

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Wednesday, June 27, 2018
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Jerry Klein, Chairman, called the meeting to order at 8:00 a.m.

Members present: Senators Jerry Klein, Dwight Cook, Judy Lee; Representatives Bert Anderson, Patrick Hatlestad, Mary Johnson, Keith Kempenich, Gary Kreidt, Andrew G. Maragos, Mike Nathe, Marvin E. Nelson

Members absent: Senator Richard Marcellais; Representatives Chet Pollert, Wayne A. Trottier

Others present: Senator Dick Dever, Bismarck and Representative Vernon Laning, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Representative Nathe, seconded by Representative Maragos, and carried on a voice vote that the minutes of the January 10, 2018, meeting be approved as distributed.

COMMENTS BY THE CHAIRMAN

Chairman Klein reviewed of the duties and responsibilities of the Legislative Audit and Fiscal Review Committee. He said the Legislative Management appoints the members of the Legislative Audit and Fiscal Review Committee. Pursuant to North Dakota Century Code Section 54-35-02.1, he said, the committee is created:

- For the purpose of studying and reviewing the financial transactions of the state.
- To assure the collection of revenues and the expenditure of money is in compliance with law, legislative intent, and sound financial practices.
- To provide the Legislative Assembly with formal, objective information on revenue collections and expenditures as a basis for legislative action to improve the fiscal structure and transactions of the state.

COMMENTS BY THE STATE AUDITOR

Mr. Joshua C. Gallion, State Auditor, commented regarding the role of the State Auditor's office. He said the State Auditor's office is to protect the integrity of government to keep the public's faith and trust that their government and its officials are transparent and accountable to the people who elect them. He said the State Auditor's office has professional, independent, and objective staff who audit performance, financial transactions, operations, and adherence to laws, rules, and policies to ensure taxpayer resources are safeguarded from fraud, waste, and abuse; and to ensure resources are being used effectively in the most responsible manner.

GOVERNOR'S OFFICE - TRAVEL AND USE OF STATE RESOURCES

At the request of Chairman Klein, Mr. Gallion presented a performance audit entitled [Office of the Governor's Travel and Use of State Resources](#). Mr. Gallion said the purposes of the audit include determining whether the Governor's office is using the state airplane in a prudent manner, whether the executive security provided by the Highway Patrol is a prudent use of state resources, and whether there are opportunities to improve the transparency regarding the use of state airplanes.

Mr. Gallion said the audit includes the following four recommendations:

1. The Governor's office discontinue the use of air transportation services for commuting to or from personal residences to official meetings or offices.
2. The Department of Transportation discontinue providing transportation services to nonstate employees without a business purpose.
3. The Department of Transportation ensure the state is not exposed to additional risk for nonstate employees traveling on state-owned airplanes.

4. The Department of Transportation require all agencies to submit a Request for Air Transportation form to establish a business purpose of the trip.

In response to a question from Representative Mary Johnson, Mr. Gallion said funding for the Governor's office use of the state airplane is appropriated to the Department of Transportation for the period of the audit. He said there are no generally accepted accounting principles requiring the funds to be appropriated to the Governor's office.

In response to a question from Representative Nathe, Mr. Gallion said he will provide the committee with the total costs to date for the Governor's use of the state airplane.

Representative Kempenich said the Legislative Assembly may need to consider clarifying in statute the appropriate uses of state airplanes.

In response to a question from Representative Marvin E. Nelson, Mr. Gallion said the State Auditor's office did not identify any office policies within the Governor's office relating to the appropriate staff use of the state airplane.

COMMENTS BY GOVERNOR'S OFFICE REPRESENTATIVES

At the request of Chairman Klein, Mr. Mike Nowatzki, Communications Director, Governor's office, presented information ([Appendix B](#)) regarding the performance audit of travel and use of state resources by the Governor's office. Mr. Nowatzki said performance audits are generally conducted to examine the effectiveness, economy, or efficiency of a government program or agency. He said objectives of a performance audit include comparing actual agency practices to laws or policies, seeking possible cost savings, and identifying outcomes achieved by programs or services. He said only reviewing compliance and inputs without reviewing outcomes or return on investment presents an incomplete analysis. He said the Governor's office operates within budget and complies with established rules and guidelines. He said the Governor's office disagrees with the recommendations to discontinue use of air transportation services for commuting to or from personal residences to official meetings or offices, and for the Department of Transportation to discontinue providing transportation services to nonstate employees without a business purpose. He said the Governor's office determined, with advisement from the Risk Management Division of the Office of Management and Budget, the recommendation for the Department of Transportation to ensure the state is not exposed to additional risk for nonstate employees traveling on state-owned airplanes is factually unsupported. He said the Governor's office agrees partially to the recommendation for the Department of Transportation to require all agencies to submit a Request for Air Transportation form to establish the business purpose of the trip.

In response to a question from Representative Marvin E. Nelson regarding staff use of the state airplane, Mr. Nowatzki said the majority of flights by staff members of the Governor's office are to accompany the Governor or Lieutenant Governor. He said a staff member would discuss with, and receive approval from, the Governor, Lieutenant Governor, or the Governor's Chief Administrative Officer, if there was a need for a staff member to use the state airplane.

In response to a question from Senator Cook, Mr. Nowatzki said the Governor's office provides the Department of Transportation a flight manifest before each flight, which includes passenger names. He said the Governor's office will begin providing the Department of Transportation with information regarding the business purpose of each flight.

In response to a question from Representative Kreidt, Mr. Nowatzki said the Governor's office attempts to use commercial travel for out-of-state travel whenever possible.

At the request of Chairman Klein, Mr. Tag Anderson, Director, Risk Management Division, Office of Management and Budget, presented information regarding the performance audit of travel and use of state resources by the Governor's office. Mr. Tag Anderson said pursuant to Section 32-12.2-01(8) the Risk Management Division uses the term unpaid volunteer state employee to determine whether an individual can be in a state fleet vehicle, or in limited circumstances, drive a state vehicle. He said the state has private commercial insurance for the operation of state airplanes. He said the liability coverage of the private commercial insurance is \$10 million. He said the state being exposed to additional liability for a nonstate employee being in a state airplane is remote.

In response to a question from Representative Marvin E. Nelson, Mr. Tag Anderson said a state employee driving a state fleet vehicle or riding in a state airplane is covered by Workforce Safety and Insurance.

In response to a question from Senator Cook, Mr. Tag Anderson submitted information ([Appendix C](#)) regarding the aviation insurance coverage for nonstate employees.

In response to a question from Representative Nathe, Mr. Mark Nelson, Deputy Director, Driver and Vehicle Services, Department of Transportation, said the Department of Transportation budget for air services is approximately \$2.1 million per biennium. He said he will provide the committee how much of the \$2.1 million is spent by the Governor's office.

In response to a question from Representative Kempenich, Mr. Mark Nelson said he will provide the committee with information regarding the total number of flight hours for each of the department's airplanes for the past 3 years.

In response to a question from Representative Kempenich, Mr. Mark Nelson said the costs are allocated to each agency if state employees from multiple agencies are flying on the state airplane.

VETERANS' HOME

At the request of Chairman Klein, Mr. Gallion presented a performance audit report entitled [North Dakota Veterans Home](#). Mr. Gallion said the Veterans' Home is located in Lisbon and was established in 1891. He said the purpose of the Veterans' Home is to provide basic care and long-term care for all eligible veterans and all honorably discharged soldiers of the North Dakota National Guard who may become permanently disabled from any cause while in line and discharge of duty, and spouses and surviving spouses if they meet the requirements for admission. He said the purpose of the audit includes identifying opportunities to better position the Veterans' Home, and identifying opportunities to strengthen the monitoring activities of the Veterans' Home.

Mr. Gallion said the audit includes the following five recommendations:

1. Seek assistance to create and implement a strategic plan, and report on the status of the strategic plan to the Administrative Committee on Veterans' Affairs (ACOVA).
2. Ensure policies are documented in the appropriate level of detail to allow management to effectively monitor the control activities.
3. Strengthen monitoring activities to ensure policies and written plans are carried out.
4. Ensure performance evaluations are conducted at least annually.
5. Establish a process to periodically monitor the accuracy and completeness of mineral royalty income.

Senator Lee expressed concern that Veterans' Home responses to audit findings were not included in the report in their entirety. She suggested all comments from the audited entity be included in the performance audit reports or in appendices to the audit report. She also expressed concerns regarding information provided in the report relating to the facility's bed mix. She said many facilities in the state for seniors are experiencing a decline in demand. She said at the same time there is an increase in demand for assisted living and senior housing. She said it is important to recognize the changes in choices for individuals.

Representative Kempenich said the Veterans' Home generally costs more than a facility in a local community.

Representative Kreidt said recent changes to regulations at the federal level are allowing more veterans to have access to services locally.

COMMENTS BY VETERANS' HOME REPRESENTATIVES

At the request of Chairman Klein, Mr. Mark B. Johnson, Administrator, North Dakota Veterans' Home, provided comments ([Appendix D](#)) regarding the performance audit of the Veterans' Home. Mr. Mark Johnson said the Veterans' Home partially agrees with the recommendation to seek assistance to create and implement a strategic plan and report on the status of the strategic plan to ACOVA. He said although there has been a recent decline in basic-care bed occupancy, it is anticipated an increase in number of Vietnam Veterans will be needing these types of services in future years. He said the department agrees with the recommendation to ensure performance evaluations are conducted at least annually.

DEPARTMENT OF VETERANS' AFFAIRS

At the request of Chairman Klein, Mr. Gallion presented a performance audit report entitled [North Dakota Department of Veterans Affairs](#). Mr. Gallion said the Department of Veterans' Affairs is established under the supervision and control of the Commissioner of Veterans' Affairs. He said duties of the Commissioner include coordinating agencies to render services and benefits to returning veterans; overseeing the implementation of programs and benefits authorized by statute; assisting veterans or their widows, administrators, executors, guardians, or heirs, with processing claims; advising veterans with utilizing the Servicemen's Readjustment Act of 1944, or any similar measures provided by the federal government; providing counties with training of county

veterans' service officers; providing county veterans' service officers with educational materials; assisting county veterans' service officers with the performance of their duties; disseminating information; and other items necessary to carry out the intent and purposes of Chapter 37-18. He said the purpose of the audit includes identifying opportunities to improve the administration of the veterans aid loan program, identifying opportunities to improve the administration of the hardship assistance grants program, and identifying opportunities to enhance the use of federal funds awarded pursuant to the highly rural transportation grant program for administrative costs.

Mr. Gallion said the audit includes the following six recommendations:

1. Establish underwriting guidelines for determining an applicant's financial ability to repay the loan.
2. Adhere to ACOVA loan collection policies and procedures for delinquent loans.
3. Comply with Information Technology Department requirements for outsourcing.
4. Review policies for clarity, continued relevance, effectiveness in achieving the objectives of the hardship assistance grants program, and propose policy refinements to ACOVA for approval.
5. Obtain an effective information system to meet the objectives of the hardship assistance grants program.
6. Use state resources and expend private funds pursuant to state laws.

COMMENTS BY DEPARTMENT OF VETERANS' AFFAIRS REPRESENTATIVES

At the request of Chairman Klein, Mr. Lonnie Wangen, Commissioner, Department of Veterans' Affairs, provided comments ([Appendix E](#)) regarding the performance audit of the Department of Veterans' Affairs. Mr. Wangen said the department agrees with the recommendations provided in the audit report. He said the department does have underwriting guidelines for veteran loans, but will review those guidelines. He said the department will review its loan collection policies and procedures. He said the department will comply with the Information Technology Department's requirements for outsourcing. He said the department will review its policies regarding the hardship assistance grants program, and obtain an effective information system to meet the objectives of the program. He said the department will ensure compliance with use of state resources and private funds.

In response to a question from Representative Kreidt, Mr. Gallion said the Department of Veterans' Affairs is depositing funds received from the private, nonprofit Impact Foundation into the veterans' postwar trust fund. He said the fund has a continuing appropriation to allow the department to spend the interest earnings from the trust fund, but the trust fund does not have a continuing appropriation for the funds received from the Impact Foundation. He said the department anticipates proposing changes to Section 37-18-12 from the next Legislative Assembly to address the issue. He said the Impact Foundation funds pass through the department to assist veterans.

ADMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS - OVERSIGHT STRUCTURE

At the request of Chairman Klein, Mr. Gallion presented a performance audit report entitled [North Dakota Veterans Affairs Oversight Structure](#). Mr. Gallion said the veterans' affairs oversight structure includes five veteran service nominating organizations, including Veterans of Foreign Wars, the American Legion, Disabled American Veterans, Veterans of World War II, Korea, and Vietnam and Vietnam Veterans of America. He said ACOVA is responsible for the organization, policy, and general administration of all veterans' affairs in the state. He said each nominating organization has three voting members on ACOVA. He said a nominating organization submits two nominations to the Governor for a 3-year appointment to ACOVA. He said ACOVA also includes advisory capacity members, including the Adjutant General, the Executive Director of Job Service North Dakota, and the Director of the United States Department of Veterans Affairs. He said ACOVA oversees the veterans' postwar trust fund, which is invested and maintained by the State Treasurer's office. He said ACOVA appoints a seven-member North Dakota Veterans' Governing Board. The board appoints the administrator for the Veterans' Home. He said ACOVA appoints the Commissioner of the Department of Veterans' Affairs.

Mr. Gallion said the audit report provides observations regarding nominating organizations, including aging membership and challenges of recruiting newer veterans, inconsistent nominating process and nominees lack of interest in serving, and other veterans service organizations not being eligible; Administrative Committee on Veterans Affairs, including sustainability concerns, the need to broaden veteran representation, and governing members and qualifications; State Treasurer's office, including investment strategy input for the veterans' postwar trust fund, third-party investment management fees, and strained working relationships; Department of Veterans' Affairs, including duplication of services, impact of budget reductions on ability to provide assistance, open records requests, timeliness, and accuracy of information being provided to legislators; county and tribal veterans service officers, including limited requirements, lack of oversight, and lack of cooperation; and overall lack of a unified message among stakeholders. He said the report does not include any findings or recommendations.

COMMENTS BY ADMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS REPRESENTATIVES

At the request of Chairman Klein, Mr. Dean Overby, Chairman, Administrative Committee on Veterans' Affairs, provided comments ([Appendix F](#)) regarding the performance audit of the administrative structure of ACOVA. Mr. Overby said the organizational structure of ACOVA has proven to be sustainable and has a history of evolving to represent the current veteran population. He said each organization sets its own methods for vetting nominees. He said any veteran can be appointed to ACOVA regardless of membership in a veteran service organization. He said ACOVA and the Department of Veterans' Affairs work with many local, state, and federal agencies to serve the veterans in the state. He said ACOVA also works with the Attorney General's office and the State Treasurer's office relating to the veterans' postwar trust fund. He said the committee maintains a good working relationship with both offices.

Mr. Overby said staff reductions at the Department of Veterans' Affairs has affected service to veterans.

Mr. Overby said ACOVA and the Department of Veterans' Affairs bring a unified message to the Legislative Assembly each session. He said there may be an appearance of a lack of a unified message because legislators may introduce bills relating to veterans without prior knowledge from ACOVA or the Department of Veterans' Affairs. In addition, he said, veterans and other citizens may testify on their own behalf regarding issues relating to veterans.

In response to a question from Senator Cook, Mr. Overby said a number of organizations offer veterans service officer accreditation. He said ACOVA works with county veterans service officers to be accredited by the National Association of County Veterans Service Officers.

In response to a question from Chairman Klein, Mr. Overby expressed concern the State Auditor's office did not seek input from members of ACOVA or from leadership of the veterans organizations operating in the state when conducting the performance audit.

Ms. Kelly L. Schmidt, State Treasurer, provided comments regarding the performance audit of the administrative structure of ACOVA. She expressed concern that the performance audit report identifies conflict between the State Treasurer's office and ACOVA and the Department of Veterans' Affairs. She said the State Treasurer's office works well with ACOVA and the Department of Veterans' Affairs and provides them with information and understanding regarding the veterans' postwar trust fund.

In response to a question from Representative Kreidt, Ms. Schmidt said the current balance of the veterans' postwar trust fund is approximately \$6.3 million. She said the State Treasurer's office provides a report to ACOVA at the end of each fiscal year regarding the fund earnings.

In response to a question from Representative Kempenich, Ms. Schmidt said the definition of earnings for the veterans' postwar trust fund is based on the Uniform Principal and Income Act. She said the total earnings for the 2015-17 biennium were \$435,372, of which \$218,369 was distributed to ACOVA. She said the remaining funds were retained as principal for the fund. She said the allocation of the fund is 60 percent equity and 40 percent fixed income. She said the fund earned 8.31 percent annual percentage rate of return for the 2015-17 biennium.

NORTH DAKOTA UNIVERSITY SYSTEM - EMERGENCY PREPAREDNESS

At the request of Chairman Klein, Mr. Craig Hashbarger, Audit Manager, State Auditor's office, presented performance audit reports entitled [Emergency Preparedness at Bismarck State College](#), [Emergency Preparedness at North Dakota State College of Science](#), [Emergency Preparedness at North Dakota State University](#), and [Emergency Preparedness at Williston State College](#). Mr. Hashbarger said the State Board of Higher Education adopted Policy No. 906 in May 2012. He said Policy No. 906 establishes the requirement for all North Dakota University System institutions to develop and implement comprehensive emergency management plans. He said, in addition to Policy No. 906, the State Auditor's office also reviewed outside sources for guidance on best practices for an emergency preparedness plan. He said the United States Department of Education and six other federal agencies developed *A Guide for Developing High Quality Emergency Operation Plans for Institutions of Higher Education* in 2013, which was also used for the audit. He said Policy No. 906 and the federal guide provide a process for identifying high-risk areas where emergencies could occur at an institution level, and information regarding ways to develop an emergency operations plan to address those high-risk areas.

Mr. Hashbarger said the goal of the *Emergency Preparedness at Bismarck State College* performance audit was to determine whether the Bismarck State College emergency operation plan is designed and implemented pursuant to State Board of Higher Education policies and best practices, and whether its continuity of operations plan is designed and implemented pursuant to best practices. He said the State Auditor's office determined Bismarck State

College has developed an emergency operation plan; however, there was no effective continuity of operation plan developed or implemented and several opportunities for improvement were identified. He said the emergency preparedness performance audit report for Bismarck State College includes the following seven recommendations:

1. Implement a formal risk assessment process to periodically identify and evaluate potential threats and hazards, and incorporate into the emergency operation plan.
2. Develop and include a comprehensive base plan in the emergency operation plan.
3. Establish formalized disaster-specific related goals and objectives for each significant emergency incident.
4. Develop and implement formalized training requirements for emergency response personnel and incorporate into the emergency operation plan.
5. Identify minimum exercise requirements relating to conducting and reviewing exercises in the emergency operations plan.
6. Implement formal policies for periodically reviewing and revising the emergency operations plan.
7. Implement a comprehensive continuity of operations plan.

Mr. Hashbarger said the goal of the *Emergency Preparedness at North Dakota State College of Science* performance audit was to determine whether the North Dakota State College of Science emergency operation plan is designed and implemented pursuant to State Board of Higher Education policies and best practices, and whether its continuity of operations plan is designed and implemented pursuant to best practices. He said the State Auditor's office determined North Dakota State College of Science has developed an emergency operation plan; however, there was no effective continuity of operation plan developed or implemented and several opportunities for improvement were identified. He said the emergency preparedness performance audit report for North Dakota State College of Science includes the following six recommendations:

1. Implement a formal risk assessment process to periodically identify and evaluate potential threats and hazards, and incorporate into the emergency operation plan.
2. Establish formalized disaster-specific related goals and objectives for each significant emergency incident.
3. Incorporate training requirements, including assignment of training responsibilities to team members in its comprehensive emergency operation plan.
4. Expand the exercise requirements and assignment of responsibilities in its emergency operation plan based on potential threats determined to be high risk.
5. Implement a process for formal approval on revisions to its emergency operation plan.
6. Implement a comprehensive continuity of operations plan.

Mr. Hashbarger said the goal of the *Emergency Preparedness at North Dakota State University* performance audit was to determine whether North Dakota State University has an effective strategy regarding the development and implementation of an emergency operations plan, and whether it has an effective continuity of operations plan. He said the State Auditor's office determined North Dakota State University has developed an emergency operation plan; however, there was no effective continuity of operation plan developed or implemented and several opportunities for improvement were identified. He said the emergency preparedness performance audit report for North Dakota State University includes the following eight recommendations:

1. Establish a collaborative planning team consisting of a cross section of various stakeholders of the university and identify, assign, and document roles and responsibilities to members of the collaborative planning team.
2. Implement a formal risk assessment process to periodically identify and evaluate potential threats and hazards and incorporate the identified threats and hazards in the formal risk assessment into the emergency operation plan.
3. Establish formalized disaster-specific related goals and objectives for each significant emergency incident.
4. Incorporate procedures for potential emergencies based on disaster-specific goals and objectives in the emergency operation plan.
5. Incorporate minimum training requirements into the comprehensive emergency operation plan pursuant to State Board of Higher Education Policy No. 906 and ensure all Incident Command System positions have documented minimum training requirements.
6. Identify minimum requirements related to conducting and reviewing exercises in the emergency operation plan pursuant to State Board of Higher Education Policy No. 906.

7. Implement formal policies for periodically reviewing and revising the emergency operation plan involving the collaborative planning team.
8. Implement a comprehensive continuity of operations plan.

Mr. Hashbarger said the goal of the *Emergency Preparedness at Williston State College* performance audit was to determine whether Williston State College emergency operations and continuity of operations plans are designed and implemented pursuant to State Board of Higher Education policies and best practices. He said the State Auditor's office determined Williston State College has an emergency operations plan, but there are opportunities to improve the design and implementation of the plan to be consistent with State Board of Higher Education policy and best practices. He said the State Auditor's office also determined Williston State College does not have a comprehensive continuity of operations plan. He said the emergency preparedness performance audit report for Williston State College includes the following eight recommendations:

1. Identify and document the members of the collaborative planning team in the emergency operations plan and develop and implement roles and responsibilities for members of the collaborative planning team and document them in the emergency operations plan.
2. Implement a formal risk assessment process to periodically identify and evaluate potential threats and hazards and incorporate the identified threats and hazards identified in the formal risk assessment into the emergency operations plan.
3. Develop and include a comprehensive base plan in the emergency operations plan pursuant to *A Guide for Developing High Quality Emergency Operations Plans for Institutions of Higher Education* and the State Board of Higher Education Policy No. 906.
4. Establish formalized disaster-specific related goals and objectives for each significant emergency incident.
5. Develop and implement formalized training requirements for emergency response personnel and incorporate them into the emergency operations plan pursuant to State Board of Higher Education Policy No. 906.
6. Develop and implement formalized exercise requirements for responding to emergency threats and hazards.
7. Implement formal policies for periodically reviewing and revising the emergency operations plan regarding the collaborative planning team.
8. Implement a comprehensive continuity of operations plan.

COMMENTS BY UNIVERSITY SYSTEM REPRESENTATIVES

At the request of Chairman Klein, Mr. David Krebsbach, Director of Finance, North Dakota University System, provided comments ([Appendix G](#)) regarding the performance audit reports relating to the emergency preparedness at Bismarck State College, North Dakota State College of Science, North Dakota State University, and Williston State College. Mr. Krebsbach said the University System supports the responses provided by each institution regarding the recommendations made by the State Auditor's office. He said the University System is confident each institution will work to meet the goals established.

In response to a question from Representative Nathe, Mr. Krebsbach said he will provide the committee with information regarding whether the University System has collaborated with the state Department of Emergency Services relating to implementing an emergency operations plan.

In response to a question from Representative Hatlestad, Mr. Krebsbach said each institution is in the process of implementing the recommendations provided in the performance audit reports.

At the request of Chairman Klein, Mr. Dave Clark, Executive Vice President, Bismarck State College, commented regarding the performance audit report relating to the emergency preparedness at Bismarck State College. Mr. Clark said Bismarck State College has a crisis management team that meets quarterly. He said Bismarck State College also conducts tabletop exercises and works with local fire departments and the Risk Management Division of the Office of Management and Budget regarding assessments.

At the request of Chairman Klein, Mr. Dennis Gladen, Vice President, Administrative Affairs, North Dakota State College of Science, commented regarding the performance audit report relating to the emergency preparedness at North Dakota State College of Science. Mr. Gladen said the North Dakota State College of Science conducts tabletop exercises and actual drills. He said the North Dakota State College of Science plans to better document its training exercises.

DEPARTMENT OF TRUST LANDS - PERFORMANCE AUDIT FOLLOWUP

Chairman Klein called on Mr. Don LaFleur, Performance Audit Manager, State Auditor's office, who presented a report entitled [Status of Recommendations North Dakota Department of Trust Lands](#). Mr. LaFleur said the audit was a followup to the performance audit reports entitled *Department of Trust Lands - Energy Infrastructure and Impact Office (November 6, 2015)*; *Department of Trust Lands - Trust Assets and Department Resources (March 18, 2016)*; and *Department of Trust - Lands Unclaimed Property (January 5, 2016)*. He said the three performance audits have been consolidated into one performance audit followup report and the recommendations from the three reports have been consolidated into categories. He said overall the Department of Trust Lands has made significant improvements since the new commissioner began in November 2017. He said the three remaining barriers include changing administrative rules, implementing new information technology systems, and updating department policies and procedures.

In response to a question from Representative Kreidt, Mr. LaFleur said the State Auditor's office generally conducts one followup for a performance audit unless the committee requests the State Auditor's office to do more.

UNIVERSITY SYSTEM INSTITUTIONS TUITION WAIVERS AND STUDENT STIPENDS - PERFORMANCE AUDIT FOLLOWUP

At the request of Chairman Klein, Mr. LaFleur presented a report entitled [Status of Recommendations Tuition Waivers and Student Stipends](#). Mr. LaFleur said the audit is a followup to the performance audit report entitled *Tuition Waivers and Student Stipends (March 20, 2015)*. He said the performance audit followup report identifies that of the 10 recommendations, four were fully implemented, four were partially implemented, and two were not implemented.

COMMENTS BY DEPARTMENT OF TRUST LANDS REPRESENTATIVES

At the request of Chairman Klein, Ms. Jodi Smith, Commissioner, Department of Trust Lands, provided comments ([Appendix H](#)) regarding the performance audit followup report of the Department of Trust Lands relating to the Energy Infrastructure and Impact Office, trust assets and department resources, and Unclaimed Property Division. Ms. Smith said the recommendations resulted in improved operations of the department and has contributed to improving the overall effectiveness and efficiency of the department. She said efforts have also strengthened staff recruitment, retention, morale, and the functioning of the department. She said the department will continue to address and complete the recommendations.

In response to a question from Representative Kreidt, Ms. Smith said the department is working with the Attorney General's office to draft administrative rule changes. She said department policies and procedures need to align with administrative rule changes. She said some of the department policies will be added to the administrative rules. She said the department has completed the notice of intent to award for the information technology system updates.

In response to a question from Representative Kempenich, Ms. Smith said the department does not anticipate the information technology system updates to exceed the amount appropriated for the project for the 2017-19 biennium.

In response to a question from Representative Marvin E. Nelson, Ms. Smith said it can be difficult to identify whether companies are submitting unclaimed property because the state does not require companies to submit a negative report.

In response to a question from Representative Marvin E. Nelson, Ms. Smith said approximately 92 percent of the royalties the department receives from sovereign minerals under the Missouri River and Lake Sakakawea area are from 20 organizations. She said the department is reviewing possible statutory or administrative rule changes. She said that although the department is receiving royalty payments from these organizations, it can be difficult to obtain documentation supporting the amount of the royalty payment. She said it is difficult for the department to ensure the payments are correct.

COMMENTS BY UNIVERSITY SYSTEM REPRESENTATIVES

At the request of Chairman Klein, Mr. Krebsbach commented ([Appendix I](#)) regarding the performance audit followup report of the University System institutions tuition waivers and student stipends. Mr. Krebsbach said the University System has made significant improvements in the reporting and monitoring of tuition waivers and student stipends. He said a new tuition model adopted by the State Board of Higher Education will be implemented by the fall of 2019. He said the new model will reduce the use of student fees. In addition, he said, the State Board of Higher Education revised its policies to now require all institutions to establish procedures for all waivers.

In response to a question from Representative Kempenich, Mr. Krebsbach said the University System is reducing course and program fees instead of increasing tuition waivers. He said the change will provide better transparency.

In response to a question from Senator Lee, Mr. Krebsbach said the University System is in the process of creating a data form that each institution will complete regarding the institution's waivers and stipends. He said each institution will also be required to submit an annual form identifying any changes to current or new waivers or stipends. He said the new form will help standardize the process and provide consistent reporting by all institutions.

In response to a question from Representative Nathe, Mr. Krebsbach said he will provide the committee with information regarding the extent to which the University System has information available on students receiving a tuition waiver that remain in the state after graduation.

In response to a question from Representative Marvin E. Nelson, Mr. Krebsbach said he will provide the committee with information regarding agreements the University System has entered into with other states or countries.

AUDITS OF STATE AGENCIES, BOARDS, AND COMMISSIONS

Chairman Klein called on Ms. Katie Williams, Certified Public Accountant, Eide Bailly LLP, who presented a report entitled [Financial Statements December 31, 2017 and 2016 Beginning Farmer Revolving Loan Fund](#). Ms. Williams reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Williams presented a report entitled [Financial Statements December 31, 2017 and 2016 Community Water Facility Loan Fund](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Williams presented a report entitled [Financial Statements September 30, 2017 and 2016 Guaranteed Student Loan Program](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Williams presented a report entitled [Financial Statements December 31, 2017 and 2016 Public Finance Authority \(An Agency of the State of North Dakota\)](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Williams presented a report entitled [Financial Statements December 31, 2017 and 2016 and Statement of Appropriated Expenditures Biennium Ended June 30, 2017 Bank of North Dakota](#). She reviewed the auditor's responses to the committee guidelines and said the report identified one noncompliance finding related to compliance with the federal Family Education Loan program.

Chairman Klein called on Mr. Tim Porter, Chief Financial Officer, Bank of North Dakota, to present information ([Appendix J](#)) regarding reports entitled [College SAVE the Future \(A Private Purpose Trust Fund of the State of North Dakota\) Basic Financial Statements December 31, 2017 and 2016 and Supplementary Information December 31, 2017 \(With Independent Auditor's Report Thereon\)](#), and a letter ([Appendix K](#)) from Thomas & Thomas LLP regarding the report. Mr. Porter said the Bank of North Dakota acts as trustee for the College SAVE plan. He said Ascensus Broker Dealer Services, Inc. is the plan manager and The Vanguard Group, Inc. is the investment manager. He said the College SAVE audit was conducted by Thomas & Thomas LLC. He said the report contains an unqualified opinion and does not include any findings or recommendations.

Chairman Klein called on Mr. Jason Ostroski, Audit Principal, CliftonLarsonAllen LLP, who presented a report entitled [North Dakota Public Employees Retirement System Financial Statements Years Ended June 30, 2017 and 2016](#). Mr. Ostroski reviewed the auditor's responses to the committee guidelines and said the report includes one significant accounting policy change related to Governmental Accounting Standards Board (GASB) Statement No. 74.

Mr. Ostroski presented a report entitled [North Dakota Public Employees Retirement System Schedules of Employer Allocations and Pension Amounts By Employer Year Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report contains an unmodified opinion. He said the report does not include any findings or recommendations.

Mr. Ostroski presented a report entitled [North Dakota Public Employees Retirement System Schedules of Employer Allocations and OPEB Amounts By Employer Year Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report contains an unmodified opinion. He said the report does not include any findings or recommendations.

In response to a question from Representative Johnson, Ms. Sharon Schiermeister, Chief Operating Officer, Public Employees Retirement System, said assumptions used by actuaries to calculate the pension liabilities are evaluated every 5 years.

Mr. Ostroski presented a report entitled [North Dakota Retirement and Investment Office Financial Statements June 30, 2017 and 2016](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Ostroski presented a report entitled [North Dakota Retirement and Investment Office - North Dakota Teachers' Fund for Retirement Bismarck, North Dakota Schedules of Employer Allocations and Pension Amounts by Employer June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report contains an unmodified opinion. He said the report does not include any findings or recommendations.

In response to a question from Representative Hatlestead, Mr. David Hunter, Executive Director and Chief Investment Officer, Retirement and Investment Office, said the actual rate of return on investments is compared to projections on a regular basis. He said the actual long-term rate of return for the 30-years ended June 30, 2017, was 7.84 percent for the Public Employees Retirement System and 7.85 percent for the Teachers' Fund for Retirement. He said for the 5 years ended June 30, 2017, the rate of return was approximately 9.1 percent. He said the actual rate of return for the quarter ended March 31, 2018, was approximately 8 percent.

Chairman Klein called on Mr. Lowell Nelson, Certified Public Accountant, Overmoe & Nelson, Ltd., who presented by teleconference a report entitled [North Dakota Private Investigation and Security Board Audited Financial Statements For the Years Ending December 31, 2016 and 2015](#). Mr. Lowell Nelson reviewed the auditor's responses to the committee guidelines and said the report identified three internal control findings relating to segregation of duties, inadequate design of internal control, and inadequate design of monitoring controls.

INTERNAL CONTROL AND COMPLIANCE REPORT

Chairman Klein called on Mr. Ronald I. Tolstad, Jr., Administrative Manager and Technical Specialist, State Auditor's office, who presented a report entitled [Comprehensive Annual Financial Report State of North Dakota Governance Communication Including the Report on Internal Control, Compliance, and Other Matters for the Year Ended June 30, 2017](#). Mr. Tolstad 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, 2017. He reviewed the auditor's responses to the committee guidelines and said the report contains an unmodified opinion. He said the report identified several significant accounting policy changes relating to GASB Statement No. 74 regarding financial reporting for post-employment benefit plans other than pension plans; GASB Statement No. 77 regarding tax abatement disclosures; GASB Statement No. 78 regarding pensions provided through certain multiple-employer defined benefit pension plans; GASB Statement No. 79 regarding certain external investment pools and pool participants; GASB Statement No. 80 regarding blending requirements for certain component units; an amendment to GASB Statement Nos. 14 and 82 regarding pension issues; and amendments to GASB Statement Nos. 67, 68, and 73. He said opinions of the audit were not modified because of the implementation of the GASB pronouncements.

COMPREHENSIVE ANNUAL FINANCIAL REPORT

Ms. Rachel Kmetz, Accounting Manager, Office of Management and Budget, presented a report entitled [Comprehensive Annual Financial Report State of North Dakota for the Fiscal Year Ended June 30, 2017](#). She reviewed the information contained in the report and a supplemental report entitled [2015-17 Biennium Budget and Actual Detail \(Budgetary Basis\) State of North Dakota for the Biennium Ended June 30, 2017](#). Copies of both reports are on file in the Legislative Council office.

INTERNAL CONTROL AND COMPLIANCE REPORT

Chairman Klein called on Ms. Robin Hoffman, Audit Manager, State Auditor's office, who presented a report entitled [North Dakota University System Governance Communication Including the Report on Internal Control, Compliance, and Other Matters for the Year Ended June 30, 2017](#). Ms. Hoffman reviewed the auditor's responses to the committee guidelines and said the report identified one prior period audit recommendation that was not implemented relating to review of affiliated organization operating agreements.

UNIVERSITY SYSTEM ANNUAL FINANCIAL REPORT

Ms. Robin Putnam, Director of Financial Reporting, North Dakota University System, presented a report entitled [North Dakota University System Annual Financial Report June 30, 2017](#). She said the report for the University System includes the 11 public colleges and universities, the University System office, Core Technology Services, and 10 foundations which are required by government accounting standards to be included as component units of the University System. She said an unmodified opinion was issued on the business-type activities and a qualified opinion was issued on the aggregate discretely presented component units in the University System's financial statements. As of June 30, 2017, she said the University System had total net assets of \$1.420 billion.

Ms. Putnam said total operating revenues of the University System increased 1 percent from fiscal year 2016 as a result of increases in tuition and fees and decreases in grants and contracts, sales and services of educational departments, and auxiliary enterprises. She said the annual degree credit headcount for the fall of 2016 was 47,236.

AUDITS OF STATE AGENCIES, BOARDS, AND COMMISSIONS

Ms. Hoffman presented a report entitled [Bismarck State College Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Hoffman presented a report entitled [North Dakota State College of Science Wahpeton, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to monthly bank reconciliations.

Ms. Hoffman presented a report entitled [Dickinson State University Dickinson, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report identified four internal control findings relating to inadequate journal entry approval, inadequate nepotism and conflicts of interest policies, noncompliance of procuring commodities and services, and inadequate controls for capital improvements.

Ms. Hoffman presented a report entitled [Minot State University Minot, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report identified one significant audit adjustment relating to the impairment loss on the Beaver Lodges.

Ms. Hoffman presented a report entitled [Valley City State University Valley City, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report identified three internal control findings relating to noncompliance of procuring commodities and services, construction management at risk for the heat plant replacement project, and lack of controls relating to the wellness center project. She said the report identified one significant audit adjustment relating to construction in progress for the heat plant.

Chairman Klein called on Ms. Allison Bader, Audit Manager, State Auditor's office, who presented a report entitled [Department of Human Services Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report identified 16 current internal control findings and 11 prior audit recommendations that were not implemented.

Ms. Bader said the 11 prior audit recommendations not implemented relate to:

- Improvements to restrict payments for deceased or incarcerated individuals;
- Failure to suspend providers and notify parents;
- Inconsistent licensing procedures;
- Inconsistent procedures to verify records;
- Incomplete methods to verify health and safety requirements;
- Licenses becoming effective before background checks performed;
- Lack of unannounced child care program inspections;
- Child care providers not meeting licensing requirements;
- Lack of monitoring corrective orders and imposition of sanctions;
- Ineffective monitoring procedures for child care licensing; and
- Lack of online child care provider records.

Ms. Bader said the report identifies 16 current audit recommendations relating to:

- Inadequate controls for the drug rebate system;
- Child care providers being licensed after confirmed child abuse and neglect;
- Improper procedures for memorandum of understanding agreements;
- Improper background checks for child care licensing;
- Lack of issuance, tracking, and resolution of correction orders;
- Inadequate verification of child records;
- Incomplete background checks;
- Lack of policy for foster care memorandum of understanding agreements;
- Lack of evaluation of financial stability for family foster care providers;
- Untimely response to reports of child abuse or neglect;
- Inaccurate child abuse and neglect index;
- Inconsistent analysis of child abuse or neglect;
- Lack of identification of nonsubject parents;
- Improper retention and use of child abuse and neglect records;
- Lack of data integrity of child abuse and neglect information; and
- Inconsistent monitoring of child protection services.

Chairman Klein called on Mr. Christopher D. Jones, Executive Director, Department of Human Services, who commented regarding the audit report of the Department of Human Services for the fiscal years ended June 30, 2017 and 2016. Mr. Jones said although he agrees with the recommendations in the audit, the department is in compliance with federal and state laws. He said the department also reviews other states programs when identifying best practices for its programs.

In response to a question from Representative Kreidt, Mr. Jones said the department is planning to streamline the child care licensing process.

In response to a question from Representative Kreidt, Mr. Dean Sturn, Foster Care Administrator, Children and Family Services Division, Department of Human Services, said the department evaluates the financial stability of a family foster care provider. He said a licensing worker also conducts three visitations into the home and obtains three personal references. He said the department also requires annual licensing. He said the department has never revoked a family foster care license because of the lack of financial means.

Chairman Klein called on Mr. Ed Nagel, Director, State Auditor's office, who presented a report entitled [Judicial Branch Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). Mr. Nagel reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to lack of controls for accounts receivable adjustments.

Chairman Klein called on Ms. Sally Holewa, State Court Administrator, Supreme Court, who provided comments regarding the audit report of the judicial branch for the fiscal years ended June 30, 2017 and 2016. Ms. Holewa said the audit did not identify any improper writeoffs. She said the judicial branch created a process that provides for administrators to review clerks' files because of the large number of writeoffs that occur each year. She said one of the counties did not follow the process in fiscal year 2016 because of staff reductions.

Mr. Nagel presented a report entitled [Office of the Governor Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to lack of blanket bond coverage.

Mr. Nagel presented a report entitled [Office of Administrative Hearings Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [North Dakota Department of Health Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [Department of Commerce Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [Aeronautics Commission Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [North Dakota Lottery Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [North Dakota Parks and Recreation Department Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [North Dakota Racing Commission Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [Department of Labor and Human Rights Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Bader presented a report entitled [Department of Agriculture Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Bader presented a report entitled [North Dakota Council on the Arts Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [Industrial Commission Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to untimely approval and no records retention of meeting minutes.

Mr. Nagel presented a report entitled [Department of Public Instruction Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to noncompliance with appropriation laws.

Mr. Nagel presented a report entitled [Office of State Treasurer Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented a report entitled [State Water Commission Bismarck, North Dakota Audit Report for the Biennium Ended June 30, 2017](#). He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

The Legislative Council staff distributed a report ([Appendix L](#)) to the committee from the Department of Financial Institutions relating to the Bank of North Dakota.

The Legislative Council staff distributed a memorandum entitled [Summary of Audit Reports Not Selected for Presentation](#).

Representative Kreidt requested the audit report for the State Electrical Board for the fiscal years ended June 30, 2017 and 2016, be presented at the next committee meeting.

Chairman Klein said the committee will vote to accept the audit reports that were presented today at the next committee meeting.

It was moved by Representative Maragos, seconded by Representative Kreidt, and carried on a voice vote that the meeting be adjourned.

No further business appearing, Chairman Klein adjourned the meeting at 3:30 p.m.

Michael C. Johnson
Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:12