

**DEPARTMENT OF COMMERCE  
FINANCIAL AUDIT  
FOR THE THREE YEARS ENDED JUNE 30, 1989**

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**JULY 1990**

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**Financial Audit Division  
Office of the Legislative Auditor  
State of Minnesota**

**90-47**



**DEPARTMENT OF COMMERCE**  
**FINANCIAL AUDIT**  
**FOR THE THREE YEARS ENDED JUNE 30, 1989**

Public Release Date: July 27, 1990

No. 90-47

**OBJECTIVES:**

- **EVALUATE INTERNAL CONTROL STRUCTURE:** Registration Division; security registration receipts, security agent licensing, unclaimed property, Petroleum Tank Release Cleanup Act disbursements, professional and technical services. Registration and Administration Divisions; payroll, and travel disbursements.
- **TEST COMPLIANCE WITH CERTAIN FINANCE-RELATED LEGAL PROVISIONS.**

**CONCLUSIONS:**

We found three areas where the internal control structure needed improvement:

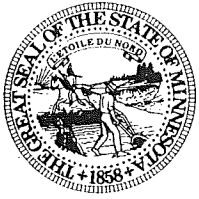
- Controls over contracts need improvement.
- The department does not provide administrative services to the Board of Barber Examiners.
- Controls over imprest cash need improvement.

We reported on four areas where the department had not complied with finance-related legal provisions:

- The department did not always encumber funds before the contractors began work.
- The department did not provide administrative services to the Board of Barber Examiners, as required by Minn. Stat. Section 214.04.
- The department exceeded its limit for the use of department head funds.
- Department employees did not pay for parking, as required by Minn. Stat. Section 16B.58, Subd. 8.

Contact the Financial Audit Division for additional information.  
(612) 296-1730





STATE OF MINNESOTA

**OFFICE OF THE LEGISLATIVE AUDITOR**

VETERANS SERVICE BUILDING, ST. PAUL, MN 55155 • 612/296-4708

JAMES R. NOBLES, LEGISLATIVE AUDITOR

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Senator John E. Brandl, Chairman  
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. Thomas Borman, Commissioner  
Department of Commerce

Audit Scope

We have conducted a financial related audit of two of the Department of Commerce four divisions as of and for the three years ending June 30, 1989. These divisions are Registration and Administration. Our audit was limited to only that portion of the State of Minnesota financial activities attributable to the transactions of the Department of Commerce Registration and Administration Divisions, as discussed in the Introduction. We have also made a study and evaluation of the internal control structure of these divisions in effect as of March 1990.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial activities attributable to the transaction of the Department of Commerce Registration and Administration Divisions are free of material misstatements.

As part of our study and evaluation of the internal control structure, we performed tests of the Department of Commerce Registration and Administration Divisions compliance with certain provisions of laws, regulations, contracts, and grants. However, our objective was not to provide an opinion on overall compliance with such provisions.

Management Responsibilities

The management of the Department of Commerce is responsible for establishing and maintaining an internal control structure. This responsibility includes compliance with applicable laws, regulations, contracts, and grants. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that:

- assets are safeguarded against loss from unauthorized use or disposition;

- transactions are executed in accordance with applicable legal and regulatory provisions, as well as management's authorization; and
- transactions are recorded properly on the statewide accounting system in accordance with Department of Finance policies and procedures.

Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

#### Internal Control Structure

For purposes of this report, we have classified the significant internal control structure policies and procedures in the following categories:

##### Registration Division:

- security registration receipts,
- security agent licensing,
- unclaimed property,
- disbursements under the Petroleum Tank Release Cleanup Act, and
- professional and technical services.

##### Registration and Administration Divisions:

- payroll, and
- travel disbursements.

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

#### Scope Limitation

The Registration Division relies on the National Association of Security Dealers to license agents selling securities in Minnesota. We did not evaluate the internal control structure of that organization. Therefore, we do not express an opinion on the control structure of these licensing receipts.

#### Conclusions

Our study and evaluation disclosed the conditions discussed in findings 1 and 3 involving the internal control structure of the Department of Commerce Registration and Administration Divisions. We consider these conditions to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions

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Members of the Legislative Audit Commission  
Mr. Thomas Borman, Commissioner  
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involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data.

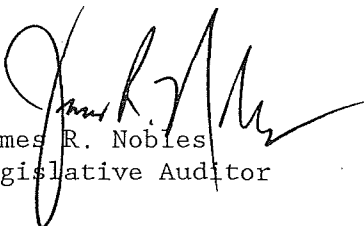
A material weakness is a reportable condition in which the design or operation of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial activities being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We believe none of the reportable conditions described above is a material weakness.

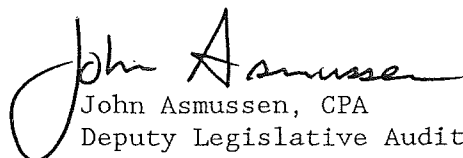
However, we noted certain matters involving the internal control structure and its operation that we reported to the management of the Department of Commerce at the exit conference held on July 11, 1990.

The results of our tests indicate that, except for the issues discussed in findings 1 to 4, with respect to the items tested, the Department of Commerce Registration and Administration Divisions complied, in all material respects, with the provisions referred to in the audit scope paragraphs. With respect to items not tested, nothing came to our attention that caused us to believe that the Department of Commerce had not complied, in all material respects, with those provisions.

This report is intended for the information of the Legislative Audit Commission and management of the Department of Commerce. This restriction is not intended to limit the distribution of this report, which was released as a public document on July 27, 1990.

We would like to thank the Department of Commerce staff for their cooperation during this audit.

  
James R. Nobles  
Legislative Auditor

  
John Asmussen, CPA  
Deputy Legislative Auditor

END OF FIELDWORK: May 9, 1990

REPORT SIGNED ON: July 23, 1990





## DEPARTMENT OF COMMERCE

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### AUDIT PARTICIPATION

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

John Asmussen, CPA	Deputy Legislative Auditor
Margaret Jenniges, CPA	Audit Manager
Alan Finlayson, CPA	Auditor-in-Charge
Jean Mellett, CPA	Auditor
Susan Rumpca	Auditor
Rhonda Regnier, CPA	Auditor
Kathy Hengel	Intern

### EXIT CONFERENCE

The findings and recommendations in this report were discussed with the following officials of the Department of Commerce at the exit conference held on July 11, 1990:

Thomas Borman	Commissioner
Tammy Wetterling	Finance and Administration Director
Kristine Eiden	Deputy Commissioner, Registration and Analysis Division
Pat Peterson	Registration Director



## DEPARTMENT OF COMMERCE

### I. INTRODUCTION

The Department of Commerce is a regulatory agency which establishes and monitors standards involving a wide variety of business transactions. The primary goal of the department is to instill investor and business confidence in financial transactions. This includes protecting the public from abuses in those transactions where citizens rely upon the expertise, trust, and solvency of the financial community. The Department of Commerce attempts to assure that a market place exists that adheres to legal standards and meets the needs of the public.

The Registration Division deals with the registration of financial investments and the licensing of professionals and firms that sell those investments. It also regulates insurance policy forms and rates. Another major activity of this division is operating the state's unclaimed property program.

The Administration Division provides support services to the whole department. This includes depositing receipts, processing payroll, procuring goods and services, and disbursing funds.

Payroll is the major expenditure of these two divisions. It totalled \$5.8 million during fiscal years 1988 and 1989. The department also disbursed \$897,562 under the Petroleum Tank Release Compensation Act. Other significant transactions include reimbursements of unclaimed property, rent, travel, and professional and technical services.

The department also maintains the Enforcement and Licensing and Financial Examinations Divisions. We did not examine the financial transactions attributable to these two divisions during our audit.

## DEPARTMENT OF COMMERCE

### II. CURRENT FINDINGS AND RECOMMENDATIONS

#### 1. Controls over contracts need improvement.

Commerce procedures for purchasing professional and technical services are weak in several areas. We noted the following problems in the consultant services area:

- The department does not adequately bid for services;
- Consultants start work before the department encumbers funds; and
- Commerce does not promptly pay invoices.

The Registration and Administration divisions expended \$410,000 for professional and technical services during fiscal years 1987 through 1989. These services include actuarial and financial reviews, testimony of expert witnesses, hearing examiners, and media advice regarding the unclaimed property program. In addition, the department awarded contracts on behalf of certain quasi-state agencies for which it has some oversight responsibility.

In some instances, Commerce did not follow state regulations established by the Department of Administration under Minn. Stat. Section 16B.17. These regulations require special negotiating procedures for contracts exceeding \$2,000. State agencies must certify that reasonable efforts were made to publicize the availability of the contract or demonstrate that the normal competitive bidding process will not provide for adequate performance of the services.

Commerce awarded contracts for financial and other services without adequately soliciting bids. In one instance, they recommended a legal firm to assist the Attorney General in a law suit against an insurance company. The compensation for the legal firm was 25 percent of the amount recovered in excess of \$500,000, plus expenses. According to staff, the department interviewed other legal firms, and believed this one was the most qualified. However, no documentation exists showing the process used to evaluate different firms. Although the Attorney General approved the firm, we are concerned that Commerce recommended the awarding of such a potentially large contract through an informal process.

The department also processed third party administrator contracts for the Minnesota Medical Practice Joint Underwriters Association and the Workers' Compensation Assigned Risk Plan. Although these organizations are exempt from state procedures, Commerce advertised the positions in the state register. Only one firm responded to each proposal. Commerce and the boards awarded the contracts without reevaluating the bidding process. We feel they should have attempted to advertise more widely to solicit more potential vendors before awarding the contract.

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Commerce did not always encumber funds before the vendors began work. Staff did not encumber funds prior to paying liabilities incurred for the six contracts we reviewed. Also, sufficient funds were not encumbered for 30 of the 54 invoices for hearing examiners fees we reviewed. Minn. Stat. Section 16A.15, Subd. 3, provides in part,

...an obligation may not be incurred against any fund, allotment, or appropriation unless the commissioner has certified a sufficient unencumbered balance in the fund, allotment, or appropriation to meet it...

In some instances, the Attorney General's staff contracts with vendors for services provided to Commerce. Program staff at Commerce are notified of the contacts; however, the financial staff are not notified to encumber the funds. Communications should be improved so that sufficient funds are encumbered before the contractors begin work.

Delays in establishing encumbrances sometimes resulted in Commerce not paying invoices within statutory limits. Minn. Stat. 16A.128. requires payment to vendors "within 30 days following receipt of the invoice, merchandise, or service whichever is later". We noted nine instances where Commerce failed to meet this requirement. By not complying with the statute, Commerce could incur interest penalties.

### RECOMMENDATIONS

- Commerce should improve its procedures for awarding contracts.
  - The department should encumber funds before contractors begin work.
  - The department should pay invoices for contractual services timely.
2. The Department of Commerce does not provide required administrative services to the Board of Barber Examiners.

In January 1990, the Department of Commerce stopped providing the Board of Barber Examiners with administrative services. This was a mutual agreement between the two entities. Minn. Stat. Section 214.04 states that Commerce:

shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel service, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services of a housekeeping nature as are generally available to other agencies of state government.

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The statute also allows the department to charge the board a reasonable cost for these services.

We do not believe that the statute allows for the type of agreement reached by Commerce and the Board of Barber Examiners. It significantly reduces the level of control over financial activity. One board employee performs virtually all steps of transaction. For example, this person collects receipts, and reconciles them to licenses issued. She also authorizes purchases, receives goods, and disburses funds. When one person has this much control, the risk of undetected errors and irregularities significantly increases. The services provided by the Department of Commerce would serve as an independent review of board activity.

### RECOMMENDATION

- The Department of Commerce should provide administrative services to the Board of Barber Examiners as required by Minn. Stat. Section 214.04.

#### 3. Controls over the imprest cash account need improvement.

Controls over the imprest cash account are weak in several areas. First, the department did not maintain adequate records. Sixteen expenditures totalling \$3,046 were not supported by an invoice. These costs include aviation services, meals from the department head account, and an employee reimbursement for supplies. Without supporting documentation, Commerce does not have assurance that all payments are necessary and appropriate.

Also, the former commissioner did not properly authorize the use of department head funds. Department head is an annual allotment of \$2,500 for use at the commissioner's discretion. The Department of Finance operating procedure 06:05:27 states that commissioners should complete a form designating expenditures as department head. At Commerce, the only documentation authorizing the use of these funds were memos from the commissioner's secretary to the accounting department. In one instance, the secretary instructed the accounting department to charge ten disbursements totalling \$343 to department head funds. However, \$169 of this amount was reimbursed from operating funds. No documentation exists explaining the discrepancy. We consider this an overspending of department head funds since the department used the entire \$2,500 during the fiscal year. If the former commissioner had completed a department head form, this error may have been prevented.

A final weakness is that duties are not adequately separated. One employee maintains the checkbook, acts as one of two required check signors, and completes reconciliations. Good internal control requires separation of these duties. Under the current system, intentional or unintentional errors may go undetected. Commerce could improve this process by having someone independent of the recordkeeping function reconcile the account to the bank statement and authorized limit.

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RECOMMENDATIONS

- Commerce should improve recordkeeping of imprest cash transactions.
- Someone independent of the recordkeeping function should reconcile the imprest cash account to the bank statement and authorized limit.

4. The Department of Commerce employees do not pay for parking.

The Department of Commerce has inappropriately paid for its employees parking costs since January 1990. Minn. Stat. Section 16B.58, Subd. 8 states that the Commissioner of Administration:

shall charge state employees for parking facilities which are used by them and furnished for their use pursuant to any lease entered into between the state of Minnesota and the lessor of any privately owned property situated in the seven county metropolitan area.

The Department of Administration charges all state employees in the metropolitan area uniform rates for parking. These rates are \$5.08 per pay period for surface lots and \$8.88 per pay period for underground parking. State agencies notify the Department of Administration which employees are using parking facilities. The appropriate amount is deducted from the employees payroll warrant. The department pays the actual parking costs directly to the lessor.

The Department of Commerce notified the Department of Administration to stop the employee payroll deductions. This occurred in January 1990 when it negotiated a new lease. This action conflicts with Minn. Stat. Section 16B.58 because the new lease includes employee parking facilities. The board now pays the cost of employee parking. To comply with the statute, the Board of Architecture needs to re-establish payroll deductions for employee parking. It must also collect the unpaid parking charges since January 1990.

RECOMMENDATION

- The Department of Commerce should reinstate payroll deductions for parking costs, and backcharge employees to January 1990.







OFFICE OF THE COMMISSIONER

# STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

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July 17, 1990

Senator John E. Brandl, Chairman  
Legislative Audit Commission

Members of the Legislative Audit Commission

We appreciate the opportunity to respond to the findings of the Legislative Auditors Office after their recent review for internal control of the Department of Commerce programs of Registration and Analysis and Administration. We would like to state that We find the process of external review of this agencies operations to be very helpful in an attempt to run an efficient and effective operation.

However, it appears in review of the findings that there are areas that could use further clarification and while those items were discussed at the exit conference held with the agency staff on July 11, we wish to have those comments included with this report and will do so by including them in this management letter. We will follow the same response format as was presented in the findings and recommendations section of your report.

## 1. Controls over contracts need improvement.

While for the most part, we can understand your recommendations for increase in internal controls over contracts that the Department of Commerce enters into we feel there are a number of points that require consideration and understanding and should be presented with this recommendation.

As to the matter of the statement in which it is said the department does not adequately bid for services let us state that the Department of Commerce enters into less than ten consultant contracts per year. As a result, when we have entered into contracts on behalf of the department, we have generally followed the specific guidelines of the Department of Administration, Materials Management Division, Contracts Section. The issue of concern expressed was again the fact that publication of the requests for proposals was done only in the State Register. The simple fact remains as previously stated, when these contracts were negotiated, this was the procedure the department was aware of for the publications of such documents. The contract management policy and procedure used did not address advertising in any other document. Now that the agency is aware, from the findings of another audit by your agency, that further publication in other forms of media is appropriate, we will use those methods when determined to be necessary. We do not feel the statement that we

do not adequately bid for services is totally accurate but more appropriate for this instance would be that the department followed only those guidelines of the contract procedures and did not attempt to advertise in any other media format.

As to the matter of the fact that consultants start work before the department has encumbered funds we can simply state that this will occur on occasion. We can not adequately explain the only example cited of the Milwaukee Teleservices contract as the individual responsible for that contract is no longer with the agency. We can address the fact that we do have circumstances that do arise within our regulatory responsibility where time is of the essence. We do not have the luxury available to us to be effective regulators and execute a contract that may take six to nine weeks to process. This is particularly with regard to the matter of expert witnesses needed for hearings and professional services used to assist us in review of documents when no one on staff has the professional expertise to assure that the financial statements or information provided is accurate and complete.

We do experience situations where in the last week of preparation for an administrative action it is discovered that there may still be one area of weakness in the agencies case and the only way to bridge that gap is to have an expert in the field available to testify. Our attorneys will generally work with an agency staff member to identify the best possible witness with no conflict of interest to assist us. While we recognize that it would be the perfect scenario that at that time the agency employee would contact the accounting division to establish an encumbrance, we realize and understand that the only matter of concern at the time to our attorney and the staff member involved is the successful resolution of the case at hand. When this has been an occurrence, we think it should be noted that we have followed the proper procedures for expending funds without the proper encumbering documents outlined in Minnesota Statutes Chapter 16A.15 subdivision 3.

Additionally, we acknowledge an experience with the other example noted of a CPA firm reviewing a franchise submission without having a contract for the services. Again we would like the record to reflect that not only did we follow the procedures outlined in M.S. Chapter 16A.15 subd. 3, but extenuating circumstances did exist and this is not the norm. We do not have a CPA on staff, currently or at the time of this application, nor did any member of the staff have the appropriate knowledge or credential to accurately review the financial data with regard to this particular application. It was not viewed by the staff review to be acceptable but because of the implication of denying the application, an expert opinion was sought out.

As to the matter of encumbering funds for the hearings examiners addressed in your report. When this agency has a notice of hearing we make an encumbrance to support that hearing. We acknowledge that in the situation where a case actually does go to hearing that original encumbrance will likely be insufficient to cover the total cost of the hearing. The process we have used for at least the last 20 years, which has been reviewed previously by your office with no comment, is to increase those encumbrances as expenses related to that action are incurred. There are also many cases (perhaps the majority) in which a hearing is scheduled but the case is resolved before it reaches the point of actually going to hearing. In these cases, we will pay whatever cost the hearings examiner incurred and most times it is within the amount of the original encumbrance. All will principally depend on the timing of the settlement.

While your office has chosen at this time to make the comment that this is not the appropriate practice, no suggestions we made other than citing the statutory language on encumbrances as to what would be a better way to handle the hearings examiner obligation. If an agency, especially a regulatory agency, were to encumber the maximum cost of each notice of intent to hold a hearing it would use the entire budget for hearings for cases that may be settled. An agency such as ours would be put in the situation of having to gamble on the settlement of cases and not allow us to effectively complete our goals of consumer protection against the fraudulent activity of any of our licensees or business promotion in that we may not have funds available for hearings on applications and charters since it is encumbered for matters which may be settled.

Again, we understand that there is a timely mechanism by which contracts should be advertised, negotiated and entered into however, there are situations that arise that do not allow the luxury of unlimited time frames to carry out the appropriate regulatory action and while we will make every attempt in our power to follow the recommendations of this audit with regard to the contracts the Commerce Department is a party to we can not give complete assurances that these situations will not occur again.

As to the matter of the payment delays resulting in not having encumbrances prior to work performance, we think it is important to note that while your report may indicate that an interest penalty could have been an issue at no time has the state ever suffered a penalty for any of the invoices discussed. As a matter of fact, the vendors understood the situation and were fully supportive and happy to comply with procedures for late encumbrances. At this department, we make every attempt to comply with Minnesota Statutes Chapter 16A.128 and are often in receipt of letters of complement for compliance with this statute from the Commissioner of Finance. We will continue to work toward achieving

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Members of the Legislative Audit Commission  
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our own goal of 100% of our invoices paid within 30 days of receipt.

At this point we would like to focus on your references to contracts entered into by the quasi-state agencies. First by way of clarification let us attempt to explain the operations of these insurance entities. First of all the entities themselves are created or authorized by state statute and some have certain responsibilities required within these statutes. Therein lies the end of there "state" responsibility. While your office views them as public entities by way of their legislative origin, the funding for operations and the payment of obligations comes from sources other than the State of Minnesota, mostly private insurance companies and health maintenance organizations. The Commerce Department provides a form of liaison responsibility to these entities as a matter of providing a level of regulatory expertise and to assure compliance with our regulatory statutes and rules. It should be made clear at this point that no where in the enabling legislation of these entities does it require compliance with State purchasing or spending guidelines in any way. The board members and the executive directors, by way of delegated authority of the board, are able to operate as would any other private corporation.

In most instances, the Commissioner of Commerce is a member of each one of these boards and in some cases the Commissioner will be able to make some appointments to the boards. However, the majority makeup of all the boards will be representing those who are paying the cost of the operations, i.e. the insurance industry. Commerce has done whatever they have been able to in the past to assist and advise these entities as to procedural and administrative processes that could benefit their operations. At no time has our authority been within the constraints of the ability to demand certain compliances with State statutes or rules governing the operations of a State agency. While some will generally and voluntarily use the State's procedures, they are not bound to them. They each have the ability to operate as a private corporation would. Commerce's assistance to any of the boards in the advertising or processing of contracts was simply as a matter of continuing our productive and effective working relationships with these entities. We will continue to provide the advice they seek whenever asked, but as to the amount of control we may be able to exercise over their individual abilities to spend the monies available to them, we do not foresee any major changes in the near future.

If it is the opinion of the Legislative Auditor that these entities are managing public funds and should be subject to the reviews of your office, perhaps that is exactly what you should do and recommendations as to how they should handle their contract procedure should be in a report regarding the specific board or

Senator John E. Brandl, Chairman  
Members of the Legislative Audit Commission  
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entity and not in a report regarding the Department of Commerce as they are not responsible to the department in the execution of their operations.

As a point of clarification, Commerce does not award contracts on behalf of any boards. Contracts are negotiated and entered into by and for the boards. Your reference to the fact that the Commerce Commissioner has signed contracts for the boards should be clarified to note that the signature was on behalf of the Commissioners position on the board and not in the capacity of Commissioner of Commerce. The fact that the Commerce Commissioner title is used in signing these contracts should not imply that the contracts are awarded by the department. It should simply imply that the Commissioner used his title of Commissioner instead of Board Member.

Finally with regard to the recommendation on the contract procedures of the department, reference was made to an appointment of a special counsel made by the Attorney General's office as if it were a contract. First of all, this is a responsibility of the Attorney General's Office to assure the proper execution of such appointments and they are not considered contracts. There is a statute that specifically deals with these appointments and governs the practice of making them. While the Attorney General's Office will naturally seek the opinion of their client when entering into the appointment, they are the responsible party and they execute and sign the appointments. Not the Department of Commerce.

As to the reference to the Department of Commerce interviewing law firms for the unclaimed property special counsel appointment, we think it should be clear that formal interviews were not conducted with any law firm. Calls were made to various firms to determine whether or not the firm had the expertise on staff and whether or not a firm would have a potential conflict of interest with any other client in handling that particular case. Since a particular point was made of referencing the compensation for this case, we think it only fair to note that the firm would not recover a fee if the State did not recover abandoned or unclaimed property. All they would receive is reimbursement for expenses.

While your concern for the process being informal may potentially be of value, as we expressed at the exit conference, it is our understanding from the Attorney Generals Office staff that this is the usual practice. Clients may make recommendations but the Attorney General's have the final authority when it comes to this matter. Perhaps if the concern is for lack of formality within a given process, the process should be reviewed with the Attorney General's Office and a recommendation should be made to that State entity as to what process should be followed.

2. The Department of Commerce does not provide required administrative services to the Board of Barber Examiners.

The Department of Commerce did provide full administrative services to the above referenced board until January 1, 1990. At such time, the Department of Commerce relocated. The original intent was that the Board of Barber Examiners would move to our new location with us and we would continue to provide them the same administrative support as we had in the past.

During the relocation process, the board determined that they did not like the space they would have moved to as they felt the size of the new space was not sufficient to support their operation. The board, independent of the Department undertook the effort to find suitable space for their operation in a location of their own choosing. The department was notified of their decision to do so after the fact by the Division of Real Estate Management, Department of Administration. After some discussion with board representatives, Commerce staff members were clearly informed that they were not authorized to be a part of this decision and that the board was responsible for it's own operation.

As the matter of authority over board decisions with regard to all the boards Commerce provides support to has been an issue for in excess of 10 years, we have established a guideline that the department staff does not have the authority to make policy or procedural decisions for these boards. We are simply a conduit through which may flow documents to process administrative transactions. This position is the one that is most desireable to each board we support and it has been supported by both legislative bodies.

Upon completion of the moving process, Commerce Department staff in conjunction with staff of the Department of Finance met with the board chairman and staff to identify what services the board would want the department to supply them upon their relocation. Everyone was aware that Commerce could continue to supply the same level of support but that this was not the desire of the Barbers Board as it would clearly hinder their efficiency. When the case was presented to the staff of Commerce and Finance that the board staff would handle their own business of administrative support, the question of internal control was raised by Commerce. The board representatives were told that they would need to establish procedures that would assure control over cash flow and the agency operations in accordance with those policies and procedures and previous Legislative Auditors recommendations. As a matter of fact, it was strongly suggested that Margaret Jenniges of the Legislative Auditors Office be contacted to review the procedures established for compliance with audit standards.

The board was informed that Commerce and Finance staff would assist in development of procedures if they so desire but no attempt to seek out that assistance was ever made. After that meeting the determination was made that the only service the board wanted from Commerce was personnel transaction processing. It was mutually agreed that the board had every right to make their own decisions as to their operations and that procedures would be established to assure proper controls would be in place so that there would be no question of propriety in the activities of the board.

The Commerce Department, after years of experience in the issue of what authority they have over the activities of non-health board operations, does not have the authority to tell the Board of Barber Examiners how they must function. We readily acknowledge that we do not provide the administrative support to this board as outlined in Minnesota Statutes Chapter 214.04. We did not make the decision not to supply this support it was made by the Board of Barber Examiners. We do not have legal authority to force the Board of Barber Examiners to comply with this section of the statute and will hope that your reference to this matter in their report will somehow force compliance. As there is no where in the statute that addresses this circumstance, we would look to an outside influence to assist us in an attempt to garner compliance. At this point, any attempt at trying to get the Board to reconsider its decision to take Commerce out of its administrative process has been to no avail. Perhaps this recommendation is better handled as part of the Boards findings and your findings for Commerce could have identified the situation more clearly. This is why we have included this explanation as part of our response.

### 3. Controls over the imprest cash account need improvement.

We have already established procedures and are continuing to refine those procedures to assure adequate control over the departments \$500.00 imprest cash account. This account has been established for in excess of 15 years and the process by which checks are issued, bank statements are reconciled and receipts retained has been the same for at least that time. This account is always a subject for review whenever the Legislative Auditors Office has reviewed our operation and this is the first occurrence of the recommendations for change. Needless to say we are in full agreement as to the fact that we need to improve our record keeping and as a matter of fact, we have implemented an immediate change of requiring a check request form. (A copy is attached for your information.) Receipts for disbursements with imprest cash checks will be attached to this form and the check request forms will be submitted to accounting with the reimbursement request.

As for your other related recommendation for an independent reconciliation of the bank statement for the imprest cash account, we have implemented an immediate change in that area also. The staff of the agencies accounting statement will reconcile the monthly bank statements to the imprest cash account.

As to the matter of your discussion of the findings, we would like to note that in review of the 16 expenditures you listed from the imprest account that were not supported by receipts, we can assure that at one point, receipts were attached to the check ledger for those items. Unfortunately, the past practice was to staple the receipt to the check ledger which as a matter of course throughout the years has experienced some after the fact loss of receipts. In no case was it discovered that a check was issued inappropriately as may have been implied by your comments. Each check is listed and explained on an attachment to this letter.

As to the matter of the department head expense items from the imprest fund. The agency does have a practice of using the Department of Finance reimbursement request form for department head expenses. Unfortunately, the Accounting Section was in error in not requesting the completion of this form for related department head matters from the imprest account. This will not occur in the future. The secretary to the commissioner who requests the reimbursement to the imprest account is not an expert in the various object of expenditure codes available within the Statewide Accounting System and therefore, relies on the accounting staff to properly code the reimbursements to the proper accounts. The reference to coding secretary referred items to operating accounts would indicate that they were more appropriately reimbursed from other areas.

We do not agree with the idea that there may have been an over-expenditure of the department head account in any given year as that is a closely monitored item by the accounting division. If an over-expenditure of that account ever were to occur we have every reason to believe that any commissioner would absorb that expenditure personally as opposed to violating the use of the account.

4. The Department of Commerce employees do not pay for parking.

This did occur as an oversight in the process of relocating our department. We have corrected this measure with the Department of Administration immediately upon notice of your staff that there was a violation of procedure in this area. The Department of Administration has taken the necessary steps to reinstate the employee payroll deductions and has addressed the reimbursement issue.

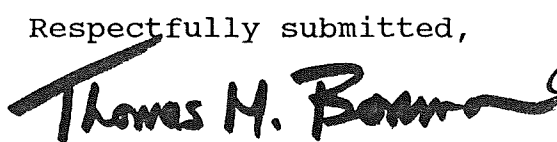


Senator John E. Brandl, Chairman  
Members of the Legislative Audit Commission  
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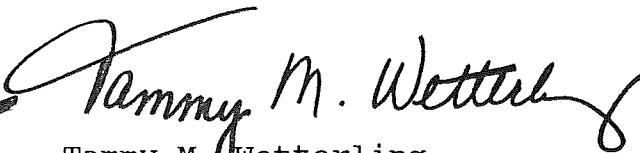
It is this agencies sincere hope that our response will assist in the clarification of the items brought to the attention of everyone in the findings section of this report. While we may feel that some of the issues addressed would be more appropriately addressed in review of another entities audit we will address the recommendations to the best of our ability.

We would like to thank the staff of the Legislative Auditors Office for their diligent efforts during this audit.

Respectfully submitted,



Thomas H. Borman  
Commissioner of Commerce



Tammy M. Wetterling  
Administrative Management Director

attach.

## Attachment 1

## List of Imprest Account Checks

<u>Check Number</u>	<u>Date of Check</u>	<u>Payee</u>	<u>Amount</u>
1225	07/09/86 Explanation:	MILE Registration fee for Richard Gomsrud, staff attorney, to attend legal education seminar.	\$ 125.00
1230	08/18/86 Explanation:	Atlair Aviation Commissioner's flight to Babbit, Eveleth, Paynesville for meetings regarding the Reserve Mining insurance crises.	381.86
1231	08/15/86 Explanation:	G & R Aviation Commissioner's flight to Duluth to speak to the Minnesota Defense Lawyers Association.	217.56
1232	08/22/86 Explanation:	G & R Aviation Commissioner's flight to Breezy Point to speak with the Independent Bankers Association.	190.83
1234	08/28/86 Explanation:	Terry Lynch Pilot fees for flights to Duluth and Breezy Point.	50.00
1239	10/03/86 Explanation:	Pappa's Deli Reimbursement for lunch supplied to the Governor's Blue Ribbon Commission.	34.81
1245	10/09/86 Explanation:	Tammy Wetterling Reimbursement for invitations purchased for Commissioner's annual employee recognition party.	63.41
1246	10/10/86 Explanation:	Alan Gilbert Reimbursement to Attorney General staff for the cost of lunch for an expert witness in the O'Brien case.	9.00
1247	10/13/86 Explanation:	Dominos Lunch provided for policy analysis division working lunch staff meeting.	34.50

Attachment 1  
List of Imprest Account Checks  
Page 2

<u>Check Number</u>	<u>Date of Check</u>	<u>Payee</u>	<u>Amount</u>
1258	11/24/86 Explanation:	Nancy Link Reimbursement for lunch supplies for Commissionr's luncheon.	9.27
1260	12/05/86 Explanation:	Emerald Evergreen Holiday tree for Department Employees.	40.55
1279	05/05/87 Explanation:	Kuber Catering Coffee for the Minneapolis Real Estate and Insurance Road Shows, the cost was reimbursed by donations from those who attended.	1,051.20
1281	05/14/87 Explanation:	Minneapolis Auditorium Room Rental for the Minneapolis Real Estate and Insurance Road Shows, the cost was reimbursed by donations from those who attended.	700.00
1295	10/05/87 Explanation:	Simeks Food for Commissioner's annual employee recognition party.	47.73
1308	12/05/87 Explanation:	Emerald Evergreen Holiday tree for Department Employees.	35.95
1352	10/29/88 Explanation:	Dayton's Invitations purchased for Commissioner's annual employee recognition party.	53.94

REQUEST FOR FUNDS FROM  
IMPREST CASH ACCOUNT

DATE OF REQUEST: \_\_\_\_\_ AMOUNT REQUESTED: \$ \_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

REASON: \_\_\_\_\_

DATE NEEDED: \_\_\_\_\_

Upon purchase, I agree to  
provide the Department with  
a receipt of purchase.

\_\_\_\_\_  
Signature

Approved by:

Date \_\_\_\_\_

\_\_\_\_\_  
Supervisor

Date: \_\_\_\_\_

\_\_\_\_\_  
Tammy Wetterling  
Administrative Management Director

Check # \_\_\_\_\_