



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Audit Report

Gambling Control Board
Four Fiscal Years Ended June 30, 1999



JULY 13, 2000

00-31

Financial Audit Division

The Office of the Legislative Auditor (OLA) is a professional, nonpartisan office in the legislative branch of Minnesota State government. Its principal responsibility is to audit and evaluate the agencies and programs of state government (the State Auditor audits local governments).

OLA's Financial Audit Division annually audits the state's financial statements and, on a rotating schedule, audits agencies in the executive and judicial branches of state government, three metropolitan agencies, and several "semi-state" organizations. The division also investigates allegations that state resources have been used inappropriately.

The division has a staff of approximately fifty auditors, most of whom are CPAs. The division conducts audits in accordance with standards established by the American Institute of Certified Public Accountants and the Comptroller General of the United States.

Consistent with OLA's mission, the Financial Audit Division works to:

- Promote Accountability,
- Strengthen Legislative Oversight, and
- Support Good Financial Management.

Through its Program Evaluation Division, OLA conducts several evaluations each year and one best practices review.

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Report Summary

Financial Audit Report

Gambling Control Board Four Fiscal Years Ended June 30, 1999

Overall Conclusion:

The Gambling Control Board properly safeguarded assets and accurately recorded revenue and expenditures in the state's accounting and payroll systems. Except as noted below, the Gambling Control Board was in compliance with applicable finance-related legal provisions and policies.

Key Finding:

The board inappropriately paid per diems, totaling \$3,245, to three board members. Minn. Stat. Section 15.0575 prohibits full-time employees of the state or its political subdivisions from receiving per diem compensation. Counties employed two of the board members; a city employed the third. We recommended that the board obtain repayment of the inappropriate payments, develop procedures to obtain and monitor board member employment information, and revise information sent to board members about per diem compensation.

Agency Background:

The Gambling Control Board regulates lawful gambling in the state of Minnesota. The board's oversight prevents commercialization of the gambling industry, insures integrity of operations, and monitors the use of net profits by gambling organizations. The board issues licenses, gambling permits, and fines. The scope of our audit work at the Gambling Control Board included payroll and other administrative expenditures and license, permit, and fine revenue for the period from July 1, 1995, through June 30, 1999.

Agency Response:

In its response, the Gambling Control Board did not agree with the report's finding; however, they indicated that new procedures will be implemented immediately to ensure per diem compensation is not paid to board members who are employed by the state or political subdivisions.

Financial Audit Reports address internal control weaknesses and noncompliance issues found during our audits of state departments and agencies. The board's response is included in this report.

Gambling Control Board

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Audit Participation

The following members of the Office of the Legislative Auditor prepared this report:

Claudia Gudvangen, CPA	Deputy Legislative Auditor
Cecile Ferkul, CPA, CISA	Audit Manager
Sonya Johnson, CPA	Auditor-in-Charge
Ellen Sibley	Auditor

Exit Conference

We discussed the audit report conclusions with the following representatives of the Gambling Control Board at the exit conference held on June 28, 2000:

Harold Baltzer	Executive Director
Debra Hellenberg	Office Services Supervisor
Bernice Caruth	Executive Assistant Principal



OFFICE OF THE LEGISLATIVE AUDITOR
State of Minnesota • James Nobles, Legislative Auditor

Representative Dan McElroy, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Ms. Peggy Moon, Board Chair
Gambling Control Board

Members of the Gambling Control Board

Mr. Harold W. Baltzer, Executive Director
Gambling Control Board

We have audited the financial activities of the Gambling Control Board for the period July 1, 1995, through June 30, 1999. Our audit scope included payroll and other administrative expenditures, and license, permit, and fine revenue. The audit objectives and conclusions are highlighted in the individual chapters of this report.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, as issued by the Comptroller General of the United States. Those standards require that we obtain an understanding of management controls relevant to the audit. The standards require that we design the audit to provide reasonable assurance that the Gambling Control Board complied with provisions of laws, regulations, contracts, and grants that are significant to the audit. Management of the board is responsible for establishing and maintaining the internal control structure and complying with applicable laws, regulations, contracts, and grants.

As required by Minn. Stat. Section 3.975, we have referred this report to the Office of the Attorney General for recovery of state funds. The Gambling Control Board paid per diems to three board members who were not eligible to receive per diem payments. The Attorney General may negotiate the propriety of individual claims.

This report is intended for the information of the Legislative Audit Commission and the management of the Gambling Control Board. This restriction is not intended to limit the distribution of this report, which was released as a public document on July 13, 2000.

/s/ James R. Nobles

/s/ Claudia J. Gudvangen

James R. Nobles
Legislative Auditor

Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

End of Fieldwork: June 9, 2000

Report Signed On: July 10, 2000

Gambling Control Board

Chapter 1. Introduction

The Gambling Control Board (the board) regulates lawful gambling in the state of Minnesota. The board's oversight prevents commercialization of the gambling industry, ensures integrity of operations, and monitors the use of net profits by gambling organizations. The board issues, suspends, and revokes gambling organizations' licenses, issues gambling permits, trains and licenses gambling managers in the proper administration of gambling laws, and issues fines to violators.

The board, which operates according to Minn. Stat. Chapter 349, consists of seven members who each serve four-year terms. The Governor appoints five of the board members, and the Commissioner of Public Safety and the Attorney General each appoint one member. The Gambling Control Board's administrative office is located in Roseville. Regional offices are located in Fergus Falls, Hibbing, and St. Peter.

Mr. Harold Baltzer, who retired in July 2000, has been the executive director since 1991. The board employs 37 staff in the following divisions:

- Investigations, Compliance Review Group, and Special Licensing
- Compliance
- Licensing
- Administrative

The board receives an annual appropriation to finance board operations. Table 1-1 provides a summary of the board's financial activity for the four fiscal years ended June 30, 1999.

Gambling Control Board

**Table 1-1
Gambling Control Board
Sources and Uses of Funds
Fiscal Years 1996 - 1999**

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
Sources:				
State Appropriation	\$2,081,000	\$2,039,000	\$2,277,000	\$2,177,000
Less: Cancellations	<u>0</u>	<u>14,527</u>	<u>0</u>	<u>2,513</u>
Net Appropriations	<u>\$2,081,000</u>	<u>\$2,024,473</u>	<u>\$2,277,000</u>	<u>\$2,174,487</u>
Other Revenues	24,883	1,360	20,537	0
Balance Forward In	<u>0</u>	<u>32,307</u>	<u>0</u>	<u>259,176</u>
Total Sources	<u>\$2,105,883</u>	<u>\$2,058,140</u>	<u>\$2,297,537</u>	<u>\$2,433,663</u>
Uses:				
Payroll	\$1,680,355	\$1,610,298	\$1,665,922	\$1,736,308
Rent	151,850	146,470	154,264	161,192
Travel	58,200	60,257	86,297	69,784
Supplies and Equipment	46,912	97,611	37,370	137,637
Prof/Tech Services	35,246	14,853	4,934	199,000
Other Expenditures	101,013	128,651	86,974	127,077
Transfer Out	<u>0</u>	<u>0</u>	<u>2,600</u>	<u>2,665</u>
Total Uses	<u>\$2,073,576</u>	<u>\$2,058,140</u>	<u>\$2,038,361</u>	<u>\$2,433,663</u>
Balance Forward to Next Fiscal Year	<u>\$ 32,307</u>	<u>\$ 0</u>	<u>\$ 259,176</u>	<u>\$ 0</u>

Source: Minnesota Accounting and Procurement System (MAPS) for fiscal years 1996-1999.

General Fund Receipts

The board collects license and permit fees from gambling establishments and fines when regulations are violated. The board deposits these receipts into the state's General Fund. These monies are not available to the board for its operations. Chapter 3 provides additional information about these receipts.

Chapter 2. Payroll and Administrative Expenditures

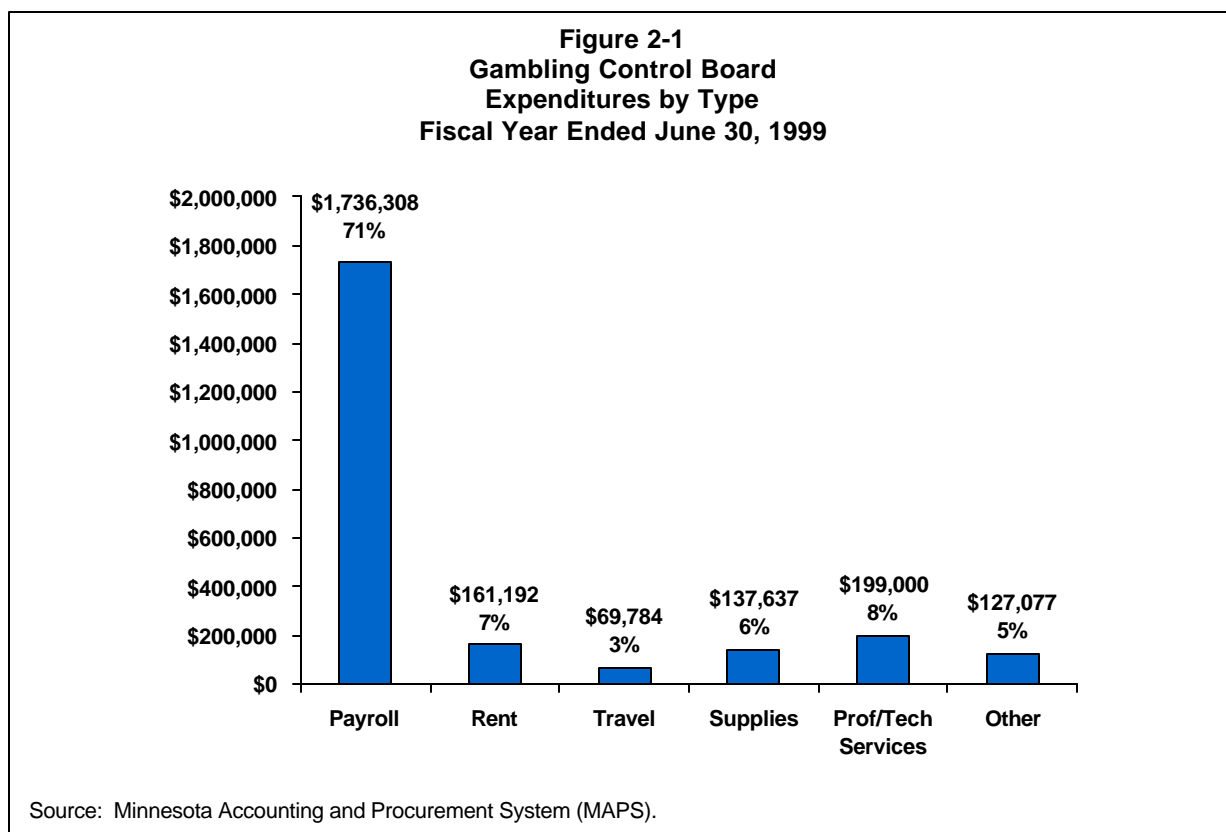
Chapter Conclusions

Generally, the Gambling Control Board's internal controls provide reasonable assurance that payroll, rent, travel and per diem reimbursements, supply and equipment purchases, and professional/technical services were properly authorized, promptly paid, and accurately recorded in the accounting system.

Except as noted below, transactions tested complied with applicable finance-related legal provisions, such as state statutes, applicable bargaining unit agreements, space lease agreements, contracts, and state purchasing policies.

However, we noted that the board inappropriately paid per diems to three board members.

Payroll was the Gambling Control Board's largest expenditure. In addition to payroll, the agency incurred other administrative costs for rent, employee travel, board member per diems, supplies and equipment, and professional/technical services. Figure 2-1 shows the amount of expenditures by type for the four fiscal years ended June 30, 1999.



Gambling Control Board

Payroll

Payroll was the board's largest expenditure, averaging \$1.7 million annually. The Gambling Control Board employed 37 people during the audit period. As in the prior audit, incompatible payroll/personnel system access existed. Both the employee responsible for processing the biweekly payroll and the office services supervisor responsible for the board's human resource functions had incompatible access to both payroll and human resource functions in the state's payroll/personnel system. Due to limited staff, board management determined that it could not feasibly separate access and has decided to accept this risk. As an alternative, the board has instituted detective controls to review the work of staff with access to these incompatible functions. For example, an individual with no access to the payroll/personnel system reviews and verifies the accuracy of the payroll system reports. The executive director also receives these reports for his review and approval.

Rent

The board had four office space leases, totaling approximately \$161,000 for fiscal year 1999. One of the leases was for the board's main office space in Roseville. The other leases were for the regional office locations in Fergus Falls, Hibbing, and St. Peter. The Department of Administration's Real Estate Management Division negotiated all of the board's leases for office space.

Travel and Per Diems

The board incurred travel costs for both staff and board members throughout the audit period. Fiscal year 1999 travel costs totaled \$69,784. Employees in the compliance and investigations sections of the office, whose responsibilities require travel throughout the state, incurred the majority of staff travel. The agency reimbursed staff for eligible travel expenses in amounts allowed in the bargaining unit agreements. Board members were also eligible for travel costs incurred as a result of their service on the board, including meals, lodging, and private car mileage. Minn. Stat. Section 15.0575, which governs board compensation, also allows board members to receive per diems unless they are full-time employees of the state or a political subdivision of the state.

Supplies and Equipment

The board incurred \$137,637 in supply and equipment expenditures in fiscal year 1999. The majority of these expenditures were for the purchase of computer hardware and software to assist staff in using the board's new computerized licensing system, which began operation in August 1999. The board had specific procedures for procurement, authorization, and payment of these expenditures.

Gambling Control Board

Professional/Technical Services

In fiscal year 1999, the board expended \$199,000 for professional/technical services. These expenditures were for the design and implementation of the agency's new computerized licensing system. This system merged 150 separate databases into one centralized database. The board published requests for proposal in the State Register and selected a vendor following appropriate procedures. Payments were made according to an established schedule, and the board appropriately retained a portion of the contract until they were assured that the new system operated properly.

Audit Objectives and Methodology

Our audit of payroll and other administrative expenditures focused on the following objectives:

- Did the board's internal controls provide reasonable assurance that payroll, travel, per diems, and other expenditures were properly authorized, accurately recorded in the accounting system, and in compliance with applicable finance-related legal provisions?
- Did the board accurately compensate its employees and reimburse travel costs in accordance with the provisions of the applicable bargaining unit agreements?
- Did the board accurately pay rent according to the terms of the space lease agreements and properly record rent expenditures in the accounting system?
- Did the board properly procure and promptly pay for services incurred?

To answer these questions, we obtained an understanding of the internal control structure over payroll, rent, supply and equipment purchases, professional/technical services, and travel and per diem payments. We analyzed employee compensation and tested hours worked, payrate increases, and travel reimbursements to ensure compliance with the terms of the applicable bargaining unit agreements. We tested whether per diem payments to board members complied with Minn. Stat. Section 15.0575, Subd. 3. For supplies and equipment purchases and for professional/technical services, we analyzed and tested transactions to determine whether payments were properly documented, authorized by management, and promptly paid to the vendor or contractor.

Conclusions

Generally, the Gambling Control Board's internal controls provided reasonable assurance that payroll, rent, supply and equipment purchases, professional/technical services, travel reimbursements, and per diems were properly authorized, promptly paid, and accurately recorded in the accounting system.

Except as explained in Finding 1, the transactions tested complied with applicable finance-related legal provisions, such as state statutes, applicable bargaining unit agreements, space lease agreements, contracts and state purchasing policies.

Gambling Control Board

1. The board inappropriately paid per diem to three board members.

From September 1996 through May 2000, the board inappropriately paid per diems totaling \$3,245 to three board members. Minn. Stat. Section 15.0575, which governs compensation for numerous boards in addition to the Gambling Control Board, prohibits full-time employees of the state or a political subdivision of the state from receiving per diem compensation. The board members were full-time employees of political subdivisions of the state. The statutes define a political subdivision as a county or city.

The statute states:

Members who are full-time state employees or full-time employees of the political subdivisions of the state may not receive the daily payment, but they may suffer no loss in compensation or benefits from the state or political subdivision as a result of their service on the board.

Although this statute could be interpreted in different ways, in an opinion dated April 14, 1977, the Office of the Attorney General clarified the intent and applicability of the legislation as follows:

It appears that, in enacting Laws 1976, ch. 134.1, subd. 3, the legislature intended that those persons who are compensated for full time governmental employment from public funds under the direction of governmental entities should not be granted additional public compensation for serving on state boards. At the same time, the legislature attempted to assure that the person would not lose compensation or benefits from his principal governmental employer. Concededly, this particular statute makes no distinction between those members of the board who serve during their normal working hours for which they are already compensated and those who perform their duties on their own time. Neither is application of that section limited to public employees who are serving as representatives of governmental units. Instead, **the section operates as a blanket prohibition against state and local government employees receiving per diem**

Although the Gambling Control Board cited the statute in the information packet it sent to all new board members, the board did not have a process to gather information on board members' employment or require board members to notify council staff of employment changes during their appointment term.

Recommendations

- *The board should work with the Office of the Attorney General to obtain repayment of the inappropriate per diem payments.*
- *The board should establish a procedure to obtain and monitor board member employment information to ensure compliance with Minn. Stat. Section 15.0575.*
- *The board should revise the information sent to board members to better explain the effect of the statutory limitation on per diem payments.*

Gambling Control Board

Chapter 3. License, Permit, and Fine Revenue

Chapter Conclusions

The board collected the appropriate amount of license, permit, and fine revenue. The board adequately safeguarded, promptly deposited, and properly recorded license, permit, and fine revenue in the statewide accounting system.

The Gambling Control Board collected various license and permit fees as mandated by statute and rule. The board deposited these receipts into the General Fund as nondedicated revenue.

- The board licensed 30 manufacturers and distributors of gambling equipment during fiscal year 1999. Manufacturers paid \$5,000 for each annual license; distributors paid \$3,500 for each annual license.
- The board licensed 15 bingo halls in fiscal year 1999, collecting an annual fee of \$2,500 each.
- Annually, the board trained and licensed approximately 1,500 gambling managers. Each nonprofit organization involved in gambling needed a licensed gambling manager to control the proceeds from the gambling operation and ensure compliance with statutes and rules. The fee for a gambling manager's license ranged from \$100 to \$200. A gambling manager's license is valid for two years.
- On average, the board issued 3,000 premise permits to sites where gambling occurred. Premise permits are valid for two years. Permit fees ranged from \$150 to \$400.
- In fiscal year 1999, the board issued about 1,700 exempt permits to sites with limited gambling. The board collected \$25 for each exempt permit.

In addition, the board assessed and collected fines as part of its regulatory function.

Table 3-1 shows the license, permit, and fine revenue collected for fiscal years 1996 through 1999.

Gambling Control Board

Table 3-1
Gambling Control Board
Summary of License, Permit, and Fine Revenue

	Fiscal Year			
	1996	1997	1998	1999
Licenses:				
Manufacturer and Distributor	\$ 187,000	\$119,500	\$ 121,500	\$ 99,500
Bingo Hall	47,000	30,000	37,500	35,000
Gambling Manager ⁽¹⁾	283,000	88,000	278,800	85,500
Premises Permits ⁽¹⁾	780,000	237,450	780,600	224,100
Exempt Permits	46,000	50,390	54,600	57,025
Penalties and Fines	86,000	87,725	85,075	72,900
Total	<u>\$1,429,000</u>	<u>\$613,065</u>	<u>\$1,358,075</u>	<u>\$574,025</u>

(1) The board renewed gambling manager licenses and premise permits on a two-year cycle, which resulted in the larger revenues for fiscal years 1996 and 1998 and the smaller revenues for fiscal years 1997 and 1999.

Source: Annual Reports of the Gambling Control Board for 1996, 1997, 1998, and 1999.

Audit Objectives and Methodology

We focused our review of license, permit, and fine revenues on the following objectives:

- Did the board collect the appropriate amount of license and permit fees and fines as outlined in statute?
- Were fee and fine receipts adequately safeguarded, promptly deposited, and properly recorded on the statewide accounting system?

To answer these questions, we interviewed board staff to gain an understanding of the controls in place over the processing of receipts. We also performed analytical reviews and tested a sample of transactions.

Conclusions

The board collected the appropriate amount of license and permit fees and fines as outlined in statute. The board adequately safeguarded, timely deposited, and properly recorded license and fine revenues in the statewide accounting system.

Gambling Control Board

Status of Prior Audit Issues As of June 9, 2000

Most Recent Audit

Legislative Audit Report 96-29, issued in August 1996, covered the three fiscal years ended June 30, 1995. The scope of this audit included license and fine revenue, payroll, and other administrative expenditures. The report included two written issues related to revenues and payroll. As explained below, the board took appropriate action to resolve these issues:

- The board was not performing monthly reconciliations of the license revenues recorded on the state's accounting system to the number of licenses issued as recorded on the licensing computer system. The board replaced its licensing system in August 1999. As part of our current review, we concluded that the board properly accounted for license revenues.
- Board staff had incompatible access to the payroll/personnel functions of the state's payroll system. Although the incompatible access still existed during the current audit period, the board addressed the increased risk by developing detective controls. These controls included the verification of payroll system reports by an individual without system access and the review and approval of payroll system reports by the executive director.

State of Minnesota Audit Follow-Up Process

The Department of Finance, on behalf of the Governor, maintains a quarterly process for following up on issues cited in financial audit reports issued by the Legislative Auditor. The process consists of an exchange of written correspondence that documents the status of audit findings. The follow-up process continues until Finance is satisfied that the issues have been resolved. It covers entities headed by gubernatorial appointees, including most state agencies, boards, commissions, and Minnesota state colleges and universities. It is not applied to audits of the University of Minnesota, any quasi-state organizations, such as the metropolitan agencies, or the State Agricultural Society, the state constitutional officers, or the judicial branch.



State of Minnesota • Gambling Control Board

Suite 300 South
1711 W. County Road B
Roseville, MN 55113
651/639-4000

July 5, 2000

James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
140 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

Your office completed a financial-related audit of the Gambling Control Board for the period July 1, 1995 through June 30, 1999. The key finding of the audit was inappropriate payment of the \$55 a day per diem to three board members who were employees of political subdivisions. The finding cited Minnesota Statute 15.0575 as prohibiting full-time employees of the state or political subdivisions from receiving per diem compensation. The recommendation is to obtain repayment of \$3,245 paid to board members from September, 1996-May, 2000, develop procedures to obtain and monitor board member employment information, and revise information sent to board members about per diem compensation.

Minnesota Statute 15.0575 governing compensation of board members states "Members who are full-time state employees or full-time employees of the political subdivisions of the state may not receive the daily payment, but they may suffer no loss in compensation or benefits from the state or political subdivision as a result of their service on the board". It goes on to say "Members who are full-time state employees or full-time employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source."

A 1977 opinion from the Office of Attorney General to the Ethical Practices Board is used as a basis for your position. However, the recommendation concedes this statute could be interpreted in different ways. We certainly agree. For example, the Department of Finance policy is for state agency board members to submit SEMA4 Employee Expense Reports for expenses incurred for serving on a board. Per diem is referred to as an expense according to their policy. Statute allows full-time employees of political subdivisions of the state to receive expenses under M.S. 15.0575 unless paid by another source.

One board member used vacation time to attend board functions. The board member absolutely thought using vacation was the correct way to handle time away from normal work duties of the political subdivision. So did we at the agency. Vacation pay is considered by most as personal time. That vacation time is estimated to be worth over \$7,000; compared with the \$1,760 per diem paid. To request reimbursement of \$1,760 when the board member took vacation (personal) time does not seem reasonable. In this case the board member suffered the loss of benefits, i.e. vacation time.

Another board member worked the afternoon shift. Board meetings are held at 10 a.m. The time volunteered to serve on the Board was unpaid personal time. As the law could be interpreted to allow for expenses that are not reimbursed by another source, we feel the board member could be entitled to the per diem using Finance's definition of per diem as an expense. The third board member cited in this report has retired and we have no way to contact him. We have failed in past attempts to contact the board member for other reasons.

After reviewing Minnesota Statute 15.0575 we have several unanswered questions:

- Is the intention of the law to punish individuals who serve on citizen boards on their personal time because they happen to be full-time employees of political subdivisions?
- If we had a board member who worked part-time for the state or a political subdivision, would they then be eligible for per diem in addition to their normal salary under strict interpretation of the law since they didn't work full-time?
- How could per diem not be considered an expense? Board members complete the Department of Finance's SEMA4 Employee Expense Report. Aren't board members entitled to per diem since the statute in part reads "members...may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source"?

It's our belief the intent of Minnesota Statute 15.0575 is to prevent employees of the state or political subdivisions of the state from "double dipping" at taxpayer expense. We believe these board members have met that test and were paid and accepted per diem in good faith. We feel the law is open to interpretation and may not withstand court action if we pursue repayment. We do not believe the particular circumstances warrant seeking repayment from board members.

Although we disagree with your finding, new procedures will be implemented immediately to ensure per diem compensation is not paid to board members who are employed by the state or political subdivisions.

- The Office Services Supervisor will monitor board member employment information.
- Information provided to board members will be revised to include a warning on how the law could affect per diem compensation for employees of political subdivisions.
- Statements of Economic Interest filed by board members with the Minnesota Campaign Finance and Public Disclosure Board will be monitored to detect employment changes.

I will recommend the board seek changes in Minnesota Statutes 15.0575 clarifying ambiguous language so that future board members can clearly understand the meaning of the statute defining per diem and expense compensation.

Thank you for the opportunity to respond to these audit recommendations.

Sincerely,

/s/ Harry W. Baltzer

Harry W. Baltzer
Executive Director