ETHICAL PRACTICES BOARD
FINANCIAL AUDIT
FOR THE TWO YEARS ENDED JUNE 30, 1991

SEPTEMBER 1991

Financial Audit Division
Office of the Legislative Auditor
State of Minnesota

91-68

Centennial Office Building, Saint Paul, Minnesota 55155 ● 612/296-4708

ETHICAL PRACTICES BOARD

FINANCIAL AUDIT
FOR THE TWO YEARS ENDED JUNE 30, 1991

Public Release Date: September 19, 1991 No. 91-68

OBJECTIVES:

- EVALUATE INTERNAL CONTROL STRUCTURE: public subsidy refunds, payroll, and public subsidy grants.
- TEST COMPLIANCE WITH CERTAIN FINANCE-RELATED LEGAL PROVISIONS.

CONCLUSIONS:

We found one area where the internal control structure needed improvement:

- The board had not processed overtime through the state's central payroll system, and had also paid incorrect overtime rates.

We found one area where the board had not complied with finance-related legal provisions:

- The board had paid incorrect grant fund amounts to state senate and house candidates.

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

STATE OF MINNESOTA
OFFICE OF THE LEGISLATIVE AUDITOR
CENTENNIAL BUILDING, ST. PAUL, MN 55155 • 612/296-4708
JAMES R. NOBLES, LEGISLATIVE AUDITOR

Representative Ann Rest, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. William M. Heaney, Chair
Ethical Practices Board

Ms. Mary Ann McCoy, Executive Director
Ethical Practices Board

Audit Scope

We have conducted a financial related audit of the Ethical Practices Board as of and for the two years ended June 30, 1991. Our audit was limited to only that portion of the State of Minnesota financial activities attributable to the transactions of the board, as discussed in the Introduction. We have also made a study and evaluation of the internal control structure of the board in effect at June 1991.

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 transactions of the Ethical Practices Board are free of material misstatements.

As part of our study and evaluation of the internal control structure, we performed tests of the Ethical Practices Board's 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 Ethical Practices Board 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:

- public subsidy refunds,
- payroll, and
- public subsidy grants.

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.

Conclusions

Our study and evaluation disclosed the condition discussed in finding 2 involving the internal control structure of the Ethical Practices Board. We consider these conditions to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions 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 board'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 the reportable condition described above is not a material weakness.

The results of our tests indicated that, except for the issues discussed in finding 1, with respect to the items tested, the Ethical Practices Board complied, in all material respects, with the provisions referred to in the audit scope paragraphs. With respect to the items not tested, nothing came to our attention that caused us to believe that the board had not complied, in all material respects, with those provisions.

Representative Ann Rest, Chair
Members of the Legislative Audit Commission
Mr. William M. Heaney, Chair
Ms. Mary Ann McCoy, Executive Director
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This report is intended for the information of the Legislative Audit Commission and management of the Ethical Practices Board. This restriction is not intended to limit the distribution of this report, which was released as a public document on September 19, 1991.

We would like to thank the Ethical Practices Board staff for their cooperation during this audit.

James R. Nobles
Legislative Auditor

John Asmussen, CPA
Deputy Legislative Auditor

END OF FIELDWORK: June 28, 1991

REPORT SIGNED ON: September 11, 1991

ETHICAL PRACTICES BOARD

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AUDIT PARTICIPATION

The following staff from the Office of the Legislative Auditor prepared this report:

John Asmussen, CPA	Deputy Legislative Auditor
Tom Donahue, CPA	Audit Manager
Ron Mavetz, CPA	Auditor-In-Charge

EXIT CONFERENCE

The findings and recommendations in this report were discussed with the following staff on July 10, 1991:

Mary Ann McCoy	Executive Director
Jeanne Olson	Assistant Executive Director
LuAnne Swanson	Office Manager

ETHICAL PRACTICES BOARD

I. INTRODUCTION

The Ethical Practices Board was established in 1974 as a part of the Ethics in Government Act (Minnesota Statute Chapter 10A). The bi-partisan six member board is appointed to four-year terms by the Governor, with the advice and three-fifths consent of the Senate and the House of Representatives. The board administers programs that provide disclosure of political campaign registration and reporting of candidates for legislative and statewide constitutional offices and elective judgeships. The board also administers registration and reporting of lobbying activities, personal economic interests of certain public officials at the state and metropolitan level; and public financing of candidates for legislative and constitutional offices who appear on the general election ballot.

The board appoints an executive director and other staff who are in the unclassified service of the state. Mary Ann McCoy has served as the executive director since January 12, 1981.

A major function of the board is to administer the public financing program, through the states campaign fund. Public financing monies are generated form the voluntary check-offs of $5 by Minnesota residents on state income tax or renter and homeowner property tax refund forms. The monies can be designated to the Democratic, Republican, or General Election Accounts; general account money is allocated to all general election candidates. Public financing is available to candidates for Governor, Attorney General, Secretary of State, State Treasurer, State Auditor, State Senator, and State Representative for candidates who appear on the general election ballot. During fiscal year 1991, the following public financing grants were made from each of the State Campaign Fund Accounts for the 1990 elections:

Democratic-Farmer-Labor Account	$1,843,478
Independent-Republican Account	$1,143,096
General Account	$1,543,028

Public financing grants returned amounted to $87,684 during fiscal year 1991. Administrative operations of the Ethical Practices Board are funded from General Fund appropriations. Payroll expenditures were $215,104 and $256,711 for fiscal years 1990 and 1991, respectively.

Source: Statewide Accounting System: Managers Financial Report.

II. CURRENT FINDINGS AND RECOMMENDATIONS

1. The Ethical Practices Board paid incorrect grant fund amounts to State Senate and House candidates.

The Ethical Practices Board did not monitor taxpayer check-off allocation percentages during Fiscal Years 1990-1991. As a result, the board overpaid State Senate candidates $311,713 during the 1990 elections and underpaid State Representative candidates by the same amount. Although the board payments were based on incorrect certifications provided to them by the Department of Revenue, the board could have verified the check-off allocation percentages.

Every Minnesota taxpayer may designate $5 through a tax check-off system, to the State Election Campaign Fund. Taxpayers indicate their political party preference on their income and property tax returns by checking the appropriate box. The Department of Revenue processes the returns and certifies to the Ethical Practices Board the funds available for each statewide constitutional and legislative office. The Ethical Practices Board distributes the funds based on the Department of Revenue's certification. However, the board does not review the report to ensure fund allocation percentages are in compliance with Minn. Stat. Section 10A.31, subd. 5. This statute requires 46 2/3 percent of State Election Campaign Funds be distributed to the office of state representative and 23 1/3 percent be distributed to office of state senator when funds are raised during a four year senate term. Thirty-five percent of the State Elections Campaign fund is distributed to each of the offices of state senator and representative during the two year senate terms.

The Department of Revenue incorrectly certified 35 percent of State Elections Campaign funds to the office of state senator during the 1990 election for both the democratic and republican parties. The office of state senator was only entitled to receive 23 1/3 percent of the State Election Campaign funds because the funds were collected during a four year senate term. However, the board made payments in accordance with the incorrect certifications. The board could have avoided the erroneous payments if they had verified the checkoff allocations percentages.

RECOMMENDATIONS

- **The board should review the Department of Revenues certification reports for compliance with the checkoff allocation percentage requirements of Minn. Stat. 10A.31, subd. 5.**

- **The board should seek legal advice on resolving the overpayment issue.**

2. <u>The board did not process overtime through the central payroll system and paid incorrect overtime rates</u>.

The board did not report overtime on the central payroll system during fiscal years 1990 and 1991. Instead, the executive director approved and recorded overtime internally for the one employee earning overtime during this period. The board violated Department of Finance Policy 07:04:21 by not recording overtime on central payroll's biweekly reports.

Also, the board undercompensated the employee for overtime worked. The board compensated the employee at straight time instead of at time and one half as required by her bargaining agreement. During fiscal years 1990-91, the employee worked a total of 41 overtime hours and was credited with 41 compensatory hours. The employee should have been credited with 61.5 compensatory hours; a difference of 20.5 hours. Controls in the central payroll system would have detected this underpayment.

RECOMMENDATIONS

- **The board should process all overtime payments through the central payroll system.**
- **The board should pay overtime at rates specified in the employees bargaining agreements.**
- **The board should credit the undercompensated employee for the hours she was undercompensated during fiscal years 1990-91.**

STATE OF MINNESOTA
ETHICAL PRACTICES BOARD
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HAND CARRIED

September 4, 1991

James R. Nobles
Legislative Auditor
Centennial Office Building
St. Paul, MN 55155

Dear Mr. Nobles

Enclosed is the response of the Ethical Practices Board to the audit report submitted August 21, 1991, for the fiscal years ending June 30, 1990 and 1991.

This response has been approved by the Board chair. If you have questions about the response, please let me know.

Also enclosed is a list of names and addresses for the Board members. I understand that Thomas Donahue, Audit Manager, plans to send a copy of the audit report to the Board members at the same time that Board staff is sent a copy.

Sincerely,

Mary Ann McCoy

Mary Ann McCoy
Executive Director

enclosures

RESPONSE TO LEGISLATIVE AUDITOR'S REPORT RECEIVED AUGUST 21, 1991

Recommendation #1. "The Board should review the Department of Revenue's certification reports for compliance with the checkoff allocation percentage requirements of Minn. Stat. 10A.31, subd. 5.

The Board should seek legal advice on resolving the overpayment issue.

Response #1. Beginning with the next certification or estimate from the Department of Revenue, the Assistant Director will monitor taxpayer checkoff allocation percentages to ensure that the Department of Revenue has used the correct percentage under Minn. Stat. Sec. 10A.31, subd. 5.

The Board is in the process of seeking legal advice to resolve the overpayment issue. Board staff has conferred with the Department of Revenue for guidance in the remediation of this matter. The Special Assistant Attorney General assigned to the Board is reviewing the matter for possible alternatives. When this issue has been resolved, Board staff will inform the Legislative Auditor's office of the resolution.

Recommendation #2. The Board should process all overtime payments through the central payroll system.

The Board should pay overtime at rates specified in the employees bargaining agreements.

The Board should credit the undercompensated employee for the hours she was undercompensated during fiscal year 1990-91.

Response #2 Beginning with the pay period ending July 4, 1991, the Board is processing all overtime payments through the central payroll system. The Executive Director will continue to approve overtime hours prior to these hours being earned.

The Board will compensate employees at rates specified in the pertinent bargaining agreements for overtime worked starting immediately.

On the payroll for pay period ending August 27, 1991, the Board credited the employee for the hours she was undercompensated during fiscal year 1990-91. The Assistant Executive Director will monitor payroll time rosters to assure the correct compensation is being credited.