

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE**

Wednesday, July 16, 2014  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Gary Kreidt, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Gary Kreidt, Wesley R. Belter, Jeff Delzer, Patrick Hatlestad, Jerry Kelsh, Andrew G. Maragos, Bob Martinson, Corey Mock, Chet Pollert, Dan Ruby, Jim Schmidt, Robert J. Skarphol, Wayne Trottier; Senators Ralph Kilzer, Judy Lee, David O'Connell, Terry M. Wanzek

**Members absent:** Representatives Ron Guggisberg, Scot Kelsh, Keith Kempenich

**Others present:** See ([Appendix A](#))

**It was moved by Senator O'Connell, seconded by Senator Wanzek, and carried on a voice vote that the minutes of the January 21, 2014, meeting be approved as distributed.**

**GAME AND FISH DEPARTMENT PERFORMANCE AUDIT**

Mr. Jason Wahl, State Auditor's Office, presented the report ([Appendix B](#)) entitled *Performance Audit Report - Game and Fish Department Report No. 3034*. Mr. Wahl said the objective of the audit was to provide an assessment of the private land open to sportsman (PLOTS) program to determine if it is operating effectively and an assessment of the Game and Fish Department to determine if it is in compliance with laws, rules, and policies related to human resources and the use of resources.

Mr. Wahl said the State Auditor's office determined:

- The department's PLOTS program goal of one million acres is not a reasonable goal for the program. The goal was originally established in 2003, and since, there have been significant changes affecting PLOTS and no changes have been made to the original goal.
- The department was in noncompliance with procurement requirements.
- The department had not established appropriate agreements for services being received.
- The department provided funds as sponsorship payments to various private organizations.
- The department's employees received payments they were not entitled to.
- The department has areas that need improvement with the use of public funds.
- The department treated a temporary position as a full-time equivalent (FTE) position even though no legislative authorization existed for the position.
- The department was in noncompliance with general legislative salary increase requirements.
- The department needs improvements to adequately safeguard sensitive information obtained and maintained by the department.
- The department had not properly inventoried and was unaware of the location of over 100 guns used in its volunteer hunter education program.

Mr. Wahl said the performance audit contains 44 recommendations of which the department fully agreed with 43 of the recommendations. He said the 44 recommendations include:

1. Obtain input from stakeholders of PLOTS to identify expectations of the program and use such information to establish an appropriate goal to measure the effectiveness of the program.
2. Establish adequate policies and procedures to improve the operations and effectiveness of PLOTS.
3. Comply with policies and procedures regarding PLOTS.

4. Ensure compliance with terms and conditions included in PLOTS agreements.
5. Ensure the operations of the PLOTS program are adequately monitored.
6. Ensure PLOTS agreements are signed by both parties prior to the agreement's effective date.
7. Make improvements regarding district priority incentive areas.
8. Make improvements regarding ownership of land included in PLOTS agreements.
9. Ensure adequate information is readily available to hunters regarding PLOTS.
10. Ensure the information made available to landowners regarding PLOTS is up-to-date and user-friendly.
11. Establish adequate policies and procedures to improve the operations and effectiveness of the depredation assistance program.
12. Comply with policies and procedures regarding the depredation assistance program.
13. Establish a monitoring process for the depredation assistance program.
14. Meet with the Risk Management Division of the Office of Management and Budget (OMB) to address the risks associated with providing state-owned property to private individuals as part of the depredation assistance program.
15. Comply with procurement laws, rules, and policies.
16. Meet with representatives of the State Procurement Office to:
  - a. Receive guidance on determining the required procurement process to use for goods being purchased for apparent public improvement purposes.
  - b. Review various relationships and agreements, including memorandums of understanding and cooperative agreements, to determine the appropriate procurement requirements.
17. Comply with requirements of the P-Card Manual and ensure only the authorized person is allowed to use the P-Card.
18. Make improvements with contracts and agreements entered for services.
19. Make improvements with contract administration.
20. Ensure an appropriate grant program is established when the department is to provide public funds for sponsorships and similar payments.
21. Ensure payments to employees comply with applicable laws, rules, and policies.
22. Obtain legal advice to determine whether a game warden's district constitutes normal place of employment pursuant to North Dakota Century Code (NDCC) Section 44-08-04 and establish in policy when game wardens are considered to be in travel status.
23. Document the working arrangements for temporary and seasonal employees upfront.
24. Comply with OMB Policy 217 regarding when employees are permitted to participate in meals provided by the department.
25. Acquire and maintain adequate supporting documentation for expenditures.
26. Make improvements with the use of public funds.
27. Ensure employees who are responsible for approving payments for travel expenses or other expenditures of public funds comply with NDCC Section 44-08-05.1 and determine before approving the payments that the expenditures were for lawful and official purposes, actually due to the individuals, and that the payments contain no false claims.
28. Comply with North Dakota Administrative Code (NDAC) requirements regarding annual and sick leave and ensure temporary employees are not granted such leave.
29. Ensure a consistent and reasonable screening process is used to evaluate job applicants.
30. Ensure compliance with records management requirements and ensure applicable documentation regarding the hiring process is maintained for the required time period.
31. Comply with NDCC Chapter 37-19.1.
32. Ensure compliance with Session Laws requirements regarding salary increases.

33. Comply with NDAC Section 4-07-05-03 and ensure individuals employed, promoted, reinstated, or transferred meet at least the minimum qualifications of the job class.
34. Make improvements to the department's performance evaluation process.
35. Adequately safeguard sensitive information obtained and maintained by the department.
36. Establish formal policies and procedures regarding the volunteer education instructor program.
37. Establish formal policies and procedures regarding guns used for hunter education.
38. Periodically check the state's sex offender registry for all volunteer instructors.
39. Ensure only allowable costs are charged to federal grant programs.
40. Establish formal requirements to promote and increase the safety of employees operating off-highway vehicles, snowmobiles, and watercraft.
41. Establish policies and procedures regarding promotional items.
42. Make improvements with the policies and procedures regarding clothing provided to employees.
43. Make improvements with inventory processes.
44. Make improvements to policies and procedures regarding confiscated and seized items.

Representative Skarphol suggested the Legislative Council staff determine if there is any provision in a law requiring state agencies to conduct business only with entities registered and in good standing with the Secretary of State's office.

Representative Skarphol suggested the State Auditor's office determine if other state agencies are conducting business with entities not registered with the Secretary of State's office. He suggested the State Auditor's office determine whether entities agencies are conducting business with are registered with the Secretary of State's office as part of its operational audit process.

Chairman Kreidt asked that a representative of the State Auditor's office or a representative of the Game and Fish Department provide information to the committee regarding any response from the Attorney General's office addressing requested items identified in the performance audit.

### **GAME AND FISH DEPARTMENT COMMENTS ON PERFORMANCE AUDIT FINDINGS AND RECOMMENDATIONS**

Mr. Terry Steinwand, Director, Game and Fish Department, commented regarding the performance audit of the Game and Fish Department. He said the department has implemented 80 percent of the 44 recommendations included in the audit, and the department anticipates the remaining recommendations to be implemented prior to the next review conducted by the State Auditor's office. He said the department has worked with the OMB to provide training sessions for all supervisors on fiscal management, procurement, human resource management, and risk management. He said the department in the process of developing a database that will help manage the status and compliance of all department contracts. He said the department is working with the Attorney General's office and is currently in the process of implementing a sponsorship application and reporting form. He said the department has established procedures for all supervisors to use when approving employee reimbursements.

In response to a question from Representative Mock, Mr. Steinwand said the department has verified 704 guns on an inventory list and used in the volunteer hunter education program. He said the department is in the process of verifying the remaining 18 guns unaccounted for and used in the volunteer hunter education program.

In response to a question from Representative Maragos, Mr. Steinwand said the department plans to issue a letter to seek to recover funds incorrectly paid to an individual through the PLOTS program.

In response to a question from Representative Ruby, Mr. Steinwand said the department will not conduct business with the North Dakota Landowner-Sportsman Council or any other entity not registered and in good standing with the Secretary of State's office.

Chairman Kreidt asked that a representative of the Game and Fish Department update the committee on the department's progress in implementing the recommendations at the committee's next meeting.

## FUTURE PERFORMANCE AUDITS

Mr. Wahl presented information ([Appendix C](#)) regarding future performance audits. He said, due to various factors including other projects the audit team was conducting and employee turnover within the performance audit section, the State Auditor's office has not yet conducted the performance audit on the use of tuition waivers and student stipends at the North Dakota University System institutions as requested by the committee in March 2012. He said the State Auditor's office is seeking direction from the committee regarding whether the performance audit should still be conducted.

Mr. Wahl said the State Auditor's office has alternative performance audits that could be conducted, including:

- One-time funding provided by the 2013 legislature.
- Various oil-related topics and operations.
- Department of Trust Lands.

Representative Delzer expressed concern that the committee was not informed that the performance audit on the use of tuition waivers and student stipends at the University System institutions was postponed.

Representative Martinson expressed concern that the State Auditor did not respond timely to the committee's request.

**It was moved by Representative Skarphol, seconded by Senator Lee, and failed on a roll call vote that the committee rescind the motion approved during the March 27, 2012, Legislative Audit and Fiscal Review Committee meeting that pursuant to NDCC Section 54-10-01, the State Auditor conduct a performance audit of the use of tuition waivers and student stipends at University System institutions.** Representatives Kreidt, J. Kelsh, and Skarphol and Senators Lee and O'Connell voted "aye." Representatives Belter, Delzer, Hatlestad, Maragos, Martinson, Mock, Pollert, Ruby, Schmidt, and Trottier and Senators Kilzer and Wanzek voted "nay." **The motion failed.**

Mr. Wahl asked for clarification the time period to be reviewed as part of the performance audit.

**It was moved by Representative Skarphol, seconded by Representative Pollert, and carried on a roll call vote that pursuant to NDCC Section 54-10-01, the State Auditor conduct a performance audit of the use of tuition waivers and students stipends at University System institutions for the 2013-14 academic year and the three previous academic years. The audit must review any policies and procedures used by the University System or each institution to provide the waivers or stipends. The performance audit must include:**

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

- **Recommendations for improving accountability for the awarding of tuition waivers and student stipends.**
- **Recommendations for improvements to the information included in student unit records and to the use of the information.**
- **The number and amount of waivers or discounts for resident students, nonresident students, and international students.**

Representatives Kreidt, Belter, Delzer, Hatlestad, J. Kelsh, Maragos, Martinson, Mock, Pollert, Ruby, Schmidt, Skarphol, and Trottier and Senators Kilzer, Lee, O’Connell, and Wanzek voted "aye." No negative votes were cast.

**PROVIDING COMMITTEE AUDIT REPORTS - ELECTRONIC VIEWING**

Chairman Kreidt called on Mr. Donald Lafleur, Audit Manager, Information Systems Audit Section, State Auditor's office, who provided information ([Appendix D](#)) regarding electronic viewing of audit reports provided to the committee. Mr. Lafleur said the State Auditor's office and ManTech Mission, Cyber, and Intelligence Solutions Group will be providing the North Dakota information technology security audit vulnerability assessment and penetration testing presentation to the committee using only an electronic viewing format. He said future audit presentations could be available for electronic viewing if the committee requests. He said the change to an electronic viewing format would save the State Auditor's office additional printing costs.

**INFORMATION TECHNOLOGY SECURITY AUDIT  
VULNERABILITY ASSESSMENT AND PENETRATION TESTING**

Chairman Kreidt called on Mr. Mark Shaw, Senior Executive Director, Cyber Security Solutions Division, ManTech Mission, Cyber, and Intelligence Solutions Group, who provided information ([Appendix E](#)) regarding vulnerability assessment, security assessment of nonconsolidated information technology services, and penetration testing of the Information Technology Department. Mr. Shaw said ManTech International Corporation performed a network vulnerability assessment, security assessment of nonconsolidated information technology services, and penetration testing of the Information Technology Department's statewide computer network from November 2013 to January 2014. He said the assessment and penetration testing consisted of the following five major project tasks:

Project Task	Description
External vulnerability assessment	An external vulnerability assessment is intended to provide an organization with information on the overall security and risk of the computer network from an external point of view. External assessment procedures focus on performing Internet research, discovering systems connected to the Internet, and probing systems to discover misconfigurations and vulnerabilities.
Internal vulnerability assessment	An internal vulnerability assessment is intended to provide an organization with information on the overall security and risk of the systems and network from an internal point of view. Internal assessment procedures focus on examining systems for vulnerabilities, misconfigurations, and implementation flaws that may expose the system and network to additional risk.
Application vulnerability assessment	An application vulnerability assessment is intended to provide Internet users access to a variety of types of information. Application assessment procedures focus on the functionality of the application and not the security of the application.
Security assessment of nonconsolidated information technology services	A security assessment of nonconsolidated information technology services is intended to provide an agency with a baseline analysis of the current security architecture and configurations. Security assessment of nonconsolidated information technology service procedures focus on a series of side-by-side tabletop reviews and discussions with key personnel focusing on technical implementation of specific security mechanisms within the agency's environment.
Penetration testing	Penetration testing is intended to provide an organization with information on the overall security and risk of its network from an external or an internal point of view. Penetration testing focuses on gaining access to systems under an organization's control.

Mr. Shaw said vulnerabilities discovered were assigned a risk identifier that was relative to the network or system under test. He said the three risk levels used are defined as:

- High-risk - A high likelihood of compromise of system-level access exists. If exploited, this vulnerability may allow total control of the system.
- Medium-risk - A vulnerability exists that may provide access to critical data or user-level access to a system. This vulnerability may lead to further exploitation.
- Low-risk - A vulnerability exists that may disclose information but does not directly lead to the exploitation of a system.

Mr. Shaw provided the following summary of the projects findings and recommendations:

Project Task	Findings
External vulnerability assessment	There were three high-risk vulnerability findings, seven medium-risk vulnerability findings, and one low-risk vulnerability finding. The findings were classified into two categories--misconfigured systems or applications and operating systems or software applications that were missing critical security patches.
Internal vulnerability assessment	There were 24 high-risk vulnerability findings and 3 medium-risk vulnerability findings. The findings are classified into two categories--misconfigured systems or applications and operating systems or software applications that were missing critical security patches.
Application vulnerability assessment	The NDGOV State Portal has one medium-risk vulnerability finding, and the criminal justice information sharing (CJIS) application has two medium-risk vulnerability findings.
Security assessment of nonconsolidated information technology services	The physical security measures varied greatly between the agencies depending on the specific mission of the agency assessed. The physical security of the agencies assessed was determined to be adequate to very good.
Penetration testing	The test team was able to access either user- or system-level access during five of nine executed scenarios. The test team did not succeed in achieving system access on the remaining four scenarios.

Mr. Shaw provided the following recommendations:

- Continue to mature a structured patch management program - Multiple systems were found to be missing critical operating system and application security patches. A baseline should be established to document deployed operating systems and application software installed on each system in the environment. Application software that is not mission critical should be removed. Regular review should be completed to ensure all operating systems and application security patches are deployed in a timely manner. Additional priority should be placed on the timelines for deploying patches to systems and applications that are publicly accessible from the Internet.
- Internal segregation of critical servers and development systems - Segregate servers deemed to be hosting critical data or services from the internal network by hosting these servers on a separate sub-net strictly controlled by access lists. Development servers should also be completely isolated on a separate sub-net with no access to other state resources.
- Require use of encrypted protocols for remote management - Large numbers of systems on the state's internal network were noted using unencrypted protocols for remote access and management of systems. Security best practices recommend the use of encrypted protocols for remote access and management and utilize only secure protocols and where possible implement Internet Protocol (IP)-based access restrictions.
- Restrict access to protocols for remote management from the Internet - Restrict access to protocols for remote management from the Internet - IP-based access controls should be put in place to restrict access to known and trusted IP addresses that have a legitimate need to connect to remote access services.
- Develop a formal vulnerability scanning program - Nonconsolidated services - Agencies with nonconsolidated information technology services should institute regular vulnerability scanning of all systems on a quarterly or bimonthly basis to ensure compliance with system patching requirements. Systems with vulnerabilities should be documented and evaluated, and a determination made as to the validity of the vulnerability. Corrective action should be required and implemented. Scans should be run with administrative privileges to ensure all vulnerabilities with locally installed software can be discovered and documented.

Mr. Shaw said the findings are typical of organizations with an enterprise system that is similar in size to that of the state of North Dakota.

Representative Skarphol suggested a representative of ManTech Mission, Cyber, and Intelligence Solutions Group provide the committee with a list of agencies that have not implemented the computer system patches and with the age of each patch that has not been implemented by the agency.

### **STATE AUDITOR'S OFFICE PEER REVIEW**

Chairman Kreidt called on Mr. Ed Nagel, Director, State Auditor's office, who presented information ([Appendix F](#)) on the peer review of the State Auditor's office performed by the National State Auditors Association for the period March 1, 2013, through March 31, 2014. Mr. Nagel said auditing standards require a peer review every three years. He said audit organizations can receive a rating of pass, pass with deficiency, or fail. He said the State Auditor's office received a peer review rating of pass.

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

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

Chairman Kreidt called on Mr. Lowell Nelson, Overmoe & Nelson, Ltd., Certified Public Accountants, who presented by teleconference the audit report for the Private Investigative and Security Board for the fiscal years ended December 31, 2012 and 2011. Mr. Nelson reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Chairman Kreidt called on Ms. Rhonda Mahlum, Mahlum Goodhart, PC, Certified Public Accountants, who presented the audit report for the North Dakota Stockmen's Association for the fiscal years ended December 31, 2013 and 2012. Ms. Mahlum reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion. She said the report identified one internal control finding relating to segregation of duties.

### **UNIVERSITY SYSTEM ANNUAL FINANCIAL REPORT**

Chairman Kreidt called on Ms. Robin Putnam, Director of Financial Reporting, North Dakota University System, who presented the annual financial report for the University System for the fiscal year ended June 30, 2013. Ms. Putnam said an unqualified opinion was issued on the financial statements. As of June 30, 2013, she said, the University System had total assets of \$1,470 million and total liabilities of \$428 million, resulting in net assets of \$1,042 million. She said net assets increased \$70.6 million during fiscal year 2013.

Ms. Putnam said the annual degree credit head count for fall 2012 was 48,203, a decrease of 1 percent over the previous fall enrollment. She said total operating revenues of the University System were similar to fiscal year 2012.

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

Chairman Kreidt called on Mr. Ron Tolstad, Audit Manager, State Auditor's office, who presented the audit report on the internal controls and compliance report on the audit of the basic financial statements included in the June 30, 2013, annual financial report for the state of North Dakota Comprehensive Annual Financial Report. 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, 2013. He reviewed the auditor's responses to the committee guidelines and said the report contains an unmodified opinion, and the report identified three internal control weaknesses and two significant audit adjustments.

Mr. Tolstad said the three internal control weaknesses included:

- Lack of control over financial statement adjustments.
- Improper capital asset reporting.
- Improper reconciliation of motor vehicle clearing account.

Mr. Tolstad said the two significant audit adjustments included:

- A financial statement adjustment error of \$54.2 million to the fund financial statements and \$26.6 million to the governmentwide financial statements.
- Improperly reporting \$2.8 million construction-in-progress in 2013 and a prior period adjustment of \$17.9 million in 2012.

Mr. Nagel presented the audit report for the North Dakota Soybean Council for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Mr. Nagel presented the audit report for the North Dakota Lottery for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Mr. Nagel presented the audit report for the North Dakota Veterans' Home for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to overspending of payroll authority.

Mr. Nagel presented the audit report for the Parks and Recreation Department for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to inadequate procedures surrounding concession inventory.

Mr. Nagel presented the audit report for the North Dakota Oilseed Council for the years ended June 30, 2012 and 2011. He reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to segregation of duties.

Mr. Nagel presented the audit report for the Department of Career and Technical Education for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented the audit report for the Department of Public Instruction for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented the audit report for the Department of Human Services for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report included two prior recommendations not implemented and identified four internal control findings.

Mr. Nagel said the two prior audit recommendations not implemented relate to:

- Control and fraud risk assessment activities.
- Lack of internal controls at the State Hospital's commissary.

Mr. Nagel said the four internal control findings relate to:

- Development of procedures to ensure software purchased from outside vendors and internally developed software is properly capitalized.
- Fraud risk assessments have not been completed for several major program operations managed by the department.
- The State Hospital's commissary internal control weaknesses.
- Online child care provider records need improvement.

Representative Skarphol suggested a representative of the Department of Human Services provide the committee with a list of the department's high-risk information technology systems and the age of each system.

Mr. Nagel presented the audit report for the Governor's office for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented the audit report for the Office of Administrative Hearings for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented the audit report for OMB for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified one internal control finding relating to lack of reconciliations surrounding sales and deposits for surplus property.



Mr. Nagel presented the audit report for the judicial branch for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Chairman Kreidt called on Mr. Paul Welk, Audit Manager, State Auditor's office, who presented the audit report for the Public Service Commission for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified five internal control findings.

Mr. Welk said the five internal control findings relate to:

- Grain sellers not being adequately protected.
- Insolvency proceeds returned to grain buyer.
- Inadequate grain buyer inspection and enforcement process.
- Inadequate grain buyer licensing process.
- Inadequate grain buyer consumer complaint handling process.

Chairman Kreidt called on Mr. Randel Christmann, Commissioner, Public Service Commission, who provided responses to the committee regarding questions asked about the Public Service Commission internal control findings. Mr. Christmann said the commission is exploring an option to increase bond levels for grain buyers with a higher risk of financial insolvency rather than to increase bond levels for all grain buyers.

Mr. Christmann said the commission is exploring options that would allow the grain licensing division to collect, protect, and use documents to verify grain buyer financial positions. He said the commission is exploring options that will protect the confidentiality of the grain buyer's financial position prior to any change.

Representative Skarphol suggested the Legislative Council staff determine if a law currently exists that would ensure that any financial information gathered by the Public Service Commission from grain buyers would be kept confidential.

Mr. Nagel presented the audit report for the Commission on Legal Counsel for Indigents for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Nagel presented the audit report for the Tobacco Prevention and Control Executive Committee for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified two internal control findings relating to inadequate controls surrounding grant management and the North Dakota cigarette tax being significantly lower than other states.

Representative Delzer questioned the purpose of the recommendation relating to the cigarette tax rate. Mr. Nagel said the recommendation is based on the North Dakota rate being less than the national average.

Representative Belter expressed concern that the State Auditor's office is making policy-related recommendations.

Representative Skarphol suggested the State Auditor's office review whether the Tobacco Prevention and Control Executive Committee is spending its funds at a level to be in compliance with provision of Initiated Measure No. 3, which was passed in 2008. Chairman Kreidt asked the State Auditor's office to conduct this review and report to the committee at its next meeting.

Chairman Kreidt called on Mr. John Grettum, Audit Manager, State Auditor's office, who presented the audit report for Mayville State University for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Mr. Grettum presented the audit report for Dickinson State University for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified two internal control findings relating to improving student residence controls and improving controls surrounding student enrollment admissions and enrollment reporting.

Mr. Grettum presented the audit report for Valley City State University for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified four internal control findings relating to inadequate controls for bookstore credit adjustments to student accounts, inadequate controls surrounding tuition and fee waivers, inadequate controls surrounding student enrollment reporting, and inadequate controls for student residency determination.

Mr. Grettum presented the audit report for Williston State College for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report identified five internal control findings and three indications of lack of efficiency in financial operations and management of the agency.

Mr. Grettum said the five internal control findings relate to:

- Lack of controls surrounding cash and revenues.
- Lack of controls surrounding fixed assets.
- Lack of controls surrounding payroll.
- Lack of controls surrounding expenditures.
- Lack of controls surrounding purchasing card expenditures.

Mr. Grettum said the three indications of lack of efficiency in financial operations and management of the agency included:

- Inadequate controls surrounding tuition and fee waivers.
- Inadequate controls over noncash adjustments to student accounts.
- Inadequate controls surrounding enrollment reporting.

Mr. Grettum presented the audit report for North Dakota State College of Science for the years ended June 30, 2013 and 2012. He reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Representative Skarphol suggested the operational audit recommendations for the University System be included with the major audit findings that will be available to the Appropriations Committee during the 2015 legislative session.

Chairman Kreidt called on Mr. Chris Lee, Eide Bailly LLP, Certified Public Accountants, and Ms. Katie Mock, Eide Bailly LLP, Certified Public Accountants, who presented the audit report for the Bank of North Dakota for the years ended December 31, 2013 and 2012. Ms. Mock reviewed the auditor's responses to the committee guidelines and said the report contains an unmodified opinion. She said the report includes one significant internal control deficiency relating to unlimited administrator access to a computer system for certain users. She said the report includes one significant audit finding relating to implementation of Governmental Accounting Standards Board (GASB) Nos. 61 and 65 resulting in a \$10.7 million change to the net position as of January 1, 2012.

Ms. Mock said the Bank of North Dakota is the only bank in the United States that reports under both Financial Accounting Standards Board (FASB) and GASB.

Chairman Kreidt called on Mr. Eric Hardmeyer, President and Chief Executive Officer, Bank of North Dakota, who presented information ([Appendix G](#)) regarding two separate accounting standards that the Bank of North Dakota uses to report operating results. He said rating services, regulators and other banks rely on the financial statements prepared using FASB standards while the state's Comprehensive Annual Financial Report is prepared using GASB standards. He said the Bank anticipates there could be significant differences in reported earnings in the future for financial reporting under FASB compared to financial reporting under GASB. He said the key difference is that under FASB gains or losses in investments are reported only on the balance sheet as an adjustment to equity, while under GASB the same gains or losses are reported on the income statement.

Ms. Mock presented the audit report for the beginning farmer revolving loan fund for the years ended December 31, 2013 and 2012. She reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion. She said the report contains one significant deficiency relating to core access to the information technology system.

Ms. Mock presented the audit report for the community water facility loan fund for the years ended December 31, 2013 and 2012. She reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion. She said the report contains one significant deficiency relating to core access to the information technology system.

In response to a question from Senator Lee, Mr. Bob Human, Chief Lending Officer, Bank of North Dakota, said that although the fund has had little activity recently, the Bank of North Dakota is in the process of certifying a number of projects within this fund. He said there is a continued need for this fund.

Ms. Mock presented the audit report for the North Dakota guaranteed student loan program for the years ended September 30, 2013 and 2012. She reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Ms. Mock presented the audit report for the North Dakota Public Finance Authority for the years ended December 31, 2013 and 2012. She reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not include any findings or recommendations.

Chairman Kreidt called on Mr. Tim Porter, Chief Financial Officer, Bank of North Dakota, to present information ([Appendix H](#)) regarding the audit report for College SAVE for the years ended December 31, 2013. Mr. Porter 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 include any findings or recommendations.

The Legislative Budget Analyst and Auditor distributed a report ([Appendix I](#)) to the committee from the Department of Financial Institutions relating to the Bank of North Dakota.

### **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

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

Based on committee member input, Chairman Kreidt requested the audit report for the North Dakota Board of Social Work Examiners for the two-year period ended June 30, 2013, the audit report for the State Board of Addiction Counseling Examiners for the two-year period ended June 30, 2013, the State Electrical Board for the two-year period ended June 30, 2013, and the State Board of Medical Examiners for the two-year period ended December 31, 2012, and the State Board of Cosmetology for the year ending June 30, 2013, be presented at the next committee meeting.

Chairman Kreidt asked that a representative of the Game and Fish Department report at the next committee meeting regarding an update on the status of implementation of the performance audit recommendations and the department's goal for implementing the changes.

**It was moved by Senator O'Connell, seconded by Representative J. Kelsh, and carried on a roll call vote that, pursuant to Section 54-35-02.2, the committee accept the performance audit report of the Game and Fish Department, and the committee accept the following reports presented to the committee:**

- 1. Performance audit of the Game and Fish Department.**
- 2. North Dakota information technology security audit vulnerability assessment and penetration testing (January 2014).**
- 3. Private Investigative and Security Board (December 31, 2012 and 2011).**
- 4. North Dakota Stockmen's Association (December 31, 2013 and 2012).**
- 5. North Dakota University System annual financial report (June 30, 2013).**
- 6. Internal control and compliance report on the North Dakota Comprehensive Annual Financial Report (June 30, 2013).**
- 7. North Dakota Soybean Council (June 30, 2013 and 2012).**
- 8. North Dakota Lottery (June 30, 2013 and 2012).**
- 9. North Dakota Veterans' Home (June 30, 2013 and 2012).**
- 10. Parks and Recreation Department (June 30, 2013 and 2012).**

11. North Dakota Oilseed Council (June 30, 2012 and 2011).
12. Department of Career and Technical Education (June 30, 2013 and 2012).
13. Department of Public Instruction (June 30, 2013 and 2012).
14. Department of Human Services (June 30, 2013 and 2012).
15. Governor's office (June 30, 2013 and 2012).
16. Office of Administrative Hearings (June 30, 2013 and 2012).
17. Office of Management and Budget (June 30, 2013 and 2012).
18. Judicial branch (June 30, 2013 and 2012).
19. Public Service Commission (June 30, 2013 and 2012).
20. Commission on Legal Counsel for Indigents (June 30, 2013 and 2012).
21. Tobacco Prevention and Control Executive Committee (June 30, 2013 and 2012).
22. Mayville State University (June 30, 2013 and 2012).
23. Dickinson State University (June 30, 2013 and 2012).
24. Valley City State University (June 30, 2013 and 2012).
25. Williston State College (June 30, 2013 and 2012).
26. North Dakota State College of Science (June 30, 2013 and 2012).
27. Bank of North Dakota (December 31, 2013 and 2012).
28. Beginning farmer revolving loan fund (December 31, 2013 and 2012).
29. Community water facility loan fund (December 31, 2013 and 2012).
30. North Dakota guaranteed student loan program (September 30, 2013 and 2012).
31. North Dakota Public Finance Authority (December 31, 2013 and 2012).
32. College SAVE (December 31, 2013 and 2012).
33. State Board of Chiropractic Examiners (December 31, 2013).
34. State Board of Registration for Professional Engineers and Land Surveyors (June 30, 2013).
35. State Board of Podiatric Medicine (December 31, 2013).
36. State Board of Dietetic Practice (September 30, 2013 and 2012).
37. State Plumbing Board (June 30, 2013 and 2012).
38. State Board of Psychologist Examiners (June 30, 2013 and 2012).
39. State Board of Massage (June 30, 2013 and 2012).
40. State Board of Architecture and Landscape Architecture (June 30, 2013 and 2012).
41. State Board of Respiratory Care (June 30, 2013 and 2012).
42. State Board of Accountancy (June 30, 2013).
43. State Board of Law Examiners (June 30, 2013 and 2012).
44. State Board of Registration for Professional Soil Classifiers (June 30, 2013 and 2012).
45. Abstracters' Board of Examiners (August 31, 2012 and 2011).
46. North Dakota Real Estate Commission (June 30, 2013).
47. North Dakota Board of Reflexology (June 30, 2013).
48. State Board of Water Well Contractors (June 30, 2012).

Representatives Kreidt, Delzer, Hatlestad, J. Kelsh, Martinson, Schmidt, Skarphol, and Trottier and Senators Kilzer, Lee, O'Connell, and Wanzek voted "aye." No negative votes were cast.

No further business appearing, Chairman Kreidt adjourned the meeting at 4:40 p.m.

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Michael C. Johnson  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:9