



LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Tuesday, September 22, 2026
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Jeffery J. Magrum, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Jeffery J. Magrum, David A. Clemens, Richard Marcellais,* Chuck Walen, Kent Weston; Representatives Bert Anderson, Patrick R. Hatlestad, Jorin Johnson, Roger A. Maki, Desiree Morton, Mike Motschenbacher, Austen Schauer, Kelby Timmons, Scott Wagner

Members absent: Senator Bob Paulson; Representative Mike Nathe

Others present: Senator David Hogue, member of the Legislative Management
Allen Burgad, Valley City State University; Del Crandall,* University of North Dakota School of Law; Hercules Cummings, Williston State College; Terry Fleck, Bismarck; Joshua C. Gallion and Lindsey Slappy, State Auditor's office; Charles Hoefer, Dunseith; Michael Howe, Secretary of State; Lucinda Johnson, Beulah; Lynelle Johnson, Department of Public Instruction; Jared Mack, Eide Bailly LLP; Mindy Piatz, Brady Martz, PLLC; Chris Redmann, Private Investigative and Security Board; Chris Schilken, Department of Commerce; Kurt Swenson, Beulah; Charles Tuttle, Bismarck

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

**Attended remotely*

It was moved by Senator Walen, seconded by Representative Schauer, and carried on a voice vote that the minutes of the June 17, 2026, meeting be approved as distributed.

Mr. Grant Gader, Fiscal Analyst, Legislative Council, distributed a memorandum entitled [Summary of Major Items in Audit Reports for the September 22, 2026, Meeting](#).

AUDITS OF STATE AGENCIES, BOARDS, AND COMMISSIONS

Mr. Gader distributed a letter ([Appendix B](#)) from the Department of Financial Institutions pursuant to North Dakota Century Code Section 6-09-29 indicating the department examined the Bank of North Dakota as of December 31, 2025. He noted the department reported the Bank's overall financial condition was strong.

Ms. Mindy Piatz, Principal, Brady Martz, PLLC, presented the audit report for the [Public Finance Authority](#) (December 31, 2025 and 2024). She noted an unmodified opinion was issued and no findings were identified.

In response to a question from a committee member, Ms. DeAnn Ament, Executive Director, Public Finance Authority, noted the negative unrestricted net position associated with legacy infrastructure bonds reflects recognition of the entire outstanding bond liability, with appropriations for debt service provided biennially.

Ms. Lindsey Slappy, Director of Quality Assurance, State Auditor's office, presented the following audit reports:

- [North Dakota State University](#) (June 30, 2025 and 2024);
- [North Dakota State College of Science](#) (June 30, 2025 and 2024);
- [Valley City State University](#) (June 30, 2025 and 2024);
- [Williston State College](#) (June 30, 2025 and 2024);
- [Protection and Advocacy Project](#) (June 30, 2024 and 2023);
- [Aeronautics Commission](#) (June 30, 2025 and 2024);
- [Department of Career and Technical Education](#) (June 30, 2025 and 2024);
- [Parks and Recreation Department](#) (June 30, 2025 and 2024);
- [Public Service Commission](#) (June 30, 2025 and 2024);
- [Judicial branch](#) (June 30, 2025 and 2024);
- [Department of Corrections and Rehabilitation](#) (June 30, 2025 and 2024); and
- [Tax Commissioner](#) (June 30, 2025 and 2024).

Ms. Slappy noted findings were identified at Valley City State University, Williston State College, and the Office of the State Tax Commissioner. She noted the remaining reports contained no findings.

Ms. Slappy noted Valley City State University did not consistently maintain eligibility documentation or obtain timely approval for cultural diversity and Rural Teacher Support Program tuition waivers. She noted the university agreed with the recommendation to retain supporting documentation and approve waivers before disbursement and discontinued the cultural diversity waiver in fall 2025.

In response to questions from committee members, Mr. Allen Burgad, Interim President, Valley City State University, noted recipients of the Rural Teacher Support Program tuition waivers were North Dakota teachers, but required documentation had not been retained. He noted the university will maintain tuition waiver applications, eligibility documentation, and approvals in a centralized location.

Ms. Slappy noted Williston State College lacked documented procedures for presidential and athletic tuition waivers and supporting approval documentation for presidential, presidential early entry, and athletic tuition waivers. She noted two prior recommendations were implemented, and bank reconciliations would be reviewed during the fiscal year 2026 financial statement audit of the North Dakota University System.

In response to questions from committee members, Mr. Hercules Cummings, Vice President of Business Services, Williston State College, noted recent bank reconciliations had been completed without unresolved differences and the college is working with University System internal auditors to strengthen waiver procedures.

Ms. Slappy noted the Tax Commissioner lacked formal policies and procedures for routinely reviewing GenTax user access logs. She noted the audit did not identify inappropriate access, and the Tax Commissioner agreed to strengthen user access and monitoring procedures.

North Dakota Development Fund Financial Statement Audit

Mr. Jared Mack, Partner, Eide Bailly LLP, presented the financial statement audit report for the [North Dakota Development Fund](#) (June 30, 2025 and 2024). He noted an unmodified opinion was issued and seven findings were classified as material weaknesses relating to:

- Preparation of financial statements;
- Material proposed audit adjustments;
- Segregation of duties;

- Loan interest income accounting and reconciliation;
- Loan and equity investment risk rating controls;
- Board of directors conflict of interest controls; and
- Convertible note identification controls.

In response to questions from committee members, Mr. Mack noted risk ratings documented in internal credit reviews did not consistently agree with the ratings used to calculate loss allowances. He noted correcting the allowances affected financial reporting and did not change the underlying loan terms or directly affect cash flow.

Mr. Mack noted:

- The financial statements were reissued to correct related-party disclosures because certain business relationships previously disclosed did not involve ownership interests.
- A separate related-party loan and investment relationship remained outstanding as of June 30, 2025.
- The conflict of interest disclosure form has been revised.

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, distributed a schedule ([Appendix C](#)) and provided information regarding North Dakota Development Fund (NDDF) investments reported to the Appropriations Committees during the 2025 legislative session.

North Dakota Development Fund Performance Audit

Mr. Joshua C. Gallion, State Auditor, presented information ([Appendix D](#)) regarding the [performance audit report for the North Dakota Development Fund](#) for the period July 1, 2019 through June 30, 2024, conducted by Eide Bailly LLP pursuant to Senate Bill 2396 (2025). He noted the report identified four findings relating to:

- Portfolio monitoring, risk ratings, reserve methodology, loss recognition, and financial sustainability;
- Conflict of interest and related-party controls;
- Verification of borrower-reported job data; and
- Application processing, approval documentation, records retention, and denial and appeals procedures.

Mr. Gallion noted missing or incomplete documentation limited the auditors' ability to determine whether financing decisions and monitoring activities consistently followed established policies. He noted 25 of 40 sampled transactions had one or more documentation exceptions and approximately \$30 million, or 44 percent of the receivable balance at the end of fiscal year 2024 was not expected to be recovered.

In response to questions from committee members, Mr. Gallion noted:

- Loss allowances communicate expected recoverability for financial reporting purposes. Loss allowances do not establish that recovery is impossible.
- Certain documents requested by the performance auditors were not provided. Auditors were unable to determine whether the documents had not been created, not been retained, or not furnished.

Mr. Chris Schilken, Commissioner, Department of Commerce, provided comments ([Appendix E](#)) regarding the performance audit. He noted:

- Delegated staff lending authority ended in 2024. Financing decisions now require board approval.
- Policies addressing debt-to-equity conversions and appeals of denied applications have been adopted.

- A proposed arrangement with the Bank of North Dakota is being considered to provide underwriting, loan administration, servicing, and accounting support, with implementation anticipated within 3 to 4 months.
- A proposed change for the 2027 legislative session includes restructuring NDDF to operate as a revolving loan fund.

Mr. Schilken noted references to the pending performance audit were removed from the May and June 2026 board meeting minutes before the board approved the amended minutes. He acknowledged the process was improper and indicated additional internal controls would be established.

In response to questions from committee members, Mr. Schilken noted the proposed Bank of North Dakota arrangement has not been finalized, NDDF retains 4 full-time equivalent positions, and the NDDF Board would retain final financing authority. He noted the 2025 Legislative Assembly provided NDDF with \$25 million from the Strategic Investment and Improvements Fund and authorized a \$25 million Bank line of credit, which has not been accessed.

Comments by Interested Persons

Mr. Charles Hoefer, Dunseith, provided comments ([Appendix F](#)) regarding his dealings with NDDF. He alleged fund officials improperly disclosed loan records and requested he execute a mortgage containing a backdated acknowledgment. He suggested further investigation of the fund's records and practices.

Mr. Terry Fleck, Bismarck, provided comments regarding legislative oversight and the importance of protection of taxpayer funds.

Senator Jamie Selzler provided comments regarding corrective actions and continued legislative oversight of NDDF. He encouraged consideration of discontinuing NDDF.

Ms. Lucinda Johnson, Beulah, provided comments regarding small business assistance and economic development funding.

Mr. Kurt Swenson, Beulah, provided comments regarding transparency and accountability. He noted he requested an Attorney General's opinion in 2024 regarding access to NDDF charge-off and write down records and has not received an opinion.

Mr. Charles Tuttle, Bismarck, provided comments regarding NDDF.

North Dakota Development Fund Recommendations

The committee discussed recommendations regarding NDDF, including discontinuing the fund, restructuring its operations, and the adequacy of corrective actions in response to audit findings.

Representative Wagner noted he supports considering converting NDDF to a revolving loan fund with stronger safeguards and reduced reliance on additional state appropriations.

Representative Morton and Senator Weston expressed concern regarding fund losses, documentation deficiencies, and adequacy of corrective actions and proposed repealing NDDF.

It was moved by Representative Morton, seconded by Senator Weston, and carried on a roll call vote that the committee recommend the 2027 Legislative Assembly repeal the North Dakota Development Fund, transfer any remaining fund balance to the General Fund, and provide for the Bank of North Dakota to administer outstanding loans and equity investments until repaid or otherwise resolved. Senators Magrum, Clemens, Walen, and Weston and Representatives Hatlestad, Johnson, Maki, Morton, and Timmons voted "aye." Representatives Anderson, Motschenbacher, Schauer, and Wagner voted "nay."

The committee discussed referring the NDDF audit reports and testimony to the Attorney General for investigation of possible violations of state law.

Senator Weston noted he reviewed correspondence regarding mortgage documentation described by Mr. Hoefer and he supports further investigation.

Representative Morton expressed concern regarding changes to board meeting minutes and documents available during the financial statement audit, which were not available during the performance audit.

Representative Schauer expressed concern regarding the potential consequences of an investigation for individuals associated with NDDF and whether sufficient evidence has been presented to warrant a referral to the Attorney General.

In response to questions from committee members, Mr. Knudson explained the statutory process for providing evidence and information to the Attorney General. He noted when the committee has reason to believe there may have been a violation of law relating to public funds, the committee is to present the evidence and information in its possession to the Attorney General, who shall receive and accept such evidence and information and immediately commence any additional investigation the Attorney General determines necessary.

It was moved by Representative Morton, seconded by Representative Timmons, and carried on a roll call vote that the committee, subject to approval by the Legislative Management Chairman, refer the North Dakota Development Fund financial statement and performance audit reports, together with related testimony and committee discussion, to the Attorney General for investigation of possible violations of state law. Senators Magrum, Clemens, Walen, and Weston and Representatives Hatlestad, Johnson, Maki, Morton, Motschenbacher, and Timmons voted "aye." Representatives Anderson, Schauer, and Wagner voted "nay."

OTHER AUDIT-RELATED TOPICS

Department of Health and Human Services Write-Off Report

Mr. Lyndon Jahner, Budget Manager, Department of Health and Human Services, presented the agency's write-off report ([Appendix G](#)) for fiscal year 2026. He noted approximately \$4 million was written off for behavioral health clinics, the State Hospital, and the Life Skills and Transition Center.

In response to questions from committee members, Mr. Jahner noted write-offs include accounts deemed uncollectible after collection efforts, deceased patients' accounts, and accounts eligible for financial hardship or other authorized administrative waivers.

School Meal Debt

Ms. Lynelle Johnson, Director, Child Nutrition and Food Distribution, Department of Public Instruction, presented information ([Appendix H](#)) regarding school meal debt as of June 30, 2026. She noted:

- The department surveyed 192 National School Lunch Program sponsors, approximately 30 of which provided meals at no cost under federal provisions.
- Responses were received from 150 of the remaining 162 sponsors, approximately 92 percent.
- Respondents reported approximately \$2 million in outstanding meal debt after applying approximately \$45,000 in private or charitable contributions and \$493,000 in General Fund payments.

University of North Dakota School of Law Admissions Processes

Mr. Del Crandall, Dean, University of North Dakota School of Law, presented information ([Appendix I](#)) regarding admissions processes. He noted:

- Reviewers initially evaluate applicants using undergraduate grade point averages and Law School Admission Test scores, then consider additional factors, including character and fitness, academic trends, work experience, writing ability, and North Dakota connections.
- Race, sex, and ethnicity are not considered during the admissions process.

- Three admissions committee members review each application, and a fourth member serves as chairman and assists when reviewers cannot reach a decision.
- The revised process was implemented for the fall 2027 admissions cycle.

In response to questions from committee members, Mr. Crandall noted North Dakota residency and connections to the state may distinguish otherwise similarly qualified applicants.

Boards Review Task Force and Private Investigative and Security Board

Mr. Michael Howe, Secretary of State and Chairman, Boards Review Task Force, presented information regarding task force activities, including recommendations relating to the Private Investigative and Security Board. He noted the task force recommended retaining the Private Investigative and Security Board after considering its licensing responsibilities and potential merger options.

Mr. Chris Redmann, Special Assistant Attorney General, Private Investigative and Security Board, provided comments regarding board activities and corrective actions. He noted:

- The board has made substantial progress toward implementing recommendations from the board's performance audit for the period January 1, 2019 through June 30, 2025.
- Internal control policies are nearing implementation, board meeting minutes are current, application backlogs have been reduced, and revised application tracking and licensing approval processes have been implemented.

PROPOSED STATUTORY CHANGES

Audits of Political Subdivisions

Representative Timmons presented a bill draft [[27.0167.05000](#)] relating to recurring audit findings of cities, counties, and school districts. He noted:

- The bill draft would provide for notice of recurring findings and withholding of state aid distributions or payments up to 5 percent of a political subdivision's budget.
- Withheld amounts would be deposited in an audit compliance fund and released after correction of the finding is verified.

In response to questions from committee members, Mr. Gallion noted townships are not subject to the State Auditor's office audit or financial reporting requirements. He noted extending those requirements to townships would require additional staff resources.

Committee members discussed local control and potential effects of withheld payments on local services.

Senator David Hogue noted county state's attorneys exercise prosecutorial discretion regarding violations of state law within their counties. He noted the Attorney General does not have general authority to override those decisions.

It was moved by Representative Timmons, seconded by Senator Clemens, and carried on a roll call vote that the bill draft relating to recurring audit findings of political subdivisions be approved and recommended to the Legislative Management. Senators Magrum, Clemens, Walen, and Weston and Representatives Maki, Morton, and Timmons voted "aye." Representatives Anderson, Hatlestad, Johnson, Motschenbacher, Schauer, and Wagner voted "nay."

Audits of Occupational and Professional Boards

Representative Motschenbacher presented a bill draft [[27.0169.01000](#)] relating to recurring audit findings of occupational and professional boards. He noted:

- The bill draft would allow for a penalty of up to 5 percent of a board's revenue for the most recent fiscal year for a recurring finding.

- Assessment of a penalty would be determined by a majority vote of the Governor, Attorney General, and Tax Commissioner upon recommendation of the State Auditor.

Chairman Magrum noted the bill draft would permit, rather than require, assessment of a penalty, allowing for consideration of the circumstances of a recurring audit finding.

It was moved by Representative Motschenbacher, seconded by Representative Timmons, and carried on a roll call vote that the bill draft relating to recurring audit findings of occupational and professional boards be approved and recommended to the Legislative Management. Senators Magrum, Clemens, Marcellais, Walen, and Weston and Representatives Maki, Motschenbacher, Schauer, and Timmons voted "aye." Representatives Anderson, Hatlestad, Johnson, Morton, and Wagner voted "nay."

Political Subdivision and Occupational and Professional Board Audits and Annual Reports

Representative Timmons presented a bill draft [\[27.0168.01000\]](#) relating to submission of required audit reports and annual reports. He noted the bill draft would authorize the State Auditor to assess penalties not to exceed \$500 for occupational and professional boards and \$1,000 for political subdivisions that fail to submit required reports.

Mr. Gallion noted submission of reports is required and compliance has improved, but some entities remain delinquent. He agreed to provide information at the next meeting regarding the extent of delinquent reporting.

It was moved by Representative Timmons, seconded by Representative Maki, and carried on a roll call vote that the bill draft relating to submission of political subdivision and occupational and professional board audit reports and annual reports be approved and recommended to the Legislative Management. Senators Magrum, Clemens, Walen, and Weston and Representatives Maki, Morton, Motschenbacher, and Timmons voted "aye." Representatives Anderson, Hatlestad, Johnson, Schauer, and Wagner voted "nay."

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

The committee considered requesting a performance audit of tuition waiver programs at University System institutions.

In response to a question from a committee member, Mr. Gallion noted a systemwide performance audit would require substantial resources and could take up to 2 years to complete.

It was moved by Senator Walen, seconded by Representative Schauer, and carried on a roll call vote that, pursuant to Section 54-35-02.2, the committee accept the following reports reviewed by the committee at its September 22, 2026, meeting:

- 1. Public Finance Authority (December 31, 2025 and 2024)**
- 2. North Dakota State University (June 30, 2025 and 2024)**
- 3. North Dakota State College of Science (June 30, 2025 and 2024)**
- 4. Valley City State University (June 30, 2025 and 2024)**
- 5. Williston State College (June 30, 2025 and 2024)**
- 6. Protection and Advocacy Project (June 30, 2024 and 2023)**
- 7. Aeronautics Commission (June 30, 2025 and 2024)**
- 8. Department of Career and Technical Education (June 30, 2025 and 2024)**
- 9. Parks and Recreation Department (June 30, 2025 and 2024)**
- 10. Public Service Commission (June 30, 2025 and 2024)**

11. Judicial branch (June 30, 2025 and 2024)

12. Department of Corrections and Rehabilitation (June 30, 2025 and 2024)

13. Tax Commissioner (June 30, 2025 and 2024)

14. North Dakota Development Fund financial statement audit (June 30, 2025 and 2024)

15. North Dakota Development Fund performance audit (July 1, 2019 through June 30, 2024)

Senators Magrum, Clemens, Walen, and Weston and Representatives Anderson, Hatlestad, Johnson, Maki, Morton, Motschenbacher, Schauer, Timmons, and Wagner voted "aye." No negative votes were cast.

It was moved by Representative Timmons, seconded by Senator Walen, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.

No further business appearing, Chairman Magrum adjourned the meeting at 4:50 p.m.

Grant Gader
Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:9