forms) that were not consistent as follows:

- One annuity option for members was listed on the request for distribution form and in the State and County Plan handbooks; however, it was not an option included in NPERS' Rules and Regulations approved by the Secretary of State. NPERS' draft rules and regulations, approved by the Board in October 2002, included the option. However, NPERS had not submitted the draft rules and regulations to the Secretary of State as required by law. This was also reported in the previous audit report.

- The State Plan member handbook had not been revised since January 2007. The handbook did not contain information regarding the following:

  - NPERS revised the distribution fee policy in September 2008, the fees updated in the policy did not agree to the fees noted in the handbook. This was also reported in the previous audit report.

  - The handbook did not contain information regarding the cash balance non-interest bearing account that late contributions and late dividends would be credited to.

  - The handbook and NPERS' rules and regulations had not been updated for the statutory change regarding vesting credit.

- NPERS' Rules and Regulations, the State Plan handbook, and the member investment election form states members of the defined contribution benefit may allocate their employee and employer contributions and transfer any portion of their employee and employer account funds to the various investment options available in increments of five percent. However, the system allows members to make investment changes in one percent increments. This was also reported in the previous audit report.

- The Board had not developed rules and regulations in accordance with Neb. Rev. Stat. §§ 23-2306.02 (Reissue 2007) and 23-2306.03 (Reissue 2007). The statutes refer to the adoption of rules and regulations for mergers of cities, townships, etc. into the County Plan. This was reported in the previous five audit reports.

COMMENTS AND RECOMMENDATIONS
(Continued)

8. Inconsistent Plan Documents (Concluded)

- NPERS established a policy for fees to be assessed against employers with untimely contribution remittances, in accordance with State statute; however, the policy did not include when or how member accounts would be credited for the untimely remittances. Furthermore, the Board had not approved the policy; therefore, NPERS was not enforcing or assessing late fees during calendar year 2009. We noted five employers tested did not remit contributions timely, ranging from one bi-weekly pay period to over three months late. As members do not begin earning interest until contributions post to their account, late remittances of contributions could cause potential loss of earnings for members.

Without consistent policies and information provided to members and employers there is an increased risk members will misunderstand the benefits available and that plan changes will not be properly complied with. Additionally, without adequate policies and procedures to ensure entities remit retirement contributions timely, members will not accumulate earnings during the period contributions are held by employers.

> We recommend NPERS ensure Rules and Regulations, Plan handbooks, State statutes, and member forms are consistent for the Plans. We also recommend NPERS ensure draft rules and regulations approved by the Board are properly submitted and approved by the Secretary of State in a timely manner. Furthermore, we recommend NPERS ensure a policy is established for the timely remittance of member contributions by the employers.

NPERS' Response: NPERS continuously updates the plan documents on our website. Printed plan booklets are updated periodically on a rotating basis to save printing costs. The State Employees plan booklet is scheduled for updating by year end 2010. The County Employees plan booklet was updated in August of 2009. Members and employers are provided with updated inserts for plan booklets so that information is current. New changes are also communicated in the member newsletters. The County Employer manual was updated November 2009. NPERS has prepared revisions to six of our Rules and Regulations. These need to follow the process and have hearings scheduled. We will continue to work on our Rules and Regulations.

9. Disaster Recovery Plan

Nebraska Information Technology Commission (NITC) Standards and Guidelines, Information Technology Disaster Recovery Plan Standard 8-201, Section 1.0 states, in part, "Each agency must have an Information Technology Disaster Recovery Plan that supports the resumption and continuity of computer systems and services in the event of a disaster. The plan will cover processes, procedures, and provide contingencies to restore operations of critical systems and services as prioritized by each agency. The Disaster Recovery Plan for Information Technology may be a subset of a comprehensive Agency Business Resumption Plan which should include catastrophic situations and long-term disruptions to agency operations."

9. <u>Disaster Recovery Plan</u> (Concluded)

A good internal control plan requires a formalized, tested plan of procedures and organization designed to safeguard assets and minimize the risk of lost data.

NPERS did not have a completed disaster recovery plan in place. A plan had been started, but there were key processes that had not been documented within the plan. When business continuity plans are not in place there is an increased risk for the loss of data.

> We recommend NPERS develop a complete formalized business continuity plan to ensure data retention is effective.

NPERS' Response: The NPERS Disaster Recovery plan is 65% complete. The initial work on the plan has also been reviewed by the Office of the Chief Information Officer. We continue to work on the plan which is targeted for completion in November or December 2010. NPERS is storing backup tapes offsite with the OCIO on an ongoing basis and has established a secondary backup tape operation that has been in place since December of 2009. NPERS User Acceptance Testing (UAT) servers have been relocated to the OCIO server room to serve as our Disaster Recovery platform in the event that a disaster should occur.

NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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INDEPENDENT AUDITORS' REPORT

Nebraska Public Employees Retirement Board
Lincoln, Nebraska

We have audited the accompanying Statements of Plan Net Assets and the related Statements of Changes in Plan Net Assets of the Nebraska Public Employees Retirement Systems (NPERS) – State and County Employees Retirement Plans as of and for the calendar year ended December 31, 2009, which collectively comprise NPERS' basic financial statements as listed in the Table of Contents. These financial statements are the responsibility of NPERS' management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statements of the Nebraska Public Employees Retirement Systems – State and County Employees Retirement Plans, are intended to present the financial position and changes in financial position of only that portion of the State that is attributable to the transactions of the Nebraska Public Employees Retirement Systems – State and County Employees Retirement Plans. They do not purport to, and do not present fairly, the financial position of the State of Nebraska as of December 31, 2009, and its changes in financial position for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Nebraska Public Employees Retirement Systems – State and County Employees Retirement Plans as of December 31, 2009, and the respective changes in financial position thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated August 26, 2010, on our consideration of the Nebraska Public Employees Retirement Systems – State and County Employees Retirement Plans' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, and contracts and other matters. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

NPERS has not presented Management Discussion and Analysis that accounting principles generally accepted in the United States of America has determined is necessary to supplement, although not required to be part of, the basic financial statements.

The Schedules of Funding Progress and Schedules of Contributions From Employers are not a required part of the financial statements, but are supplementary information required by the Governmental Accounting Standards Board. The Schedules of Funding Progress and Schedules of Contributions From Employers have been subjected to the auditing procedures applied in the audit of the Statements of Plan Net Assets and the related Statements of Changes in Plan Net Assets and, in our opinion, are fairly stated in all material respects in relation to the financial statements referred to above, taken as a whole.

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the Nebraska Public Employees Retirement Systems – State and County Employees Retirement Plans' basic financial statements. The accompanying supplementary schedules of Average Administrative Expense Per Member, Calendar Year 2009 Expenses and Fees, Average Administrative Expense Per Member for Calendar Year 2009, and Total Benefits and Refunds Paid are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the financial statements and, in our opinion, is fairly stated, in all material respects in relation to the financial statements taken as a whole.

Signed Original on File

August 26, 2010

Pat Reding, CPA, CFE
Assistant Deputy Auditor

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE EMPLOYEES RETIREMENT PLAN
STATEMENT OF PLAN NET ASSETS
AS OF DECEMBER 31, 2009

ASSETS	STATE CASH BALANCE BENEFIT	STATE DEFINED CONTRIBUTION
Cash in State Treasury	$ 1,480,643	$ 211,979
Receivables:		
Contributions	1,453,801	853,253
Interest	1,107,007	8,829
Other Receivables (Note 4)	12,008,360	-
Total Receivables	14,569,168	862,082
Investments, at fair value (Note 4):		
U.S. Treasury Bills	112,471	-
U.S. Treasury Notes and Bonds	14,573,378	-
Government Agency Securities	10,276,449	-
Corporate Bonds	41,544,734	-
International Bonds	6,400,673	-
Asset Backed Securities	6,877,600	-
Guaranteed Investment Contracts	-	86,944,349
Short Term Investments	16,646,451	21,639,517
Commingled Funds	312,453,265	525,803,183
Mortgages	30,495,785	-
Municipal Bonds	2,034,763	-
Private Equity Funds	10,693,029	-
Equity Securities	128,006,579	-
Options	(93,942)	-
Private Real Estate Funds	16,733,087	-
Total Investments	596,754,322	634,387,049
Invested Securities Lending Collateral (Note 4)	45,547,699	19,217,530
Capital Assets (Note 9):		
Equipment	2,541,237	1,599,544
Less: Accumulated Depreciation	(2,099,735)	(1,202,847)
Total Capital Assets	441,502	396,697
Total Assets	658,793,334	655,075,337
LIABILITIES		
Compensated Absences (Notes 7 and 8)	24,167	24,933
Other Payables (Note 4)	17,670,615	582,694
Benefits Payable	1,037,133	-
Obligations Under Securities Lending (Note 4)	45,547,699	19,217,530
Capital Lease Obligations (Notes 6 and 8)	168,051	77,076
Total Liabilities	64,447,665	19,902,233
Net assets held in trust for pension benefits (A schedule of funding progress for each cash balance benefit plan is presented on page 46.)	$ 594,345,669	$ 635,173,104

The accompanying notes are an integral part of the financial statements.

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
COUNTY EMPLOYEES RETIREMENT PLAN
STATEMENT OF PLAN NET ASSETS
AS OF DECEMBER 31, 2009

ASSETS	COUNTY CASH BALANCE BENEFIT	COUNTY DEFINED CONTRIBUTION
Cash in State Treasury	$ 62,910	$ 258,151
Receivables:		
Contributions	612,823	269,655
Interest	307,740	2,417
Other Receivables (Note 4)	3,347,560	-
Total Receivables	4,268,123	272,072
Investments, at fair value (Note 4):		
U.S. Treasury Bills	31,353	-
U.S. Treasury Notes and Bonds	4,062,607	-
Government Agency Securities	2,864,756	-
Corporate Bonds	11,581,386	-
International Bonds	1,784,310	-
Asset Backed Securities	1,917,262	-
Guaranteed Investment Contracts	-	20,683,637
Short Term Investments	5,160,548	5,648,430
Commingled Funds	87,102,301	132,668,532
Mortgages	8,501,281	-
Municipal Bonds	567,229	-
Private Equity Funds	2,980,885	-
Equity Securities	35,684,272	-
Options	(26,188)	-
Private Real Estate Funds	4,664,667	-
Total Investments	166,876,669	159,000,599
Invested Securities Lending Collateral (Note 4)	12,697,291	4,571,756
Capital Assets (Note 9):		
Equipment	1,357,213	752,149
Less: Accumulated Depreciation	(1,112,039)	(560,321)
Total Capital Assets	245,174	191,828
Total Assets	184,150,167	164,294,406
LIABILITIES		
Compensated Absences (Notes 7 and 8)	12,916	11,621
Other Payables (Note 4)	4,926,877	139,483
Benefits Payable	234,689	-
Obligations Under Securities Lending (Note 4)	12,697,291	4,571,756
Capital Lease Obligations (Notes 6 and 8)	88,448	31,588
Total Liabilities	17,960,221	4,754,448
Net assets held in trust for pension benefits (A schedule of funding progress for each cash balance benefit plan is presented on page 46.)	$ 166,189,946	$ 159,539,958

The accompanying notes are an integral part of the financial statements.

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE EMPLOYEES RETIREMENT PLAN
STATEMENT OF CHANGES IN PLAN NET ASSETS
FOR THE YEAR ENDED DECEMBER 31, 2009

	STATE CASH BALANCE BENEFIT	STATE DEFINED CONTRIBUTION
ADDITIONS:		
Contributions:		
Member	$ 19,448,253	$ 12,062,483
Employer (Note 5)	30,326,809	18,764,763
Total Contributions	49,775,062	30,827,246
Investment income:		
Net income (loss) from investing activities	102,364,802	98,907,839
Securities lending income	372,341	122,896
Securities lending expense	(131,451)	(47,372)
Net investment income (loss)	102,605,692	98,983,363
Other Additions	7,959	5,022
Total Additions	152,388,713	129,815,631
DEDUCTIONS:		
Benefits and Refunds	29,840,355	20,597,815
Administrative expenses	692,870	646,490
Other Deductions	15,990	27,022
Total Deductions	30,549,215	21,271,327
TRANSFERS (Note 10)	2,671,321	(2,671,321)
Net Increase (Decrease)	124,510,819	105,872,983
Net assets held in trust for pension benefits:		
Beginning of year	469,834,850	529,300,121
End of year	$ 594,345,669	$ 635,173,104

The accompanying notes are an integral part of the financial statements.

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
COUNTY EMPLOYEES RETIREMENT PLAN
STATEMENT OF CHANGES IN PLAN NET ASSETS
FOR THE YEAR ENDED DECEMBER 31, 2009

	COUNTY CASH BALANCE BENEFIT	COUNTY DEFINED CONTRIBUTION
ADDITIONS:		
Contributions:		
Member	$ 7,131,260	$ 3,561,107
Employer (Note 5)	10,558,967	5,247,852
Total Contributions	17,690,227	8,808,959
Investment income:		
Net income (loss) from investing activities	28,423,747	24,434,370
Securities lending income	103,797	29,236
Securities lending expense	(36,644)	(11,269)
Net investment income (loss)	28,490,900	24,452,337
Other Additions	1,951	1,151
Total Additions	46,183,078	33,262,447
DEDUCTIONS:		
Benefits and Refunds	9,729,643	4,785,257
Administrative expenses	341,948	258,522
Other Deductions	5,477	4,275
Total Deductions	10,077,068	5,048,054
TRANSFERS (Note 10)	348,350	(348,350)
Net Increase (Decrease)	36,454,360	27,866,043
Net assets held in trust for pension benefits:		
Beginning of year	129,735,586	131,673,915
End of year	$ 166,189,946	$ 159,539,958

The accompanying notes are an integral part of the financial statements.

NOTES TO FINANCIAL STATEMENTS

For the Year Ended December 31, 2009

1. Summary of Significant Accounting Policies

A. Basis of Presentation

The accompanying basic financial statements of the Nebraska Public Employees Retirement Systems (NPERS) - State and County Employees Retirement Plans have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles.

B. Reporting Entity

NPERS was restructured by the Legislature in 1971 to administer the existing Nebraska retirement systems. Currently, NPERS is responsible for the administration of five retirement plans and the Deferred Compensation Plan. The five retirement plans administered are: the School Employees, State Patrol, Judges, State Employees, and County Employees Retirement Plans.

NPERS is a part of the State of Nebraska reporting entity. The five retirement plans and the Deferred Compensation Plan are classified as pension trust fund types in the State of Nebraska Comprehensive Annual Financial Report.

Separate reports have been issued for the School Employees, Judges, and State Patrol Retirement Plans for the fiscal year ended June 30, 2009, and the Deferred Compensation Plan for the fiscal year ended December 31, 2009.

The financial statements reflect only the State and County Employees Retirement Plans and do not reflect all activity of the Nebraska Public Employees Retirement Systems.

C. Measurement Focus, Basis of Accounting

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus and basis of accounting. Pension funds are accounted for on a flow of economic resources measurement focus. With this measurement focus, all assets and liabilities associated with the operation of these funds are included on the Statements of Plan Net Assets.

NOTES TO FINANCIAL STATEMENTS
(Continued)

1. <u>Summary of Significant Accounting Policies</u> (Continued)

The State and County Employees Retirement Plans' financial statements were prepared on the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recorded when a liability is incurred. Employee and employer contributions are recognized in the period in which employee services are performed. Benefits and refunds are recognized when due and payable in accordance with the terms of each plan.

D. Cash in State Treasury

Cash in State Treasury represents the cash balance of a fund as reflected in the State's General Ledger. All cash deposited with the State Treasurer is initially maintained in a pooled cash account. On a daily basis, the State Treasurer invests cash not needed for current operations with the State's Investment Council that maintains an operating investment pool for such investments. Interest earned on the investments of the Plans is allocated to funds based on their percentage of the investment pool.

E. Investments

Investments as reported in the financial statements include long-term investments. Law or legal instruments may restrict these investments. All investments are stated at fair value based on quoted market prices. For investments where no readily ascertainable fair value exists, management has received an estimate of fair value from the investment fund manager based, in part, on real estate appraisals. The State Treasurer is the custodian of all funds; however, investment of funds is under the responsibility of the Nebraska Investment Council.

Although the investments of the plans are commingled, each plan's investments may be used only for the payment of benefits to the members of that plan, in accordance with the terms of the plan.

F. Capital Assets

Capital assets consist of computer software and equipment. All capital assets are valued at cost where historical records are available and at estimated historical cost where no historical records exist.

Generally, equipment that has a cost in excess of $5,000 at the date of acquisition and has an expected useful life of two or more years is capitalized. Purchased software that is financed with long-term debt or capitalized lease financing is also capitalized. The amount capitalized includes the cost of the software and related expenses necessary to put the software into place. The useful life is determined based on the system and will be

NOTES TO FINANCIAL STATEMENTS
(Continued)

1. **Summary of Significant Accounting Policies** (Concluded)

depreciated over seven years, the same period as the lease financing arrangement used to purchase the software. Equipment is depreciated over three to ten years using the straight-line method.

G. Compensated Absences

All permanent employees working for NPERS earn sick and vacation leave. Temporary and intermittent employees and Board members are not eligible for paid leave. The liability has been calculated using the vesting method, in which leave amounts, for both employees who are currently eligible to receive termination payments and other employees who are expected to become eligible in the future to receive such payments upon termination, are included.

NPERS employees accrue vested vacation leave at a variable rate based on years of service. Generally, accrued vacation leave cannot exceed 35 days at the end of a calendar year. Employees accrue sick leave at a variable rate based on years of service. In general, accrued sick leave cannot exceed 180 days. There is no maximum limit on the accumulation of sick leave days for employees under certain labor contracts. Sick leave is not vested except upon death or upon reaching the retirement eligibility age of 55, or of a younger age if the employee meets all criteria necessary to retire under the primary retirement plan covering his/her State employment, at which time the State is liable for 25 percent of the employee’s accumulated sick leave. Employees under certain labor contracts can only be paid a maximum of 50 or 60 days.

The Plans recognize the expense and accrued liability when vacation and compensatory leave is earned or when sick leave is expected to be paid as termination payments.

H. Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at fiscal year end and revenues and expenditures during the reporting period. Actual results could differ from those estimates.

2. **Plan Descriptions**

The following summary description of the Plans is provided for general information purposes. Participants should refer to Neb. Rev. Stat. §§ 84-1301 through 84-1333 for the State Employees Retirement Plan and Neb. Rev. Stat. §§ 23-2301 through 23-2335 for the County Employees Retirement Plan for more complete information.

NOTES TO FINANCIAL STATEMENTS
(Continued)

2. Plan Descriptions (Continued)

A. Nebraska State Employees Retirement Plan

The single employer plan became effective by statute on January 1, 1964. The plan consists of a defined contribution option and a cash balance benefit. The cash balance benefit is a type of defined benefit plan. Each member employed and participating in the retirement system prior to January 1, 2003, elected to either continue participation in the defined contribution option or begin participation in the cash balance benefit. The defined contribution option is closed to new entrants. All new members of the Plan on and after January 1, 2003, become members of the cash balance benefit.

All permanent full-time employees are required to begin participation in the retirement system upon employment. All permanent part-time employees who have attained the age of 20 may exercise the option to begin participation in the retirement system.

Contributions. Per statute, each member contributes 4.8 percent of his or her monthly compensation. The State matches a member's contribution at a rate of 156 percent. The employee's and employer's contributions are kept in separate accounts.

The employee's account is fully vested. The employer's account is fully vested after a total of three years of participation in the system, including credit for participation in another Nebraska governmental plan prior to actual contribution to the Plan.

The amount contributed by the State for terminated employees who are not fully vested is forfeited and used to reduce NPERS expenses and then reduce employer contributions. Since forfeitures are not sufficient to pay administrative expenses, NPERS has implemented an asset charge on the defined contribution option assets. NPERS also uses plan assets when forfeitures are not sufficient in the cash balance benefit.

Defined Contribution Option. Upon attainment of age 55, regardless of service, the retirement allowance shall be equal to the sum of the employee and employer account. Members have several forms of payment available, including withdrawals, deferrals, annuities, or a combination of these.

Cash Balance Benefit. Upon attainment of age 55, regardless of service, the retirement allowance shall be equal to the accumulated employee and employer cash balance accounts, including interest credits, annuitized for payment in the normal form. The normal form of payment is a single life annuity with five-year certain, payable monthly. Members will have the option to convert their member cash balance account to a monthly annuity with built in cost-of-living adjustments of 2.5% annually. Also available are additional forms of payment allowed under the Plan which are actuarially equivalent to the normal form, including the option of a lump-sum or partial lump-sum.

NOTES TO FINANCIAL STATEMENTS
(Continued)

2. Plan Descriptions (Continued)

Membership of the Plan consisted of the following at December 31, 2009:

	Defined Contribution	Cash Balance
Retirees and Beneficiaries Receiving Benefits	-	500
Terminated Plan Members Entitled to but not yet Receiving Benefits	1,573	2,151
Active Plan Members	5,588	11,749
Total	7,161	14,400

The 500 retirees and beneficiaries receiving benefits include defined contribution members who elected an annuity. Defined contribution members may also choose from other forms of payment such as withdrawal or lump-sum payment. Generally, these are one-time payouts. Therefore, these retired members are not shown above.

The NPERS employees are employees of the State of Nebraska and; therefore, participate in the Plan. The following includes the defined contribution option and cash balance benefit contributions to the State Plan for the current and preceding two years.

Calendar Year	Employee Contributions	Employer Contributions
2009	$ 90,222	$ 140,746
2008	83,338	130,008
2007	81,812	127,627

B. Nebraska County Employees Retirement Plan

In 1973, the State Legislature brought the County Employees Retirement Plan under the administration of the Board. This multiple-employer plan covers employees of 91 of the State’s 93 counties and several county health districts. Douglas and Lancaster counties have separate retirement plans for their employees as listed in Neb. Rev. Stat. § 23-1118 (Reissue 2007).

Prior to January 1, 2003, the Plan consisted of a defined contribution plan. Effective January 1, 2003, a cash balance benefit was added to the County Employees Retirement Act. The cash balance benefit is a type of defined benefit plan. Each member employed and participating in the retirement system prior to January 1, 2003, elected to either continue participation in the defined contribution option or begin participation in the cash

2. Plan Descriptions (Continued)

balance benefit. The defined contribution option is closed to new entrants. All new members of the Plan on or after January 1, 2003, become members of the cash balance benefit.

Participation in the County Employees Retirement Plan is required of all full-time employees upon employment and of all full-time elected officials upon taking office. Part-time employees may elect voluntary participation upon reaching age 20. Part-time elected officials may exercise the option to join.

Contributions. Per statutes, county employees and elected officials contribute 4½ percent of their total compensation and the county contributes 150 percent. Present and future commissioned law enforcement personnel employed by such counties shall contribute additional contributions to a supplemental retirement plan. Commissioned law enforcement personnel in participating counties with less than eighty-five thousand inhabitants shall contribute an extra one percent, or a total of 5½ percent of their total compensation. Commissioned law enforcement personnel in participating counties with a population in excess of eighty-five thousand inhabitants shall contribute an extra two percent, or a total of 6½ percent of their total compensation; the county contributes 150 percent for the first 4½ percent and 100 percent for the extra one and two percent. The employee's and employer's contributions are kept in separate accounts.

The employee's account is fully vested. The employer's account is vested after a total of three years of participation in the system, including credit for participation in another Nebraska governmental plan prior to actual contribution to the Plan.

The amount contributed by the county for terminated employees who are not fully vested is forfeited and used to reduce NPERS expenses and then reduce employer contributions. Since forfeitures are not sufficient to pay administrative expenses, NPERS has implemented an asset charge on the defined contribution option assets. NPERS also uses plan assets when forfeitures are not sufficient in the cash balance benefit.

Defined Contribution Option. Upon attainment of age 55, regardless of service, the retirement allowance shall be equal to the sum of the employee and employer account. Members have several forms of payment available, including withdrawals, deferrals, annuities, or a combination of these.

Cash Balance Benefit. Upon attainment of age 55, regardless of service, the retirement allowance shall be equal to the accumulated employee and employer cash balance accounts, including interest credits, annuitized for payment in the normal form. The normal form of payment is a single life annuity with five-year certain, payable monthly. Members will have the option to convert their member cash balance account to a monthly

2. Plan Descriptions (Concluded)

annuity with built in cost-of-living adjustments of 2.5% annually. Also available are additional forms of payment allowed under the Plan which are actuarially equivalent to the normal form, including the option of a lump-sum or partial lump-sum.

Membership of the Plan consisted of the following at December 31, 2009:

	Defined Contribution	Cash Balance
Retirees and Beneficiaries Receiving Benefits	-	223
Terminated Plan Members Entitled to but not yet Receiving Benefits	743	800
Active Plan Members	2,144	5,633
Total	2,887	6,656

The 223 retirees and beneficiaries receiving benefits include defined contribution members who elected an annuity. Defined contribution members may also choose from other forms of payment such as withdrawal or lump-sum payment. Generally, these are one-time payouts. Therefore, these retired members are not shown above.

3. Funded Status and Funding Progress

The funded status of each cash balance benefit as of December 31, 2009, the most recent actuarial valuation date, is as follows:

	(a) Actuarial Value of Assets	(b) Actuarial Accrued Liability (AAL) - Entry Age	(b-a) Unfunded Accrued Liabilities (UAL)	(a/b) Funded Ratio	(c) Covered Payroll	((b-a)/c) UAL as a Percentage of Covered Payroll
State	$670,591,669	$714,408,952	$43,817,283	93.90%	$454,776,381	9.60%
County	187,109,554	196,773,040	9,663,486	95.10%	177,732,220	5.40%

The schedules of funding progress, presented as required supplementary information immediately following the notes to the financial statements, present multi-year trend information about whether the actuarial values of plan assets are increasing or decreasing over time relative to the actuarial accrued liability for benefits.

3. Funded Status and Funding Progress (Concluded)

Additional information regarding the cash balance benefit actuarial methods and significant assumptions, as of the latest actuarial valuation date, is as follows:

	State	County
Valuation date	December 31, 2009	December 31, 2009
Actuarial cost method	Entry Age	Entry Age
Amortization method	Level Dollar Closed	Level Dollar Closed
Remaining amortization period	25 Years	25 Years
Asset valuation method	5 year smoothing	5 year smoothing
Actuarial assumptions:		
Investment rate of return*	7.75%	7.75%
Projected salary increases*	4.5% to 5.9%	5.5% to 15.0%
Cost-Of-Living Adjustments (COLA)	None	None

* Includes assumed inflation of 3.5% per year.

4. Investments

Investments. Listed below is a summary of the investment portfolio that comprises the Investments on the Statement of Plan Net Assets. All securities purchased or held must be in the custody of the State or deposited with an agent in the State's name. Neb. Rev. Stat. § 72-1239.01 (Reissue 2009) authorizes the appointed members of the Nebraska Investment Council to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the assets of the retirement systems.

NPERS' investments for the State and County Employees Retirement Plans at December 31, 2009, are presented below. All investments are presented by investment type and debt securities are presented with effective duration presented in years.

NOTES TO FINANCIAL STATEMENTS
(Continued)

4. Investments (Continued)

State and County Employees Retirement Plan Investments at December 31, 2009

	State and County Cash Balance Benefit		State and County Defined Contribution	
	Fair Value	Effective Duration	Fair Value	Effective Duration
Debt Securities				
U.S. Treasury Notes and Bonds	$ 18,635,985	6.36	$ -	-
U.S. Treasury Bills	143,824	0.25	-	-
Government Agency Securities	13,141,205	3.25	-	-
Corporate Bonds	53,126,120	4.98	-	-
International Bonds	8,184,983	4.84	-	-
Asset Backed Securities	8,794,862	4.77	-	-
Guaranteed Investment	-	-	107,627,986	3.26
Short Term Investments	21,806,999	0.17	27,287,947	0.11
Commingled Funds	70,480,642	3.86	210,914,934	4.27
Mortgages	38,997,066	3.69	-	-
Municipal Bonds	2,601,992	10.15	-	-
	235,913,678		345,830,867	
Other Investments				
Private Equity Funds	13,673,914		-	
Equity Securities	163,690,851		-	
Commingled Funds	329,074,924		447,556,781	
Options	(120,130)		-	
Private Real Estate Funds	21,397,754		-	
Total Investments	763,630,991		793,387,648	
Invested Securities Lending Collateral	58,244,990		23,789,286	
Total	$ 821,875,981		$ 817,176,934	

Interest Rate Risk. Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. Duration is a measure of a debt investment's exposure to fair value changes arising from changes in interest rates. It uses the present value of cash flows, weighted for those cash flows as a percentage of the investment's full price. The State has contracts with investment managers that limit the effective duration to within one year of the effective duration of the benchmark.

NOTES TO FINANCIAL STATEMENTS
(Continued)

4. Investments (Continued)

Credit Risk of Debt Securities. Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The State has contracts with investment managers that set minimum average quality ratings for its core fixed income accounts at an A and BB- for its high yield fixed income account. NPERS' rated debt investments as of December 31, 2009, were rated by Standards and Poor's and/or an equivalent national rating organization and the ratings are presented below using the Standard and Poor's rating scale.

Cash Balance Benefit/Defined Contribution Investments at December 31, 2009
Quality Ratings

	Cash Balance Benefit								Defined Contribution	
	Fair Value	**AAA**	**AA**	**A**	**BBB**	**BB**	**B**	**Unrated**	**Fair Value**	**Unrated**
Asset Back Securities	$ 8,794,862	$ 6,537,712	$ -	$ 387,280	$ 254,672	$ 48,114	$ 103,330	$ 1,463,754	$ -	$ -
Mortgages	38,997,066	28,388,358	261,076	1,527,393	1,118,682	956,797	947,018	5,797,742	-	-
International Bonds	8,184,983	4,560,059	849,475	488,818	1,207,995	1,047,262	10,694	20,680	-	-
Corporate Bonds	53,126,120	5,965,078	6,725,971	14,339,120	13,130,612	5,395,203	4,740,648	2,829,488	-	-
Government Agency Securities	13,141,205	11,766,456	647,612	-	-	-	94,129	633,008	-	-
Municipal Bonds	2,601,992	281,728	873,996	1,161,134	48,945	-	-	236,189	-	-
Short Term Investments	21,806,999	3,082,059	-	-	-	-	-	18,724,940	27,287,947	27,287,947
Commingled Funds	70,480,642	-	-	-	-	-	-	70,480,642	210,914,934	210,914,934

Concentration of Credit Risk. Concentration of credit risk is the risk of loss attributed to the magnitude of an investment in a single issuer. The State has contracts with investment managers that limit the maximum amount for an issuer, excluding U.S. Treasury, U.S. Agency, mortgages, and non-U.S. sovereign issuers, to 5 percent of the total account.

NOTES TO FINANCIAL STATEMENTS
(Continued)

4. **Investments** (Continued)

At December 31, 2009, the State and County Defined Contribution Plan had no debt security investments with more than 5 percent of total investments. The State and County Cash Balance Benefit had no debt securities investments with more than 5 percent of total investments.

Foreign Currency Risk. Foreign currency risk is the risk that changes in exchange rates will adversely affect the fair value of an investment or deposit. The State does not have a formal policy to limit foreign currency risk. At December 31, 2009, the defined contribution plan did not have exposure to foreign currency risk. The cash balance benefit exposure to foreign currency risk is presented on the following table.

Cash Balance Benefit Foreign Currency at December 31, 2009

	Short Term Investments	Equity Securities	Corporate Bonds	International Bonds
Argentine Peso	$ 1,240	$ -	$ -	$ -
Australian Dollar	149	2,276,871	-	122,886
Brazilian Real	(27,720)	367,437	-	95,743
Canadian Dollar	147,101	2,703,846	-	896,373
Czech Koruna	194	63,013	-	-
Danish Krone	4,995	104,751	-	-
Euro Currency	443,692	28,857,235	343,075	2,354,875
Hong Kong Dollar	227	2,816,468	-	-
Hungarian Forint	226	233,410	-	-
Iceland Krona	-	-	-	44,863
Indonesian Rupiah	745	381,682	39,451	-
Israeli Shekel	356	289,275	-	-
Japanese Yen	70,832	13,918,378	-	-
Mexican Peso	20,314	600,831	33,618	178,046
New Zealand Dollar	2	-	61,005	-
Norwegian Krone	523	677,860	-	-
Philippine Peso	223	22,939	-	-
Polish Zloty	13,606	232,808	-	-
Pound Sterling	116,631	14,833,078	38,881	-
Singapore Dollar	41	1,952,794	219,980	-
South African Rand	13,347	39,347	-	-
South Korean Won	236	1,747,165	-	-
Swedish Krona	74	1,063,229	-	-
Swiss Franc	717	10,445,528	-	-
Thailand Baht	780	750,910	-	-
Total	$ 808,531	$ 84,378,855	$ 736,010	$ 3,692,786

4. Investments (Continued)

Securities Lending Transactions. The State participates in securities lending transactions, where securities are loaned to broker-dealers and banks with a simultaneous agreement to return the collateral for the same securities in the future. The State's primary custodial bank administers the securities lending program and receives collateral in the forms of cash, United States government or government agency obligations, sovereign debt rated A or better, or convertible bonds at least equal in value to the market value of the loaned securities. Securities on loan at year end consisted of United States government obligations, equity securities, corporate bonds, and non-US fixed income. At year end, the State had no credit risk exposure to borrowers because the amounts the State owes the borrowers exceed the amounts the borrowers owe the State. The collateral securities cannot be pledged or sold by the State unless the borrower defaults. There are no restrictions on the amount of securities that can be loaned, and there were no losses resulting from borrower default during the year.

Either the State or the borrowers can terminate all securities loans on demand. Cash collateral is invested in one of the lending agent's short-term investment pools that had average durations of 43 and 46 days as of June 30, 2009. Because loans were terminable at will, their duration did not generally match the duration of the investments made with cash collateral. The custodian indemnifies the State against default by the borrower of securities, but does not indemnify against the default by an issuer of a security held in the short term investment funds where cash collateral is invested.

Derivative Financial Instruments. Derivative instruments are financial contracts whose underlying values depend on the values of one or more underlying assets, reference rates or financial indices. These instruments are used primarily to enhance performance and/or reduce the volatility of the portfolio, in accordance with the Nebraska Investment Council-approved Derivatives Policy. The State invests in futures contracts, options, and swaps. Futures represent commitments to purchase or sell securities or money market instruments at a future date and at a specific price. Options represent the right, but not the obligation, to purchase or sell securities at a future date and at a specific price. The State invests in these contracts related to securities of the U.S. government or Government Agency obligations and based on reference notes, which are traded on organized exchanges, thereby minimizing the State's credit risk. The net change in the contract value is settled daily in cash with the exchanges. Swaps represent an exchange of streams of payments over time according to specified terms.

Other Receivables/Other Payables. Other receivables consisted of receivables for investments sold, receivables for foreign exchanges, tax reclaim receivables, unrealized appreciation/depreciation on income receivables, unrealized appreciation/depreciation on investment receivables, unrealized appreciation/depreciation on foreign exchange receivables, and other receivables as recorded by the custodial bank. Other payables

NOTES TO FINANCIAL STATEMENTS
(Continued)

4. Investments (Concluded)

consisted of payables for investments purchased, payable for foreign currency purchased, unrealized appreciation/depreciation on investments payable, unrealized appreciation/depreciation on foreign exchange payables, and other payables as recorded by the custodial bank.

Securities are recorded on a trade date basis. On the trade date, the Plans own the asset. However, if the security has not settled, payment has not been received or made. Receivables and payables for investments sold and purchased represent securities in which the asset has been recorded as of December 31, 2009, but the security had not settled.

5. Employer Contributions

Historically, employer contributions have been reported net of forfeitures. Forfeitures result when a member terminates prior to vesting in the employer contribution portion of his or her account. In accordance with Neb. Rev. Stat. §§ 23-2319.01(1) (Reissue 2007) and 84-1321.01(1) (Reissue 2008) forfeitures are first used to pay administrative expenses of the Board. The remaining balance, if any, shall then be used to reduce State and County employer contributions respectively. During 2009, there were no forfeitures used to offset the State and County employer contributions. The balance of the Defined Contribution forfeiture accounts at December 31, 2009, was $10,894 for the State Plan and $30,673 for the County Plan. The balance of the Cash Balance Benefit forfeiture accounts was $1,370,081 for the State Plan and $270,494 for the County Plan.

6. Contingencies and Capital Lease Commitments

Risk Management. NPERS is exposed to various risks of loss related to torts, theft of, damage to, or destruction of assets, errors or omissions, injuries to employees, and natural disasters. NPERS, as part of the primary government for the State, participates in the State's risk management program. The Department of Administrative Services (DAS) is responsible for maintaining the insurance and self-insurance programs for the State. The State generally self-insures for general liability, employee healthcare, and workers' compensation. The State has chosen to purchase insurance for:

A. Motor vehicle liability, which is insured for the first $5 million of exposure per accident with a self-insured retention of $300,000 per accident, except for accidents involving vehicular pursuit, which have a $1,000,000 self-insured retention per accident. Insurance is also purchased for physical damage and uninsured and underinsured motorists with various limits and deductibles. State agencies have the option to purchase coverage for physical damage to vehicles.

B. Life insurance for eligible employees.

NOTES TO FINANCIAL STATEMENTS
(Continued)

6. Contingencies and Capital Lease Commitments (Continued)

C. Crime coverage, with a limit of $31 million for each loss, and a $25,000 self-insured retention per incident subject to specific conditions, limits, and exclusions.

D. Real and personal property on a blanket basis for losses up to $250,000,000, with a self-insured retention of $200,000 per loss occurrence.

Details of the various coverage is available from Risk Management, a division of DAS.

No settlements exceeded commercial insurance coverage in any of the past three fiscal years. Health care insurance is funded in the Insurance Trust Funds through a combination of employee and State contributions. Workers' compensation is funded in the Workers' Compensation Internal Service Fund through assessments on each agency based on total agency payroll and past experience. Tort claims, theft of, damage to, or destruction of assets, errors or omissions, and natural disasters would be funded through the State General Fund or by individual agency assessments as directed by the Legislature, unless covered by purchased insurance. No amounts for estimated claims have been reported in the Nebraska Public Employees Retirement Systems' financial statements.

Capital Lease Commitment. The State of Nebraska, through State Accounting (a division of DAS) has various leases under two Master Lease Indentures. Under such indentures, the State is required to make semiannual payments to trustees for principal and interest under such leases. State Accounting bills agencies in advance to ensure there are funds available to make the required payments. As of December 31, 2009, NPERS had agreed to participate in and make payments to State Accounting on two such capital leases. The agreements to pay for the leases are with NPERS, not any of the individual plans. The payments are allocated according to the expense allocation policy of NPERS. The minimum payments to State Accounting and the present value of future minimum payments for all capital leases as of December 31, 2009, are as follows:

6. Contingencies and Capital Lease Commitments (Concluded)

Calendar Year	State Cash Balance Benefit	State Defined Contribution	County Cash Balance Benefit	County Defined Contribution
2010	$ 133,347	$ 61,159	$ 70,183	$ 25,065
2011	38,842	17,815	20,443	7,301
Total Minimum Payments	172,189	78,974	90,626	32,366
Less: Interest and Executory Costs	4,138	1,898	2,178	778
Present Value of Net Minimum Payments	$ 168,051	$ 77,076	$ 88,448	$ 31,588

Litigation. The potential amount of liability involved in litigation pending against the Board, if any, could not be determined at this time. However, it is NPERS' opinion that final settlement of those matters should not have an adverse effect on NPERS' ability to administer current programs. Any judgment against NPERS would have to be processed through the State Claims Board and be approved by the Legislature.

7. Compensated Absences

The liability for the vested portion of compensated absences for each plan at December 31, 2009, is as follows:

	State Cash Balance Benefit Employees	State Defined Contribution Employees	County Cash Balance Benefit Employees	County Defined Contribution Employees
Annual Leave	$ 13,241	$ 13,661	$ 7,077	$ 6,367
Sick Leave	10,926	11,272	5,839	5,254
	$ 24,167	$ 24,933	$ 12,916	$ 11,621

8. Changes in Long-Term Liabilities

Changes in long-term liabilities for the year ended December 31, 2009, are summarized as follows.

NOTES TO FINANCIAL STATEMENTS
(Continued)

8. Changes in Long-Term Liabilities (Concluded)

	Beginning Balance	Increases	Decreases	Ending Balance	Amounts Due Within One Year
State Defined Contribution					
Compensated Absences	$ 25,251	$ -	$ 318	$ 24,933	$ 1,745
Capital Lease Obligations	198,233	-	121,157	77,076	61,159
Totals	$ 223,484	$ -	$ 121,475	$ 102,009	$ 62,904
State Cash Balance Benefit					
Compensated Absences	$ 19,779	$ 4,388	$ -	$ 24,167	$ 1,692
Capital Lease Obligations	432,213	-	264,162	168,051	133,347
Totals	$ 451,992	$ 4,388	$ 264,162	$ 192,218	$ 135,039
County Defined Contribution					
Compensated Absences	$ 10,833	$ 788	$ -	$ 11,621	$ 813
Capital Lease Obligations	81,243	-	49,655	31,588	25,065
Totals	$ 92,076	$ 788	$ 49,655	$ 43,209	$ 25,878
County Cash Balance Benefit					
Compensated Absences	$ 10,434	$ 2,482	$ -	$ 12,916	$ 904
Capital Lease Obligations	227,481	-	139,033	88,448	70,183
Totals	$ 237,915	$ 2,482	$ 139,033	$ 101,364	$ 71,087

9. Capital Assets

Capital asset activity for the year ended December 31, 2009, was as follows.

	Beginning Balance	Increases	Decreases	Ending Balance
State Defined Contribution				
Equipment	$ 1,099,992	$ 499,552	$ -	$ 1,599,544
Less: Accumulated Depreciation	909,346	293,501	-	1,202,847
Capital Assets, Net	$ 190,646	$ 206,051	$ -	$ 396,697
State Cash Balance Benefit				
Equipment	$ 2,104,129	$ 437,108	$ -	$ 2,541,237
Less: Accumulated Depreciation	1,749,759	349,976	-	2,099,735
Capital Assets, Net	$ 354,370	$ 87,132	$ -	$ 441,502

NOTES TO FINANCIAL STATEMENTS
(Continued)

9. **Capital Assets** (Concluded)

	Beginning Balance	Increases	Decreases	Ending Balance
County Defined Contribution				
Equipment	$ 502,373	$ 249,776	$ -	$ 752,149
Less: Accumulated Depreciation	420,557	139,764	-	560,321
Capital Assets, Net	$ 81,816	$ 110,012	$ -	$ 191,828
County Cash Balance Benefit				
Equipment	$ 1,107,437	$ 249,776	$ -	$ 1,357,213
Less: Accumulated Depreciation	931,632	180,407	-	1,112,039
Capital Assets, Net	$ 175,805	$ 69,369	$ -	$ 245,174

10. **Transfers**

Transfer activity for the year ended December 31, 2009, was as follows:

	State Cash Balance Benefit	State Defined Contribution
Annuity Balances from Defined Contribution to Cash Balance Benefit	$ 1,629,012	$ (1,629,012)
Miscellaneous Transfers	1,042,309	(1,042,309)
Total Transfers	$ 2,671,321	$ (2,671,321)

	County Cash Balance Benefit	County Defined Contribution
Annuity Balances from Defined Contribution to Cash Balance Benefit	$ 169,907	$ (169,907)
Miscellaneous Transfers	178,443	(178,443)
Total Transfers	$ 348,350	$ (348,350)

The annuity balances represent the transfer of member balances who elected an annuity in the defined contribution option. Since NPERS pays the annuities, the balances are transferred to the cash balance benefit in order for the annuity to be processed. Miscellaneous transfers consist of members who had previous balances in the defined contribution option, but were rehired after January 1, 2003. They are required to be in the cash balance benefit; therefore, their defined contribution balance was transferred to the cash balance benefit.

NOTES TO FINANCIAL STATEMENTS
(Continued)

11. Fees on Investments

There are several fees that are charged against all investments. Investment income is recorded net of these fees on the financial statements. The following schedule shows the external fees charged against investments for the calendar year ended December 31, 2009:

External Manager Fees	**State & County Cash Balance Benefit**	**State & County Defined Contribution**
Abbott Capital	$ 45,665	$ -
Acadian Asset Management, Inc.	91,060	-
Accel KKR Capital	8,826	-
Alliance Bernstein Institutional Investment Management	11,970	-
Ares Corporate	43,525	-
Baillie Gifford	62,994	-
Barclays Global Investors	65,406	204,100
Beacon Capital	37,344	-
BlackRock Financial Management	163,479	2,220
Bridgepoint Europe	26,317	-
CB Richard Ellis Investors	22,920	-
Citigroup	38,919	-
CMEA Ventures	32,715	-
CVC European	55,711	-
Dimensional Fund Advisors, Inc	65,892	182,369
Five Arrows (Rothchild Realty Management)	27,567	-
Fulcrum Growth Partners McCarty Capital	6,634	-
Goldman Sachs Asset Management	10,440	3,040
Grantham, Mayo, Van Otterloo & Co., LLC	176,357	-
Heitman	13,471	-
IronBridge Capital Management	87,737	-
Lincolnshire Equity Partners	8,235	-
Longroad Capital Partners	6,919	-
Loomis Sayles	47,456	-
McKinley Capital Management	89,997	-
MFS Institutional Advisors	95,139	8,464
Mondrian	73,450	-
New Enterprise Associates	16,529	-
New Mountain Capital	35,448	-
Pathway	92,942	-
PIMCO	304,522	2,740
Prudential	83,327	-
Quantum Energy	63,913	-

NOTES TO FINANCIAL STATEMENTS
(Continued)

11. Fees on Investments (Concluded)

External Manager Fees (Concluded)	State & County Cash Balance Benefit	State & County Defined Contribution
Rock Point	38,919	-
Synthetic GIC Holdings/WRAP Fee	-	90,747
T. Rowe Price Associates, Inc.	-	165,190
The Jordan Company	35,747	-
Turner Investments	90,960	927
UBS Global Asset Management (Americas), Inc.	94,900	-
Wayzata Investment Partners	27,243	-
Total External Manager Fees	$ 2,300,595	$ 659,797

See the Nebraska Investment Council attestation report for further information regarding other fees.

12. Equal Retirement Benefit Fund

On January 1, 1984, the Equal Retirement Benefit Fund (ERBF) was created for the State and County Retirement Plans. Each State agency and county participating in the retirement system makes contributions to the fund at least annually, in addition to regular retirement contributions.

Upon retirement, any member with an accumulated account balance based on contributions which were made prior to January 1, 1984, has the option to convert to an annuity at which time they are eligible to receive a benefit from the fund. The ERBF benefit is included in the members regular retirement annuity and are included in the benefit payments reported in the financial statements. The balances of the funds are not included in the financial statements. As of December 31, 2009, there was a balance of $412,968 in the State ERBF and a balance of $263,820 in the County ERBF.

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE AND COUNTY EMPLOYEES RETIREMENT PLANS
CASH BALANCE BENEFIT

REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULES OF FUNDING PROGRESS

FOR THE CALENDAR YEAR ENDED DECEMBER 31, 2009

Actuarial Valuation Date	(a) Actuarial Value of Assets	(b) Actuarial Accrued Liability (AAL)	(b-a) Unfunded Accrued Liabilities (UAL)	(a/b) Funded Ratio	(c) Covered Payroll	((b-a)/c) UAL as a Percentage of Covered Payroll
STATE EMPLOYEES						
12/31/2009	$ 670,591,669	$ 714,408,952	$ 43,817,283	93.9%	$ 454,776,381	9.6%
12/31/2008	$ 637,539,094	$ 658,249,398	$ 20,710,304	96.9%	$ 433,397,447	4.8%
12/31/2007	$ 606,552,428	$ 586,829,526	$ (19,722,902)	103.4%	$ 384,708,712	(5.1%)
12/31/2006	$ 392,442,206	$ 379,734,639	$ (12,707,567)	103.3%	$ 323,982,997	(3.9%)
12/31/2005	$ 342,729,602	$ 300,852,371	$ (41,877,231)	113.9%	$ 238,874,344	(17.5%)
12/31/2004	$ 297,573,422	$ 272,300,201	$ (25,273,221)	109.3%	$ 192,618,880	(13.1%)
COUNTY EMPLOYEES						
12/31/2009	$ 187,109,554	$ 196,773,040	$ 9,663,486	95.1%	$ 177,732,220	5.4%
12/31/2008	$ 175,765,930	$ 175,293,953	$ (471,977)	100.3%	$ 165,275,589	(0.3%)
12/31/2007	$ 163,782,748	$ 151,557,186	$ (12,225,562)	108.1%	$ 141,110,390	(8.7%)
12/31/2006	$ 116,379,465	$ 110,630,278	$ (5,749,187)	105.2%	$ 113,468,303	(5.1%)
12/31/2005	$ 99,464,149	$ 84,817,488	$ (14,646,661)	117.3%	$ 88,144,293	(16.6%)
12/31/2004	$ 83,869,272	$ 73,913,434	$ (9,955,838)	113.5%	$ 67,810,140	(14.7%)

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE AND COUNTY EMPLOYEES RETIREMENT PLANS
CASH BALANCE BENEFIT

REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULES OF CONTRIBUTIONS FROM EMPLOYERS

FOR THE CALENDAR YEAR ENDED DECEMBER 31, 2009

STATE EMPLOYEES

Year Ended December 31	Annual Required Contribution State		Percentage Contributed
2009	$	30,326,809	100%
2008	$	29,204,456	100%
2007	$	22,920,710	100%
2006	$	16,672,478	100%
2005	$	14,884,856	100%
2004	$	13,170,792	100%

COUNTY EMPLOYEES

Year Ended December 31	Annual Required Contribution Counties		Percentage Contributed
2009	$	10,558,967	100%
2008	$	9,840,004	100%
2007	$	8,194,608	100%
2006	$	6,245,470	100%
2005	$	5,521,165	100%
2004	$	4,869,010	100%

The actuarial determination of the Annual Required Contribution was based on actual covered payroll for the period.

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE AND COUNTY EMPLOYEES RETIREMENT PLANS
AVERAGE ADMINISTRATIVE EXPENSE PER MEMBER

STATE DEFINED CONTRIBUTION	2005	2006	2007	2008	2009
Members:					
Active	8,433	7,896	7,276	5,810	5,588
Inactive	1,819	1,788	1,844	1,682	1,573
Total Members	10,252	9,684	9,120	7,492	7,161
Cash Basis Administrative Expenses:					
NPERS Expenses (2)	$539,692	$575,800	$679,463	$829,346	$742,674
Record-keeper fees (3)	$263,371	$234,431	$243,378	$167,841	$133,896
Total Cash Basis Fees and Expenses	$803,063	$810,231	$922,841	$997,187	$876,570
Administrative Expenses per GAAP financial statements	$795,641	$832,299	$754,980	$1,016,824	$646,490
Average Administrative Expense per member (1)	$78	$86	$83	$136	$90
STATE CASH BALANCE					
Members:					
Active	6,918	7,599	9,798	11,390	11,749
Inactive	314	1,189	1,429	2,440	2,151
Total Members	7,232	8,788	11,227	13,830	13,900
Cash Basis Administrative Expenses:					
NPERS Expenses (2)	$646,210	$677,669	$711,220	$801,318	$799,750
Record-keeper fees (3)	$161,704	$181,804	$263,314	$260,108	$241,554
Total Cash Basis Fees and Expenses	$807,914	$859,473	$974,534	$1,061,426	$1,041,304
Administrative Expenses per GAAP financial statements	$781,130	$853,942	$1,215,889	$989,480	$692,870
Average Administrative Expense per member (1)	$108	$97	$108	$72	$50
COUNTY DEFINED CONTRIBUTION					
Members:					
Active	3,363	3,112	2,725	2,243	2,144
Inactive	899	873	940	813	743
Total Members	4,262	3,985	3,665	3,056	2,887
Cash Basis Administrative Expenses:					
NPERS Expenses (2)	$241,928	$225,521	$290,410	$362,215	$363,444
Record-keeper fees (3)	$109,869	$96,933	$100,867	$68,720	$55,240
Total Cash Basis Fees and Expenses	$351,797	$322,454	$391,277	$430,935	$418,684
Administrative Expenses per GAAP financial statements	$353,953	$336,664	$239,576	$445,787	$258,522
Average Administrative Expense per member (1)	$83	$84	$65	$146	$90
COUNTY CASH BALANCE					
Members:					
Active	3,364	3,622	4,785	5,468	5,633
Inactive	107	488	608	890	800
Total Members	3,471	4,110	5,393	6,358	6,433
Cash Basis Administrative Expenses:					
NPERS Expenses (2)	$346,867	$346,923	$371,890	$433,074	$438,558
Record-keeper fees (3)	$79,946	$87,822	$122,807	$118,125	$109,915
Total Cash Basis Fees and Expenses	$426,813	$434,745	$494,697	$551,199	$548,473
Administrative Expenses per GAAP financial statements	$411,642	$430,015	$654,078	$491,687	$341,948
Average Administrative Expense per member (1)	$119	$105	$121	$77	$53

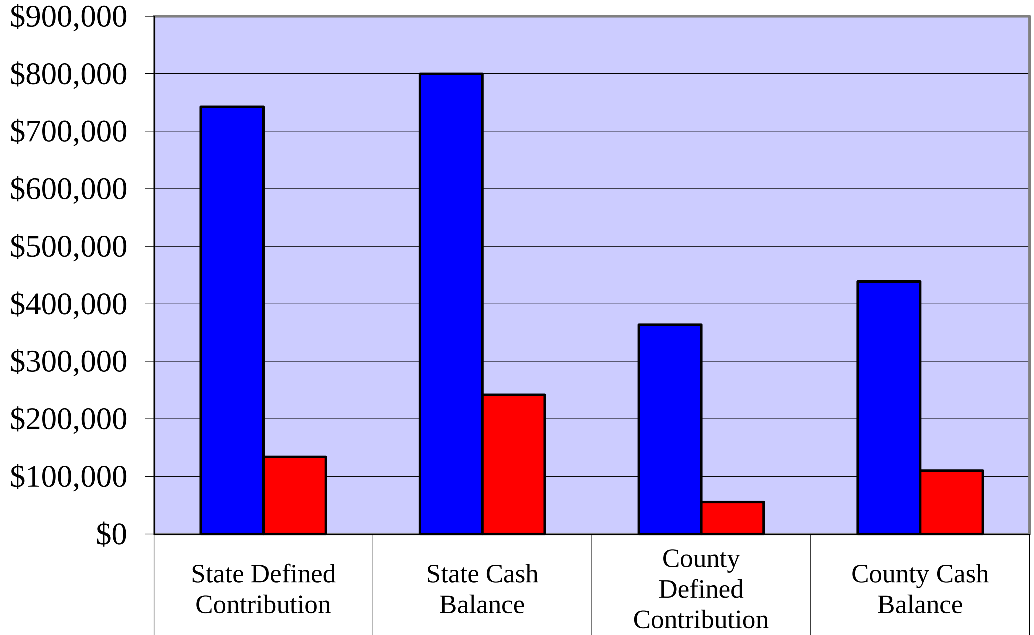
(1) Calculated: Total Administrative Expenses per Audited Financial Statements / Total Members = Average Administrative Expense

(2) NPERS expenses are expenses incurred by NPERS and allocated to these plans.

(3) Record-keeper fees are amounts charged by the record-keeper to members for record-keeping services. This is the amount members see as fees on their quarterly statements.

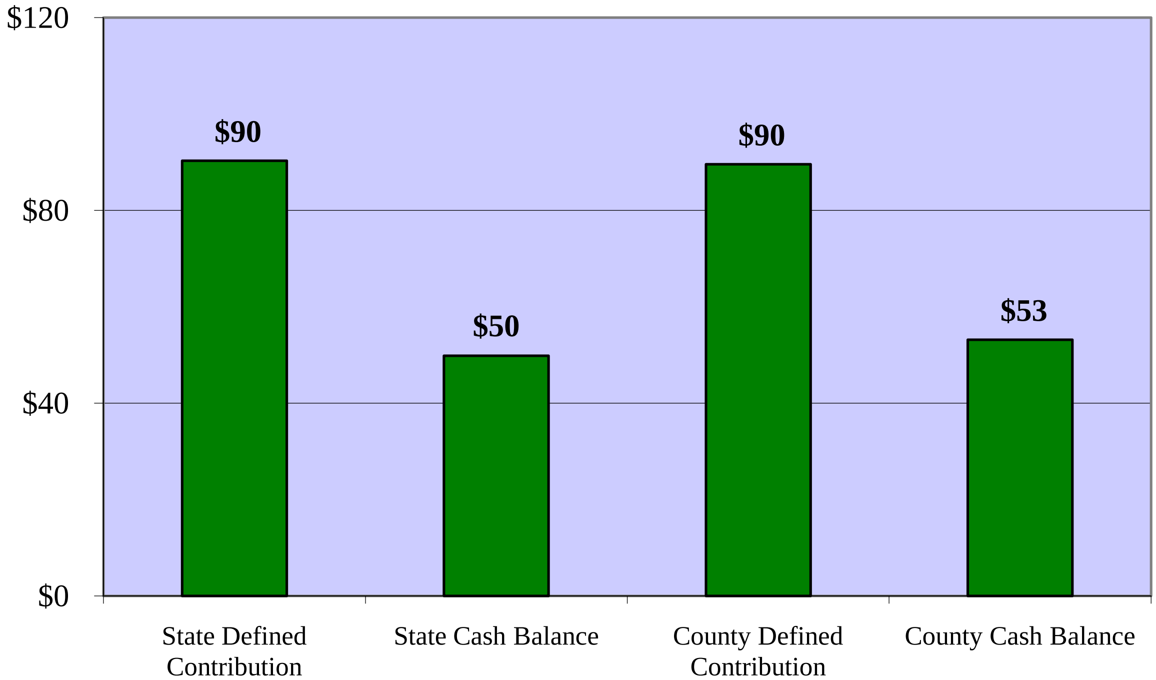
NOTE: During CY 2005 there were redemption fees of $6,703. These are fees charged to members for excessive trading of shares of a certain fund, the International Stock Fund. These fees were not reflected in the schedule. These fees were not charged in subsequent years.

CALENDAR YEAR 2009 EXPENSES AND FEES



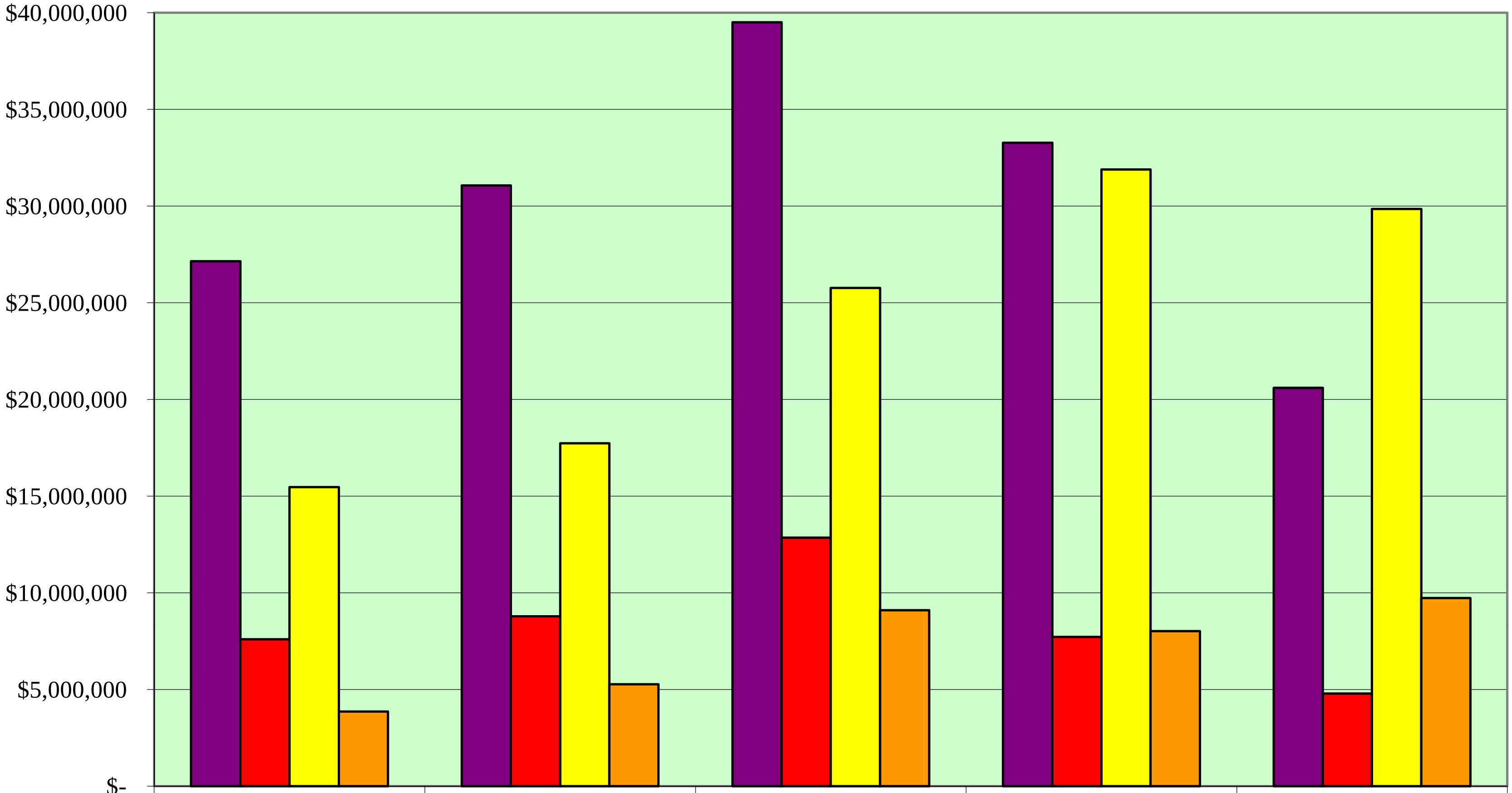
	State Defined Contribution	State Cash Balance	County Defined Contribution	County Cash Balance
NPERS expenses	$742,674	$799,750	$363,444	$438,558
Record-Keeper Fees	$133,896	$241,554	$55,240	$109,915

AVERAGE ADMINISTRATIVE EXPENSE PER MEMBER FOR CALENDAR YEAR 2009



NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE AND COUNTY EMPLOYEES RETIREMENT PLANS

TOTAL BENEFITS AND REFUNDS PAID



	2005	2006	2007	2008	2009
State Defined Contribution	$27,148,547	$31,057,867	$39,498,621	$33,264,603	$20,597,815
County Defined Contribution	$7,597,458	$8,787,116	$12,851,408	$7,712,560	$4,785,257
State Cash Balance	$15,463,446	$17,733,980	$25,763,588	$31,892,723	$29,840,355
County Cash Balance	$3,866,692	$5,269,706	$9,094,828	$8,020,611	$9,729,643

SUPREME COURT OF NEBRASKA

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ADMINISTRATIVE OFFICE OF THE COURTS & PROBATION

Janice K. Walker
State Court Administrator

Ellen Fabian Brokofsky
State Probation Administrator

September 14, 2009

Mike Foley, State Auditor
Auditor of Public Accounts
P.O. Box 98917
Lincoln, NE 68509-8917

Phyllis Chambers, Director
State Retirement Systems
P.O. Box 94816
Lincoln, NE 68509-4816

Dear Mr. Foley and Ms. Chambers:

In an attempt to resolve an issue which has been under discussion since the Fiscal Year 2006 audit of the Court Administrator's Office, I am writing to convey the position of this office regarding retirement benefits for non-career law clerks hired by the Supreme Court and Court of Appeals. The Supreme Court has set the annual compensation of non-career law clerks with less than five years of service at $45,926.52 and retirement benefits are **not** part of this compensation package.

The policy and practice of this Office with respect to these employees is based not only on our directions from the Court as to the compensation of these employees, but also on Nebraska law, both constitutional and decisional. Art. V, §§ 1 and 8 of the Nebraska Constitution vests in the Supreme Court general administrative authority over the courts in this state and authority to appoint such staff as is needed to carry out the business of the courts. Art. II, § 1 of the Nebraska Constitution, the Distribution of Powers clause, expressly provides that one "department of government" cannot exercise any power "belonging to either of the others." More importantly, in addition to its constitutional authority, the Supreme Court also possesses the inherent authority to carry out the constitutional duties with which it is charged. See, *In Re Estate of Reed*, 267 Neb. 121 (2003).

Administrative Office of the Courts & Probation
P. O. Box 98910, Lincoln, Nebraska 68509-8910
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I would also direct your attention to the Nebraska Supreme Court's decision in *Board of Regents of the University of Nebraska v. Exon*, 199 Neb. 146 (1977). The Court held that because the Board of Regents is a constitutionally created body charged with the general governance of the University, the Legislature cannot, through appropriation constraints or state statutes, usurp the powers and duties of the Board of Regents. It held, in short, that the Legislature by statute cannot "control or interfere with the discretion of the Regents in the general government of the University."

It has long been the view of the Court Administrator's Office that the *Exon* case supports the proposition that statutes which interfere with the internal operations of the court system are inapplicable to the judicial branch, as a co-equal, separate branch of government. While the Legislature has absolute power over the appropriations of the state, it cannot control the appropriation once it is made. *State ex rel. Meyer v. State Board of Equalization & Assessment*, 185 Neb. 490 (1970).

I would also point out that this view finds support within various opinions of the Nebraska Attorney General's Office, such as Neb. Op. Atty. Gen No. 03028 (2003)(Attorney General recognized that the Nebraska Supreme Court would likely apply *Board of Regents of the University of Nebraska v. Exon*, 199 Neb. 146 (1977), to the judicial system in the same manner as it did to the Board of Regents.); Neb. Op. Atty. Gen No. 178 (1984) (§ 81-1117 is not applicable to Nebraska State Board of Educational Lands and Funds because it is a constitutionally created entity with exclusive authority to administer the lands and funds of the state for educational purposes); Neb. Op. Atty. Gen No. 00012 (2000)(collective bargaining statutes not applicable to Supreme Court employees).

The Supreme Court in *Exon* made clear that "the determination of salary schedules and the compensation to be paid to employees of the Board of Regents in an integral part of the general government of the University." That proposition is even more relevant in its application to the Nebraska judicial system, as a constitutionally created separate branch of state government. The compensation of court employees is solely within the discretion and authority of the Supreme Court.

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It is the goal of the Court to eventually afford all of its employees compensation which would include retirement benefits. At this point in time, however, the Supreme Court has chosen not to extend such benefits to non-career law clerks with less than five years experience. Until such time as the Court makes a decision to revisit this matter and adjust the compensation package for such employees, retirement benefits will not be extended to this category of employees.

I hope this information better explains the Administrative Office's policies with respect to the compensation of certain non-career law clerks working for the appellate courts.

Sincerely,

Janice Walker
State Court Administrator

NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS
STATE AND COUNTY EMPLOYEES RETIREMENT PLANS
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

Nebraska Public Employees Retirement Systems
Lincoln, Nebraska

We have audited the financial statements of the Nebraska Public Employees Retirement Systems – State and County Employees Retirement Plans as of and for the year ended December 31, 2009, and have issued our report thereon dated August 26, 2010. The report was modified to disclose that the Management Discussion and Analysis was not presented and to emphasize the financial statements present only the funds of the Nebraska Public Employees Retirement Systems – State and County Employees Retirement Plans. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting
In planning and performing our audit, we considered the Nebraska Public Employees Retirement Systems – State and County Retirement Plans' internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Nebraska Public Employees Retirement Systems – State and County Retirement Plans' internal control. Accordingly, we do not express an opinion on the effectiveness of the Nebraska Public Employees Retirement Systems – State and County Retirement Plans' internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A material weakness is a deficiency or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control that we consider to be significant deficiencies that are described in the Comments Section of the report: Comment Number 1 (Accounting Issues), Comment Number 2 (Benefit Payments and Procedural Issues), and Comment Number 7 (Inadequate Resolution of Prior Year Findings). A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Nebraska Public Employees Retirement Systems – State and County Retirement Plans' financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain additional items that we reported to management of the Nebraska Public Employees Retirement Systems – State and County Retirement Plans in the Comments Section of this report as Comment Number 3 (County Plan Payroll Procedures), Comment Number 4 (Determination of Vesting Status), Comment Number 5 (Supreme Court Law Clerks), Comment Number 6 (Members Not Properly Notified of Account Changes), Comment Number 8 (Inconsistent Plan Documents), and Comment Number 9 (Disaster Recovery Plan).

The Nebraska Public Employees Retirement Systems – State and County Retirement Plans' written responses to the findings identified in our audit are described in the Comments Section of the report. We did not examine the Nebraska Public Employees Retirement Systems – State and County Retirement Plans' responses and accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Board, others within NPERS, and the appropriate Federal and regulatory agencies. However, this report is a matter of public record and its distribution is not limited.

Signed Original on File

August 26, 2010

Pat Reding, CPA, CFE
Assistant Deputy Auditor