

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Wednesday, January 10, 2018
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Jerry Klein, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Jerry Klein, Dwight Cook, Judy Lee, Richard Marcellais; Representatives Patrick Hatlestad, Mary Johnson, Keith Kempenich, Gary Kreidt, Andrew G. Maragos, Mike Nathe, Marvin E. Nelson, Chet Pollert, Wayne A. Trottier

Member absent: Representative Bert Anderson

Others present: See [Appendix A](#)

It was moved by Representative Maragos, seconded by Representative Hatlestad, and carried on a voice vote that the minutes of the July 25, 2017, meeting be approved as distributed.

UNIVERSITY SYSTEM - CONTINUITY OF OPERATIONS PLANNING

At the request of Chairman Klein, Mr. Craig Hashbarger, Audit Manager, State Auditor's office, presented a performance audit report entitled [Continuity of Operations Planning at University of North Dakota](#). He said institutions of higher learning are at risk of being impacted by various emergencies including natural disasters, fires, active shooter incidents, cyberattacks, and pandemics. Disasters may risk lives, injuries, and property damage; and can also affect teaching, research, public service, and other business operations. He said the Federal Emergency Management Agency (FEMA) provides guidance for development and implementation of continuity of operations plans. He said the continuity of operations plan provides a framework to enable an organization to continue essential functions if an event threatens operations or requires relocation of selected staff personnel and functions. The Federal Emergency Management Agency issued [Continuity Guidance Circular 1, Continuity Guidance for Non-Federal Entities](#) to provide guidance to nonfederal entities in developing a continuity of operations plan. He said the guide outlines 10 elements necessary for an effective continuity capability which includes essential functions; orders of succession; delegation of authority; continuity facilities; continuity communications; vital records management; human capital, tests, training, and exercises; devolution of control and direction; and reconstitution of operations. He said the goal of the performance audit was to determine whether the University of North Dakota (UND) continuity of operations plan includes all necessary elements and assures the capability to continue the essential functions of UND. He said the State Auditor's office determined the continuity of operations plan does not fully address some necessary elements.

Mr. Hashbarger said the audit includes four recommendations, which provides UND:

1. Develop and include elements of tests, training, and exercises for both an institutionwide and departmental continuity of operations plan template.
2. Communicate the university's essential functions and department level roles to those individuals responsible for developing and implementing elements of the university's continuity of operations plan.
3. Add fields to the continuity of operations plan template for completion date, reviewer name, and revision and approval dates.
4. Communicate the university's need for appropriate department level continuity of operations plan to those individuals responsible for completing the plan.

COMMENTS BY UNIVERSITY SYSTEM REPRESENTATIVES

At the request of Chairman Klein, Mr. Eric S. Plummer, Associate Vice President for Public Safety, and Chief of Police, University of North Dakota, provided comments regarding the performance audit report of the continuity of operations planning at UND. He said the university agrees with all the recommendations in the audit report. He said the university has developed an enterprise risk management committee that will conduct the business process analysis and an annual risk assessment of the institution to aid in the continuity planning efforts. He said the

committee will also be responsible for reviewing continuity of operations planning documents to ensure the critical functions of the institution and its divisions are addressed and modified as required. He said the university has also been testing and will deploy a continuity planning software package to aid in plan development and tracking and training across all divisions. He said a number of the recommendations in the audit report have already been implemented.

UNIVERSITY SYSTEM - EMERGENCY PREPAREDNESS

At the request of Chairman Klein, Mr. Hashbarger presented performance audit reports entitled [Emergency Preparedness at Dickinson State University](#); [Emergency Preparedness at Mayville State University](#); [Emergency Preparedness at Minot State University](#); and [Emergency Preparedness at Valley City State University](#). He said the State Board of Higher Education adopted Policy 906 in May 2012. He said Policy 906 establishes the requirement for all North Dakota University System institutions to develop and implement comprehensive emergency management plans. He said Policy 906 defines an emergency management plan as a comprehensive, integrated plan that addresses emergency preparedness, emergency management, disaster and emergency response and recovery, mitigation, and continuity of operations. He said the goal of the performance audits was to determine whether Dickinson State University, Mayville State University, Minot State University, and Valley City State University have an effective strategy regarding the development and implementation of an emergency operations plan. He said the State Auditor's office determined Dickinson State University and Valley City State University have developed an emergency operation plan, but several opportunities for improvement were identified. He said the State Auditor's office determined Mayville State University and Minot State University do not have an effective strategy regarding the development and implementation of an emergency operation plan. He said the emergency preparedness performance audit report for Dickinson State University includes the following seven recommendations:

1. Broaden the emergency management task force to include representatives from across the institution and develop roles and responsibilities for all representatives of the task force and the operations support group.
2. Implement a formal risk assessment to identify and evaluate potential emergency events.
3. Establish formalized goals and objectives for addressing threats and hazards to prepare for emergency situations.
4. Formalize minimum training requirements for employees with emergency operations responsibilities and include in the comprehensive emergency operation plan.
5. Develop and incorporate appropriate plan exercise requirements into the comprehensive emergency operation plan.
6. Enforce and strengthen policies for periodically reviewing and revising the emergency operation plan.
7. Implement a comprehensive continuity of operations plan.

Mr. Hashbarger said the emergency preparedness performance audit report for Mayville State University includes the following seven recommendations:

1. Develop a collaborative planning team for implementing an emergency operations plan.
2. Implement a risk assessment process to evaluate potential emergency events.
3. Establish goals and objectives for addressing threats and hazards to prepare for emergency situations.
4. Develop hazard-specific emergency procedures for the comprehensive emergency operation plan.
5. Develop appropriate training requirements and plan exercise requirements for the comprehensive emergency plan.
6. Implement policies for periodically reviewing and revising the emergency operation plan.
7. Implement a comprehensive continuity of operations plan, including applicable requirements of the State Board of Higher Education Policy 906 and elements recommended in the FEMA *Continuity Guidance Circular 1* (CGC 1) policy.

Mr. Hashbarger said the emergency preparedness performance audit report for Minot State University includes the following six recommendations:

1. Develop clearly defined roles and responsibilities for members of the collaborative planning team.
2. Implement a formalized risk assessment process to evaluate potential emergency events.
3. Establish formalized goals and objectives for handling threats and hazards to prepare for emergency

situations.

4. Develop appropriate training requirements pursuant to the State Board of Higher Education Policy 906.
5. Implement policies for periodically reviewing and revising the emergency operation plan.
6. Implement a comprehensive continuity of operations plan.

Mr. Hashbarger said the emergency preparedness performance audit report for Valley City State University includes the following four recommendations:

1. Implement a formal risk assessment process to evaluate potential emergency events.
2. Establish formalized goals and objectives for handling threats and hazards to prepare for emergency situations.
3. Develop minimum training and plan exercise requirements into the comprehensive emergency operation plan.
4. Implement policies for periodically reviewing and revising emergency preparedness plans, policies, and procedures.

COMMENTS BY UNIVERSITY SYSTEM REPRESENTATIVES

At the request of Chairman Klein, Mr. Rick Tonder, Director of Facilities Planning, North Dakota University System, commented regarding the performance audit reports relating to the emergency preparedness at Dickinson State University, Mayville State University, Minot State University, and Valley City State University. He expressed support for the performance audits. He said the dynamics of an emergency operation plan are complex. He said the template outlined for the emergency operation plan pursuant to State Board of Higher Education Policy 906 is broad and can engage many resources. He said the performance audits will assist the University System in developing comprehensive plans.

In response to a question from Representative Pollert, Mr. Tonder said evaluation of policies and procedures to comply with State Board of Higher Education Policy 906 is an ongoing process for the institutions. He said institutions also consider and work with the local communities to identify overall resources available in the event of an emergency.

In response to a question from Representative Kempenich, Mr. Tonder said the institutions and local communities work to identify solutions when there are gaps in available resources.

In response to a question from Representative Hatlestad, Mr. Plummer said the [Guide for Developing High-Quality Emergency Operations Plans for Institutions of Higher Education](#) identifies what an institution should have in a basic plan, in the functional appendices, and for hazard-specific appendices.

DEPARTMENT OF HUMAN SERVICES ACCOUNTS RECEIVABLES

Chairman Klein called on Mr. Jerome Ekstrom, Department of Human Services, who presented information ([Appendix B](#)) on the status of accounts receivables pursuant to North Dakota Century Code Section 25-04-17 and 50-06.3-08. He said the total amount of accounts receivable written off by the Department of Human Services for fiscal year 2017 was \$7,530,235, of which \$762,567 relates to the human services centers, \$6,436,796 relates to the State Hospital, and \$330,872 relates to the Life Skills and Transition Center.

In response to a question from Representative Maragos, Ms. Donna Aukland, Accounting Manager, Department of Human Services, said the Life Skills and Transition Center receives Medicaid payments for its services. She said the State Hospital is considered an institution for mental disease facility, and therefore, is not eligible for Medicaid payments.

AUDITS OF STATE AGENCIES, BOARDS, AND COMMISSIONS

Chairman Klein called on Ms. Mindy Piatz, Brady, Martz & Associates, PC, Certified Public Accountants, who presented a report entitled [North Dakota Housing Finance Agency Bismarck, North Dakota Audited Financial Statements for the Years Ended June 30, 2017 and 2016](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Piatz presented a report entitled [North Dakota Housing Incentive Fund Bismarck, North Dakota Audited Financial Statements for the Years Ended June 30, 2017 and 2016](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Piatz presented a report entitled [Job Service North Dakota Bismarck, North Dakota Audited Financial Statements for the Years Ended June 30, 2017 and 2016](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Ms. Piatz presented a report entitled [North Dakota Department of Trust Lands Bismarck, North Dakota Audited Financial Statements for the Years 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.

DEPARTMENT OF TRUST LANDS STATUS UPDATE

Chairman Klein called on Ms. Jodi Smith, Director, Department of Trust Lands, who presented information ([Appendix C](#)) regarding an update of the progress implementing recommendations included in the performance audit of the Department of Trust Lands relating to the Energy Infrastructure and Impact Office, trust assets and department resources, and the Unclaimed Property Division. Ms. Smith became director on November 27, 2017. She said the department built an improvement tracking tool to monitor its progress completing each audit finding. She said the department also hired a consultant to identify and document processes and make recommendations. She said many recommendations will be updated with the implementation of a new technology system. She said the department's budget for the 2017-19 biennium includes \$3.6 million to replace legacy information technology systems. She said the department is developing a request for proposal for a land management and accounting system and an unclaimed property system. She said to date the department addressed 7 of the 25 findings relating to the Energy Infrastructure and Impact Office, 24 of the 53 findings relating to trust assets and department resources, and 10 of the 25 findings relating to the Unclaimed Property Division.

In response to a question from Representative Kempenich, Ms. Smith said the timeline for addressing many of the remaining findings will depend on the department's ability to implement the new information technology systems. She said she will email the committee throughout the interim to provide updates regarding findings that have been addressed. She said she will also provide the committee a listing of which findings have been completed, which findings the department is currently addressing, and which findings will depend on implementing new information technology systems.

In response to a question from Representative Nelson, Ms. Smith said she will provide the committee with the department's updated ethics policy when the policy is finalized.

AUDITS OF STATE AGENCIES, BOARDS, AND COMMISSIONS

Chairman Klein called on Ms. Katie Williams, Eide Bailly LLP, Certified Public Accountants, who presented a report entitled [Financial Statements June 30, 2016 North Dakota Board of Nursing](#). She reviewed the auditor's responses to the committee guidelines and said the report includes one internal control finding relating to preparation of financial statements.

Ms. Williams presented a report entitled [Financial Statements June 30, 2017 and 2016 Addiction Counselor Internship 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 June 30, 2017 and 2016 Ag PACE 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 June 30, 2017 and 2016 Infrastructure Revolving 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 June 30, 2017 and 2016 Medical Facility Infrastructure 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 June 30, 2017 and 2016 PACE 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 June 30, 2017 and 2016 Rebuilders 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 June 30, 2017 and 2016 North Dakota Student Loan Trust](#). 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 June 30, 2017 and 2016 North Dakota Building Authority \(A Component Unit of the State of North Dakota\)](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

In response to a question from Senator Cook, Ms. Karlene Fine, Executive Director and Secretary, Industrial Commission, said the North Dakota Building Authority operates under the Industrial Commission. She said the North Dakota Building Authority administers the bonding for state projects that have been approved by the Legislative Assembly.

Ms. Williams presented a report entitled [Financial Statements June 30, 2017 School Construction Assistance Revolving Loan Fund](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

In response to a question from Representative Pollert, Mr. Tim Porter, Chief Financial Officer, Bank of North Dakota, said the Bank of North Dakota charges a fee for administering the fund. He said the Bank of North Dakota identifies the fees as other income. He said the salary and wages line item of the Bank of North Dakota appropriation includes funding for administering the fund.

Ms. Williams presented a report entitled [Financial Statements June 30, 2017 and 2016 North Dakota State Fair Association](#). She reviewed the auditor's responses to the committee guidelines and said the report includes two internal control findings relating to preparation of financial statements and valuation of notes receivable.

Ms. Williams presented a report entitled [Financial Statements June 30, 2017 and 2016 North Dakota Development Fund, Inc.](#) She reviewed the auditor's responses to the committee guidelines and said the report includes one internal control finding relating to preparation of financial statements.

Ms. Williams presented a report entitled [Financial Statements June 30, 2017 and 2016 Workforce Safety and Insurance](#). 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 June 30, 2017 and 2016 Office of the State Auditor](#). She reviewed the auditor's responses to the committee guidelines and said the report includes one internal control finding relating to work in process.

Ms. Williams presented a report entitled [Financial Statements June 30, 2017 and 2016 North Dakota Legislative Assembly](#). 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 June 30, 2017 and 2016 North Dakota Legislative Council](#). She reviewed the auditor's responses to the committee guidelines and said the report does not include any findings or recommendations.

Chairman Klein called on Mr. Edwin J. Nagel, Jr., Director, State Auditor's office, who presented a report entitled [North Dakota Milk Marketing Board Bismarck, North Dakota Audit Report for the Two-Year Period Ended June 30, 2016](#). 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 Corn Utilization Council Fargo, North Dakota Audit Report for the Two-Year Period Ended June 30, 2016](#). He reviewed the auditor's responses to the committee guidelines and said the report includes one internal control finding relating to improper expenditure for ballot measure.

Mr. Nagel presented a report entitled [Commission on Legal Counsel for Indigents Bismarck, North Dakota Audit Report for the Two-Year Period 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 Mill and Elevator Association Grand Forks, North Dakota Audit Report for the Years Ended 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. Nagel presented a report entitled [Office of Management and Budget 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 includes one internal control finding relating to noncompliance with community service supervision grants.

Ms. Pam Sharp, Director, Office of Management and Budget, said she is retiring and thanked the committee members for their service.

Mr. Nagel presented a report entitled [Tobacco Prevention and Control Executive Committee 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.

COMMENTS BY THE STATE AUDITOR

Mr. Joshua C. Gallion, State Auditor, provided comments regarding the presentation for future audits. He said many of the audits presented by the State Auditor's office during the meeting were presented based on the one-page operational audit report summary discussed during the July 25, 2017, committee meeting.

Representative Hatlestad suggested the committee consider allowing presentation of the new summary format for audits with no findings or recommendations.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Klein asked the Legislative Council staff to arrange for information to be presented at the next committee meeting regarding State Board of Higher Education action relating to the tuition and fees structure at campuses.

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

Representative Kempenich provided comments regarding the segregation of duties and other issues relating to smaller state boards. He said other interim committees are discussing the structure of smaller state boards to address some of these issues.

Senator Cook requested the audit report for the State Board of Private Investigation and Security for the fiscal years ended December 31, 2016 and 2015, be presented at the next committee meeting.

It was moved by Representative Maragos, seconded by Representative Kreidt, and carried on a roll call vote that, pursuant to Section 54-35-02.2, the committee accept the following reports reviewed by the committee:

1. **Continuity of Operations Planning at the University of North Dakota performance audit report (September 11, 2017).**
2. **Emergency Preparedness at Dickinson State University performance audit report (October 19, 2017).**
3. **Emergency Preparedness at Mayville State University performance audit report (October 18, 2017).**
4. **Emergency Preparedness at Minot State University performance audit report (August 22, 2017).**
5. **Emergency Preparedness at Valley City State University performance audit report (October 10, 2017).**
6. **Housing Finance Agency (June 30, 2017 and 2016).**
7. **Housing incentive fund (June 30, 2017 and 2016).**
8. **Job Service North Dakota (June 30, 2017 and 2016).**
9. **Department of Trust Lands (June 30, 2017 and 2016).**
10. **State Board of Nursing (June 30, 2016).**
11. **Addiction counselor internship loan program (June 30, 2017 and 2016).**
12. **Ag PACE fund (June 30, 2017 and 2016).**
13. **Infrastructure revolving loan fund (June 30, 2017 and 2016).**
14. **Medical facility infrastructure loan fund (June 30, 2017 and 2016).**

15. PACE fund (June 30, 2017 and 2016).
16. Rebuilders loan program (June 30, 2017 and 2016).
17. Student loan trust fund (June 30, 2017 and 2016).
18. State Building Authority (June 30, 2017 and 2016).
19. School construction assistance revolving loan fund (June 30, 2017).
20. State Fair Association (September 30, 2017 and 2016).
21. Development Fund, Inc. (June 30, 2017 and 2016).
22. Workforce Safety and Insurance (June 30, 2017 and 2016).
23. State Auditor's office (June 30, 2017 and 2016).
24. Legislative Assembly (June 30, 2017 and 2016).
25. Legislative Council (June 30, 2017 and 2016).
26. North Dakota Milk Marketing Board (June 30, 2016 and 2015).
27. North Dakota Corn Utilization Council (June 30, 2016 and 2015).
28. Commission on Legal Counsel for Indigents (June 30, 2017 and 2016).
29. Mill and Elevator Association (June 30, 2017 and 2016).
30. Office of Management and Budget (June 30, 2017 and 2016).
31. Tobacco Prevention and Control Executive Committee (June 30, 2017 and 2016).
32. Reports available but not selected for presentation:
 - a. North Dakota Beef Commission (June 30, 2017 and 2016).
 - b. North Dakota Soybean Council (June 30, 2017 and 2016).
 - c. State Licensure Board of Athletic Trainers (June 30, 2016).
 - d. State Board of Counselor Examiners (June 30, 2016).
 - e. State Board of Podiatric Medicine (December 31, 2016).
 - f. State Board for Professional Soil Classifiers (June 30, 2016).
 - g. State Board of Examiners for Hearing Instrument Specialists (June 30, 2016).
 - h. State Marriage and Family Therapy Licensure Board (December 31, 2016).
 - i. State Board of Chiropractic Examiners (December 31, 2016).

Senators Klein, Cook, Lee, and Marcellais and Representatives Hatlestad, Johnson, Kempenich, Kreidt, Maragos, Nathe, Nelson, Pollert, and Trottier voted "aye." No negative votes were cast.

It was moved by Senator Lee, seconded by Representative Kempenich, and carried on a voice vote that the meeting be adjourned.

No further business appearing, Chairman Klein adjourned the meeting at 12:00 noon.

Michael C. Johnson
Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:3