

*Committee Report, Vol. 13, No. 1*

**The Public Employees Retirement Board and the  
Nebraska Public Employees Retirement Systems:  
An Examination of Compliance, PIONEER, and  
Management**

*August 2006*

**Performance  
Audit Section**

*Legislative Audit and Research Office  
Nebraska Legislature*

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## Legislative Performance Auditing

Legislative performance audits are designed to provide legislative oversight of state agency programs and to improve program efficiency and effectiveness. They are conducted under the supervision of the Legislative Performance Audit Committee (Committee), a special committee of the Nebraska Legislature.

Membership on the Committee includes the Speaker of the Legislature, chairpersons of the Executive Board and the Appropriations Committee, and four other members of the Legislature, chosen by the Executive Board. The Committee's responsibilities include selecting audit topics; defining the scopes of audits; adopting recommendations based on reports prepared by the Performance Audit Section (Section); holding public hearings and sponsoring legislation, as necessary, in conjunction with audits; and monitoring agency compliance with Committee recommendations.

The Section, staffed by six professional analysts, is housed within the Legislative Audit and Research Office. In conducting audits, analysts are subject to the Nebraska statutes and provisions of the Government Auditing Standards published by the Comptroller General of the United States, Government Accountability Office. Statutes governing the performance audit process in Nebraska are found in Chapter 50, article 12, of the Nebraska Revised Statutes.

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## *I. Key Findings*

# Key Findings & Recommendations

Legislative Performance Audit Committee Report

## *The Public Employees Retirement Board and the Nebraska Public Employees Retirement Systems: An Examination of Compliance, PIONEER, and Management*

Between 1995 and 2005, the Legislature has, on more than one occasion, become concerned that the Public Employees Retirement Board (PERB) and the Nebraska Public Employees Retirement Systems (NPERS) director (collectively called NPERS management) were not managing the agency as effectively and efficiently as they should be. Additionally, in 2005, the Appropriations Committee raised concerns about the new retirement computer system, known as the PIONEER Information System. In response to these concerns, the Legislative Performance Audit Committee (Committee) asked the Legislative Performance Audit Section (Section) to conduct an audit of the NPERS agency. Based on this audit, the Committee makes the following findings and recommendations.

### **COMPLIANCE**

The Committee found that PERB is in compliance with all of its substantive statutory and regulatory requirements but is in violation of several of its internal policies. In addition, some board policies conflict with statutory or regulatory policies. The Committee also found that:

- PERB's internal policy subordinating the legal counsel and internal auditor to the director may jeopardize the independence of these positions; and
- some PERB members believe they should advocate for plan improvements, but the Committee believes the Legislature has made it clear that this is not the board's duty.

### **Recommendations**

Based on these findings, the Committee recommends that PERB:

- ensure that its policies conform to statutory and regulatory provisions or initiate action to amend the relevant statutes or regulations, and comply with its own policies or change them to conform with actual practice;
- consider whether its policies should be clarified to preserve the independence of its legal counsel and internal auditor positions; and
- promulgate an administrative rule, or at a minimum, adopt an internal board policy prohibiting it from advocating for increased membership benefits.

### **PIONEER**

Based on the Section's research, it appears that NPERS' initial process for planning and developing PIONEER was adequate to ensure cost-efficiency and functionality. PIONEER also allows NPERS to have an efficient and almost paperless document handling system. However, PIONEER has several severe inadequacies that require the immediate attention of NPERS management. The Committee found that:

- PIONEER is written in Forté, a computer language that will soon be obsolete;
- in addition to the problem with Forté, there are several other significant problems with PIONEER specifically, and with NPERS' information technology services generally; and
- by 2011, NPERS management will have spent at least \$16 million to develop PIONEER. However, this is far from the total cost of the system, which is still generating significant expenses. For example, PERB incurs costs of approximately \$500,000 annually for the outsourced recordkeeper's system, which maintains State and County retirement plan information that is not managed by PIONEER.

### **Recommendations**

Based on these findings, the Committee recommends that:

- PERB act expeditiously to resolve the Forté computer language problem, hire a new technology manager, and consider whether there is an economically viable alternative to the division of plan management between PIONEER and the recordkeeper's system.

### **MANAGEMENT**

The Committee also found that NPERS management is not administering the agency staff adequately and efficiently. Specifically, the Committee found:

- poor communication between the director, managers, and staff, as well as between some managers and their employees;
- a widespread sense of fear that has lowered morale; and
- a hostile attitude by the PERB chairperson towards legitimate oversight.

### **Recommendation**

PERB needs to take an active role in finding out what is happening at NPERS. While we recognize PERB does not, nor should it, involve itself with the daily activities of NPERS, PERB members need to be aware of significant issues that may affect its relationship with the Legislature. The Committee recommends:

- based on past performance, the Committee has no confidence in the current director's ability to manage the agency and, in particular, to oversee impending changes to the PIONEER computer system and recommends that the Board seek a new director.

The Committee intends to meet with PERB members to discuss the implementation of the Committee's recommendations.



*II. Performance Audit Section Report*

*Performance Audit Section Report*

**The Public Employees Retirement Board and the  
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# INTRODUCTION

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For more than 60 years, the Legislature has helped government employees prepare for retirement. In 1945, the Legislature created the School Retirement System, and retirement systems for other employees followed. In 1971, the Legislature created the Public Employees Retirement Board (PERB) and its administrative arm, the Nebraska Public Employees Retirement Systems (NPERS) to provide centralized administration of government retirement plans.

Currently, PERB administers the retirement plans for most school and county employees and for all state employees, judges, and employees of the State Patrol.<sup>1</sup> (These plans are described in more detail in Section I). However, a separate state agency, the Nebraska Investment Council, is responsible for investing all retirement assets.

Between 1995 and 2005, the Legislature has, on more than one occasion, become concerned that PERB and the NPERS Director (collectively called NPERS management) were not managing the agency as effectively and efficiently as they should be. Consequently, the Legislature enacted several measures intended to hold NPERS management more accountable.<sup>2</sup> Additionally, in 2005, the Appropriations Committee raised concerns about the new retirement computer system, the Pension Information of Nebraska for Efficient and Effective Retirement (PIONEER) Information System.

In response to these concerns, the Legislative Performance Audit Committee, on 9 November 2005, directed the Performance Audit Section to conduct a performance audit of NPERS management. Specifically, in this audit, we assessed whether NPERS management:

- (1) met all requirements established in statute, rules and regulations, and PERB's internal policies relating to the administration of the systems;
- (2) took adequate steps to ensure cost-efficiency and functionality in the development, implementation, and maintenance of the PIONEER computer system; and
- (3) appropriately and effectively managed NPERS personnel.

In Section I of this report, we provide an overview of PERB/NPERS administration, programs, and funding. In

Sections II through IV, we present our analysis of each of the questions listed above.

This audit was conducted in accordance with generally accepted government auditing standards for performance audits. The methodologies we used to answer each of the foregoing questions are described generally at the beginning of each section, with further detail included at the end of the report.

## Notes

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<sup>1</sup> Legislator's Guide to Nebraska State Agencies, Legislative Fiscal Office, 2005-2006, p. 85-1.

<sup>2</sup> Laws 2005, LB 503 §§ 19-22.

# SECTION I: PERB and NPERS

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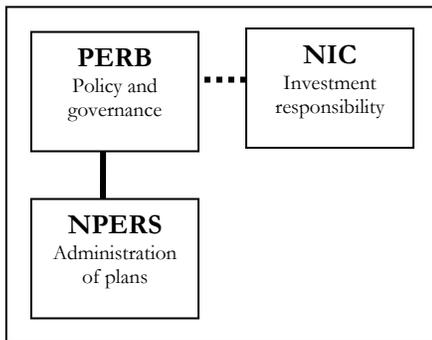
In this section, we provide an overview of the administration, programs, and funding of the Public Employees Retirement Board (PERB) and the Nebraska Public Employees Retirement Systems (NPERS).

## Administration

PERB, created in 1971, has eight voting members and one non-voting member. The eight voting members, who are appointed by the Governor and approved by the Legislature for five-year terms,<sup>1</sup> represent the following:

- the School Retirement System (2);
- the State Employees Retirement System (1);
- the Nebraska State Patrol System (1);
- the County Employees Retirement System (1);
- the Judges Retirement System (1); and
- the public (2).<sup>2</sup>

The non-voting member is the State Investment Officer, representing the Nebraska Investment Council.<sup>3</sup>



PERB is a non-code agency, meaning the director is hired by, and responsible to, the board, not the Governor. PERB also hires the internal auditor and legal counsel, but the director hires all other employees.<sup>4</sup> The State Personnel System covers all employees except the director.<sup>5</sup>

PERB is primarily responsible for the overall governance of the agency and retirement plans. By law, its responsibilities include promulgating rules and regulations and hearing disability claims, among other duties.<sup>6</sup>

NPERS is responsible for the daily operations of the plans. It provides educational programs to plan members; retains external record-keeping, actuarial, and compliance audit services; and serves as a focal point for plan members.

## Retirement Plans and Populations Covered

PERB administers four types of benefit plans for five populations of government employees. The four plans are: defined benefit, defined contribution, cash balance, and deferred compensation. The five populations are: state employees; county employees (except those of

Lancaster and Douglas counties, which have separate retirement systems); State Patrol employees; judges; and public school employees (except those of the Omaha Public Schools District, which has its own system). In 2005, there were more than 96,000 members of the various retirement plans. The total retirement plan assets are approximately \$7.2 billion.<sup>7</sup>

Table 1.1, below, shows which plans are available to each employee population and briefly describes each type of plan.

<b>Table 1.1: Retirement Plan Types and Membership</b>							
<b>Plan Type</b>	<b>Details</b>	<b>School</b>	<b>NSP</b>	<b>Judges</b>	<b>State</b>	<b>County</b>	<b>Total Number of Plan Members<sup>8</sup></b>
<i>Defined Benefit (DB)</i>	Plan participants receive a specific, guaranteed benefit at retirement. The employer assumes the risks associated with market performance.	●	●	●			School: 65,542 NSP: 799 Judges: 332
<i>Defined Contribution (DC)</i>	Plan participants, who bear the risks of the investments, receive a benefit that depends on the performance of plan investments.				● Before 1/1/03	● Before 1/1/03	State: 10,252 County: 4,262
<i>Cash Balance (CB)</i>	A cash balance plan defines the promised benefit in terms of a stated account balance with the employer assuming all risks and rewards associated with the investments.				● All new employees after 1/1/03	● All new employees after 1/1/03	State: 7,409 County: 3,561
<i>Deferred Compensation (DCP)</i>	This is a voluntary plan for state and some county employees.				●	○ Not all counties participate	4,316*
<b>Total</b>							<b>96,473</b>

Source: Administrative data provided by NPERS.

Table created by the Legislative Performance Audit Section.

NSP is the Nebraska State Patrol.

\* Includes both active DCP members and 1,256 members in the former (and inactive) plan offered by Hartford.

### Funding

PERB's administrative expenses are paid with a portion of the investment income earned on retirement systems assets. General funds are used primarily to cover unfunded liabilities of the defined benefit plans. For FY2004-05, PERB and NPERS had total budget operations of \$23,895,133, as shown in Table 1.2, on page 3.<sup>9</sup>

<b>Table 1.2: PERB/NPERS Budget</b>		
<i>Source</i>	<i>Appropriation FY2004-05</i>	<i>Note</i>
General Fund Total	\$17,048,711	Primarily used to provide the state's share of costs and cover the unfunded liabilities of the defined benefit plan. (Program 515)
Cash Total	\$6,846,422	Used to pay administrative expenses for NPERS and PERB. (Programs 041/042)
<b>Total Operations</b>	<b>\$23,895,133</b>	

Source: Legislator's Guide to State Agencies, 2005-2006.

Table created by the Legislative Performance Audit Section.

## Notes

<sup>1</sup> Neb. Rev. Stat. §84-1501(3)(c) and §84-1501(4)

<sup>2</sup> Neb. Rev. Stat. § 84-1501

<sup>3</sup> Neb. Rev. Stat. § 84-1501(3)(a)

<sup>4</sup> Neb. Rev. Stat. § 84-1503(1)(b, e, f)

<sup>5</sup> Neb. Rev. Stat. § 84-1503.03

<sup>6</sup> Neb. Rev. Stat. § 84-1503

<sup>7</sup> Annual Report to the Legislative Retirement Committee, Nebraska Public Employees Retirement Systems, March 2006, pg. 12.

<sup>8</sup> Annual Report, March 2006, pg. 15.

<sup>9</sup> Legislator's Guide to Nebraska State Agencies, Legislative Fiscal Office, 2005-2006, p. 85-1.

## SECTION II: PERB Compliance with Legal Requirements and Board Policies

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Pursuant to the scope statement adopted by the Legislative Performance Audit Committee for this audit, in this section we assess the Public Employees Retirement Board's (PERB's) compliance with requirements established in statute, rules and regulations (referred to collectively as legal requirements), and the board's internal policies. For this analysis, we reviewed only the legal requirements and policies that relate to the board's general administrative responsibilities, not those that relate to each specific retirement system or the deferred compensation plan. In conducting this assessment, we interviewed PERB members and NPERS staff members, reviewed relevant statutes, rules and regulations and internal policies, and examined other documents relevant to the requirements contained in those materials.

### **Statutory Requirements (§§84-1501-1503.04, 1507, 1511-1513)**

PERB's statutory requirements address two broad areas: administration of the retirement systems and PERB and NPERS governance.

#### *System Administration*

As mentioned earlier in this report, PERB is not responsible for the investment of retirement assets—that responsibility rests with the Nebraska Investment Council. Instead, PERB, through NPERS, is primarily responsible for administering processes relating to membership eligibility, contributions, and benefit payments. PERB's specific administrative responsibilities include:

- adopting and implementing procedures for employers to use in reporting information to PERB, testing and monitoring procedures to verify the accuracy of that information, and developing rules and regulations relating to these procedures;
- verifying members' eligibility dates for participation in the system and withdrawal from their retirement accounts (including ruling on member claims to access their accounts due to retirement caused by disability);
- prescribing and furnishing forms to employers for retirement system plan reports;

- providing pre-retirement educational seminars for employees;
- adopting rules and regulations for each retirement system and for adjustments to contributions or benefits;
- filing a written report with the Legislature’s Retirement Committee by March 15 each year.

PERB must also contract for financial and compliance audits, actuarial valuations, and other studies of the plans.

*PERB and NPERS Management*

In addition to the requirements relating to system administration, PERB’s governing statutes also set forth a number of requirements for it and NPERS. These include:

- qualifications for board membership;
- board duties, including appointing the NPERS director, and hiring a legal counsel and internal auditor;
- equitable allocation of administration costs among the retirement system plans;
- adoption of rules and regulations for management of the board; and
- maintenance of a complete record of board proceedings.

**PERB Compliance with Statutory Requirements**

|| **FINDING:** PERB is in compliance with all of its substantive statutory requirements. ||

We found that PERB is in compliance with all of its substantive statutory requirements (We did identify one minor exception, which is discussed at the end of this section.) However, we identified another issue relating to the board’s statutory authority that we believe needs to be addressed.

We found during our interviews with board members that some members believe the board should advocate for increased benefits or other improvements to the individual retirement systems. These members rely on Neb. Rev. Stat. §84-1503.02(2) to support their view. This section, in relevant part, states that:

“As fiduciaries, the appointed members of the board shall discharge their duties with respect to the retirement systems *solely in the interests of the members and beneficiaries of the retirement systems for the exclusive purposes of*

*providing benefits to members and members' beneficiaries. . . .”*  
(emphasis added)

**FINDING:** Some PERB members believe the board should advocate for plan improvements, but we believe the Legislature has made it clear that advocacy is not one of the board's duties.

Some members interpret the above statutory language as an obligation to do what they can to improve benefits.

We believe that the board members who hold this view are incorrectly interpreting this statute and that the correct interpretation is that the board members' fiduciary responsibility obligates them to administer the plans with the utmost care, in order to benefit the system participants. Because the board's operating expenses are paid by a portion of the interest earned on retirement plan assets, failure by the board to fulfill its fiduciary duty in administering the plans is likely to result in a direct cost to its members.

We do not believe that the board's fiduciary duty obligates the board to pursue increased benefits for plan members. (Individual board members, most of whom are themselves participants in one or another of the retirement plans administered by PERB, are, of course, free to advocate so long as they make it clear that they are not representing the board.) Our interpretation is supported by legislation passed in 2006, which clearly states that seeking plan enhancements is not a duty of the board. Consequently, we believe that the Legislature has made it clear that it does not intend for advocacy to be one of the board's duties.

### **PERB Compliance with Regulatory Requirements**

**FINDING:** PERB is in compliance with all but one of its regulatory requirements.

As described earlier in this section, the board is responsible for developing administrative regulations in several areas related to its administration of the retirement plans. For this audit, we reviewed the regulations contained in Title 303, Chapter 1 of the Nebraska Administrative Code, which relate to board management.

We found that PERB has developed regulations as required by law and is in compliance with all its substantive regulations, with one exception. The exception is that regulations require that when NPERS presents travel requests for board approval, it include an estimate of the travel costs.<sup>1</sup> Travel requests approved in recent PERB meetings did not include such estimates, and NPERS staff confirmed that this regulation is not followed.

We also identified several minor conflicts between the board’s policies and its regulations, which are discussed at the end of this section.

### **PERB Compliance with Internal Board Policies**

In addition to statutes and administrative regulations, PERB has its own policies, which it uses to conduct business. For this audit, we reviewed the policies relating to PERB’s general administrative responsibilities.

We found that PERB is in violation of several sections of its internal policies. We also identified several minor policies that conflict with existing statute or regulations, which are discussed at the end of this section.

#### *Violations*

##### *Director to Inform Board of Important Developments*

Board policy requires the NPERS director to “keep the board constantly apprised of any development that would in any way affect the Retirement Board and its operation.”<sup>2</sup> During the course of this audit, we observed or became aware of several instances in which the director failed to present information to the board that we believe would affect the board and its operation.

First, when we interviewed the board members—three months into this audit—we found that only the chairperson had received any substantive information from the director about the audit, its scope, or the potential impact of its results. After the release of the draft report to NPERS management, two PERB members informed us that they received an audit notification letter from the NPERS director prior to our audit interviews. Although the director technically notified PERB members of the performance audit, it was apparent from our interviews that she failed to impress upon them the potential significance of the audit. We were surprised by this lack of communication, because in our audit experience with other boards, this information has been communicated widely early in the audit process.

Second, we observed that the NPERS legal counsel (with the director’s knowledge) provided testimony in support of LB 1019 (2006), although the board had voted to have NPERS testify in a neutral capacity. During our interviews, we found that board members were unaware of this change. The sup-

portive testimony was particularly surprising, because at the meeting at which the vote took place, the director stated that NPERS' policy is to testify in a neutral capacity, even on bills that benefit the agency, unless specifically directed otherwise by the board.

**FINDING:** The director has failed to keep the board fully informed about some important issues.

Third, we believe that, although the NPERS director has informed PERB members about issues surrounding the PIONEER computer system (see Section III for more details), she has been inconsistent in the information delivered to them regarding the need to convert the system to a different programming language. In our interviews with PERB members, we found a wide variety of opinions regarding whether the decision to convert has, in fact, been made.

Further, the director has not been completely forthcoming with PERB members about the limitations of PIONEER. For example, at a recent board meeting, a PERB member requested the status of his previous request to include participants' chosen beneficiaries on their account statements. In our interviews, we found that not only will this require a programming change to PIONEER, but also there is a large backlog of beneficiary forms yet to be entered into PIONEER. In the PERB meetings we attended, the full extent of these problems were not mentioned to the board.

Finally, we believe that the director failed to disclose to the board the full extent of internal agency problems identified in a survey conducted by DAS (see Section IV for more details on the survey results). In our interviews with board members, they consistently denied knowledge of any current, significant management problems. As our discussion in Section IV reveals, there are problems of which the board should have been apprised.

#### *Leadership Continuity*

**FINDING:** The director has not identified a successor.

Board Policy #12 requires the NPERS director to notify PERB of a staff member who can take over for the director in the case of an emergency. The policy specifically states that the director will "groom" someone to succeed her either temporarily or permanently, but we found that no emergency replacement has been designated nor has a possible successor been groomed.

### *Conduct of Board Business*

**FINDING:** Board deviates from Robert's Rules of Order, but has no substitute process in such situations.

Board Policy #1, section (2)(C)(iii)(c) dictates that PERB will follow Robert's Rules of Order (Rules) "except where the board has superseded them." However, the policies do not delineate a process for superseding the Rules. At a recent public board meeting, we observed a confusing deliberative process over an issue of testimony on LB 1019, which resulted from the board's deviating from the Rules with no process to serve in its place.<sup>3</sup>

### *Committee Duties*

**FINDING:** PERB committees are not fulfilling some of their important duties.

Policy #1, section (2)(D)(ii), which defines the duties of the Legislative and Audit Committee, includes reviewing legislation pending before the state Legislature. However, despite several significant pieces of legislation in the 2006 session, the committee did not review the legislation or advise the board on it.

Policy #1, section (2)(D)(iv) charges the Education and Retreat Committee with recommending topics and appropriate speakers for the educational portion of the board meetings. Of the five monthly meetings we observed, December 2005 to April 2006, none included an educational component.

### *Compliance with Policies*

Due to issues identified in this section, PERB is not in compliance with:

- Policy #1, section (2)(C)(iii), which charges the PERB chairperson with ensuring that the board operates consistently with its own rules and those requirements placed on it by legitimate outside entities, such as state statutes and administrative regulations; and
- Policy 1 (2)(D)(i), which makes it the duty of the Policy and Planning Committee to review current policies and recommend changes to the board.

### *Other Issues*

In addition to the policy violations, we identified three other issues relating to the board's policies that we believe need to be examined. A discussion of each follows.

**FINDING:** Board policy subordinating the legal counsel and internal auditor to the director raises concerns about the independence of these positions.

By law, the board, not the NPERS director, hires a legal counsel and internal auditor. Board Policy #4 states that these positions are “subordinate to the Director.” We recognize that the director may need to have some authority over these positions for administrative purposes. However, for the credibility and viability of the retirement systems, we believe that these positions must function as independently as possible.

### **Minor Compliance Issues**

We found one minor violation of PERB’s statutes. In 2006, PERB submitted a report to the Legislature’s retirement committee that did not include all statutorily required information and was filed one week after the statutory deadline.

We also identified two minor conflicts between PERB’s internal policies and statutory requirements. First, a board policy that was revised in September 2005 cites Neb. Rev. Stat. §84-1503.01(3), which was repealed in 1998.<sup>4</sup> Second, the same policy states that NPERS is required to present a report to the Nebraska Retirement Systems Committee by March 1 of each year. However, by statute, the report is actually due March 15.<sup>5</sup>

**FINDING:** Some minor board policies conflict with statutory and regulatory requirements.

We also found that three policies conflict with administrative regulations. First, the board’s policies state that the board will set its annual meeting schedule in January each year. (In 2006, the schedule was set in January.) However, regulations require that the board set the schedule for the upcoming year in December of the previous year. Second, the board’s internal policies contain committee names and duties that conflict with those in regulation. Third, committee chairpersons have not been appointed, as required by regulation.

Finally, we found that the table of contents for the board policies indicate that the board is developing policies relating to Member Services Policy (Policy #8), Investment Monitoring Policy (Policy #9), and Benefits Policy/Legislation (Policy #11). However, although the policies were updated as recently as September 2005, agency staff told us that no such policies exist, even in draft form.

## Details of Compliance Analysis

The complete results of our analysis of PERB's compliance with its specific requirements are provided at the end of the report.

### Notes

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<sup>1</sup> Title 303, Chapter 1, Current Regulations of the Public Employees Retirement Board - 005.01

<sup>2</sup> Board Policy #3, Specific Duty #14.

<sup>3</sup> 23 January 2006, PERB meeting.

<sup>4</sup> Board Policy #1. Repealed by LB 1191.

<sup>5</sup> Neb. Rev. Stat. §84-1503(3)

## SECTION III: The PIONEER Computer System

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Pursuant to the scope statement for this audit, in this section we address whether NPERS management has taken adequate steps to ensure cost-efficiency and functionality in the development, implementation, and maintenance of the PIONEER computer system. To address this question, we interviewed PERB members and NPERS staff members, reviewed original project proposals, and examined other documents relevant to the system.

### **Planning and Development**

Administration of five retirement systems requires NPERS to manage a large, complex data set. Among other duties, NPERS must keep track of each member's eligibility dates for contributing to and withdrawing from their retirement accounts, employee and employer contributions, and benefits paid to eligible retirees. NPERS must rely on external sources, such as employers, for most of its critical data.

In 1999, NPERS, preparing for a large number of "baby boomer" retirements,<sup>1</sup> undertook an assessment of its technological resources with the goals of improving customer service and efficiency. At the time, NPERS relied on the state's more than 20-year-old mainframe system for the Schools, Judges and State Patrol plans and on an out-sourced system for the State and County plans.<sup>2</sup>

NPERS hired a consultant<sup>3</sup> to assist in its assessment effort, and he suggested development of a new computer system, changes in the way NPERS staff were organized, and improvements in NPERS' processes for managing retirement information.

NPERS worked with the consultant to develop a "Strategic Business Technology Plan" (plan), which described the benefits and drawbacks of implementing his recommendations. In January 2000, NPERS presented the plan to the Legislature's Appropriations and Retirement committees and to the Nebraska Information Technology Commission (NITC), which assists state agencies in developing information technology systems.

NPERS received approval and spending authority to proceed with development of a new computer system.<sup>4</sup> NPERS conducted a bidding process for the computer system and

awarded the contract to CBSI, Inc.,<sup>5</sup> which later became Covansys. An NPERS project team, made up of three employees and a project manager, worked closely with Covansys in developing the new system, which was ultimately named the Pension Information of Nebraska for Efficient and Effective Retirement, or PIONEER.<sup>6</sup>

The contract with Covansys was for a system that would manage data for the entirety of the Schools, Judges, and State Patrol plans, and a portion of the State and County plans. NPERS identified several significant goals for PIONEER, including:

- streamline operational procedures using electronic workflow and implementation of best practices;
- improving service and reducing response time to plan members;
- reducing manual transcription and operations;
- integrating applications and providing for an interface with the state's information systems, the school employer information systems, and the external recordkeeper for the state and county pension plans;
- improving accuracy of information;
- providing real-time access to data by staff and plan members;
- storing documents in an electronic medium; and
- providing Web access to account information and other retirement services to plan members.<sup>7</sup>

Once the system was fully implemented, NPERS would have a system that integrated data, forms, images, and other items while using an automated list of tasks known as a “workflow.”

### **Funding**

NPERS management decided to fund the new computer system through the state's Master Lease Purchase Program, which uses the state's tax-exempt status to provide a low-cost alternative to vendor financing. This allowed NPERS to keep retirement plan funds invested and earning a higher interest rate than the rates of the master lease certificates. NPERS estimated that this saved the plans \$1.4 million.<sup>8</sup> The total cost for the initial development of PIONEER was \$16.3 million.<sup>9</sup>

## Implementation

NPERS planned to install the new system in phases over a three- to four-year period beginning in October 2000.<sup>10</sup> According to NPERS, these phases were:

*Phase I* – Imaging system to manage documents (completed March 2001).

*Phase II* – Web-based employer reporting system and new, integrated membership database (completed January 2003).

*Phase III* – Benefit payment system (completed January 2004; originally scheduled for October 2004).

## Maintenance

After January 2004, PIONEER entered what NPERS called the Maintenance and Support Phase,<sup>11</sup> which is ongoing. This phase involves discovering and addressing issues with the system and making any modifications needed because of the passage of retirement legislation. NPERS has a contract, renewable every six months, with Covansys for support of the system.

## Discussion and Findings

Based on our research, we believe that the process used by NPERS management to plan and initially develop the PIONEER system was adequate to ensure cost-efficiency and functionality. However, the implementation of the system has not been completely successful. PIONEER has met some of the goals NPERS initially identified for it, but problems remain, including issues relating to the soon-to-be obsolete programming language used for the system. Following is a discussion of these issues.

**FINDING:** NPERS' initial process for planning and developing PIONEER was adequate to ensure cost-efficiency and functionality.

### *Successes*

PIONEER has succeeded in increasing the amount of documentation that may be stored electronically. Most retirement documentation is scanned into PIONEER, which allows NPERS to have an efficient and almost paperless document handling system. In addition, the workflow system, which lists pending work items for employees, has increased efficiency.

**FINDING:** PIONEER allows NPERS to have an efficient and almost paperless document handling system.

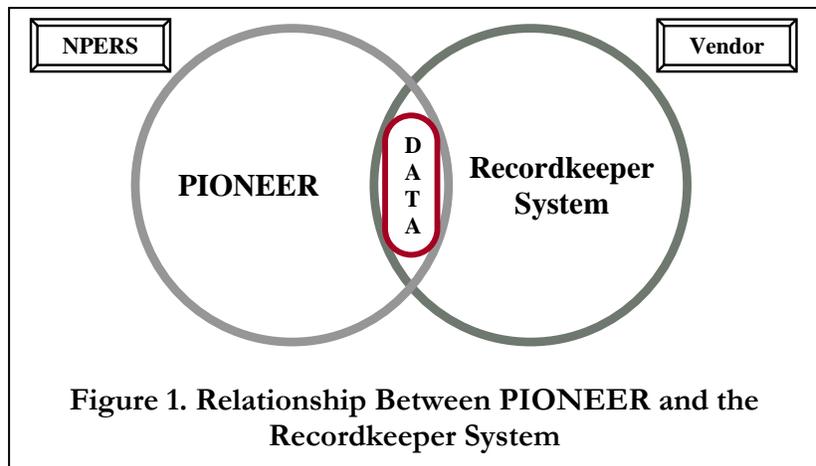
PIONEER has also improved the system by which schools report defined benefit plan contributions to NPERS, greatly reducing the amount of information that staff must enter manually. PIONEER allows the schools to report this information via the Internet—a significant efficiency given that NPERS receives information from 515 schools. NPERS notes that 80 percent of the 515 schools reporting monthly retirement contributions use this system.<sup>12</sup>

### Concerns

#### *Data Accuracy*

**FINDING:** NPERS has failed to ensure data accuracy in PIONEER.

In our interviews with NPERS staff members, we found that many do not trust the accuracy of data in PIONEER. For example, several employees claim discrepancies exist between contribution amounts for plan members in PIONEER and the out-sourced system (called the recordkeeper system), which manages some portions of the state and county systems; a few employees even said their own personal balances were incorrect. Because of these systems-related issues, several employees noted that they trust the recordkeeper’s system more than PIONEER and use it whenever possible, with some areas using it exclusively.



In addition, the accuracy of years-of-service data for school employees remains problematic. In the original plan for the development of PIONEER, the consultant highlighted the need for this information to be up-to-date prior to entry into the new system. He argued that the lack of “clean” data would diminish the system’s value to NPERS.<sup>13</sup> According to NPERS staff, this task was not completed prior to implementation of PIONEER. In fact, NPERS has two employees

whose primary responsibility is to verify the years of service of school employees. There is no completion date set for this task.

#### *Workarounds*

**FINDING:** Some employees rely on other computer programs to accomplish tasks that are either impossible or difficult to do with PIONEER.

Several NPERS staff members told us that they use other applications to complete some of their processes because PIONEER cannot accomplish the tasks or is too difficult to use. Employees commonly use Excel worksheets, contact lists in Access or Outlook, and form letters in Word to do work that PIONEER cannot do or that is very difficult to do using the system. Information collected during these processes is eventually entered into PIONEER. The system is supposed to have the functionality needed to serve plans, but even employees in the information technology (IT) area of NPERS suggested to at least one group to use a workaround instead of the system.

#### *Compatibility with the Recordkeeper System*

**FINDING:** Incompatibility between PIONEER and the recordkeeper system results in inaccurate information and additional work for staff.

PIONEER has compatibility issues with others systems. For example, the recordkeeper system overwrites information in PIONEER like addresses, social security numbers, and name changes. If a change is made only in PIONEER, the recordkeeper's system will undo the change during automatic updates to PIONEER. Several employees told us this forces them to make changes at least twice, once in each system. Compatibility between PIONEER and the recordkeeper system worsened when the latter system was recently updated.

We note that NPERS has contracted with a different vendor to provide recordkeeping services beginning 1 July 2006. According to NPERS staff, the new service provider should resolve the compatibility problem.

#### *Other Problems*

##### *Forté Programming Language*

**FINDING:** PIONEER is written in a computer language that will soon be obsolete.

Covansys built PIONEER in a programming language called Forté. In 2005, Sun Microsystems, which owns Forté, announced that it would discontinue support for the language by December 2007. This development leaves NPERS with a complicated and expensive computer system written in a language that will soon be obsolete.

In retrospect, PERB may have been better off developing its system in a more common computer language, such as Java or Visual Basic. However, our research indicates that *at the time*, Forté appeared to be a viable option. In fact, we found that at least three other states also chose to use Forté in developing new retirement-agency computer systems, only to find themselves in the same predicament PERB is in as Forté becomes obsolete.

**FINDING:** NPERS is already experiencing problems due to the out-of-date computer language.

NPERS is already experiencing problems related to Forté's increasing obsolescence. First, it has had problems finding qualified support staff. NPERS recently advertised for a programmer but did not receive a single application from anyone with Forté experience. In addition, NPERS has been unable to find local training for its staff. NPERS is also tied exclusively to Covansys for system support, because it is the only company that can provide system support for PIONEER in Forté. Even Covansys has had difficulty retaining Forté programmers and recently lost one of the programmers assigned full-time to the PIONEER project.

Second, because of Forté, PIONEER cannot run on any desktop with an operating system newer than Windows 2000, which will present security and other issues when Microsoft decides to end support of Windows 2000. According to NPERS staff, Covansys may have a solution to this particular problem, but it would be expensive—approximately \$250,000—and would not address the larger language problem.

**FINDING:** NPERS needs to address the Forté issue in an efficient and timely manner.

NPERS and Covansys are also discussing a possible migration of PIONEER's language from Forté to a more common computer language called Java. Currently, the Nebraska Information Technology Commission is assisting NPERS in assessing the feasibility of such a migration, and is expected to complete its analysis by June 2006. Now that the problem has been identified, the challenge for NPERS is to address it efficiently and in a timely manner.

#### *Information Technology (IT) Manager*

Originally formed as the PIONEER project team, the IT area is charged with keeping NPERS' information systems, including some facets of PIONEER, functioning. Since 2000, four IT managers have left, causing a lack of continuity while NPERS faced problems with PIONEER both during development and after completion.

**FINDING:** Due to the complexity of work done by the IT area and the major decisions involving PIONEER that lie ahead, the lack of a full-time manager is a critical issue.

The last IT manager left in August 2005, but NPERS has delayed finding a replacement until the Forté language problem is resolved. The NPERS director has also stated that the position's salary is inadequate to attract qualified candidates. In the meantime, the accounting manager is serving as the acting IT manager.

Due to the complexity of work done by IT and the major decisions involving PIONEER that lie ahead, we believe that the lack of a full-time manager is a critical issue. We also believe that the existing salary is adequate, because an analysis by the Department of Administrative Services suggests that the manager's salary is competitive.<sup>14</sup>

#### *Total Information Systems Costs*

As mentioned earlier in this section, PERB spent approximately \$16 million to develop PIONEER. However, this is far from the total cost of the system, which is still generating significant expenses.

**FINDING:** NPERS is incurring significant ongoing costs relating to PIONEER, and it is unclear when these costs will decrease.

As long as PIONEER uses Forté, NPERS will have an unending need for support—at a current cost of approximately \$500,000 per year—that they cannot handle internally. In addition, the use of an outsourced recordkeeper to support the data of the State and County plans also costs NPERS approximately \$500,000 a year. The proposed migration of data from Forté to Java is estimated to cost another \$6 million. These costs accumulate for a system that, even two years into its maintenance phase, is still experiencing a long list of change requests for system issues.

## Notes

<sup>1</sup> PIONEER Technology System Update to the Nebraska Legislature Committee on Appropriations, 2 December 2005, pg. 3.

<sup>2</sup> Nebraska Public Employees Retirement Systems Strategic Business Technology Plan Report, Raymond T. Clarke and Associates, 11 January 2000, pg. 19.

<sup>3</sup> Raymond T. Clarke and Associates, Beaverton, Oregon.

<sup>4</sup> PIONEER, pg. 4.

<sup>5</sup> PIONEER, Chairperson's Letter (pg. 2); pg. 6.

<sup>6</sup> PIONEER, pg. 4.

<sup>7</sup> PIONEER, pg. 3.

<sup>8</sup> PIONEER, pg. 5.

<sup>9</sup> Total of master lease certificates; PIONEER, pg. 5.

<sup>10</sup> PIONEER, pgs. 3, 5-6.

<sup>11</sup> PIONEER, Introduction.

<sup>12</sup> PIONEER, pg. 7.

<sup>13</sup> Technology Plan, pg. 40.

<sup>14</sup> DAS report dated 20 December 2005 (presented on 5 January 2006 to the Legislative Fiscal Office).

## SECTION IV: NPERS Management

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In this section, we address the last of our scope statement questions: Is NPERS managing its personnel appropriately and effectively? To answer this question, we reviewed the results of a 2005 survey of NPERS staff conducted by the Department of Administrative Services (DAS) and conducted our own interviews of members of NPERS staff.

PERB hires the top level of NPERS management: the director, legal counsel, and internal auditor. The director hires the administrative assistant and managers for the functional areas, such as accounting, member benefits, information technology, data services, and educational services. For the purposes of this audit, *NPERS management* refers to PERB and the NPERS director, and *managers* refers to area managers.

### DAS Survey

In September 2005, at the request of NPERS managers, DAS facilitated an employee opinion survey at NPERS. The survey results identified employee concerns about communication within the agency and employee morale. In our interviews, most employees stated that they believe the survey results were correct. In fact, some believe that the actual situation in the office is worse than what was reflected in the survey results. They alleged that some employees were afraid to answer the DAS survey truthfully because they doubted the anonymity of the response process. Our examination of the issues raised in the survey, and confirmed in our interviews, led to the following findings.

### Findings

#### *Communication*

Results of the DAS survey indicate that NPERS employees and managers believe that communication within the agency is inadequate. For example, on a scale of -10 (lowest) to +10 (highest), NPERS employees and managers both responded -1, on average, when asked if they felt they could speak openly and honestly at work, and if their work teams communicated openly and honestly. Our interviews with NPERS employees and managers confirmed these results.

In addition, many employees reported that information they need in order to do their jobs is not provided regularly by the

director or their managers. Using the same -10 to +10 scale, NPERS employees responded -1, on average, when asked if they were given the information needed to understand why decisions were made. They also responded 0 (zero), on average, when asked if they had the training and tools needed to do their jobs well.

**FINDING:** Communication within the agency is problematic, especially between the IT staff and other NPERS employees.

Our interviews also identified a specific communication problem—between NPERS information technology (IT) staff and other NPERS staff—that was not addressed in the DAS survey. Several employees said they avoid dealing with IT staff whenever possible and when they do have to interact, they often find the exchange to be demeaning and unconstructive. These problems are of particular concern given the need for employees to receive IT help in learning and working with the agency’s relatively new and problematic computer system.

IT staff confirm there is a communication issue with other NPERS staffers. From the IT staff’s perspective, other employees seem unwilling to learn how to use PIONEER.

#### *Morale*

Results of the DAS survey also indicate low employee morale among NPERS staff, which, again, our interviews confirmed. For example, on the -10 to +10 scale, NPERS employees responded -1, on average, when asked if they saw good things in their future at work. They also responded -1, on average, when asked if they were headed in the right direction at work. While some instances of low morale may be unavoidable due to individual employee concerns, we found in our interviews that the problem could not be attributed to individual circumstances.

**FINDING:** A widespread sense of fear has lowered morale at NPERS.

The most commonly expressed factor relating to morale was employees’ general sense of fear about expressing their opinions on work processes and, especially, issues with PIONEER. Many staff, including both line staff and managers, stated they believe that if they disagree with the director, there will be retribution, including possible termination. This fear appears to be well founded. For example, agency staff told us that at an agency meeting following the release of the DAS survey results that indicated communication and morale problems, the director told staff: “If you don’t like it here, you can leave.”

Employees overwhelmingly report that they like their jobs and the work they do, except for the stress caused by inade-

quate communication and fear of retribution. For example, the DAS survey responses were +5, on average, to questions asking whether employees believed the work they did made a difference, and whether they cared about the people they work with.

NPERS employees embraced the DAS survey with hopes it would lead to positive changes in the work environment. However, many employees told us that no meaningful changes have occurred since the survey, and some even felt “blamed” by management for the negative survey results.

NPERS has experienced significant turnover in several key management positions since 2000, including one legal counsel, two internal auditors, one accounting manager, two benefits managers, and four IT managers. These losses have impacted the general workload and projects like PIONEER and have taken a toll on morale.

According to many employees, in the turmoil that ensued after some departures, the director failed to deescalate the situation and get the agency back on track. Instead, the director’s actions caused employees to fear for their jobs, even leading some to keep their ties with former employees secret out of fear of retaliation.

Most managers indicated that the director regularly assumes responsibilities that they believe are theirs. They said they do not speak up about the situation because of the attitude of the director. Managers said that criticism, whether of NPERS or the director, is taken as a personal attack by the director and dealt with as such. Interviews with employees and PERB members confirmed this.

*PERB Attitude Toward Oversight*

|| **FINDING:** PERB has a highly unconstructive attitude towards legitimate oversight. ||

As a representative of PERB, the chairperson has displayed a highly unconstructive attitude toward appropriate governmental oversight, especially towards the Auditor of Public Accounts (APA) and the Legislative Performance Audit Section.

For example, for several years the APA has raised concerns about employers reporting inaccurate employee data to NPERS.<sup>1</sup> Since the accuracy of retirement benefits is dependent on employment information, it is important that this information be accurate. By law, PERB is responsible for checking such data for accuracy.

The APA has found that PERB does check the data for accuracy, but PERB conducts little follow-up when it identifies a problem. The APA has recommended that PERB adopt a procedure for routinely sending a letter to employers when problems are identified. This simple suggestion has met with a firestorm of criticism from the board and director.

PERB has argued that it lacks authority to force employers to correct their data and has suggested that the APA should either stop raising the issue or raise it with another agency, such as the Department of Education if schools are reporting inaccurate information. While it is true that PERB is not authorized to compel employers to make changes, it is clearly not prohibited from informing them of errors and requesting their assistance in correcting them. To their credit, some PERB members have encouraged the director and PERB chairperson to accept the APA's suggestion, but to date they have been unsuccessful in their efforts.

The response of the PERB chairperson to this performance audit has also reflected hostility towards legitimate oversight. In the interview with audit staff and at a public board meeting, the chairperson took issue with the legitimacy of the Legislature's audit process. At the meeting, the chairperson vehemently expressed his opinion that the audit process was unfair, citing our practice of protecting the anonymity of audit requesters.<sup>2</sup>

Finally, during the interview with audit staff, and in a subsequent telephone conversation with the lead auditor of this audit, the chairperson was hostile and confrontational. This attitude was in complete contrast with that of all other board members, who were helpful and cooperative. The chairperson stated in the telephone conversation that the State Auditor and the Legislature's Appropriations Committee chairperson—whom he implied had requested the current performance audit—were “barking up the wrong tree.”

Although PERB is a non-code agency and therefore somewhat more independent than code agencies, it is nevertheless a statutorily created entity and, as such, is a legitimate subject of governmental oversight.

## Notes

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<sup>1</sup> Noted in all Auditor of Public Accounts audit reports since 2000 for the State and County plans; and Schools, State Patrol, and Judges plans.

<sup>2</sup> 23 March 2006, PERB meeting.

***III. Committee Findings and Recommendations  
and Fiscal Analyst's Opinion***



# PERFORMANCE AUDIT COMMITTEE RECOMMENDATIONS

On 25 July 2006, in accordance with Neb. Rev. Stat. §50-1211(1) of the Legislative Performance Audit Act, the Legislative Performance Audit Committee (Committee) convened to consider the findings and recommendations contained in the Performance Audit Section's (Section's) draft report entitled *The Public Employees Retirement Board and the Nebraska Public Employees Retirement Systems: An Examination of Compliance, PIONEER, and Management* and the agency's response to that report. Following are the Committee's final recommendations.

Findings		Committee Recommendations
1	PERB is in compliance with all of its substantive statutory and regulatory requirements.	No recommendation.
2	PERB is in violation of several sections of its internal policies.	The board should either comply with its policies or change them to conform with actual practice.
3	The board's internal policy subordinating the legal counsel and the internal auditor to the director may jeopardize the independence of these positions.	The board should consider whether this language should be clarified to preserve the independence of these positions.
4	A few of the board's minor policies conflict with statutory and regulatory requirements.	The board should either ensure that its policies conform to statutory and regulatory provisions or initiate action to amend the relevant statutes or regulations.
5	Some PERB members believe that the board should advocate for plan improvements, but we believe the Legislature has made it clear that this is not one of the board's duties.	The board should promulgate an administrative rule or, at a minimum, adopt an internal board policy prohibiting the board from advocating for increased membership benefits.

Findings		Committee Recommendations
6	NPERS' initial process for planning and developing PIONEER was adequate to ensure cost-efficiency and functionality.	No recommendation.
7	PIONEER allows NPERS to have an efficient and almost paperless document handling system.	No recommendation.
8	PIONEER is written in Forté, a computer language that will soon be obsolete.	<p>Because the long-term use of Forté is not an option, PERB should act expeditiously to decide what it will do instead.</p> <p>The Nebraska Information Technology Commission is currently reviewing the possibility of changing the system to Java; the Commission's report is expected in August 2006. After receipt of that report, PERB should make a decision about how to proceed and develop a plan for implementing its decision. It appears that any solution is going to involve significant costs; consequently, PERB should report its plan, including a deficit appropriation request or other items that will require legislative action, to the Legislature's Appropriations and Retirement committees by 1 December 2006.</p>
9	In addition to the problem with Forté, there are several other significant problems with PIONEER specifically or with NPERS' information technology services.	The information technology area is in need of leadership, and PERB should act quickly to hire a new manager. The board needs to have a manager on board soon—if not during the decision-making process about whether to migrate to Java, then shortly thereafter—so that person can help manage the major changes that will occur. The new manager also needs to work closely with the NPERS director to: improve relationships between the IT staff and other employees; and assess and resolve the deficiencies that have led some NPERS employees to rely on programs other than PIONEER to conduct their work.

Findings		Committee Recommendations
10	<p>PERB incurs costs of approximately \$500,000 annually for the out-sourced recordkeeper's system, which maintains State and County retirement plan information that is not managed by PIONEER.</p>	<p>As PERB considers the resolution of the Forté problem, it should also consider whether there is an economically viable alternative to the division of plan management between PIONEER and the recordkeeper's system.</p>
11	<p>NPERS management is not administering the agency staff adequately and efficiently. Serious problems exist, including</p> <ul style="list-style-type: none"> <li>➤ poor communication between the director and managers and staff, as well as between some managers and their employees;</li> <li>➤ a widespread sense of fear that has lowered morale; and</li> <li>➤ the hostile attitude displayed by the PERB Chairperson towards legitimate oversight.</li> </ul>	<p>Based on past performance, the Committee has no confidence in the current director's ability to manage the agency and in particular, to oversee impending changes to the PIONEER computer system, and recommends that the board seek a new director.</p> <p>The Committee intends to meet with retirement board members to discuss the future management of the agency.</p>

# State of Nebraska

## LEGISLATIVE COUNCIL

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July 26, 2006

RECEIVED

JUL 26 2006

LEGISLATIVE RESEARCH

Cynthia Johnson  
Performance Audit Section  
Nebraska Legislature  
Room 1201 – State Capitol  
Lincoln, NE 68509

Dear Cynthia:

Following is the estimated fiscal impact of the findings and recommendations contained in the draft report regarding the audit of the Public Employees Retirement Board (PERB) and the Nebraska Public Employees Retirement Systems (NPERS). There are four areas of potential impact and one area of concern. It should be noted that due to the confidential nature of report and the yet-to-be received cost analysis cited below, the fiscal impact statements are of a general nature but can be revised at a later date.

- **Finding 8:** PIONEER is written in Forte, a computer language that will soon be obsolete.  
**Recommendation:** Because the long-term use of Forte is not an option, PERB should act expeditiously to decide what it will do instead.

**Fiscal Impact:** The cost to rewrite the entire PIONEER system could be significant. The Department of Administrative Services (DAS) Information Technology Services Division (ITS) has provided a preliminary cost estimate of \$5 million to \$6 million to rewrite the PIONEER system.

- **Finding 9:** In addition to the problem with Forte, there are several other significant problems with PIONEER ... including data inaccuracy.

**Fiscal Impact:** It would appear that the data purification process is behind schedule. Although the Public Employees Retirement Systems (NPERS) has been funded at request levels for this purpose, additional funding may be needed. Additional consultation with NPERS will be necessary to determine funding levels.

- **Finding 9:** In addition to the problem with Forte, there are several other significant problems with PIONEER ... including employees' reliance on other computer programs to accomplish tasks that are either impossible or difficult to do with PIONEER.

**Fiscal Impact:** The use of shadow computer programs is inefficient and therefore costly. In the technical review of PIONEER the Department of Administrative Services (DAS) Information Technology Services Division (ITS) is to review "whether there are other technical weakness that should be addressed during conversion to a Java-based programming." The use of shadow programs in lieu of the PIONEER system should be addressed. Additional funding may be required.

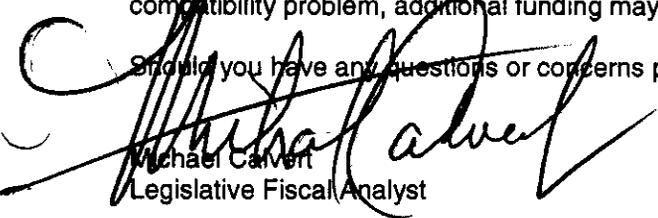
- **Finding 10:** PERB incurs cost of approximately \$500,000 annually for the out-sourced record keeper's system, which maintains State and County retirement plan information that is not managed by PIONEER.

**Recommendation:** As PERB considers the resolution of the Forte problem, it should also consider whether there is an economically viable alternative to the division of plan management between PIONEER and the record keeper's system.

**Fiscal Impact:** There will be costs associated with this finding and recommendation. It is not known at this time whether those costs would be offset by the annual savings if outsourcing is eliminated. Additional consultation with NPERS and DAS - ITS would be necessary.

There is an additional area of concern associated with Finding 9 and that is the compatibility of PIONEER with the outsourced recordkeeping. The report states, "According to NPERS staff, the new service provider should resolve the compatibility problem." If the new service provider does not resolve the compatibility problem, additional funding may be required.

Should you have any questions or concerns please contact me or Kathy Tenopir.



Michael Calvert  
Legislative Fiscal Analyst



*IV. Background Materials*

## **BACKGROUND MATERIALS**

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

- the Section’s draft findings and recommendations (provided for context);
- the agency’s response to a draft of the Section’s report;
- the Section Director’s summary of the agencies’ response;
- Appendix A: Audit Methodology; and
- Appendix B: Compliance Tables.

# Performance Audit Section Draft Findings and Recommendations (May 2006)

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*Note: The Section's draft findings and recommendations contain language that was revised after the Section received the agency response. Please refer to the Committee's findings and recommendations (Part III of this report) for the revised language.*

## ***The Public Employees Retirement Board and the Nebraska Public Employees Retirement Systems: An Examination of Compliance, PIONEER, and Management***

In this section, we present our findings and recommendations based on the analyses presented in Sections II through IV.

### *PERB Compliance with Legal Requirements and Board Policies*

**Finding 1:** PERB is in compliance with all of its substantive statutory and regulatory requirements.

**Finding 2:** PERB is in violation of several sections of its internal policies. For example:

- The director has failed to keep the board fully informed about some important issues;
- The director has not identified a successor;
- PERB deviates from Robert's Rules of Order, but has no substitute process in such situations; and
- PERB committees are not fulfilling some of their important duties.

**Recommendation:** The board should either comply with its policies or change them to conform with actual practice.

**Finding 3:** The board's internal policy subordinating the legal counsel and internal auditor to the director may jeopardize the independence of these positions.

**Recommendation:** The board should consider whether this language should be clarified to preserve the independence of these positions.

**Finding 4:** A few of the board's minor policies conflict with statutory and regulatory requirements.

**Recommendation:** The board should either ensure that its policies conform to statutory and regulatory provisions or initiate action to amend the relevant statutes or regulations.

**Finding 5:** Some PERB members believe that the board should advocate for plan improvements, but we believe the Legislature has made it clear that this is not one of the board's duties.

**Discussion:** The board is charged with administering the retirement systems, not with advocating for increased member benefits. Such advocacy is the proper role of lobbyists for each of the retirement system populations or for board members individually when they are not representing the board.

**Recommendation:** The board should promulgate an administrative rule or, at a minimum, adopt an internal board policy prohibiting the board from advocating for increased membership benefits.

*PERB Management of the PIONEER Computer System*

**Finding 6:** NPERS' initial process for planning and developing PIONEER was adequate to ensure cost-efficiency and functionality.

**Finding 7:** PIONEER allows NPERS to have an efficient and almost paperless document handling system.

**Finding 8:** PIONEER is written in Forté, a computer language that will soon be obsolete.

**Discussion:** PERB's decision to commit to developing PIONEER in Forté appears to have been reasonable at the time. The challenge for PERB now is to address efficiently and in a timely manner the issues that will arise when Forté becomes obsolete.

**Recommendation:** Because the long-term use of Forté is not an option, PERB should act expeditiously to decide what it will do instead.

The Nebraska Information Technology Commission is currently reviewing the possibility of changing the system to Java; the Commission's report is expected by June 2006. After receipt of that report, PERB should make a decision about how to proceed and develop a plan for implementing

its decision. It appears that any solution is going to involve significant costs; consequently, PERB should report its plan, including a deficit appropriation request or other items that will require legislative action, to the Legislature's Appropriations and Retirement committees by 1 December 2006.

**Finding 9:** In addition to the problem with Forté, there are several other significant problems with PIONEER specifically or with NPERS' information technology services in general, including:

- data inaccuracy;
- employees' reliance on other computer programs to accomplish tasks that are either impossible or difficult to do with PIONEER;
- incompatibility between PIONEER and the recordkeeper, which results in inaccurate information and additional work for employees;
- a rift between the information technology staff and other NPERS staff; and
- high turnover and the current eight-month vacancy in the position of information technology manager.

**Discussion:** Some of the problems we identified may be resolved by actions that are underway. For example, PERB expects the compatibility issue to be resolved under a contract with a new vendor for the recordkeeper's system. However, other problems, such as the absence of leadership of the information technology area, and the rift between IT staff and other employees, either are not being addressed or should be resolved more quickly.

**Recommendation:** The information technology area is in need of leadership, and PERB should act quickly to hire a new manager. The board needs to have a manager on board soon—if not during the decision-making process about whether to migrate to Java, then shortly thereafter—so that person can help manage the major changes that will occur. The new manager also needs to work closely with the NPERS director to: improve relationships between the IT staff and other employees; and assess and resolve the deficiencies that have led some NPERS employees to rely on programs other than PIONEER to conduct their work.

**Finding 10:** PERB incurs costs of approximately \$500,000 annually for the out-sourced recordkeeper's system, which

maintains State and County retirement plan information that is not managed by PIONEER.

**Recommendation:** As PERB considers the resolution of the Forté problem, it should also consider whether there is an economically viable alternative to the division of plan management between PIONEER and the recordkeeper's system.

#### *NPERS Management of Staff*

**Finding 11:** NPERS management is not administering the agency staff adequately and efficiently. Serious problems exist, including:

- poor communication between the director and managers and staff, as well as between some managers and their employees;
- a widespread sense of fear that has lowered morale; and
- the hostile attitude displayed by the PERB Chairperson towards legitimate oversight.

**Discussion:** PERB needs to take an active role in finding out what is happening at NPERS. While we recognize PERB does not, nor should it, involve itself with the daily activities of NPERS, PERB members need to be aware of significant issues that may affect its relationship with the Legislature.

**Recommendation to the NPERS Director:** The NPERS director sets the tone for the agency, and responsibility for resolving communication and morale problems rests with her. The director should take immediate steps to constructively resolve these issues.

**Recommendation to PERB:** If the director does not clearly demonstrate a willingness and ability to accept constructive criticism and make the necessary changes, PERB should consider replacing her.

**Recommendation to the Legislative Performance Audit Committee:** If neither the director nor the board takes sufficient steps to resolve the problems identified in this audit, the Committee may want to consider whether a restructuring of the agency is appropriate as a means of increasing accountability.



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May 26, 2006

Senator Chris Beutler, Chairperson  
Legislative Performance Audit Committee  
Nebraska State Senator  
District 28  
INTEROFFICE, 00 68509

Dear Senator Beutler:

Please accept the following materials as the Public Employees Retirement Board (PERB) and Nebraska Public Employees Retirement Systems (NPERS) response to the final draft report of the Legislative Performance Audit Section (LPAS).

This evaluation process has been a positive experience and was performed by your staff in a respectful, professional manner. All items mentioned in the report are worthy of discussion and consideration for improvement.

We are viewing the evaluation as motivation to improve functions both for PERB and NPERS. Any improvements made will translate into better performance in serving plan members and the administration of all retirement plans under the purview of PERB and NPERS.

Although we admittedly were apprehensive at the outset, we totally accept and recognize the need for appropriate oversight by the Legislature. This experience will be utilized in the spirit of improvement and betterment of all functions of PERB and NPERS. It has been helpful to have an outside source review our activities and point out areas for review. Our response contains our views, comments, and solutions for the mentioned areas.

The format for our response corresponds to the findings and recommendations (Section V) in the LPAS report.

In addition to this response, it is our intent to provide quarterly reports addressing progress made for each area in the implementation plan.

*PERB Compliance With Legal Requirements and Board Policies*

Finding 1: PERB is in compliance with all its substantive statutory and regulatory requirements.

**Response:** Even though the LPAS finding is of a positive nature, PERB intends to develop review standards to ensure compliance is maintained.

**Finding 2:** PERB is in violation of several sections of its internal policies. For example:

- The Director has failed to keep the Board fully informed about important issues.

**Response:** Many important issues are facing the Director and PERB at any given time. It is a constant challenge for the Director to provide not only the information but also provide it to many levels of understanding that exist amongst Board members. In addition, challenges abound in this arena because of the structure of the Board. Monthly meetings mean there is a small amount of time within which to handle large amounts of data and information relating to numerous topics. It is our intent to develop a better reporting system, such as weekly updates from the Director, to ensure members are receiving a current portrayal of what is occurring relative to the topics to be discussed at monthly meetings. It should be noted that the Director did report to the Board on the DAS survey referred to in the report. It was included in the September Director's update presented at the monthly PERB meeting. Regardless, methods will be developed to enhance communications between the Director and PERB.

- The Director has not identified a successor.

**Response:** PERB agrees that responsible continuity of operations for NPERS includes appropriate designation of a successor to the Director. Although a designation was made to the chairman of PERB, members were not aware of the designation. This will be clarified through revision of policy #12. With regards to policy #12 language, that the Director will "groom" someone to temporarily or permanently succeed her is problematic. PERB agrees the policy needs to be clarified and will do so. However, in the absence of a true deputy, it could be difficult to select an individual from within the existing organizational structure as the "chosen successor in training". PERB will revise and rewrite policy #12 to reflect appropriate continuity of operations policy for NPERS.

- PERB deviates from Robert's Rules of Order but has no substitute process in such situations.

**Response:** PERB has deviated from strictly following Robert's Rules of Order. Even though it is believed that appropriate and respectful Board business has been accomplished, specific rules and decorum are important to the workings of a board such as PERB. This issue will be placed on the agenda and appropriate policy developed to identify the acceptable meeting rules to be followed.

- PERB committees are not fulfilling some of their important duties.

**Response:** PERB agrees the committee structure has not been utilized to fulfill duties. Although not an acceptable excuse, we have tried to hold committee meetings on the same day as the monthly meetings because of travel considerations for committee members. Although this has been utilized, it does lead to hurried meetings with incomplete results. PERB will place this item on the agenda at the annual retreat in August and address it with a pledge for all members to focus on utilizing existing committee structure to accomplish tasks affecting Board business.

**Recommendation:** The Board should either comply with its policies or change them to conform with actual practice.

**Response to Recommendation:** PERB intends to review every policy in the policy manual and change those in need of revision. PERB will follow the policies as revised and keep them updated to reflect actual practices.

**Finding 3:** The Board's internal policy subordinating the legal counsel and internal auditor to the Director may jeopardize the independence for these positions.

**Response:** Current policy #4 was created to respond with the autonomy of both the legal counsel and internal auditor. PERB had attempted to balance the issue of both of these positions having direct access to the Board with oversight of their daily activities. PERB understands the issue as raised and will rewrite the policy (#4) to clarify the matter. A clear, open line of communication from the legal counsel

and internal auditor to the Board and vice versa is vital to the proper workings of the organization.

**Recommendation:** The Board should consider whether this language should be clarified to preserve the independence of these positions.

**Response to Recommendation:** PERB will develop language to clarify the independence of the legal counsel and internal auditor in policy #4.

**Finding 4:** A few of the Board's minor policies conflict with statutory and regulatory requirements.

**Response:** It is the Board's intention that these policies conform with applicable statutes and regulatory provisions. Actions will be taken through a comprehensive review to ensure all policies are in compliance with statute and regulations.

**Recommendation:** The Board should either ensure that its policies conform to statutory and regulatory revisions or initiate action to amend the relevant statutes or regulations.

**Response to Recommendation:** Although the report only cites three conflicts, it is PERB's intent to review and visit all Board policies to ensure there are no conflicts that exist. Actions will be initiated to correct any existing conflicts. Further review will be conducted to ensure conflicts are identified and rectified.

**Finding 5:** Some PERB members believe that the Board should advocate for plan improvements, but we believe the Legislature has made it clear that this is not one of the Board's duties.

**Response:** Admittedly, this area has been one of difference of opinion on many fronts. PERB has struggled with the advocacy role and has spent time in debating the matter. PERB has attempted to establish open lines of communication with representatives of plan membership. A common link to advance in this alliance has been discussions involving benefit improvements. Perhaps PERB should avoid using advocacy and begin using the term "facilitate." Instead of actually promoting benefit improvements, it seems logical we would facilitate an improvement provided it is reasonable and not causing liability to the employer. It might also be considered in the context of the Board's fiduciary responsibilities. For instance, we did assist in

expanding fund choices for the state and county defined contribution plans with regards to the employer account. Prior to this change, only three funds were available to select. A State employee approached us and requested we assist him in seeking a change. We did so through LB 1097 in 2004. By definition, this might be considered advocating, but PERB viewed it as assisting or facilitating a good idea proposed by a plan member. Regardless, we are aware this has become an issue and will address it.

**Recommendation:** The Board should promulgate an administrative rule or, at a minimum, adopt an internal Board policy prohibiting the Board from advocating for increase to membership benefits.

**Response to Recommendation:** The Board will promulgate an administrative rule or adopt an internal policy prohibiting the Board from advocating for increased membership benefits.

*PERB Management of the PIONEER System*

**Finding 6:** NPERS's initial process for planning and developing PIONEER was adequate to ensure cost efficiency and functionality.

**Response:** PERB agrees with this finding and is hopeful that the lessons learned will be applicable to future computer-related activities.

**Finding 7:** PIONEER allows NPERS to have an efficient and almost paperless document handling system.

**Response:** As noted in the report, PIONEER has greatly reduced the amount of information the staff must enter manually. This has been a great improvement to operations.

**Finding #8:** PIONEER is written in Forte, a computer language that will soon be obsolete.

**Response:** The PIONEER system was developed after consultation with consultant Ray Clark and Associates, and after receiving the go ahead from the State of Nebraska, IMS. PERB moved forward on this project in "good faith." It was not known at that time that Forte would become a language that would not be supported, nor was it foreseen

that there would be a problem obtaining and developing a qualified staff to support this system. NPERS has found itself (along with many other retirement systems across the country) facing a necessary change or migration to another supportive platform. The fact that Forte is considered outdated is related to the company Forte itself, not necessarily the language functionality. Forte was a publicly traded company. Ownership changed during the Internet boom, being first purchased by Netscape, and then later becoming part of Sun Microsystems. Sun Microsystems is a proponent of Java and has made the decision to curtail support for Forte.

**Recommendation:** Because the long term use of Forte is not an option, PERB should act expeditiously to decide what it will do instead.

The Nebraska Information Technology Commission (NITC) is currently reviewing the possibility of changing the system to Java. The Commission's report is expected by June 2006. After receipt of that report, PERB will make a decision about how to proceed and develop a plan for implementation. It appears that any solution is going to involve significant cost. Consequently, PERB should report its plan, including a deficit appropriation request or other items that require legislative action to the Legislature's Appropriations Retirement Committees by December 1, 2006.

**Response to Recommendation:** PERB is anxious to proceed with the migration after receiving the report from the NITC. PERB will prepare a deficit appropriation request and submit to the legislative Appropriations and Retirement Committees by December 1, 2006.

**Finding 9:** In addition to the problem with Forte, there are several other significant problems with PIONEER, specifically, or with NPERS information technology services in general, including:

➤ Data inaccuracy

**Response:** Some of the data inaccuracy problems are due to problems with the current record keeper's system. PIONEER was designed to obtain its data primarily from the employer reporting source. Unfortunately, in many instances, the

data coming from the employers may be an error. Oftentimes, the data which may be fixed on the NPERS side is overwritten by the data that is passed back to PIONEER from Ameritas. It is believed that with the change in the record keeper, these problems will not be duplicated. Other data inaccuracy problems are also known. There is a data purification team on NPERS staff whose full-time job is to rectify data problems. Because NPERS services a total of nearly 96,000 members, a conscious effort was made in the past to proceed with the PIONEER project knowing there were data issues and also realizing that these would take some time to reconcile. NPERS is continuing to work diligently to ensure the integrity of this huge amount of data.

- Employees' reliance on other computer programs to accomplish tasks that are either possible or difficult to do with PIONEER.

**Response:** NPERS's employees rely on other systems to make some reports and accomplish some functions. These other systems include the Microsoft Office products, such as Excel, Word, Access, and Outlook for e-mail. There are many reasons for this including familiarity of the user with the applications, as well as ensuring that those who receive communications from NPERS get information in a format that is compatible with the computer programs they use. NPERS strives to always be adding functionality to PIONEER whenever prudently possible. New automatically generated letters and forms are being added every month. There was a conscious decision made that some functionality was not worth the cost benefit to add to the system, such as State agency e-mail addresses. These will likely continue to be kept outside of PIONEER. It is also believed that depending on the NITC recommendation for a migration to Java, enhancements and increased functionality can be added to the PIONEER system after the migration to Java. That should solve some of this reliance on other systems.

- Incompatibility between PIONEER and the record keeper, which results in inaccurate information and additional work for employees.

**Response:** A primary reason for problems of interfaces between PIONEER and the record keeper come from overriding of data that is passed back and forth nightly. There are also problems with the current record keeper not accepting or reading all employer data from the counties and from the State NIS system. Incompatibility with the record keeper will be lessened or disappear after conversion to the new record keeper system. The new record keeper was chosen because of enhancements they offer, lower cost to members, and the new record keeper's willingness to work with NPERS to resolve problem issues such as this. NPERS will continue to work toward a flawless transmission of data between PIONEER and the record keeper.

- A rift between the information technology staff and other NPERS staff.

**Response:** NPERS acknowledges that the problem between the NPERS IT staff and other departments does exist. NPERS believes that a large part of this problem stems from miscommunication and lack of training. Miscommunication occurs when problems arise and there is difficulty in articulating what the problems are. Training needs to occur within all areas. Areas other than IT need to be trained not only on the step-by-step process of how a procedure is to be completed but also on why the steps are important so that a full understanding of what individuals are doing is present. The IT staff has a strong sense of ownership in the PIONEER system. The IT staff could be more fully trained on how to get to the root of problems, what questions to ask, and also how to train other individuals. Customer service, with the customer being the NPERS employees in this case, needs to be increased on all fronts.

- High turnover and a current eight-month vacancy in the position of Information Technology Manager.

**Response:** The lack of a full-time IT manager has been unfortunate. The past two individuals were very professional and knowledgeable. The loss has been difficult. Because the roll-out phases of initiating the PIONEER system were completed and the project had been put into a maintenance

type of mode, a decision was made to put the five IT staff under the direction of the accounting and finance manager. He not only has the accounting education but also a master's degree in computer information systems. A lead worker is also in place currently within the IT staff.

**Recommendation:** The information technology area is in need of leadership, and PERB should act quickly to hire a new manager. The Board needs to have a manager on board soon, if not during the decision making process about whether to migrate to Java then shortly thereafter so that person can help manage the major changes that will occur. The new manager also needs to work closely with the NPERS director to: improve relationships between the IT staff and other employees; and access and resolve the deficiencies that have led some NPERS employees to rely on programs other than PIONEER to conduct their work.

**Response to Recommendation:** PERB and NPERS agree the technology area needs to hire a new manager soon. It would be best to have the manager in place and functional before the migration to Java commences. Emphasis needs to be placed on customer service by the IT staff as they are a support group to the agency. In addition, emphasis must be placed on accessing and resolving the deficiencies that have employees utilizing programs other than PIONEER.

**Finding 10:** PERB incurs costs of approximately \$500,000 annually for the out-sourced record keeper's system, which maintains the state and county retirement plan information that is not managed by PIONEER.

**Response:** It has been the established practice to out-source the record keeping functions since 1964. In fact, Ameritas has been the sole record keeper since that time. Union Bank has been contracted to assume these functions effective July 1, 2006. PERB and NPERS agree that a cost analysis should be performed in conjunction with the migration from Forte to Java. A complete analysis will be included with appropriate data supplied to PERB to consider possible options.

**Recommendation:** As PERB considers the resolution of the Forte problem, it should also consider whether there is an economically

viable alternative to the division of plan management between PIONEER and the record keeper's system.

**Response to Recommendation:** PERB will evaluate and consider whether there is an economically viable alternative to the division of plan management between PIONEER and the record keeper's system.

*NPERS Management of Staff*

**Finding 11:** NPERS management is not administering the agency staff adequately and efficiently. Serious problems exist including:

- Poor communication between the Director and managers and staff, as well as between some managers and their employees.

**Response:** Prior to the LPAS report, PERB was unaware of these issues, except for the report provided by the Director at the September 2005 monthly meeting. The LPAS report is written in a very serious tone, which is not lost on PERB. It is obvious and apparent that PERB needs to exert its leadership and oversight in management practices within NPERS. A complete review of the DAS survey and a review of findings with the LPAS needs to occur. PERB agrees the types of issues identified are critical components to the workings of a healthy organization. These trends must be improved and corrected to ensure the long-term performance goals of NPERS, PERB, and the retirement plans. Performance plans, training, and accountability measures must be created and followed. PERB realizes it is their function to provide this guidance and to hold the appropriate persons accountable in carrying out the plan(s). PERB is committed to making all necessary corrections, holding staff accountable, and making NPERS the type of organization that is well-suited to perform at necessary levels to ensure the administration of all retirement functions under their purview is accomplished at the highest levels of performance within a healthy organizational atmosphere.

- A widespread sense of fear that has lowered morale.

**Response:** PERB agrees fear within an organization is stifling to open and clear communications which undermines trust and productivity. We intend to take the necessary steps to remove fear from the organization and replace it with empowered employees who can contribute at all levels in an open, fair, and thriving organization. PERB believes NPERS employees as a whole have a deep desire to serve the organization and to perform their duties adequately to ensure the plans are administered appropriately and plan members are served respectfully. The eventual implementation plan will include mechanisms to tap into these qualities and to nurture them for the betterment of everyone in the organization or associated with the organization.

- The hostile attitude displayed by the PERB chairperson toward legitimate oversight.

**Response:** The PERB chairperson apologizes for any perception of hostility he may have caused. He fully understands the LPAS report and the seriousness of its contents. He also apologizes to the LPAS staff as his comments were not intended to be personal but were offered out of a misunderstanding as to the full breadth of the performance audit. He also pledges to cooperate fully to make any and all necessary corrections involving PERB and NPERS.

**Recommendation to the NPERS Director:** The NPERS Director sets the tone for the agency and responsibility for resolving communication and morale problems rests with her. The Director should take immediate steps to constructively resolve these issues.

**Response:** PERB intends to take an active role in finding out what is happening at NPERS. PERB also intends to set the tone and to provide specific instructions to the Director through a performance improvement plan to ensure tasks are completed and accountability is demonstrated.

**Recommendation to PERB:** If the Director does not clearly demonstrate a willingness and ability to accept constructive criticism and make the necessary changes, PERB should consider replacing her.

**Response:** If the Director does not clearly demonstrate a willingness and ability to accept constructive criticism and make the necessary changes, PERB will replace her.

**Recommendation to the Legislative Performance Audit Committee:** If neither the Director nor the Board takes sufficient steps to resolve the problems identified in this audit, the Committee may want to consider whether a restructuring of the agency is appropriate as a means of increasing accountability.

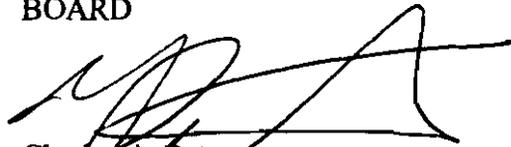
**Response:** PERB is committed to rectifying the issues in the LPAS report. PERB is determined to provide the Director and NPERS with necessary guidance to improve cited shortcomings. PERB is committed to holding staff, particularly the Director, accountable for assigned direction. PERB will focus on performance plans as a means to accomplish the above.

PERB sees the opportunities provided through this process to improve functions and operations of all PERB and NPERS related activities. PERB seeks legislative approval to be able to demonstrate its capabilities to make the necessary corrections and lead this process to a successful conclusion.

PERB believes that the responses provided herein are responsive to the LPAS and hopes they are acceptable to all concerned. It is our intent to meet our obligations as proposed in this document in the spirit of cooperation and good governance. PERB continues to be open to constructive criticism and fully accepts the responsibilities as assigned by the Legislature. We are deeply committed to serving the citizenry of Nebraska within the scope of our statutory authority and expect to be held duly accountable.

Sincerely,

PUBLIC EMPLOYEES RETIREMENT  
BOARD



Charles A. Peters  
Chairperson

copies: Legislative Performance Audit Committee Members  
Ms. Cynthia Johnson, Director, Performance Audit Section  
Public Employees Retirement Board

## DIRECTOR'S SUMMARY OF AGENCY RESPONSE

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*On 26 May 2006, the Nebraska Public Employees Retirement Systems (NPERS) and the Public Employees Retirement Board (PERB), submitted a response to a draft of the Performance Audit Section's report prepared in conjunction with this audit. Neb. Rev. Stat. §50-1210 requires the Section Director to "prepare a brief written summary of the response, including a description of any significant disagreements the agency has with the section's report or recommendations." The director's summary of the response follows.*

In its response, PERB agreed, in substance, with all of the Section's findings and recommendations, although it recommended a few clarifications. We are pleased with the board's response as it acknowledges that problems exist at NPERS and offers general solutions, which is appropriate at this stage of the audit process. We would also like to acknowledge that the PERB members we worked with after the release of the draft report were pleasant and cooperative.

Although the board's comments are responsive to the problems identified in the report, the Committee should not assume, based on those comments alone, that the problems will be resolved. The Committee should be aware that resolving the problems identified in the Section's findings and recommendations regarding the PIONEER computer system and agency management will take constant and consistent oversight; the Committee should develop its recommendations accordingly.

## Appendix A: Audit Methodology

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This audit was conducted in accordance with generally accepted government auditing standards for performance audits. The methodologies we used to answer each of the scope statement questions are described generally at the beginning of each section. Further detail is provided in this appendix.

We interviewed the eight voting members and the non-voting member of the board. We also interviewed all NPERS staff except two employees that were hired since the first of the year. Three auditors participated in these interviews. Shortly after each interview, one auditor who had participated in the interview typed up the comments received at the interview, and a second participating auditor reviewed the typed interview notes for accuracy. The lead auditor then categorized the comments by topic and entered the information into a database for analysis.

In reporting the results of our analysis, we took steps to protect the confidentiality of board members and employees. In most instances, we did not identify the source of specific comments by name or job title. In addition, we generalize the number of responses on different topics as “most” or “many” instead of identifying the specific number of responses, in order to reduce the likelihood that specific respondents could be identified. Finally, when we use a term like “many employees,” we mean “many among those who could be expected to know about the issue in question” not “many of all NPERS employees. For example, the results we report regarding questions about PIONEER do not include employees who do not use PIONEER.

As applicable, we asked board members and employees about PIONEER, agency management and their experiences at NPERS. The questions we asked are included later in this section.

Following is a discussion of the methodologies we used for information provided in each section of the report.

### **Introduction**

In the Introduction, we state that “between 1995 and 2005, the Legislature has, on more than one occasion, become concerned that. . . .NPERS management was not managing

the agency as effectively and efficiently as they should be. Consequently, the Legislature enacted several measures intended to hold NPERS management more accountable.”<sup>1</sup> These statements are based on an in-depth review of the legislative histories associated with the following legislative bills listed in the table below.

<b>LB</b>	<b>Committee</b>
Laws 1996, LB 847	Nebraska Retirement Systems Committee
Laws 1996, LB 1076	Nebraska Retirement Systems Committee
Laws 1997, LB 623	Nebraska Retirement Systems Committee
Laws 1998, LB 1191	Nebraska Retirement Systems Committee
Laws 1999, LB 849	Urban Affairs Committee
Laws 2000, LB 1192	Nebraska Retirement Systems Committee
Laws 2001, LB 408	Nebraska Retirement Systems Committee
Laws 2001, LB 808	Urban Affairs Committee
Laws 2002, LB 407	Nebraska Retirement Systems Committee
Laws 2003, LB 451	Nebraska Retirement Systems Committee
Laws 2005, LB 364	Nebraska Retirement Systems Committee
Laws 2005, LB 503	Nebraska Retirement Systems Committee

### **Section I: Board/Staff**

In this audit, we included only the retirement systems administered by PERB/NPERS. Retirement systems excluded from the audit include: (1) the retirement systems for Douglas and Lancaster counties, which have their own retirement systems; and (2) the Omaha School Employees Retirement System.

### **Section II: Compliance**

As directed by the Committee in the scope statement, we assessed compliance with the statutes relating to general board governance: (§§84-1501-1503.04, 1507, 1511-1513). We did not assess compliance with statutes governing individual retirement systems or the deferred compensation plan.

We also assessed PERB compliance with the regulations associated with these statutes, which are contained in Title 303, Chapter 1.

Finally, we assessed PERB compliance with those internal PERB policies that correlate with the substantive issues addressed in the above-mentioned statutes and regulations—those dealing with overall management rather than more specific issues. We determined that Policies 5, 7, 10, and 14

fell outside our scope. In addition, time did not allow examination of Policy 13, on travel reimbursements.

### Section III: The PIONEER Computer System

<i>Event</i>	<i>Date</i>	<i>Amount</i>
First certificate	December 2000	\$1.3 million
Refinanced First certificate	2002	\$4 million
Second certificate	November 2001	\$1.9 million
Third certificate	2003	\$5.4 million
Fourth certificate	February 2004	\$3.7 million
<b>Total (excluding interest)</b>		<b>\$16.3 million</b>

Source: Annual Report to the Committee on Nebraska Retirement Systems, Nebraska Public Employees Retirement Systems, March 2006, pg. 12.

### Section IV NPERS Management

Following is the list of questions used in the DAS online TEAMetric survey. Employees were asked to respond on a scale of -10 (lowest) to +10 (highest).

- The work I do makes a difference.
- I care about the people I work with.
- I give others what they need to do their work.
- I appreciate and thank people at work for what they do.
- We care a great deal about customer satisfaction.
- I am proud of what I accomplish at work.
- People at work trust me.
- I respect the people I work with.
- I give the people I work with honest and caring feedback.
- The people I work with have pride in what they do.
- Someone at work listens to me.
- I know what is expected of me at work.
- Someone at work appreciates what I do and thanks me for it.

- My job makes good use of my talents.
- People at work respect me.
- Someone at work gives me honest and caring feedback on how I'm doing.
- I laugh frequently and have fun at work.
- I am not micro-managed.
- I know that people at work care about me.
- People value me for who I am.
- When I make mistakes at work, they are not held against me.
- I trust the people I work with.
- It's OK for me to be different.
- I get the training and tools I need to do my job well.
- I look forward to going to work.
- We are headed in the right direction at work.
- I see good things in my future at work.
- Our team communicates openly and honestly.
- I am free to speak. I can be open and honest at work.
- Management gives me the information I need to understand why decisions are the way they are.

*Board Interview Questions*

Name of Board Member

Plan Represented

Location of meeting and contact information

Date of meeting

Time of meeting

1. When were you appointed?
2. When is your term set to expire?
3. You represent the \_\_\_\_\_, is that correct?
4. Broadly speaking, what are your responsibilities as a board member?
5. Were you given any written guidance or policies as to what your responsibilities included?

6. How much time would you say you spend preparing for each meeting?
7. What do you do to prepare or to keep yourself up-to-date with the latest in retirement trends?
8. Do you attend professional seminars? About how many of those annually do you attend? And, are you a member of any professional organizations that relate to retirement?
9. What strengths or expertise do you bring to the table?
10. Describe to me what your philosophy is behind Board governance. How does that differ from what really exists?
11. How would you describe the relationships between the board members? Would you say there is a free flow of ideas?
12. How often do you interact with legal counsel and the internal auditor? Do you believe that it is an appropriate amount? What would be an example of something you would discuss with either one of them?
13. Performance evaluations of the legal counsel and internal auditor are required by (Title 303 Rules and Regulations). What was your role in conducting those evaluations? In your opinion, do the legal counsel and auditor meet your expectations?
14. Describe the Director to me.
15. How often do you interact with the Director? Do you believe that is an appropriate amount? What would be an example of something you would discuss with her?
16. A performance evaluation of the Director is required by Title 303 of Rules and Regulations. What was your role in conducting that evaluation? How well did she do? Do you have a copy of that?
17. What is your expectation of a Director and is she meeting those expectations?
18. Describe the Board's relationship with the Legislature.
19. While attending your Board meetings, we've heard the Board describe some findings by the Auditor the Board seems to find unfair. Would you describe to me what happened in those instances.
20. We attended the January Board meeting at which the LB1019 was discussed at length. What was your take on that bill, particularly the fiduciary language that garnered so much discussion? And we noticed that originally the Board voted to have Anna testify in a neutral capacity, and mention there was extensive discussion. Yet, at the hearing, Joe testified in support

- of the bill and only mentioned the discussion. When was that decision made? How did that come about?
21. Your internal policies describe standing committees. Which committees are you on? How does the committee process work? How often do they meet? Do you believe that to be an effective process? Do they serve their purpose?
  22. What do you know about PIONEER? Have you ever seen it work? What do you know about the migration from Forte to Java?

### *Interview Questions*

Following is the generic list of questions used by the performance audit staff in interviews with NPERS management and staff. The questions were customized as needed to meet the appropriate situation.

Name of interviewee  
Area in which he or she worked  
Date of meeting  
Time of meeting

### *Responsibilities*

1. Tell us how you were informed about the audit. What were you told about the audit and why we are here? How was it explained to you?
2. What is your exact job title?
3. How long have you worked for NPERS?
4. How long have you been working at your current job position?
5. Tell us about your primary job responsibilities.
6. What written guidelines exist for your job? Can we have a copy? How do you ensure that they are followed?
7. What types of written reports might you produce that shows the work you do? Weekly, monthly, or quarterly reports?
8. Does each individual receive a training manual for their particular area?
9. Name one thing you like about your job and one thing you dislike about your job.

*Relationship with your Manager & the Director*

10. Who do you report directly to? Describe your working relationship with him/her. What kind of manager is he/she? Describe their management style.
11. Does your manager do a good job explaining changes or other management decisions that affect your area?
12. Describe the annual evaluation process.
13. Have you ever undergone an performance evaluation?
14. Did you participate or take an employee survey that discussed management practices at NPERS? Did you see the results of that? Did anything change at NPERS because of it?
15. How often do you interact with the Director?
16. How would you describe your working relationship with her?
17. How would you describe her management style?
18. Do you feel your opinions are heard and respected?
19. Has the Director ever made decisions for your area that you disagree with? If yes, explain.
20. Do you feel that you can approach her with issues, or problems?
21. Do you have any interaction with the Board? What is your perception of the Board's adequacy to administer the retirement plans?
22. What is your perception of the relationship between the Director and the Board?

*PIONEER*

23. Do you know why NPERS needed a new computer system?
24. Tell us about your experience with the new computer system. How has it affected your job?
25. How does OMNI work? How do you anticipate the change to Union Bank is going to affect your job?
26. How would you describe the working relationship between the IT team and your area.
27. What is your knowledge about the former IT Managers?

*Miscellaneous*

28. How familiar are you with why the former legal counsel and internal auditor left? Can you shed any light as to why they left?

**Notes**

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<sup>1</sup> Laws 2005, LB 503 §§ 19-22.

## Appendix B: Compliance Tables

Table 2.1: Nebraska Revised Statutes §§84-1501-1503.04, 1507, 1511-1513 Compliance Checklist			
Statute	Requirement Summary	Y	N
§84-1501(1)	PERB established	●	
§84-1501(2)	PERB members and qualifications (before 1/1/2005)	●	
§84-1501(3)(a)	PERB members and qualifications (after 1/1/2005)	●	
§84-1501(3)(a)(i)	Public members not state or subdivision employees	●	
§84-1501(3)(a)(ii)	Public member experience	●	
§84-1501(3)(b)	Membership distribution	●	
§84-1501(3)(b)(i)	School members	●	
§84-1501(3)(b)(ii)	Judges member	●	
§84-1501(3)(b)(iii)	NSP member	●	
§84-1501(3)(b)(iv)	Counties member	●	
§84-1501(3)(b)(v)	State member	●	
§84-1501(3)(c)	Appointments to office	●	
§84-1501(4)	5 year term; expenses; removal from office	●	
§84-1502(1)	PERB chairperson and secretary	●	
§84-1502(2)	Meetings	●	
§84-1502(3)	Per diem and expenses	●	
§84-1503(1)(a)	Administer the retirement systems	●	
§84-1503(1)(b)	Appoint a director	●	
§84-1503(1)(c)	Equitably allocate expenses among the retirement systems	●	
§84-1503(1)(d)	Administer the defined compensation plan	●	
§84-1503(1)(e)	Hire an attorney	●	
§84-1503(1)(f)	Hire an internal auditor	●	
§84-1503(1)(g)	Employer reporting and testing	●	
§84-1503(1)(h)	Prescribe and furnish forms for the public retirement system plan reports	●	
§84-1503(2)(a)	Determine prior service annuity for each county employee	●	
§84-1503(2)(b)	Determine membership eligibility	●	
§84-1503(2)(c)	Adopt and promulgate rules and regulations for the management of the Board	●	
§84-1503(2)(d)	Maintain a complete record of all proceedings	●	
§84-1503(2)(e)	Contract for actuarial services	●	
§84-1503(2)(f)	Legislative Council Retirement Study Fund	●	
§84-1503(2)(g)	Adopt and promulgate rules and regulations to carry out the provisions of each retirement system	●	
§84-1503(2)(h)	Contract for auditing services for a separate compliance audit	●	
§84-1503(2)(i)	Adopt and promulgate rules and regulations for the adjustment of contributions or benefits	●	
§84-1503(2)(j)	Maintain qualified plan pursuant to the IRC	●	

§84-1503(3)	Submit yearly report to Nebraska Retirement Systems Committee		●
§84-1503.02(1)	Fiduciary duty	●	
§84-1503.02(2)	Discharge duties with respect to the retirement systems solely in the interests of the members	●	
§84-1503.03	Employ qualified personnel; shall include the internal auditor and an attorney; covered by the State Personnel System	●	
§84-1503.04(1)	Prepare a formal written three-year audit plan	●	
§84-1503.04(2)	Conduct ongoing reviews of the internal procedures	●	
§84-1503.04(3)	Ensure internal accounting and operational controls are appropriate and operating correctly and report inconsistencies to the board	●	
§84-1503.04(4)	Examine and evaluate compliance	●	
§84-1503.04(5)	Perform internal auditing functions	●	
§84-1503.04(6)	Develop standards to be used by independent auditors	●	
§84-1507	Actuarial reports; statement of actuarial assumptions and methods; actuarial valuations and experience investigations; prepared; actuary; certified by Public Employees Retirement Board	●	
§84-1511(1)	Comprehensive preretirement planning program	●	
§84-1511(2)	Attained the age of fifty or are within five years of qualifying for retirement	●	
§84-1511(3)	Preretirement planning program specifications	●	
§84-1511(4)	Work with groups to enhance the preretirement planning program	●	
§84-1511(5)	Preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan	●	
§84-1511(6)	Leave with pay to attend up to two preretirement planning programs	●	
§84-1511(7)	Nominal registration fee shall be charged	●	
§84-1511.01(1)	Comprehensive retirement education and financial planning program for all members under age fifty	●	
§84-1511.01(2)	Program specifications	●	
§84-1511.01(3)	Leave with pay to attend a retirement education and financial planning program twice prior to age fifty	●	
§84-1511.01(4)	Expense charged proportionately to the State and County Funds	●	
§84-1511.01(5)	Nominal registration fee shall be charged each person attending	●	
§84-1512(1)	Receive and test information from employers	●	
§84-1512(2)	Develop and implement an employer education program	●	
§84-1513	Board; members; personal liability.	●	

Table prepared by the Legislative Performance Audit Section.

Table 2.2: Rules and Regulations Title 303 – NPERS Chapter 1: Board Management - Compliance Checklist			
Rule	Requirement Summary	Y	N
<b>001 – Board Meetings</b>			
001.01	Meet once a month; adopt next year’s meeting dates in December; emergency meeting provisions.		●
001.02	Notice of meetings in newspapers; secretary to notify interested media.	●	
001.03	Open Meetings Law is to be followed	●	
001.04	Quorum (four members) is required	●	
001.05	Excused absences; more than three absences can mean removal from office.	●	
001.06	Majority vote, taken by roll call, required to pass motions.	●	
<b>002 – Officers</b>			
002.01	Chair, Vice-Chair, Secretary; duties	●	
002.02	Meeting agenda	●	
<b>003 – Committees</b>			
003.01	Standing Committees	●	
003.01(a)	Policy Committee		●
003.01(b)	Legislative Committee		●
003.01(c)	Budget and Finance Committee		●
003.01(d)	Personnel Committee		●
003.01(e)	Long-Range Committee		●
003.02	Ad-hoc committees	●	
003.03	Committee duties and limits		●
<b>004 -Board Admin Policies</b>			
004.01	Appoint director; yearly evaluation	●	
004.02	Delegation of responsibility to director	●	
004.03	Items approved by Board; report copies	●	
<b>005 - Board Travel Policy</b>			
005.01	Travel requests to include cost estimate		●
005.02	Board approval of travel; report to Board	●	

Table prepared by the Legislative Performance Audit Section.

Table 2.3: PERB Policies Compliance Checklist			
Policy	Requirement Summary	Y	N
<b>Policy #1</b> <i>Board Duties and Governance</i>			
(1) Duties	Administer plans; appoint director; adopt rules; establish policies; actuarial; budget/expenses; legal counsel; annual report; compliance audit; qualified plan status; disability claims; Defined compensation plan hardship withdrawals; appeals.	●	
(2)	Governance		
(2)(A)	Conduct of Meetings; Open Meetings	●	
(2)(A)(i)	Regular Meetings third Monday of each month; meeting schedule adopted in January		●
(2)(A)(ii)	Special Meetings; notification	●	
(2)(A)(iii)	Emergency Meetings	●	
(2)(B)	Agenda; who sets	●	
(2)(B)(i)	Limit on agenda changes; late changes made in public meeting	●	
(2)(B)(ii)	Agenda items	●	
(2)(B)(iii)	Agenda kept current	●	
(2)(C)	Elect PERB officers in January	●	
(2)(C)(i)	Eligibility	●	
(2)(C)(ii)	Nomination and election procedure; majority needed	●	
(2)(C)(iii)	Duties of the chair; including assuring PERB follows board policies		●
(2)(C)(iii)(a)	Meeting discussion content	●	
(2)(C)(iii)(b)	Deliberation	●	
(2)(C)(iii)(c)	Robert's Rules of Order, except where superseded		●
(2)(C)(iv)	Authority of the Chair	●	
(2)(C)(iv)(a)	Chair meetings	●	
(2)(C)(iv)(b)	Authority in policies; cannot supervise director	●	
(2)(C)(iv)(c)	May represent Board to outside parties	●	
(2)(C)(iv)(d)	Convene meetings; certify actions; assign committees; other duties	●	
(2)(C)(v)	Duties of the Vice-Chair	●	
(2)(D)	Committees; membership; duties; limitations	●	
(2)(D)(i)	Policy and Planning Committee; including assuring PERB has up-to-date policies		●
(2)(D)(ii)	Legislative and Audit Committee		●
(2)(D)(iii)	Budget and Personnel Committee	●	
(2)(D)(iv)	Education and Retreat Committee		●
(2)(D)(v)	Any other ad hoc committee as necessary	●	
(2)(E)	Committee Duties and Limitations	●	
<b>Policy #2</b> <i>Board Code of Conduct</i>			
(1)	Fiduciary duty	●	
(2)	Member preparation for Board work	●	
(3)	Avoid conflicts of interest	●	
(3)(a)	No self-dealing or any conduct of private business or personal service with systems	●	
(3)(b)	Nepotism	●	
(3)(c)	1 year wait prior to employment	●	

(3)(d)	Potential Conflict of Interest Statement	●	
(4)	Statements of Financial Interests	●	
(5)	Members may not attempt to exercise individual authority over the retirement system	●	
(5)(a)	Board majority of quorum needed for binding decisions and interaction with director/staff	●	
(5)(b)	Interaction with other entities is likewise bound by the need for a duly recorded action of a majority of a quorum of the Board	●	
<b>Policy #3</b> <i>Director's Duties</i>			
	Hire director; qualifications in statute; director's duties (including informing the board of issues); required knowledge, skills, and abilities; specific duties; limitations of authority.		●
<b>Policy #4</b> <i>Legal Counsel and Internal Auditor Duties and Responsibilities</i>			
(1)	Hire legal counsel	●	
(1)(a)	Works under director; duties	●	
(1)(b)	Legal counsel direct access to Board; yearly evaluation	●	
(2)	Hire internal auditor	●	
(2)(a)	Duties	●	
(2)(b)	Internal auditor direct access to Board	●	
(2)(c)	Yearly evaluation	●	
<b>Policy #6</b> <i>Contractual Services Policy</i>			
(1)	Contract Renewal Option	●	
(2)	Contract Bidding Process	●	
(3)	Exceptions	●	
<b>Policy # 12</b> Board Training/Continuity Plan			
			●

Table prepared by the Legislative Performance Audit Section

# PERFORMANCE AUDIT COMMITTEE REPORTS

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## **Performance Audit Reports**

- *The Nebraska Medicaid Program's Collection of Improper Payments (May 2005)*
- *The Lincoln Regional Center's Billing Process (December 2004)*
- *Nebraska Board of Parole (September 2003)*
- *Nebraska Department of Environmental Quality: Administering the Livestock Waste Management Act (May 2003)*
- *HHSS Personal-Services Contracts (January 2003)*
- *Nebraska Habitat Fund (January 2002)*
- *State Board of Agriculture (State Fair Board) (December 2001)*
- *Nebraska Environmental Trust Board (October 2001)*
- *Nebraska Department of Roads: Use of Consultants for Preconstruction Engineering (June 2001)*
- *Department of Correctional Services, Inmate Welfare Fund (November 2000)*
- *Bureau of Animal Industry: An Evaluation of the State Veterinarian's Office (March 2000)*
- *Nebraska Ethanol Board (December 1999)*
- *State Foster Care Review Board: Compliance with Federal Case-Review Requirements (January 1999)*
- *Programs Designed to Increase The Number of Providers In Medically Underserved Areas of Nebraska (July 1998)*
- *Nebraska Department of Agriculture (June 1997)*
- *Board of Educational Lands and Funds (February 1997)*
- *Public Service Commission: History of Structure, Workload and Budget (April 1996)*
- *Public Employees Retirement Board and Nebraska Public Employees Retirement Systems: Review of Compliance-Control Procedures (March 1996)*
- *Leaking Underground Storage Tank Program (December 1995)*
- *School Weatherization Fund (September 1995)*

- *The Training Academy of the Nebraska State Patrol and the Nebraska Law Enforcement Training Center (September 1995)*
- *Nebraska Equal Opportunity Commission (January 1995)*
- *The Interstate Agricultural Grain Marketing Commission (February 1994)*

## **Preaudit Inquiries**

- *Implementation of the Nebraska Information System (NIS) (November 2005)*
- *The Lincoln Regional Center Psychiatrists' Work Commitments (September 2005)*
- *The Nebraska State Patrol's Record of its Investigation of State Treasurer Lorelee Byrd (November 2004)*
- *HHSS Public Assistance Subprograms' Collection of Overpayments (August 2004)*
- *NDEQ Recycling Grant Programs (October 2003)*
- *HHSS Reimbursement and Overpayment Collection (August 2003)*
- *Grain Warehouse Licensing in Nebraska (May 2003)*
- *HHSS Personal-Services Contracts (July 2002)*
- *Livestock Waste Management Act (May 2002)*
- *Nebraska Telecommunications Universal Service Fund (April 2001)*
- *State Board of Health (November 2001)*
- *State Board of Agriculture (State Fair Board) (August 2001)*
- *Game and Parks Commission Cash Funds (August 1999)*
- *Education Technology (January 1998)*
- *Nebraska Research and Development Authority (April 1997)*
- *Nebraska's Department of Agriculture (June 1996)*
- *Nebraska's Department of Correctional Services Cornhusker State Industries Program (April 1996)*
- *DAS Duplication of NU Financial Record-Keeping (February 1995)*