

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Tuesday, July 8, 2008  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Bob Skarphol, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Bob Skarphol, Ole Aarsvold, Larry Bellew, Merle Boucher, Jeff Delzer, Bette Grande, Patrick R. Hatlestad, RaeAnn G. Kelsch, Kenton Onstad, Louis Pinkerton, Francis J. Wald; Senators Randel Christmann, Dwight Cook, Judy Lee

**Members absent:** Representatives Kari L. Conrad, Blair Thoreson; Senators Jerry Klein, Harvey D. Tallackson

**Others present:** Jim W. Smith, Legislative Council, Bismarck

Representative Al Carlson, member of the Legislative Council, was also in attendance.

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

**It was moved by Representative Wald, seconded by Representative Grande, and carried on a voice vote that the minutes of the February 26, 2008, meeting of the Legislative Audit and Fiscal Review Committee be approved as distributed.**

#### WILDLIFE SERVICES PROGRAM PERFORMANCE AUDIT

Mr. Gordy Smith, State Auditor's office, presented the Wildlife Services program performance audit dated May 9, 2008. Mr. G. Smith said the objective of the performance audit was to determine if the state has established an adequate system for monitoring the Wildlife Services program. He said the performance audit contains 11 recommendations. A copy of the audit recommendations is attached as [Appendix B](#). He said the North Dakota Wildlife Services program is a cooperative effort of state and federal agencies to provide management of wildlife in situations impacting livestock producers, farmers, homeowners, airports, and public land managers. He said the program is administered by the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Wildlife Services. He said a cooperative service agreement between APHIS and the North Dakota Department of Agriculture is entered into each biennium. He said a separate cooperative service agreement is entered into each biennium between the Department of Agriculture and the Game and Fish Department relating to funding of the program.

Based on the performance audit, Mr. G. Smith said the State Auditor's office determined:

- Improvements are needed relating to expenses paid by the state, including verifying salaries and other costs, the percentage of pilots' salaries paid by the state, adequate documentation of travel time and field specialists' time charged to various categories, and verification of support and reasonableness of program billed amounts.
- More time should be allocated to the state blackbird problem.
- Improvements are needed in monitoring compliance with requirements in the cooperative service agreements and ensuring requirements of the agreements are adequate.
- North Dakota Century Code requirements related to the Wildlife Services program should be reviewed and sections modified or clarified to make requirements clear and up-to-date.
- The monitoring and funding responsibilities of the program should be reviewed to determine if changes should be made to the responsibilities.
- Federal budget and expenditure information relating to the Wildlife Services program should be obtained for monitoring and budgeting purposes.

In response to a question from Representative Wald, Mr. G. Smith said the cooperative service agreement between APHIS and the Department of Agriculture should specify what expenses the state is obligated to pay.

In response to a question from Representative Skarphol, Mr. G. Smith said the State Auditor's office was restricted in analyzing the program's federal fund balances. He said support information for Wildlife Services program expenditures is maintained at a regional office and Freedom of Information Act guidelines delay access to the information by more than a month.

In response to a question from Representative Aarsvold, Mr. G. Smith said other states, including South Dakota, have similar agreements with APHIS for Wildlife Services programs.

In response to a question from Senator Cook, Mr. G. Smith said farmers, ranchers, other landowners, and urban residents are among those who benefit from the Wildlife Services program. He said the state provided \$680,000 from the game and

fish fund and \$240,000 from the general fund for a total of \$920,000 for the Wildlife Services program for the 2007-09 biennium.

Mr. Jeff Weispfenning, Deputy Director, Department of Agriculture, presented testimony regarding the Wildlife Services performance audit. He said the Department of Agriculture will meet with the Game and Fish Department and the state director for the Wildlife Services program to identify changes needed to comply with the recommendations in the performance audit. He said changes to the program will be addressed in a new cooperative service agreement between the Department of Agriculture, the Game and Fish Department, and APHIS. A copy of the testimony is on file in the Legislative Council office.

In response to a question from Senator Lee, Mr. Weispfenning said the Wildlife Services program in South Dakota and the National Sunflower Association implemented a test control program to reduce the population of blackbirds in South Dakota. He said the test control program was abandoned after severe criticism by national organizations and birdwatching groups.

In response to a question from Senator Cook, Mr. Weispfenning said South Dakota operates its wildlife services program directly and receives federal funds for a portion of the costs of the program. He said the federal funding is not as readily available as in the past.

In response to a question from Senator Christmann, Mr. Phil Mastrangelo, State Director, APHIS Wildlife Services program, said the program currently uses nonlethal methods of blackbird control, including habitat management and harassment. He said a poison-baiting program would be effective on blackbirds but would also impact other birds. He said spring baiting would be more effective because the blackbird population is lower in the spring than in the fall and the blackbirds are hungry as they migrate back into the state.

In response to a question from Senator Christmann, Mr. Mastrangelo said the advantage of having a federal government full-time pilot and a federal government-owned aircraft is the availability of the pilot and the aircraft when needs arise.

In response to a question from Representative Pinkerton, Mr. Mastrangelo said the Great Plains Field Station in Bismarck is associated with the Wildlife Services research program in Fort Collins, Colorado. He said all research efforts are directed toward managing blackbird damage to sunflowers. He said the research program is currently working on developing a chemical repellent to be used on sunflower heads.

In response to a question from Representative Pinkerton, Mr. Mastrangelo said a bounty system for predatory animals would endanger animals that are not causing predatory concerns. He said he is not aware of any bounty systems currently being used in the United States.

Mr. Roger Rostvet, Deputy Director, Game and Fish Department, said the department has received complaints that revenue from hunting and fishing licenses is being used for predatory services that should be a state general fund responsibility.

In response to a question from Representative Wald, Mr. Rostvet said the Game and Fish Department handles animal depredation complaints and refers callers to Wildlife Services for predator complaints.

## **DEPARTMENT OF CORRECTIONS AND REHABILITATION PERFORMANCE AUDIT FOLLOWUP**

Mr. G. Smith presented the followup report on the Department of Corrections and Rehabilitation performance audit. He said 26 prior audit recommendations were fully implemented, 19 were partially implemented, 5 were not implemented, and 1 was determined to be no longer applicable.

Ms. Leann K. Bertsch, Director, Department of Corrections and Rehabilitation, said the department is committed to implementing the recommendations that were determined to be partially or not implemented. She said the department may not be able to fully implement some of the recommendations due to limited funding.

In response to a question from Representative Boucher, Ms. Bertsch said the Department of Corrections and Rehabilitation will begin conducting education and employment skill-level assessments during orientation for new inmates.

Representative Boucher suggested the Department of Corrections and Rehabilitation provide information at a future committee meeting regarding the number of inmates who participate in educational or vocational services provided by the department and those that become employed upon release.

In response to a question from Representative Wald, Ms. Bertsch said the department uses county jails for transition purposes so an inmate can get a job and be closer to family. She said county jails are not used for inmates with medical needs or inmates with disciplinary problems.

In response to a question from Senator Christmann, Ms. Bertsch said most juveniles at the Youth Correctional Center have severe mental health issues and have been placed on psychotropic drugs before they enter the juvenile system. She said the juveniles are often not in the system long enough to "ween" them from the prescription drugs. She said she will provide information to the committee regarding the cost of prescription medications at the center.

In response to a question from Representative Skarphol, Ms. Bertsch said a Department of Corrections and Rehabilitation employee is currently receiving training from Job Service North Dakota and the department will soon be using the same

educational and skill-level assessment tools that Job Service North Dakota uses.

### **INFORMATION TECHNOLOGY DEPARTMENT INFORMATION SYSTEM AUDIT**

Chairman Skarphol called on Mr. Don LaFleur, State Auditor's office, to present the Information Technology Department information system audit for the year ended December 31, 2007. He said the audit report contains the following three recommendations relating to the general controls of the Information Technology Department:

- Test the disaster recovery plan on a yearly basis.
- Develop a formal security plan.
- Develop a formal risk assessment framework.

In response to a question from Representative Skarphol, Mr. LaFleur said risks to an organization need to be identified before a risk plan is developed. He said an organization may implement security procedures to mitigate the risk or choose to accept the risk and either buy insurance or address problems as they occur.

In response to a question from Representative Skarphol, Mr. LaFleur said most computer security is implemented by the Information Technology Department because the department houses most applications and data. He said several recommendations from the network and security audit completed by ManTech Security and Mission Assurance involve a data center reorganization.

Mr. Dan Sipes, Director, Administrative Services Division, Information Technology Department, said the department is determining the best option for the physical size of the data center. He said minor changes to the architecture are done each time the infrastructure is refreshed. He said there are instances where infrastructure may have to be separated to achieve better security.

### **AUDITS OF STATE AGENCIES, BOARDS, AND COMMISSIONS**

Chairman Skarphol called on Mr. Ron Tolstad, State Auditor's office, to present the audit report for the Department of Human Services for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the audit report identifies three internal control findings related to computer access controls, drug inventory controls, and employee background checks. He said the audit report identifies two recommendations for operational improvements relating to foster care adoption and implementation of the public assistance reporting information system. He said the findings relating to computer access controls, drug inventory controls, and implementation of the public assistance reporting information system are also prior audit findings.

Mr. Paul Welk, State Auditor's office, presented the audit report for the Industrial Commission for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report does not contain any findings or recommendations.

Mr. Welk presented the audit report for the Department of Public Instruction for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the audit report identifies one internal control finding related to computer access controls. He said the finding relating to computer access is also a prior audit finding. He said the audit report identifies one finding of noncompliance with legislative intent relating to in-state lodging expense reimbursement and two recommendations for operational improvement relating to grant-closing procedures and use of purchase cards.

Mr. Welk presented the audit report for the Department of Corrections and Rehabilitation for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies two internal control findings relating to computer access controls and segregation of accounting duties.

Mr. Welk presented the audit report for the Insurance Commissioner's office for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies four internal control findings relating to controls surrounding investments, segregation of accounting duties, controls surrounding payroll, and lack of general ledger transaction approval procedures. He said the report identifies one finding of noncompliance with legislative intent relating to procurement policies and two recommendations for operational improvements relating to investment procedures and information systems used to manage accounts receivable.

Mr. G. Smith presented the audit report for the Racing Commission for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies three internal control findings relating to the administrator's account for breeders' awards, tax collections on simulcast wagers, and a code of ethics and business conduct and fraud assessments. He said the report identifies two findings of noncompliance with legislative intent relating to contract award requirements and use of the breeders' fund for purse supplements. He said the report contains two recommendations for operational improvements relating to declining fund balances and award of the breeders' registry contract.

Chairman Skarphol asked the Legislative Council staff to provide information at a future committee meeting regarding the Racing Commission's administrator's account for breeders' awards, including statutory provisions relating to transfers of funds to the

account and whether the account is in compliance with state law.

Representative Aarsvold suggested information be provided at a future committee meeting regarding whether the Racing Commission's fund administrator is bonded.

Representative Boucher suggested the Racing Commission present information at a future committee meeting regarding funds made available for track purses in 2008 and the specific uses of the \$125,000 from the breeders' fund used to supplement purses for races at the two North Dakota tracks, including what events were supplemented and the amount of supplemental funding provided to each track.

Mr. H. Patrick Weir, Chairman, Racing Commission, said as chairman of the Racing Commission he endorses the audit report and will recommend the commission accept each recommendation.

Mr. Welk presented the audit report for the State Treasurer for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies three internal control findings relating to coding and approval controls, the control environment, and control fraud risk assessment activities. He said the report identifies three findings of noncompliance with legislative intent relating to coal severance tax distributions, oil and gas production tax distributions, and estate tax distributions. He said the findings relating to coal severance tax distributions and oil and gas production tax distributions are also prior audit findings.

Mr. Welk presented the audit report for the Tax Commissioner's office for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies one internal control finding relating to new employee background investigations.

Mr. John Grettum, State Auditor's office, presented the audit report for Dickinson State University for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies one internal control finding relating to segregation of accounting duties.

Mr. Grettum presented the audit report for Williston State College for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report does not contain any findings or recommendations.

Mr. Grettum presented the audit report for Minot State University for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report does not contain any findings or recommendations.

Mr. Grettum presented the audit report for Minot State University - Bottineau for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies three internal control findings relating

to online transaction approvals, accounts receivable reconciliation, and segregation of accounting duties.

Mr. Grettum presented the audit report for Mayville State University for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies one internal control finding relating to approval and support for general ledger transactions. He said the report identifies two findings of noncompliance with legislative intent relating to reimbursement for coaches' travel and physical inventory of property.

Mr. Grettum presented the audit report for the State College of Science for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies one internal control finding relating to account coding. He said one prior audit recommendation relating to fixed assets inventory records was not implemented. He said subsequent to the audit, the State Auditor's office was informed of the unauthorized use of a State College of Science telephone calling card. He said the college is negotiating with the phone company regarding payment of the unauthorized charges.

Mr. Grettum presented the audit report for North Dakota State University for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies one internal control finding relating to the processing of expenses and one finding of noncompliance with legislative intent relating to reimbursement for coaches' and support staff travel.

Mr. Grettum presented the audit report for the University of North Dakota for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies one finding of noncompliance with legislative intent relating to reimbursement for coaches' and support staff travel.

Mr. Grettum presented the audit report for Lake Region State College for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report does not contain any findings or recommendations.

Mr. Grettum presented the audit report for Bismarck State College for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report identifies one internal control finding relating to segregation of accounting duties and one finding of noncompliance with legislative intent relating to competitive bidding.

Mr. Grettum presented the audit report for Valley City State University for the years ended June 30, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report does not contain any findings or recommendations.

Chairman Skarphol called on Mr. John Mongeon, Brady, Martz & Associates PC, Certified Public Accountants, to present the audit report for the Bank of North Dakota for the years ended December 31,

2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Mongeon presented the audit report for the beginning farmer revolving loan program for the years ended December 31, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Mongeon presented the audit report for the community water facility loan fund for the years ended December 31, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Mongeon presented the audit report for the developmentally disabled facility loan program for the years ended December 31, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Mongeon presented the audit report for the Public Finance Authority for the years ended December 31, 2007 and 2006. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion. He said the report identifies one internal control finding relating to segregation of accounting duties. He said the finding relating to segregation of accounting duties is also a prior audit finding.

### **NORTH DAKOTA STOCKMEN'S ASSOCIATION AUDIT**

Chairman Skarphol called on Ms. Rhonda Mahlum, Mahlum Goodhart PC, Certified Public Accountants, to present the audit report for the North Dakota Stockmen's Association for the years ended December 31, 2007 and 2006. She reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not contain any findings or recommendations.

### **COLLEGE SAVE AUDIT**

Chairman Skarphol called on Mr. Kirby Martz, Bank of North Dakota, to present the audit report for College SAVE for the years ended December 31, 2007 and 2006. Mr. Martz said the Bank of North Dakota acts as trustee for the College SAVE plan, Upromise Investments, 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 LLP, Certified Public Accountants. He said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Martz said College SAVE was established in September 2000 to encourage the investment of

funds to be used for qualified higher education expenses at eligible educational institutions. He said North Dakota residents contributed \$4.2 million of the \$37.2 million contributed in calendar year 2007.

Mr. Martz said as of December 31, 2007, the assets of the plan exceeded liabilities by \$330.2 million. He said net assets have increased by approximately \$10.1 million, or 3.2 percent, from December 31, 2006, to December 31, 2007. He said a decrease in the net assets is anticipated over the next few years because contributions are expected to decrease in 2008 and withdrawals are expected to exceed contributions.

In response to a question from Senator Lee, Mr. Martz said the College SAVE plan is a qualified state tuition program in compliance with Section 529 of the Internal Revenue Code.

## **WORKFORCE SAFETY AND INSURANCE ANNUAL REPORT**

Chairman Skarphol called on Mr. Bruce Furness, Interim Executive Director and CEO, Workforce Safety and Insurance, to present the annual report for Workforce Safety and Insurance. Mr. Furness said approximately 92 percent of all claims are paid and 53 percent to 55 percent are paid within 14 days. He said satisfaction surveys identify a satisfaction rate of 4.2 out of a possible 5 for injured workers, a satisfaction rate of 4.07 out of a possible 5 for employers, and a satisfaction rate of 3.8 out of a possible 4 for health care professionals providing services to Workforce Safety and Insurance. He said Workforce Safety and Insurance receives approximately 20,000 claims a year, approximately 100 of which are complex claims that are difficult to settle.

Mr. Furness said Workforce Safety and Insurance is authorized 238 full-time equivalent (FTE) positions and has 25 vacant FTE positions. He said the overall attrition rate for the agency is 8 percent. He said Workforce Safety and Insurance is considering again using administrative law judges from the Office of Administrative Hearings to hear claims appeals. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Boucher, Mr. John Halvorson, Workforce Safety and Insurance, said 87 percent of injured-worker claims require medical treatment only and 13 percent require time away from the job. He said approximately 13 percent of claims account for 90 percent of claim dollars disbursed.

In response to a question from Representative Wald, Mr. Furness said Workforce Safety and Insurance reimburses medical claims at a higher rate than Medicaid or Medicare. He said the department increased reimbursement rates for physicians by 28 percent in 2007 but did not increase hospital reimbursement rates.

## **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Committee members requested the audit reports for the Board of Podiatry Examiners (December 31, 2007 and 2006), the Education Standards and Practices Board (June 30, 2007), the Real Estate Commission (June 30, 2007), the Board of Medical Examiners (December 31, 2006), the State Electrical Board (June 30, 2007 and 2006), and the Board of Nursing (June 30, 2007) be presented at the next committee meeting.

Senator Lee suggested a bill draft be presented at a future committee meeting to permit a board or commission to meet in executive session to discuss confidential audit issues.

Senator Lee suggested additional information be presented at a future committee meeting regarding the developmentally disabled facility loan program.

Representative Boucher suggested information be presented at a future committee meeting regarding bank accounts of other state entities that are similar to the administrator's account for breeders' awards.

Senator Cook suggested the State Auditor's office present information at a future committee meeting regarding a questionnaire that could be issued to board or commission members relating to protocols and practices of the board or commission to prevent fraud.

Representative Onstad suggested the State Auditor's office present information at a future committee meeting regarding audit procedures and requirements for political subdivisions and public schools.

Chairman Skarphol asked the Legislative Council staff to arrange for the requested information to be provided to the committee.

**It was moved by Representative Grande, seconded by Representative Aarsvold, and carried on a voice vote that, pursuant to North Dakota Century Code Section 54-35-02.2, the committee accept the following reports presented to the committee:**

1. **Wildlife Services program performance audit (May 9, 2008).**
2. **Department of Corrections and Rehabilitation performance audit followup report (January 24, 2008).**
3. **Information Technology Department information system audit (December 31, 2007).**
4. **Department of Human Services (June 30, 2007 and 2006).**
5. **Industrial Commission (June 30, 2007 and 2006).**
6. **Department of Public Instruction (June 30, 2007 and 2006).**
7. **Department of Corrections and Rehabilitation (June 30, 2007 and 2006).**
8. **Insurance Commissioner's office (June 30, 2007 and 2006).**
9. **Racing Commission (June 30, 2007 and 2006).**
10. **State Treasurer (June 30, 2007 and 2006).**
11. **Tax Commissioner's office (June 30, 2007 and 2006).**
12. **Dickinson State University (June 30, 2007 and 2006).**
13. **Williston State College (June 30, 2007 and 2006).**
14. **Minot State University (June 30, 2007 and 2006).**
15. **Minot State University - Bottineau (June 30, 2007 and 2006).**
16. **Mayville State University (June 30, 2007 and 2006).**
17. **State College of Science (June 30, 2007 and 2006).**
18. **North Dakota State University (June 30, 2007 and 2006).**
19. **University of North Dakota (June 30, 2007 and 2006).**
20. **Lake Region State College (June 30, 2007 and 2006).**
21. **Bismarck State College (June 30, 2007 and 2006).**
22. **Valley City State University (June 30, 2007 and 2006).**
23. **Bank of North Dakota (December 31, 2007 and 2006).**
24. **Beginning farmer revolving loan program (December 31, 2007 and 2006).**
25. **Community water facility loan fund (December 31, 2007 and 2006).**
26. **Developmentally disabled facility loan program (December 31, 2007 and 2006).**
27. **Public Finance Authority (December 31, 2007 and 2006).**
28. **North Dakota Stockmen's Association (December 31, 2007 and 2006).**
29. **College SAVE (December 31, 2007 and 2006).**
30. **Reports available but not selected for presentation:**
  - a. **Board of Reflexology (June 30, 2007).**
  - b. **Examining Committee of Physical Therapists (June 30, 2006 and 2005).**
  - c. **Board of Social Work Examiners (June 30, 2007 and 2006).**
  - d. **Board of Addiction Counseling Examiners (June 30, 2007 and 2006).**
  - e. **Board of Dental Examiners (June 30, 2007 and 2006).**
  - f. **Board of Law Examiners (June 30, 2007 and 2006).**
  - g. **Board of Registration for Professional Soil Classifiers (June 30, 2007 and 2006).**
  - h. **Board of Registration for Professional Engineers and Land Surveyors (June 30, 2007).**

- i. **Board of Barber Examiners (August 31, 2007 and 2006).**
- j. **Private Investigation and Security Board (December 31, 2006).**
- k. **Board of Pharmacy (June 30, 2007 and 2006).**

No further business appearing, Chairman Skarphol adjourned the meeting at 4:20 p.m.

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Becky Keller  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:2