

**ATTESTATION REPORT
OF THE
NEBRASKA REAL ESTATE COMMISSION
JANUARY 1, 2013 THROUGH DECEMBER 31, 2013**

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Issued on July 31, 2014

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NEBRASKA REAL ESTATE COMMISSION

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NEBRASKA REAL ESTATE COMMISSION

BACKGROUND

The Nebraska Real Estate License Act (Act) was first passed in 1935 and became effective January 1, 1936. The Act was initially administered and enforced by the Nebraska Secretary of State. In 1943, the Nebraska Real Estate Commission (Commission)¹ was created by an act of the Legislature (1943, c. 171 §§1-26). In 1973, the Act was amended significantly, and membership was expanded to the current seven Commissioners. In 1985, continuing education was made mandatory for all licensees. In 1991, errors and omissions insurance was made mandatory, and legislation clearly delineating the roles and responsibilities of limited seller's and buyer's agents was passed by the legislature in 1994.

The seven-member Commission is chaired by the Secretary of State and consists of six other members appointed by the Governor. There is one broker member appointed from each of the three Congressional Districts, one broker member appointed at large, one salesperson member, and one member appointed to represent the public. The Commission meets approximately once a month and reviews licensing, education, disciplinary, and other policy matters. Although the licensing and regulation of real estate salespersons and brokers is still the primary duty of the Commission, its duties have been expanded over the years to include the registration of subdivided land development, time-shares, retirement communities, and membership campgrounds.

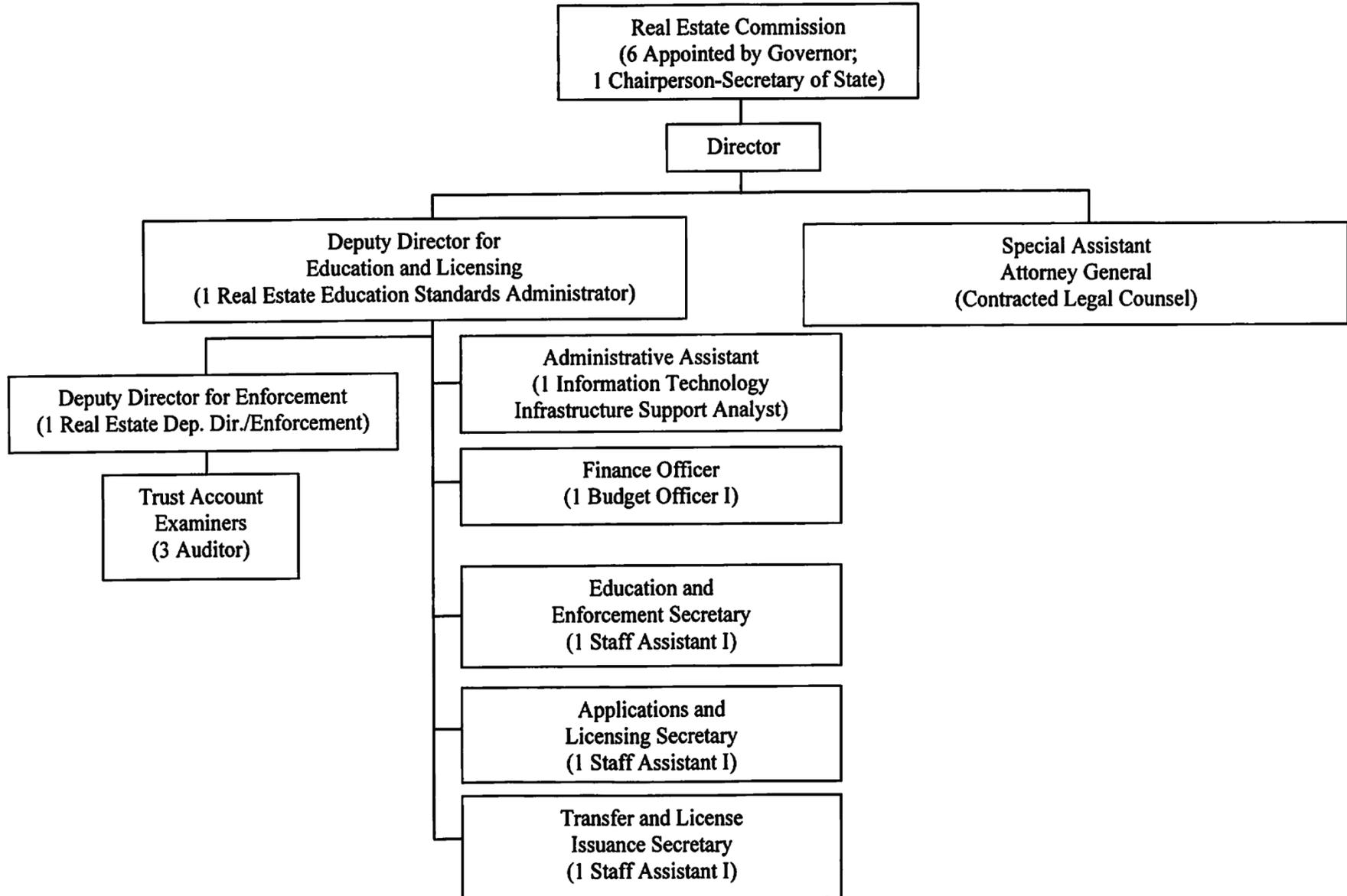
According to its own web site, at <http://www.nrec.ne.gov>, the Commission's mission is:

To protect the public interest of Nebraska citizens through the efficient and effective administration of the Nebraska Real Estate License Act and the registration of Time-Share Projects, Subdivided Land Projects, Retirement Subdivisions and Communities, and Membership Campgrounds.

¹ Neb. Rev. Stat. § 81-885.07(1) (Reissue 2008) provides, in relevant part: "There is hereby created the State Real Estate Commission" That is how the Commission is solely designated throughout statute. Although the term "Nebraska Real Estate Commission" is not found in statute, the Commission has become popularly known, as well as refers to itself, by that name. Consequently, the APA uses the commonly accepted "Nebraska Real Estate Commission" throughout this report.

NEBRASKA REAL ESTATE COMMISSION

ORGANIZATIONAL CHART



NEBRASKA REAL ESTATE COMMISSION

EXIT CONFERENCE

An exit conference was held July 14, 2014, with the Nebraska Real Estate Commission (Commission) to discuss the results of our examination. Those in attendance for the Commission were:

NAME	TITLE
Greg Lemon	Director
Teresa Hoffman	Deputy Director
Paige Utecht	Finance Officer

NEBRASKA REAL ESTATE COMMISSION

SUMMARY OF COMMENTS

During our examination of the Nebraska Real Estate Commission (Commission), we noted a certain deficiency and other operational matters that are presented here.

This comment and recommendation is intended to improve the internal control over financial reporting or result in operational efficiencies in the following area:

1. ***Lack of Controls Over Revenues:*** The Commission lacked an adequate segregation of duties over revenues, mail procedures, and licensing database security.

More detailed information on the above item is provided hereafter. It should be noted that this report is critical in nature, containing only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Commission.

Draft copies of this report were furnished to the Commission to provide its management with an opportunity to review and to respond to the comment and recommendation contained herein. The formal response received has been incorporated into this report. A response that indicates corrective action has been taken was not verified at this time, but it will be verified in the next examination.

NEBRASKA REAL ESTATE COMMISSION

COMMENT AND RECOMMENDATION

1. Lack of Controls Over Revenues

A good internal control plan requires an adequate segregation of duties to ensure no one individual is in a position both to perpetrate and to conceal errors or irregularities. A good procedure to establish initial control over receipts is to have two individuals open the mail, prepare an initial listing of receipts, and sign the listing denoting it as complete and accurate. Furthermore, good internal controls require procedures to ensure deposits are within statutory requirements.

During testing, we noted the Commission lacked adequate controls for monies received, as individuals were able to issue a license and process monies without adequate controls in place to detect possible improprieties:

- Not all monies received by the Commission were deposited in accordance with Neb. Rev. Stat. § 84-710 (Reissue 2008), which requires deposits of \$500 or more to be deposited with the State Treasurer within three business days. The Commission would hold monies received due to missing information for completion of licenses.

During the cash count performed on May 30, 2014, we noted 7 of 23 checks totaling \$1,440 were not deposited timely. We also noted 15 of 23 checks on hand had not been receipted.

- An initial recording of cash and checks received by the Commission was not made immediately upon opening the mail by two individuals. Money was not receipted until the cash and checks were routed to the various divisions; it was then receipted as time allowed.
- The Commission's licensing database (IFMC) does not have password security protection. Additionally, all staff can access the system and make changes to information entered into the system.

Without controls to ensure all monies received are properly deposited, there is an increased risk for misappropriation of State funds.

We recommend the Commission do the following:

- Ensure all monies received are deposited timely in accordance with State statute.
- Have two individuals open the mail and make a complete listing of all monies received and sign off to indicate it is complete and accurate. The listing should then be reconciled to the daily deposit.
- Update security controls on the licensing database to include proper security and password protection.

NEBRASKA REAL ESTATE COMMISSION

COMMENT AND RECOMMENDATION

(Concluded)

1. Lack of Controls Over Revenues (Concluded)

Agency's Response: With regards to the timely deposit of checks, we had interpreted the State deposit requirements to apply after all conditions precedent for the receipt of the funds provided had been met, so if a license applicant had not yet provided all the needed documentation or other pre-requisites for application, the check was not deposited until those pre-requisites were met. We have revised our procedures to timely deposit checks based upon the date of receipt and not the time that all prerequisites for processing the filing or application are met.

With regards to segregation of duties in receipt of revenues, we are a small agency with limited resources, but we will endeavor to revise procedures to minimize risk in the processing of revenues as time and resources permit.



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NEBRASKA REAL ESTATE COMMISSION

INDEPENDENT ACCOUNTANT'S REPORT

Nebraska Real Estate Commission
Lincoln, Nebraska

We have examined the accompanying Schedule of Revenues, Expenditures, and Changes in Fund Balances of the Nebraska Real Estate Commission (Commission) for the period January 1, 2013, through December 31, 2013. The Commission's management is responsible for the Schedule of Revenues, Expenditures, and Changes in Fund Balances. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the Schedule of Revenues, Expenditures, and Changes in Fund Balances and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents, in all material respects, the Schedule of Revenues, Expenditures, and Changes in Fund Balances of the Commission for the period January 1, 2013, through December 31, 2013, based on the accounting system and procedures prescribed by State of Nebraska's Director of the Department of Administrative Services, as described in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Schedule of Revenues, Expenditures, and Changes in Fund Balances and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances is presented in accordance with the

criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Revenues, Expenditures, and Changes in Fund Balances or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed a certain finding that is required to be reported under *Government Auditing Standards*, and the finding, along with the views of management, is described in the Comments Section of the report.

This report is intended solely for the information and use of management, individuals charged with governance, others within the Commission, and the appropriate Federal and regulatory agencies, and it is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record, and its distribution is not limited.

July 21, 2014



Mike Foley
Auditor of Public Accounts

NEBRASKA REAL ESTATE COMMISSION
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
For the Calendar Year Ending December 31, 2013

	State Real Estate Commission Fund 24110	Common School Fund Fund 61270	Totals (Memorandum Only)
REVENUES:			
Sales & Charges	\$ 1,226,861	\$ -	\$ 1,226,861
Miscellaneous	69,385	17,950	87,335
TOTAL REVENUES	<u>1,296,246</u>	<u>17,950</u>	<u>1,314,196</u>
EXPENDITURES:			
Personal Services	698,356	-	698,356
Operating	341,233	-	341,233
Travel	40,477	-	40,477
Capital Outlay	8,390	-	8,390
TOTAL EXPENDITURES	<u>1,088,456</u>	<u>-</u>	<u>1,088,456</u>
Excess (Deficiency) of Revenues Over (Under) Expenditures	<u>207,790</u>	<u>17,950</u>	<u>225,740</u>
OTHER FINANCING SOURCES (USES):			
Sales of Assets	303	-	303
Deposit to/from Common Fund	-	(17,950)	(17,950)
TOTAL OTHER FINANCING SOURCES (USES)	<u>303</u>	<u>(17,950)</u>	<u>(17,647)</u>
Net Change in Fund Balances	208,093	-	208,093
FUND BALANCES, January 1, 2013	<u>1,055,215</u>	<u>-</u>	<u>1,055,215</u>
FUND BALANCES, December 31, 2013	<u>\$ 1,263,308</u>	<u>\$ -</u>	<u>\$ 1,263,308</u>
FUND BALANCES CONSIST OF:			
General Cash	\$ 1,258,501	\$ -	\$ 1,258,501
Deposits with Vendors	4,931	-	4,931
Due to Vendors	(95)	-	(95)
Due to Government	(29)	-	(29)
TOTAL FUND BALANCES	<u>\$ 1,263,308</u>	<u>\$ -</u>	<u>\$ 1,263,308</u>

The accompanying notes are an integral part of the schedule.

NEBRASKA REAL ESTATE COMMISSION

NOTES TO THE SCHEDULE

For the Calendar Year Ended December 31, 2013

1. Criteria

The accounting policies of the Nebraska Real Estate Commission (Commission) are on the basis of accounting, as prescribed by the State of Nebraska's Director of the Department of Administrative Services (DAS).

Per Neb. Rev. Stat. § 81-1107(2) (Reissue 2008), the duties of the State of Nebraska's Director of the Department of Administrative Services (DAS) include:

The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes[.]

In accordance with Neb. Rev. Stat. § 81-1111(1) (Reissue 2008), the State Accounting Administrator has prescribed the system of accounts and accounting to be maintained by the State and its departments and agencies and has developed necessary accounting policies and procedures. The prescribed accounting system currently utilizes EnterpriseOne, an accounting resource software, to maintain the general ledger and all detailed accounting records. Policies and procedures are detailed in the Nebraska State Accounting Manual published by DAS State Accounting Division (State Accounting) and are available to the public. The financial information used to prepare the Schedule of Revenues, Expenditures, and Changes in Fund Balances was obtained directly from the general ledger and fund balance information maintained on EnterpriseOne. EnterpriseOne is not an accrual accounting system; instead, accounts are maintained on a modified cash basis. As revenue transactions occur, the agencies record the accounts receivable and related revenues in the general ledger. As such, certain revenues are recorded when earned regardless of the timing of related cash flows. State Accounting does not require the Commission to record all accounts receivable and related revenues in EnterpriseOne, as such the Commission's schedule does not include all accounts receivable and related revenues. In a like manner, expenditures and related accounts payable are recorded in the general ledger as transactions occur. As such, the schedule includes those expenditures and related accounts payables posted in the general ledger as of December 31, 2013, and not yet paid as of that date. The amount recorded as expenditures on the schedule, as of December 31, 2013, **does not** include amounts for goods and services received before December 31, 2013, which had not been posted to the general ledger as of December 31, 2013.

Other liabilities are recorded in accounts entitled Due to Vendors and Due to Government for the Commission. The assets in these funds are being held by the State as an agent and will be used to pay those liabilities to individuals, private organizations, other governments, and/or other funds. The recording of those liabilities reduces the fund balance/equity.

The Commission had no accounts receivable at December 31, 2013. Liabilities for accrued payroll and compensated absences are not recorded in the general ledger.

NEBRASKA REAL ESTATE COMMISSION

NOTES TO THE SCHEDULE

(Continued)

1. Criteria (Continued)

The fund types established by the State that are used by the Commission are:

20000 – Cash Funds – account for revenues generated by specific activities from sources outside of State government and the expenditures directly related to the generation of the revenues. Cash funds are established by State statutes and must be used in accordance with those statutes.

60000 – Trust Funds – account for assets held by the State in a trustee capacity. Expenditures are made in accordance with the terms of the trust.

The major revenue account classifications established by State Accounting and used by the Commission are:

Sales & Charges – Income derived from sales of merchandise and commodities, compensation for services rendered, and charges for various licenses, permits, and fees.

Miscellaneous – Revenue from sources not covered by other major categories, such as investment income and late fees.

The major expenditure account classifications established by State Accounting and used by the Commission are:

Personal Services – Salaries, wages, and related employee benefits provided for all persons employed by the Commission.

Operating – Expenditures directly related to a program's primary service activities.

Travel – All travel expenses for any state officer, employee, or member of any commission, council, committee, or board of the State.

Capital Outlay – Expenditures that result in the acquisition of or an addition to capital assets. Capital assets are resources of a long-term character, owned or held by the government.

Other significant accounting classifications and procedures established by State Accounting and used by the Commission include:

Assets – Resources owned or held by a government that have monetary value. Assets include cash accounts and deposits with vendors. Cash accounts and deposits with vendors are also included in fund balance and are reported as recorded in the general ledger.

NEBRASKA REAL ESTATE COMMISSION

NOTES TO THE SCHEDULE

(Continued)

1. Criteria (Concluded)

Liabilities – Legal obligations arising out of transactions in the past that must be liquidated, renewed, or refunded at some future date. Accounts payable transactions are recorded as expenditures, resulting in a decrease to fund balance.

Other Financing Sources – Deposits to Common Fund and proceeds of fixed asset dispositions.

2. Reporting Entity

The Commission is a State agency established under and governed by the laws of the State of Nebraska. As such, the Commission is exempt from State and Federal income taxes. The schedule includes all funds of the Commission included in the general ledger.

The Commission is part of the primary government for the State of Nebraska.

3. Totals

The Totals "Memorandum Only" column represents an aggregation of individual account balances. The column is presented for overview informational purposes and does not present consolidated financial information because interfund balances and transactions have not been eliminated.

4. General Cash

General cash accounts are under the control of the State Treasurer or other administrative bodies, as determined by law. All cash deposited with the State Treasurer is initially maintained in a pooled cash account. On a daily basis, the State Treasurer invests cash not needed for current operations with the State's Investment Council, which maintains an operating investment pool for such investments. Interest earned on those investments is allocated to funds based on their percentage of the investment pool.

5. Capital Assets

Capital assets include land, buildings, equipment, improvements to buildings, construction in progress, and infrastructure assets (e.g., roads, bridges, sidewalks, and similar items). Under State Accounting policies, expenditures for such capital assets are not capitalized as an asset in the funds used to acquire or construct them. Rather, costs of obtaining the capital assets are reflected as expenditures in the general ledger and are reported as such on the Schedule.

NEBRASKA REAL ESTATE COMMISSION

NOTES TO THE SCHEDULE
(Continued)

5. Capital Assets (Concluded)

However, State Accounting does adjust such expenditures and reports the capital assets as assets for the State of Nebraska in the Comprehensive Annual Financial Report (CAFR). In addition, the Commission takes an annual inventory, recording in the State Accounting System all equipment at the date of acquisition.

For the CAFR, the State requires the Commission to value all capital assets at cost where historical records are available and at estimated historical cost where no historical records exist. Donated capital assets are valued at their estimated fair market value on the date received. Generally, equipment that has a cost of \$5,000 or more at the date of acquisition and has an expected useful life of more than one year is capitalized. Depreciation expenses are reported in the CAFR in the funds used to acquire or construct them for the State of Nebraska. The cost of normal maintenance and repairs that does not add to the value of the asset or extend the asset's life is not capitalized.

Equipment is depreciated in the CAFR using the straight-line method with estimated useful lives of 3 to 10 years. Capital asset activity of the Commission recorded in the State Accounting System for the calendar year ended December 31, 2013, was as follows:

	<u>Beginning Balance</u>	<u>Increases</u>	<u>Decreases</u>	<u>Ending Balance</u>
Capital Assets				
Equipment	\$ 105,954	\$ -	\$ 9,298	\$ 96,656
Total	<u>105,954</u>	<u>-</u>	<u>9,298</u>	<u>96,656</u>
Less accumulated depreciation for:				
Equipment				<u>78,275</u>
Total capital assets, net of depreciation				<u>\$ 18,381</u>

Note: The accumulated depreciation noted in the table above was calculated in the accounting system through September 30, 2013. Depreciation for October through December 2013 was not run in the accounting system until after the end of the calendar year 2013.

6. Deposits to Common Funds

Neb. Rev. Stat. § 81-885.31(1) (Cum. Supp. 2012) refers to violations by licensees and the penalties imposed by the Commission related to the violations. Amounts collected under this section are required to be remitted “to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.”

NEBRASKA REAL ESTATE COMMISSION

NOTES TO THE SCHEDULE
(Concluded)

6. Deposits to Common Funds (Concluded)

Article VII, Section 5, of the Constitution of Nebraska states, as is relevant:

[A]ll fines, penalties, and license money arising under the general laws of the state . . . shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties, and license money arising under the rules, bylaws, or ordinances of cities, villages, precincts, or other municipal subdivision less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions

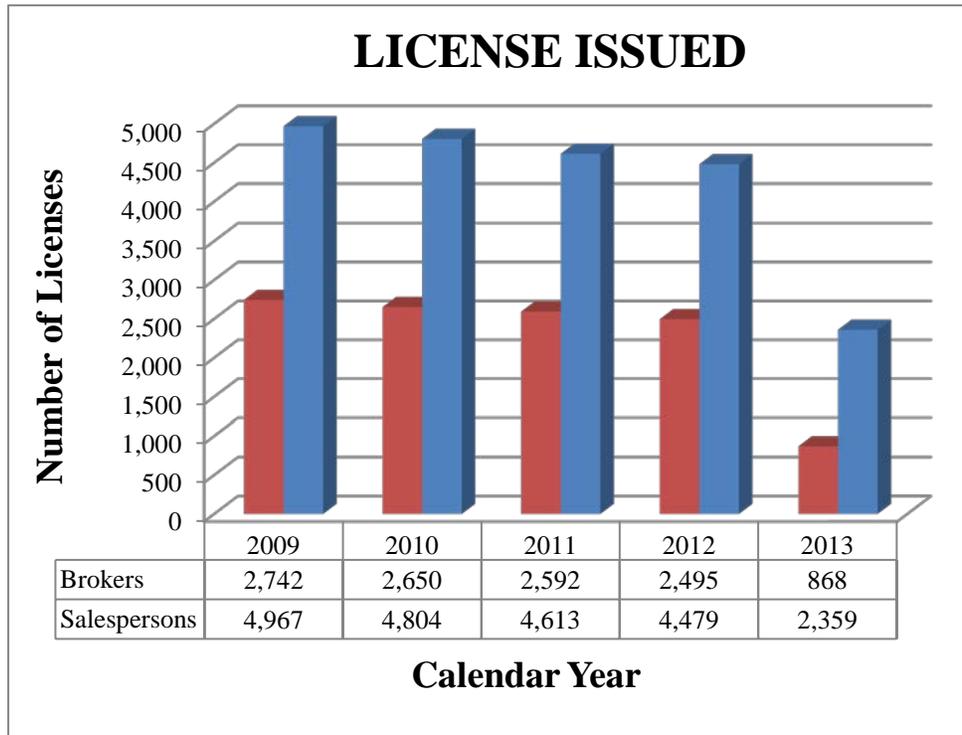
License fees collected in accordance with State statute are to be deposited into the Common School fund in accordance with the Nebraska Constitution. During the calendar year, the Commission deposited \$17,950 to the Common School fund.

NEBRASKA REAL ESTATE COMMISSION

SUPPLEMENTARY INFORMATION

Our examination was conducted for the purpose of forming an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balances. Supplementary information is presented for purposes of additional analysis. Such information has not been subjected to the procedures applied in the examination of the Schedule of Revenues, Expenditures, and Changes in Fund Balances, and, accordingly, we express no opinion on it.

NEBRASKA REAL ESTATE COMMISSION
LICENSE HOLDERS AND COMPLAINTS AGAINST LICENSEES
 For the Calendar Years Ended December 31, 2009, 2010, 2011, 2012, and 2013



Note: The Commission went to two-year renewals (it used to be everyone renewed each year) per LB 23 in 2011. The licensees are broken up in two groups so that renewals are processed each year. The first year for the two-year renewals was 2012; however, in order to get on the everyone on the correct cycle everyone renewed in 2012 (some of which were still one-year renewals that would do their two-year renewals in 2013). This caused the significant decrease to not show up until the 2013 licensing year.

