



North Dakota Legislative Council

Prepared for the Legislative Audit and
Fiscal Review Committee
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SUMMARY OF MAJOR ITEMS IN AUDIT REPORTS TO BE PRESENTED AT THE MARCH 31, 2022, MEETING

This memorandum provides a summary of major items in audit reports to be presented at the Thursday, March 31, 2022, Legislative Audit and Fiscal Review Committee meeting.

SCHOOL FOR THE DEAF (JUNE 30, 2021 AND 2020)

Audit purpose: To determine financial transactions including expenditures of the School for the Deaf were made in accordance with law and appropriation requirements.

Findings:

- No audit findings were identified.
- The School for the Deaf implemented all recommendations relating to noncompliance with state procurement guidelines included in the prior audit report.

Other information:

- The School for the Deaf collected revenues of \$2.39 million related to the sale of meals, rents, miscellaneous revenue, and transfers during the 2019-21 biennium. The School for the Deaf received a 2019-21 biennial appropriation of \$10.23 million, of which \$7.53 million was from the general fund and \$2.7 million was from special funds. The School for the Deaf reported total biennial expenditures, including expenditures of carryover funds, of \$9.25 million and unspent authority of \$1.3 million, of which \$125,783 was from the general fund. The School for the Deaf continued the \$125,783 of general fund authority which related to unspent higher education interpreter grants, into the 2021-23 biennium. In addition, the School for the Deaf was allowed to continue \$69,585 of special fund capital construction carryover to the 2021-23 biennium.

Audit cost as reported by the State Auditor's office:

School for the Deaf	
State Auditor's office ¹	Not reported
State Auditor's office hours ²	Not reported
Hourly rate	Not reported
Agency costs ³	Not reported
¹ This cost is determined by staff hours and costs. This is the cost to the State Auditor's office for completion of the audit.	
² Staff hours incurred to complete the audit.	
³ This is the billable amount, based on the agency's special funds, which the State Auditor's office is required to bill directly, pursuant to North Dakota Century Code Section 54-10-01(1)(c), to the agency for completion of the audit and which is deposited in the general fund. The State Auditor's office does not benefit from the money collected from billing for audit services from state agencies.	

Observations/potential questions relating to the audit report:

- Why did revenue from the rental of rooms and buildings increase from \$35,866 in fiscal year 2020 to \$124,060 in fiscal year 2021?
- Why did repairs and maintenance expenditures increase from \$132,136 in fiscal year 2020 to \$343,819 in fiscal year 2021?

**AERONAUTICS COMMISSION
(JUNE 30, 2021 AND 2020)**

Audit purpose: To determine financial transactions including expenditures of the Aeronautics Commission were made in accordance with law and appropriation requirements.

Findings:

- No exceptions or defaults were identified.

Audit cost as reported by the State Auditor's office:

Aeronautics Commission		
	2019 Audit	2021 Audit
State Auditor's office ¹	\$12,595.00	N/A
State Auditor's office hours ²	195.50	N/A
Hourly rate	\$64.43	N/A
Agency costs ³	\$4,021.00	\$8,813.31

¹This cost is determined by staff hours and costs. This is the cost to the State Auditor's office for completion of the audit.

²Staff hours incurred to complete the audit.

³This is the billable amount, based on the agency's special funds, which the State Auditor's office is required to bill, pursuant to Section 54-10-01(2), directly to the agency for completion of the audit and are deposited in the general fund. The State Auditor's office does not benefit from the money collected from billing for audit services from state agencies.

Observations/potential questions relating to the audit report:

- Why was the agency's cost twice as much as the prior audit?

**ATTORNEY GENERAL
(JUNE 30, 2019 AND 2020)**

Audit purpose: The purpose of this audit was to identify any errors, internal control weaknesses, or potential violations of law in high-risk or significant functions of the agency. An opinion was not issued on this audit report. No errors, internal control weakness, or potential violations of law for significant and high-risk functions of the Attorney General were identified.

Findings:

- **Breath alcohol toxicology results** - The State Auditor reviewed toxicology results to determine accuracy and whether performed by certified operators. The audit revealed the breath alcohol toxicology results were performed by certified operators but 34 of 8,925 tests performed during the audit period were performed using expired or unapproved gas standard canisters, resulting in potentially invalid tests. The State Auditor recommends either the Director of the State Crime Laboratory direct field inspectors to ensure gas canisters are approved and replaced prior to the expiration dates or the Attorney General establish other measures to prevent unapproved or expired gas canisters from being used to perform breath alcohol tests.
- The Attorney General disagrees with the audit finding and recommendation. The Attorney General stated corrective actions related to field inspectors ensuring gas canisters are approved and replaced prior to the expiration dates were implemented in prior years.
- In Section 4 of House Bill No. 1003 (2021), the Legislative Assembly appropriated \$100,000 from federal funds to the Attorney General for the replacement of 61 of 119 drug analyzers. The funding will replace Intoxilyzer 8000 models with Intoxilyzer 9000 models that will prevent unapproved or expired gas canisters from being used. The Attorney General intends to request funding to replace the remaining 58 Intoxilyzer 8000s during the 2023 session.

Audit cost as reported by the State Auditor's office:

Attorney General		
	2019 Audit	2020 Audit
State Auditor's office ¹	\$53,305	Not reported
State Auditor's office hours ²	799.50	Not reported
Hourly rate	\$66.67	Not reported
Agency costs ³	\$6,047	\$16,100

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Observations/potential questions relating to the audit report:

- A recommendation included in a prior audit of the Attorney General related to reducing turnaround time at the State Crime Laboratory by implementing a fee schedule to strategically charge for services rendered and providing additional resources to help log evidence, such as temporary employees or evaluating authorized full-time equivalent (FTE) positions.
- The 2021 Legislative Assembly authorized the Attorney General an additional FTE forensic scientist position to address workload concerns of the State Crime Laboratory. Overtime and additional temporary staff were also authorized. The Attorney General has not implemented a fee schedule.

**ETHICS COMMISSION
(JUNE 30, 2021 AND 2020)**

Audit purpose: The purpose of this audit was to determine if there are any internal control weaknesses or violations of state law.

Findings:

- No areas of concern were identified.

Audit cost as reported by the State Auditor's office:

Costs for the audit of the Ethics Commission were not available at the time of this report.

Observations/potential questions relating to the audit report:

- None.

**DEPARTMENT OF ENVIRONMENTAL QUALITY
(JUNE 30, 2021 AND 2020)**

Audit purpose: To determine financial transactions and expenditures of the Department of Environmental Quality (DEQ) were made in accordance with law and appropriation requirements. In addition, the State Auditor reviewed permitting and monitoring special waste landfills and animal feeding operations.

Findings:

- No areas of concern were identified with regard to errors, internal control weaknesses, or potential violations of law for significant or high-risk functions of the agency. The Department of Environmental Quality was separated from the State Department of Health in 2019. This is the 1st biennium the department has been audited as a separate entity.

Other findings: special waste landfills

- **Condition:** Opportunities for improvement for inspection control and policy areas.

Cause: Lack of communication for inspection results, issues identified but not addressed, not tracking noncompliance issues, and duplication of effort by a third-party contractor and DEQ employees.

Recommendation: The State Auditor recommends DEQ evaluate policies and procedures to ensure they contribute to meeting the overall program objective. This includes modifying or implementing policies and procedures to ensure proper communication of inspection results, inspections verifying all required information, proper tracking and followup of noncompliance, and assignment of inspection duties among staff.

Agency response: The Department of Environmental Quality agrees to implement this recommendation. The department has an informal long-term policy to notify facility representatives verbally of items of noncompliance and follow up with a written inspection report. This informal policy is now memorialized in a field inspection operating procedure which requires facility notification within 48 hours of the inspection and a written report identifying all items of noncompliance sent within 30 days. Additionally, the department has updated the standard inspection form and removed the "unknown" option. The department will review third-party contracts to avoid duplication of effort. Database report tracking procedures will be implemented.
- **Condition:** Oilfield landfill operators are having to wait longer than the 120 days allowed by North Dakota Administrative Code for their permit to be approved before constructing new facilities or expanding already opened facilities. This may cause the solid waste needs in the state to go unmet.

Cause: Permit applications not reviewed within the required 120 days or 240 days if the review period is extended.

Recommendation: The State Auditor recommends DEQ develop procedures to review and approve all permits for special oilfield landfills within 120 days as required by North Dakota Administrative Code Section 33.1-20-03.1-04.

Agency response: The Department of Environmental Quality agrees to implement this finding. A complete permit application is a complex document made up of many interrelated components requiring input from several governmental, nongovernmental, and public entities. For example, permits may require county zoning approval and may also receive third-party review which may be provided after the initial application has been submitted to the state for review. The department will implement a policy and tracking system to monitor the 120-day period to ensure timely review, followup, and approval decision of applications.
- **Condition:** There are no set solid waste permit lengths established. The program determines the permit length on an individual basis based on the level or risk with the facility. The risk factors used and the risk level assigned to the facility are not documented. This could result in inequitable treatment of facilities or missed revenue opportunities for the state by not requiring permit renewals as frequently.

Cause: Missing policies and procedures to determine how long permits are granted.

Recommendation: The State Auditor recommends the DEQ solid waste program develop a policy that defines risk assessment procedures to use in determining the active length of approved permits.

Agency response: The Department of Environmental Quality agrees to implement this recommendation. The department will create a decision matrix for selecting a permit length based on

fixed criteria which will be added to the standard operating procedures for facility permitting. During the permit review process, the public will have an opportunity to review and comment on the permit length justification.

Other findings: animal feeding operations

- No findings were identified. The North Dakota pollutant discharge elimination system program is properly permitting and monitoring animal feeding operations as required by the Administrative Code and the North Dakota pollutant discharge elimination system program policies and procedures.

Other information:

- The Department of Environmental Quality collected revenues of \$44.2 million during the 2019-21 biennium, of which \$19 million is from federal funds, \$9.3 million is related to permits and fees, \$7 million is related to fines, and \$8.9 million is related to other revenue, fees, and transfers. The department received a 2019-21 biennial appropriation of \$59.7 million, of which \$12.5 million was from the general fund and \$47.2 million was from estimated income. The department reported total biennial expenditures of \$46.7 million and unspent authority of \$13 million, of which \$617,240 was from the general fund.

Audit cost as reported by the State Auditor's office:

Department of Environmental Quality	
State Auditor's office ¹	Not reported
State Auditor's office hours ²	Not reported
Hourly rate	Not reported
Agency costs ³	Not reported
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Observations/potential questions relating to the audit report:

- Why did revenue from fines increase from \$2,762,746 in fiscal year 2020 to \$4,244,144 in fiscal year 2021?
- What is the nature of the transfers in and why did they decrease from \$3,743,232 in fiscal year 2020 to \$1,961,954 in fiscal year 2021?

**NORTH DAKOTA UNIVERSITY SYSTEM
(JUNE 30, 2021)**

Audit purpose: The purpose of this audit was to determine that adequate internal control exists over financial reporting and on compliance and other matters based on an audit of the financial statements.

The University System's transactions were tested and included in the state's basic financial statements on which an unmodified opinion was issued.

Findings:

- **Statement of fiduciary net position** - Mayville State University did not remove all business-type activities funds from the statement of fiduciary net position, resulting in the fiduciary net position being understated by \$80,053. The North Dakota State College of Science also did not remove all business-type activities funds from the statement of fiduciary net position, resulting in the fiduciary net position being overstated by \$67,970.

Audit cost as reported by the State Auditor's office:

North Dakota University System		
	2019 Audit	2021 Audit
State Auditor's office ¹	\$51,002.50	Not reported
State Auditor's office hours ²	796.00	Not reported
Hourly rate	\$64.07	Not reported
Agency costs ³	\$833.00	Not reported

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²Staff hours incurred to complete the audit.

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Observations/potential questions relating to the audit report:

- On page 11 of the audit report, regarding posted audit adjustments, numbers 4 and 5 both identify changes regarding capital appropriations and the removal of North Dakota Building Authority bonds. What is the reason for these adjustments? Were bonds issued for these projects? Where are those bonds recognized in the state's financial statements?

ANNUAL COMPREHENSIVE FINANCIAL REPORT (JUNE 30, 2021 AND 2020)

Audit purpose: The purpose of this audit was to test internal controls and compliance in order to express an opinion on the financial statements of North Dakota, but not to express an opinion on internal controls.

Findings:

- No audit findings were identified and an unmodified (clean) opinion was given.

Prior audit findings:

- Untimely capitalization and depreciation of Department of Transportation projects** - The Department of Transportation did not capitalize and depreciate state oil impact projects that were substantially complete and in use. These projects were still included in construction in progress at June 30, 2020. Considering the department's fiscal review period for project closeout which determines accurate project costs, the audit identified projects without financial activity since June 30, 2017 and 2018 for calculating capitalizable costs and depreciation, respectively. Total costs for these projects were \$332,139,681. These projects should have been reclassified from nondepreciable to depreciable capital assets for reporting on the Government-wide Statement of Net Position and accrued depreciation expense of \$3,727,377 during the audit period. (Action has been taken regarding this finding.)

Audit cost as reported by the State Auditor's office:

Annual Comprehensive Financial Report		
	2020 Audit	2021 Audit
State Auditor's office ¹	\$422,734.50	Not reported
State Auditor's office hours ²	5,326.50	Not reported
Hourly rate	\$79.36	Not reported
Agency costs ³	\$0.00	Not reported

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²Staff hours incurred to complete the audit.

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Potential questions relating to the audit report:

- The posted audit adjustments on pages 12 through 17 include 16 significant errors that required adjustments, which is 8 more than the prior audit. The adjustments are also of a significantly greater dollar value than the prior audit adjustments.

What is the cause of the increase in errors?

Is there a concern with internal control of the agencies with reporting errors?

Since the audit does not test all transactions, are there any concerns that other significant misstatements may exist in the report that were not identified?

**RETIREMENT AND INVESTMENT OFFICE
(JUNE 30, 2021 AND 2020)**

Audit purpose: The purpose of this audit was to determine that financial statements are free from material misstatement.

Findings:

- No findings were discovered, and an unmodified opinion was issued on the agency's financial statements.

Other information:

- **Fund growth** - The net position of the funds administered by the Retirement and Investment Office was \$19.17 billion on June 30, 2021, and \$16.31 billion on June 30, 2020. The value of the funds increased by \$2.86 billion, or 17.5 percent, from June 30, 2020, to June 30, 2021, of which 39 percent of the increase was related to the legacy fund.
- **Net pension liability** - The net pension liability of the Teachers' Fund for Retirement was \$1.05 billion on June 30, 2021, and \$1.53 billion on June 30, 2020.

Audit cost as reported by the State Auditor's office:

The State Auditor's office contracted with CliftonLarsonAllen LLP, for the audit of the Retirement and Investment Office. The cost of the contracted audit was \$111,720 for the June 30, 2021, and the June 30, 2020, audit, compared to a cost of \$136,410 for the June 30, 2020, and the June 30, 2019, audit.

Observations/potential questions relating to the audit report:

- None.

TEACHERS' FUND FOR RETIREMENT SCHEDULES (JUNE 30, 2021)

Audit purpose: The purpose of this audit was to determine that schedules of employer allocations and pension amounts are free from material misstatement.

Findings:

- No findings were discovered, and an unmodified opinion was issued on the agency's schedules.

Other information:

- None.

Audit cost as reported by the State Auditor's office:

CliftonLarsonAllen LLP, conducted the audit of the Teachers' Fund for Retirement schedules. The cost of the contracted audit was not reported for the June 30, 2021, audit.

Observations/potential questions relating to the audit report:

- None.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM (JUNE 30, 2020 AND 2021)

Audit purpose: The purpose of this audit was to determine that financial transactions including expenditures on the Public Employees Retirement System (PERS) financial statements were made in accordance with law and appropriation requirements. An unmodified opinion was issued.

Findings:

- No audit findings were identified. No audit findings were identified in the prior audit report.

Audit cost as reported by the State Auditor's office:

The Public Employees Retirement System contracted with CliftonLarsonAllen LLP, at a cost of \$111,934 to complete the June 2021 and June 2020 audit, a \$16,466, or 12.8 percent, decrease from the price of \$128,400 contracted to complete the June 2020 and June 2019 audit. These amounts include costs to audit schedules of employer allocations, other postemployment benefits, and pension schedules.

Observations/potential questions relating to the audit report:

- On the bottom of page 3, net position for all trust funds administered by PERS increased \$902,616 from fiscal year 2020 to fiscal year 2021, primarily due to financial market gains and an increase in the discount rate, which was 7 percent for fiscal year 2021 and 4.64 percent for fiscal year 2020. Additional detail is provided on page 5.
- On page 9, an underwriting gain of \$6,992,619 was realized for the uniform group insurance program during fiscal year 2020 compared to a \$4,408 loss in fiscal year 2021. What are the reasons for the change between these years?
- The expected investment rate of return for the PERS defined benefit plan for fiscal year 2021 was 7 percent. A schedule of actual investment returns from 2013 to 2021 for each PERS retirement plan is provided on page 65.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM (JUNE 30, 2021)

Audit purpose: The purpose of this audit was to determine that financial transactions including expenditures on the Public Employees Retirement System (PERS) schedule of employer allocations and other postemployment benefit liability schedules were made in accordance with law and appropriation requirements. An unmodified opinion was issued.

Findings:

- No audit findings were identified. No audit findings were identified in the prior audit report.

Audit cost as reported by the State Auditor's office:

The Public Employees Retirement System contracted with CliftonLarsonAllen LLP, at a cost of \$111,934 to complete the June 2021 and June 2020 financial statement audit, a \$16,466, or 12.8 percent, decrease from the price of \$128,400 contracted to complete the June 2020 and June 2019 financial statement audit. These amounts include costs to audit employer allocations, other postemployment benefits, and pension schedules.

Observations/potential questions relating to the audit report:

- As of June 30, 2021, the total number of retiree health insurance credit plan participants was 34,764, of which 13,697 participants were receiving benefits and 21,067 were active participants not receiving benefits.

**NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM
(JUNE 30, 2021)**

Audit purpose: The purpose of this audit was to determine that financial transactions including expenditures on the Public Employees Retirement System (PERS) schedule of employer allocations and pension amounts by employer were made in accordance with law and appropriation requirements. An unmodified opinion was issued.

Findings:

- No audit findings were identified. No audit findings were identified in the prior audit report.

Audit cost as reported by the State Auditor's office:

The Public Employees Retirement System contracted with CliftonLarsonAllen LLP, at a cost of \$111,934 to complete the June 2021 and June 2020 financial statement audit, a \$16,466, or 12.8 percent, decrease from the price of \$128,400 contracted to complete the June 2020 and June 2019 financial statement audit. These amounts include costs to audit employer allocations, other postemployment benefits, and pension schedules.

Observations/potential questions relating to the audit report:

- None.

**OFFICE OF THE STATE AUDITOR
(JUNE 30, 2021 AND 2020)**

Audit purpose: The purpose of the audit was to obtain reasonable assurance about whether the financial statements of the State Auditor's office are free from material misstatement.

As part of obtaining reasonable assurance about whether the State Auditor's financial statements are free from material misstatement, the transactions of the State Auditor were tested for compliance with certain provisions of laws, regulations, contracts, and grant agreements, and other matters noncompliance with which could have a direct and material effect on the determination of financial statement amounts.

Findings:

- **Misstatement of prior period cash funds due to errors in payroll payments - Material Weakness 2021-001**

Condition: In January 2020 it was discovered that during the year ended June 30, 2019, \$54,862 in salaries for two employees were paid from the operating fund that were general fund salaries, resulting in misstatements of amounts previously reported for cash and payroll expenditures as of June 30, 2019. A transfer was completed by the Office of Management and Budget to correct the previous biennium error and correct the cash balance in the operating fund. No restatement of the previous period net position is required as the transfer was between two funds of the agency. Accordingly, adjustments have been made to the beginning fund balance in the general fund and operating fund as of July 1, 2019, to correct the error.

Cause: The payroll amount charged to the wrong fund was because of a delay in review of payroll expenditures charged to the general fund and operating fund.

Recommendation: Eide Bailly LLP, recommends the State Auditor continue to use the control procedures implemented in January 2020 to ensure that future financial statements are accurate.

Agency response: The State Auditor agreed. In January 2020, the State Auditor identified salaries of two employees that were paid from the incorrect fund. At that time, the State Auditor corrected the error and implemented new control procedures to review payroll monthly. The State Auditor informed Eide Bailly LLP, of the prior period adjustment at the beginning of the audit. No errors were found by Eide Bailly LLP, in payroll testing for the current audit period or in testing the prior period adjustment.

- **Misstatement of accounts receivable submitted to the auditor - Material Weakness 2021-001**

Condition: The State Auditor's office identified an adjustment to accounts receivable after documents were submitted to Eide Bailly LLP. The correction decreased 2021 "Local Government Audits Charges for Services" by \$99,726 and decreased 2021 "Due from Local Governments" by the same amount.

Cause: The adjustment to accounts receivable was caused by human error.

Recommendation: Eide Bailly LLP, recommends the financial statement account reconciliations be checked and reviewed prior to the audit.

Agency response: The State Auditor agreed. The State Auditor found the errors in accounts receivable, made the adjustments, and informed Eide Bailly LLP, of the adjustments.

Prior audit findings:

- **Work in process - Material Weakness 2019-001**

Description: The work in process balance did not appropriately reflect the amount earned by the State Auditor at the end of each fiscal year. The discrepancy was caused by jobs being improperly included in the work in process balance and going undetected by someone within the entity. The financial statements were adjusted by \$4,515 for the year ended June 30, 2019, and \$19,491 for the year ended June 30, 2018.

Recommendation: The work in process and accounts receivable worksheets be appropriately reviewed to ensure correct formulas and to prevent job balances from being improperly included. (The State Auditor concurred with the recommendation.)

- **Independent auditor's comments requested by the Legislative Audit and Fiscal Review Committee dated January 25, 2022, indicate action was taken on prior audit findings.**

Other information:

- **Significant audit adjustments** - Significant audit adjustments include adjustments to work in process receivables and restatement to beginning fund balance for errors identified in cash and payroll expenditures for the year ended June 30, 2019.
- **Management's discussion and analysis section omitted** - The State Auditor has omitted the management's discussion and analysis that accounting principles generally accepted in the United States require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board (GASB), and is considered to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context.

Audit cost:

The Legislative Council contracted with Eide Bailly LLP, for \$16,000 to perform the audit.

Potential questions relating to the audit report:

- Note 12 to the financial statements relates to a contingency. The note indicates subsequent to June 30, 2021, the State Auditor's office was made aware of a claim filed against them. What is the nature of the claim?
- The management's discussion and analysis section is required by GASB. Why did the State Auditor's office choose not to prepare the management's discussion and analysis section?
- Other governmental funds are not addressed in the footnotes. Why does the State Auditor have \$767 of cash in other governmental funds? What type of funds are these and where did the cash originate in fiscal year 2020?