

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Tuesday, March 27, 2012
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Dan Ruby, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Dan Ruby, Dick Anderson, Patrick Hatlestad, RaeAnn G. Kelsch, Keith Kempenich, Gary Kreidt, Joe Kroeber, Andrew Maragos, Corey Mock, David Monson, Chet Pollert, Bob Skarphol, Lonny B. Winrich, Dwight Wrangham; Senators Randel Christmann, Joan Heckaman, Jerry Klein, Judy Lee, Terry M. Wanzek

Member absent: Representative Tracy Boe

Others present: Bob Martinson, State Representative, Bismarck

Blair Thoreson, State Representative, Fargo

Jim W. Smith, Legislative Council, Bismarck

Representative Al Carlson and Senators Larry Robinson and Rich Wardner, members of the Legislative Management, were also in attendance.

See [Appendix A](#) for additional persons present.

It was moved by Representative Kempenich, seconded by Representative Kelsch, and carried on a voice vote that the minutes of the August 17, 2011, meeting be approved as distributed.

The Legislative Council staff distributed a memorandum entitled [Summary of Audit Reports Not Selected for Presentation](#), which provides a summary of audit reports that are available but not selected for presentation at the March 27, 2012, Legislative Audit and Fiscal Review Committee meeting. Chairman Ruby suggested committee members review the memorandum to determine if any of the reports included in the memorandum should be presented at the next committee meeting.

DICKINSON STATE UNIVERSITY PERFORMANCE AUDIT

Mr. Gordy Smith, Audit Manager, State Auditor's office, presented the report on the Dickinson State University performance audit. He said the objective of the performance audit was to determine if the university has established an adequate system for monitoring operations.

Mr. G. Smith said the performance audit contains 33 recommendations. A copy of the audit recommendations is attached as [Appendix B](#). Based on the performance audit, he said, the State Auditor's office determined Dickinson State University has not established an adequate system for monitoring operations and significant improvements are needed at the university relating to tuition and student fees.

In response to a question from Representative Ruby, Mr. G. Smith said the State Board of Higher Education has established policies for allowing waivers but has delegated the responsibility of setting waiver amounts to the institutions.

In response to a question from Representative Pollert, Mr. G. Smith said the State Auditor's office did not review tuition waivers at other universities in the North Dakota University System.

Representative Skarphol distributed a memorandum prepared by the Legislative Council staff entitled [North Dakota University System Tuition Revenue Collections and Tuition Waivers](#). The memorandum includes information on tuition revenue collections and tuition waivers for each University System institution.

The Legislative Council staff distributed a memorandum entitled [History of Dickinson State University Presidents and North Dakota University System Chancellors](#). The memorandum identifies each president of Dickinson State University since 1994, including the dates served, and each chancellor of the University System since 1994, including the dates served.

In response to a question from Representative Skarphol, Mr. G. Smith said the intern agreement between Disney and Dickinson State University was negotiated by former Dickinson State University President Lee Vickers. He said he was unaware of whether Then-President Vickers received approval from the State Board of Higher Education to negotiate the agreement.

In response to a question from Representative Kempenich, Mr. G. Smith said tuition waivers are subsidized by the state and other fees charged to students. He said universities and colleges have unrestricted funds that earn interest that could be used to replace tuition revenue.

In response to a question from Representative Ruby, Mr. G. Smith said he is unsure if a part of the cash balance in the access fee fund, which grew from approximately \$637,000 in July 2007 to over \$2 million in June 2011, could be returned to students.

Representative Skarphol suggested the University System provide information at a future meeting regarding the results of a study conducted by the State Board of Higher Education task force on student fees.

The committee recessed for lunch at 12:40 p.m. and reconvened at 1:15 p.m.

Dr. D. C. Coston, President, Dickinson State University, presented testimony regarding the Dickinson State University performance audit. He said Dickinson State University has made several changes as a result of the performance audit, including:

- Personnel changes were made in nine positions, including the president; vice president for academic affairs; deans of education, business, and applied sciences; and director of enrollment services.
- International recruiters are no longer used.
- A task force has been established to review tuition, fees, and waivers.
- Since August 2011, expenditures are being reviewed for appropriateness.
- Policies relating to athletic funds are being reviewed.
- Performance appraisals are being conducted.
- English proficiency requirements are being enforced.
- Computer security processes have been corrected.

Dr. Coston said Dickinson State University will develop a timeline for implementation of the audit recommendations and will provide status reports to the State Board of Higher Education and the Legislative Audit and Fiscal Review Committee.

In response to a question from Representative Ruby, Dr. Coston said Dickinson State University is subject to several different accreditation processes. He said the accreditation periods are:

- The nursing program is accredited for an eight-year period. The bachelor's, or registered nurse, program is accredited through 2013, and the associate, or licensed practical nurse, program is accredited through 2015.
- The State Board of Nursing has approved the nursing program for the next five years.
- The teacher education program is accredited for a seven-year period and is currently accredited through 2017.
- The school of music is accredited for a five-year period and is currently accredited through 2015.
- The environmental health program is accredited for a six-year period and is currently accredited through 2016.
- The business department is accredited for an eight-year period and is currently accredited through 2018.
- The overall accreditation provided by the Higher Learning Commission is for a 10-year period, and the university is currently accredited through the 2014-15 academic year.

Representative Skarphol asked that any accreditation-related issues be presented to the Legislative Audit and Fiscal Review Committee or the Higher Education Committee.

In response to a question from Representative Carlson, Dr. Coston said Dickinson State University is operating within its 2011-12 annual budget. He said the university will soon begin its budgeting process for the 2013-15 biennium. He said the university will provide reports to the committee on the financial status of the university if requested.

In response to a question from Senator Robinson, Dr. Coston said enrollment may decrease slightly due to these issues. He said 120 students will no longer be attending Dickinson State University due to the termination of the international program.

In response to a question from Senator Christmann, Dr. Coston said Dickinson State University is focusing its recruitment efforts in its regional service area of western North Dakota and eastern Montana.

Mr. William G. Goetz, Chancellor, North Dakota University System, presented information regarding the Dickinson State University performance audit. He said the University System will continue to consider the need for additional internal auditors. He said compliance officers are also needed to ensure policies are being followed.

In response to a question from Representative Carlson, Mr. Goetz said the vice chancellors for administrative affairs and academic and student affairs review reports submitted by campuses relating to tuition waivers.

In response to a question from Representative Carlson, Mr. Goetz said 16.3 percent of all students in the University System received a full or partial tuition waiver for the 2010-11 academic year. He said of the 16.3 percent, only 4.2 percent of the students received a full tuition waiver.

In response to a question from Representative Maragos, Representative Skarphol said information he distributed regarding \$60 million in tuition waivers is for the 2009-10 and 2010-11 academic years, and testimony from Mr. Goetz relating to \$30 million in tuition waivers is for the 2010-11 academic year only.

STATE-SUPPLIED VACCINES PERFORMANCE AUDIT

Mr. Jason Wahl, Senior Auditor, State Auditor's office, presented the report on the state-supplied vaccines performance audit. He said the objective of the performance audit was to determine if state-supplied vaccines were used in compliance with agreed-upon terms and conditions by the provider.

Based on the performance audit, Mr. Wahl said, state-supplied vaccines were not used in compliance with agreed-upon terms and conditions by a certain provider. He said the performance audit contains five recommendations:

1. The State Department of Health should meet with the Attorney General's office to discuss concerns noted with the review of information regarding the terminated provider and determine the next appropriate steps to be taken.
2. The State Department of Health should periodically review vaccination data related to providers receiving state-supplied vaccines. At a minimum, the department should:
 - a. Establish parameters, data outliers, or other criteria to identify potential problem areas; and
 - b. Establish policies and procedures regarding the use of such information and action to be taken by the department.
3. The State Department of Health should make changes to onsite reviews of providers receiving state-supplied vaccines to ensure program requirements are met and the department is properly informed of results.
4. The State Department of Health should conduct a formal cost-benefit analysis of the use of separate entities to perform onsite reviews of providers receiving state-supplied vaccines. Based on results of this cost-benefit analysis, the department should either:
 - a. Take appropriate action to obtain necessary resources to perform the onsite visits with state personnel; or
 - b. Establish a monitoring process of contractors to ensure onsite reviews are performed as required.
5. The State Department of Health should make improvements related to the borrowing of state-supplied vaccines to ensure it occurs only in rare, unplanned situations. If additional training, additional requirements to the enrollment process, or monitoring is unable to improve compliance with borrowing requirements, the department should mandate no borrowing of state-supplied vaccine without prior written authorization.

Ms. Molly Sander, Immunization Program Manager, State Department of Health, presented information ([Appendix C](#)) on the status of the recommendations. She said the State Department of Health has updated the Vaccines for Children program manual which provides guidance to department staff and local public health unit contract staff. She said the department has conducted a cost-benefit analysis relating to onsite reviews, and the department will be conducting the visits. She said a memorandum was distributed to providers in December 2011 outlining current requirements for the borrowing and returning of state-supplied vaccines.

Mr. Tom Trenbeath, Chief Deputy Attorney General, Attorney General's office, presented information ([Appendix D](#)) relating to the first recommendation in the state-supplied vaccine

performance audit. He said the goal of the Attorney General's office is to obtain reimbursement for the cost of unaccounted for state-supplied vaccines administered by a provider to nonqualifying patients.

INTERNAL CONTROL AND COMPLIANCE REPORTS

Mr. Ed Nagel, Director, State Auditor's office, presented the State Auditor's office report on the internal control, compliance, and other matters of the state of North Dakota Comprehensive Annual Financial Report for the fiscal year ended June 30, 2011. He said the State Auditor's office has audited the general purpose financial statements for the state of North Dakota for the year ended June 30, 2011. He said the report identifies two internal control weaknesses relating to improper capitalization of infrastructure and reconciliation of the motor vehicle clearing account at the Department of Transportation.

Mr. John Grettum, Audit Manager, State Auditor's office, presented the State Auditor's office internal control and compliance report on the audit of the general purpose financial statements included in the June 30, 2011, annual financial report for the University System. He reviewed the auditor's responses to the committee guidelines and said five prior audit recommendations were not implemented. He said the prior audit recommendations not implemented relate to:

- Formatting of foundation financial statements.
- State Board of Higher Education financial and accounting oversight.
- Preparation of financial statements in accordance with generally accepted accounting principles.
- Internal audit staffing level review.
- Fraud and control risk assessments.

Mr. Grettum said the report identifies seven current audit recommendations relating to:

- Continuing education for internal audit staff at North Dakota State University, the University of North Dakota, and the University System office.
- Proper use of account codes, funds, fund groups, and functions available on PeopleSoft to comply with generally accepted accounting principles and improper bank reconciliations at Williston State College.
- Governmental Accounting Standards Board Statement No. 40 - Deposit and investment risk disclosure at various institutions and the University System office.
- Classification and coding of net assets at various universities.
- Elimination of transactions between schools for financial statement presentation at all institutions.
- Functional expense note at all schools.
- Imaging validation and other related issues at various institutions.

UNIVERSITY SYSTEM ANNUAL FINANCIAL REPORT

Ms. Robin Putnam, Director of Financial Reporting, North Dakota University System, presented the annual financial report for the University System for the fiscal year ended June 30, 2011. She said an unqualified opinion was issued on the financial statements. As of June 30, 2011, she said, the University System had total assets of \$1,322 million and total liabilities of \$420 million, resulting in net assets of \$902 million. She said net assets increased \$75.3 million during fiscal year 2011.

Ms. Putnam said the annual degree credit headcount for the fall of 2010 was 48,120, an increase of 5 percent from the previous fall enrollment. She said total operating revenues of the University System increased 4 percent from fiscal year 2010 as a result of increases in tuition and fees, grants and contracts, and sales and services of education departments.

It was moved by Representative Skarphol, seconded by Representative Pollert, and carried on a roll call vote that pursuant to North Dakota Century Code Section 54-10-01, the State Auditor conduct a performance audit of the North Dakota University System office, including a review of the functions of the office, evaluation of staffing levels, and the effectiveness of the office to provide support to campuses and address and resolve University System issues. Representatives Ruby, Hatlestad, Kelsch, Kempenich, Kreidt, Kroeber, Maragos, Mock, Monson, Pollert, Skarphol, and Wrangham and Senators Christmann, Klein, Lee, and Wanzek voted "aye." Representative Winrich and Senator Heckaman voted "nay."

COMPREHENSIVE ANNUAL FINANCIAL REPORT

Ms. Eileen Holwegner, Director of Fiscal Management, Office of Management and Budget, presented the state of North Dakota Comprehensive Annual Financial Report for the fiscal year ended June 30, 2011. She reviewed the information contained in the report and a supplemental report entitled *2009-11 Biennium Budget and Actual Detail*. Copies of both reports are on file in the Legislative Council office.

AUDITS OF STATE AGENCIES, BOARDS, AND COMMISSIONS

Chairman Ruby called on Ms. Barb Aasen, Eide Bailly LLP, Certified Public Accountants, to present the audit report for the Legislative Assembly for the fiscal years ended June 30, 2011 and 2010. Ms. Aasen reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Ms. Aasen presented the audit report for the Legislative Council for the fiscal years ended June 30, 2011 and 2010. She reviewed the auditor's

responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Ms. Aasen presented the audit report for the State Auditor's office for the fiscal years ended June 30, 2011 and 2010. She reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Mr. Don LaFleur, Audit Manager, State Auditor's office, presented the information system audit report for the ConnectND human resource management system for the year ended June 30, 2011. He said the report identifies two findings relating to default accounts that were not locked and employees who were paid outside their pay grade range.

Mr. Nagel presented the audit report for the North Dakota Lottery for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Mr. Nagel presented the audit report for the State Historical Society for the years ended June 30, 2010 and 2009. He reviewed the auditor's responses to the committee guidelines and said the report identifies two internal control findings relating to segregation of duties for inventory and museum collections safeguards.

Mr. Nagel presented the audit report for the Industrial Commission for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report identifies one internal control finding relating to delegation of authority to the director of the Oil and Gas Division and two findings of noncompliance with legislative intent relating to state procurement and contracting guidelines and civil penalty collections.

Mr. Nagel presented the audit report for the Department of Public Instruction for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report includes one finding of noncompliance with legislative intent relating to procurement laws and three areas for operational improvement relating to Title IID grant monitoring procedures, controls surrounding the English language grant, and controls surrounding the state personnel development grant. He said the findings relating to procurement laws and grant monitoring procedures were prior recommendations not implemented.

Mr. Nagel presented the audit report for the Highway Patrol for the years ended June 30, 2010 and 2009. He reviewed the auditor's responses to the committee guidelines and said the report includes six internal control findings relating to monitoring by management, duplicate payments, improper coding, correcting entry approval, reconciliation of federal funds, and fraud risk assessment. He said the report also includes six findings of noncompliance with legislative intent relating to fee collections, ton-mile

fees, fixed assets records, deposit of fees, transfers to Highway Patrol special fund, and state procurement purchasing procedures. He said the findings relating to fraud risk assessment, fee collections, and fixed assets records were prior recommendations not implemented.

Mr. Grettum presented the audit report for the University System office for the years ended June 30, 2010 and 2009. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

It was moved by Representative Skarphol, seconded by Representative Kreidt, that pursuant to Section 54-10-01, the State Auditor conduct a performance audit of the use of tuition waivers and student stipends at North Dakota University System institutions by reviewing since the 2008-09 academic year student unit records and other available information and that the performance audit include:

- **The number and amount of waivers or discounts granted at each institution due to statutory requirements.**
- **The number and amount of waivers or discounts granted at each institution due to reciprocity agreements with other states.**
- **The number and amount of waivers or discounts granted at each institution to graduate students.**
- **The average amount of tuition waived or discounts for each student receiving a waiver or waivers, including the average percentage of total tuition waivers compared to gross tuition charges for the students by institution.**
- **The number and amount of waivers granted at the University of North Dakota School of Medicine and Health Sciences.**
- **The number and amount of stipends or other payments awarded at each institution to graduate students, including the source of funds.**
- **The number of students that received both a waiver or discount and a stipend or other payment at each institution.**
- **The number of internships at each institution and those paid or subsidized by state internship programs.**
- **The number of Dickinson State University employees terminated during the 2009-11 biennium and the number of those employees that have been rehired.**
- **Recommendations for improving accountability for the awarding of tuition waivers and student stipends.**
- **Recommendations for improvements to the information included in student unit records and to the use of the information.**

It was moved by Senator Christmann, seconded by Representative Skarphol, and carried

on a voice vote that the motion be amended to provide that the performance audit of tuition waivers and student stipends include the number and amount of waivers or discounts for resident students, nonresident students, and international students.

The motion, as amended, carried on a roll call vote. Representatives Ruby, Hatlestad, Kelsch, Kreidt, Kroeber, Mock, Monson, Pollert, Skarphol, Winrich, and Wrangham and Senators Christmann, Heckaman, Klein, Lee, and Wanzek voted "aye." No negative votes were cast.

Mr. Grettum presented the audit report for Bismarck State College for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report includes three areas for operational improvement relating to non-cash credit adjustments, tuition waivers, and student residency determination.

Mr. Grettum presented the audit report for Dakota College at Bottineau for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Grettum presented the audit report for Dickinson State University for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report includes one area for operational improvement relating to tuition waivers.

Mr. Grettum presented the audit report for Minot State University for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report includes two areas for operational improvement relating to non-cash credit adjustments and tuition waivers.

Mr. Grettum presented the audit report for Williston State College for the years ended June 30, 2011 and 2010. He reviewed the auditor's responses to the committee guidelines and said the report includes one internal control finding relating to ticket sales and concessions.

DEPARTMENT OF HUMAN SERVICES' ACCOUNTS RECEIVABLES

Chairman Ruby called on Ms. Brenda Weisz, Chief Financial Officer, Department of Human Services, to present information ([Appendix E](#)) on the status of the department's accounts receivables pursuant to Sections 25-04-17 and 50-06.3-08. Ms. Weisz said the total amount written off by the Department of Human Services for fiscal year 2010 was \$9,174,419, of which \$894,469 related to the human service centers, \$8,145,986 related to the State Hospital, and \$133,964 related to the Developmental Center at Westwood Park.

WILDLIFE SERVICES AGREEMENT

Chairman Ruby called on Mr. Ken Junkert, Administrative Services Director, Department of

Agriculture, to present information ([Appendix F](#)) on the Wildlife Services agreement ([Appendix G](#)). Mr. Junkert said the Department of Agriculture consulted with the Attorney General's office, State Auditor's office, Game and Fish Department, and Office of Management and Budget in preparation of the service contract with the United States Department of Agriculture, Animal and Plant Health Inspection Service Wildlife Services for the 2011-13 biennium. He said new provisions were added to the contract relating to a priority rating system for service requests, billing for reimbursable service expenses, maximum reimbursements per quarter, quarterly reporting, audit provisions, and customer survey provisions.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Representative Skarphol suggested the committee receive information regarding findings in previous audit reports relating to debt or other issues for the North Dakota Potato Council and the North Dakota Wheat Commission.

Representative Ruby requested the audit report for the State Board of Pharmacy for the two-year period ending June 30, 2011, be presented at the next committee meeting.

It was moved by Representative Kelsch, seconded by Representative Hatlestad, and carried on a voice vote that pursuant to Section 54-35-02.2 the committee accept the following reports presented to the committee:

1. Dickinson State University performance audit (February 28, 2012).
2. Use of state-supplied vaccines performance audit (September 29, 2011).
3. North Dakota University System annual financial report (June 30, 2008).
4. North Dakota Comprehensive Annual Financial Report (June 30, 2007).
5. Legislative Assembly (June 30, 2011 and 2010).
6. Legislative Council (June 30, 2011 and 2010).
7. State Auditor's office (June 30, 2011 and 2010).
8. ConnectND - Human Resource Management Services (June 30, 2011).
9. North Dakota Lottery (June 30, 2011 and 2010).
10. State Historical Society (June 30, 2010 and 2009).
11. Industrial Commission (June 30, 2011 and 2010).
12. Department of Public Instruction (June 30, 2011 and 2010).
13. Highway Patrol (June 30, 2010 and 2009).
14. North Dakota University System office (June 30, 2010 and 2009).

15. Bismarck State College (June 30, 2011 and 2010).
16. Dakota College at Bottineau (June 30, 2011 and 2010).
17. Dickinson State University (June 30, 2011 and 2010).
18. Minot State University (June 30, 2011 and 2010).
19. Williston State College (June 30, 2011 and 2010).
20. Reports available but not selected for presentation:
 - a. State Board of Medical Examiners (June 30, 2010 and 2009).
 - b. State Board of Psychologist Examiners (June 30, 2011 and 2010).
 - c. State Board of Nursing (June 30, 2011).
 - d. State Board of Dental Examiners (June 30, 2011 and 2010).
 - e. State Board of Cosmetology (June 30, 2011).
 - f. State Board of Plumbing (June 30, 2011 and 2010).
 - g. Peace Officer Standards and Training Board (December 31, 2010 and 2009).
 - h. Board of Massage (June 30, 2011 and 2010).
 - i. State Board of Chiropractic Examiners (December 31, 2010).
 - j. State Board of Accountancy (June 30, 2011).
 - k. State Real Estate Commission (June 30, 2011).
 - l. North Dakota Firefighters Association (December 31, 2010 and 2009).
 - m. North Dakota Beef Commission (June 30, 2011 and 2010).
 - n. North Dakota Soybean Council (June 30, 2011 and 2010).
 - o. State Electrical Board (June 30, 2011 and 2010).

Chairman Ruby announced the next meeting of the Legislative Audit and Fiscal Review Committee will be in June 2012.

No further business appearing, Chairman Ruby adjourned the meeting at 5:00 p.m.

Becky Keller
Senior Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:7