



**OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA**

FINANCIAL AUDIT DIVISION REPORT

**Personnel and Payroll
Compliance**

Legal Compliance Audit

July 1, 2008, through April 30, 2011

November 10, 2011

Report 11-26

FINANCIAL AUDIT DIVISION
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OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

November 10, 2011

Representative Michael Beard, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

James Schowalter, Commissioner
Department of Management and Budget

This report presents the results of our compliance audit of selected personnel and payroll legal provisions for the State of Minnesota for the period July 1, 2008, through April 30, 2011. We reviewed the state agencies' compliance with provisions related to overtime, discretionary performance-based salary increases for Managerial Plan and Commissioner's Plan employees, early retirement incentives established by the *Laws of Minnesota* 2010, Chapter 227, and post-retirement options authorized in *Minnesota Statutes* 2010, 43A.346. Our scope included the applicable portions of the state's centralized personnel and payroll functions administered through the Department of Management and Budget and selected personnel and payroll transactions at 19 other state agencies.

We discussed the results of the audit with officials from the Department of Management and Budget and other entities cited in the report. This audit was conducted by Michael Hassing, Audit Manager, CPA, CISA, and Laura Wilson, Auditor-in-Charge, CPA, CISA, assisted by auditors Tracia Polden, Cynthia Gaertner, and Sandy Thole.

This report is intended for the information and use of the Legislative Audit Commission and the management of the state's personnel and payroll functions at the Department of Management and Budget and other entities. This restriction is not intended to limit the distribution of this report, which was released as a public document on November 10, 2011.

We received the full cooperation of the Department of Management and Budget and the other agencies included in our scope while performing this audit.

James R. Nobles
Legislative Auditor

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

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Report Summary

Conclusion

Generally, for the items tested, state agencies complied with the personnel and payroll provisions related to employee overtime, discretionary performance-based salary increases, early retirement incentives, and post-retirement options. Exceptions are identified in our findings below.

Findings

- Several state agencies paid an insufficient amount into the post-retirement option employees' health care savings plan accounts, and other employees received benefits not authorized by statute or policy. ([Finding 1, page 13](#))
- The departments of Human Services and Commerce allowed some employees to work more hours than allowed during their post-retirement option appointments. ([Finding 2, page 15](#))
- The departments of Natural Resources and Human Services did not consistently comply with overtime provisions for some employees. ([Finding 3, page 16](#))

Audit Objective and Scope

Objective

- Legal compliance

Period Audited

July 1, 2008, through April 30, 2011

Statewide Programs Audited

- Employee overtime expenditures
- Discretionary performance-based salary increases for employees in the Managerial Plan or Commissioner's Plan
- Early retirement incentive
- Post-retirement option

Personnel and Payroll Compliance

Overview

The personnel and payroll legal provisions for state employees are complex and vary among employees based on applicable state statutes, laws, and the respective bargaining agreement or compensation plan. For this audit, we focused on several areas of executive branch payroll that were nonroutine and higher risk, including employee overtime, discretionary performance-based salary increases for certain Managerial Plan and Commissioner's Plan employees, one type of early retirement incentive, and the post-retirement option program. The following sections give an overview of these four areas.

Employee Overtime

The state's employee overtime expenditures, including overtime pay and compensatory time earned, from July 1, 2008, to June 30, 2011, totaled nearly \$145 million, which was approximately 1.7 percent of the state's total payroll. Large agencies, with more employees, incurred most of the overtime expenditures. Overtime was often related to road construction projects, emergency weather and public safety situations, and human service and correctional facilities that operate 24 hours a day. As shown in Table 1, eight state agencies accounted for more than 90 percent of these expenditures.¹

¹ Although our audit period ended April 30, 2011, we include the expenditures through June 30, 2011, for comparison purposes. We did not review the expenditures between May 1, 2011, and June 30, 2011.

Table 1
Overtime and Compensatory Time Earned¹
Fiscal Years 2009 through 2011

<u>Agency</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Transportation	\$15,160,219	\$14,187,029	\$17,116,759
Public Safety	7,530,200	7,134,108	7,182,839
Human Services	6,561,208	6,798,236	6,837,455
Natural Resources	5,430,664	5,045,014	4,421,276
Corrections	3,656,488	3,187,218	3,316,842
State Colleges & Universities	3,674,659	3,156,161	3,212,730
Veteran Affairs	2,311,695	1,504,103	1,521,994
Employment & Economic Development	1,535,776	1,565,438	1,106,460
69 Other Agencies	3,873,322	3,811,372	4,119,734
Total	<u>\$49,734,231</u>	<u>\$46,388,679</u>	<u>\$48,836,089</u>

¹ Compensatory time refers to a type of work schedule arrangement that allows workers to take time off instead of receiving overtime pay. State agencies did not pay out funds for the compensatory time earned, but we included the value of the time earned in the above amounts. Employees that earn compensatory time may use the banked time at later dates as paid work days off. Employees earn compensatory time the same way they earn paid overtime.

Source: The state's payroll system.

We focused our review of overtime at the departments of Transportation, Public Safety, Human Services, Natural Resources, and Corrections and specifically examined the employees that earned the most overtime and compensatory time. Because we had recently tested individual overtime transactions for certain employees at both the departments of Employment and Economic Development and Veterans Affairs, we did not include those departments in the scope of this audit. We also did not test individual overtime transactions at the Minnesota State Colleges and Universities because overtime was less than one-half of one percent of their total payroll expenditures. The bargaining agreements and compensation plans establish the pay employees receive when working overtime and have diverse overtime provisions. Table 2 shows some of these employees' overtime and compensatory time as a percentage of their base salaries.

Table 2
Employees With Overtime Equal to or Exceeding 70 Percent of Base Salary
Fiscal Year 2010

Agency	Employee ¹	Base Salary	Overtime ²	Overtime as a Percent of Base Salary
Human Services	Security Counselor	\$46,478	\$64,255	138%
Human Services	Human Services Technician	38,114	30,049	79%
Human Services	Human Services Technician	32,260	35,179	109%
Public Safety	State Trooper	68,716	48,378	70%
Transportation	Transportation Specialist	61,554	50,367	82%
Transportation	Transportation Specialist	61,554	47,905	78%
Transportation	Transportation Specialist	54,539	50,268	92%
Transportation	Transportation Generalist Senior	49,384	35,164	71%
Transportation	Transportation Generalist	45,012	31,539	70%

¹ All of these employees earned overtime at a rate of time and one-half.

² These amounts included compensatory time earned and overtime paid to the employees.

Source: The state's payroll system.

Performance Salary Increases

The Managerial Plan and Commissioner's Plan allowed state agencies to grant performance-based salary increases to eligible employees within these plans.² These discretionary performance-based salary increases were effective no earlier than January 5, 2011, and no later than the first full pay period in June 2011. Only one performance-based salary increase was allowed to an employee during fiscal year 2011. No performance-based salary increases were allowed under these plans during fiscal year 2010. Compensation plans allowed agency management the discretion in granting, delaying, or withholding performance-based increases to managers and employees due to budget constraints.

Most agencies chose to provide discretionary performance-based salary increases to their eligible employees as provided for in the compensation plans.³ Agencies cited the need to provide these increases as a strategy to reward and retain good employees who had not received salary increases for a few years and to remain equitable with employees represented in other bargaining agreements, where similar increases were not discretionary. Agencies indicated that they had

² Chapter 14 - Salary Administration in the Managerial Plan and Chapter 14 – Salary Administration in the Commissioner's Plan.

³ The Department of Human Services did not give salary increases to its Managerial Plan employees.

budgeted for employee salary increases in their fiscal year 2011 budgets. Many agencies processed the increases based on guidance from the Department of Management and Budget.

The Managerial Plan covers terms and conditions of employment and compensation parameters for positions defined as managerial and department heads. The Commissioner's Plan covers terms and conditions of employment and compensation parameters for nonmanagerial executive branch employees whose positions are not covered by the terms of another bargaining agreement or otherwise provided in law. Commissioner's Plan employees include employees that work with state confidential information, employees with substantially limited work hours,⁴ compensation and administrative law judges, and certain health treatment professionals, among others.

The increases granted under the provisions of these plans were tied to performance standards or objectives. Agencies processed all increases as adjustments to the managers' or employees' compensation rates, in accordance with the plans. With some exceptions, increases could not bring an employee's salary rate over the position's salary range maximum or the department head's salary.⁵

When processing the performance-based salary increases to employees in these plans, state agencies had to ensure that aggregate increases of the employees or managers did not exceed 3.5 percent of aggregate salaries of eligible employees or managers within each agency. To be eligible for an increase, the manager or employee must have been covered by the respective plan on January 4, 2011, and their current compensation rate was not equal to or exceeding the salary range maximum.

Table 3 shows the number of managers and employees receiving performance-based salary increases under the salary administration provisions of the compensation plans for fiscal year 2011.⁶ The table also shows that nine state agencies processed approximately 80 percent of all performance increases. The Department of Human Services chose not to provide performance based salary increases to 138 eligible managers due to budget constraints.

⁴ These employees are also referred to as confidential employees and insufficient work time employees.

⁵ Minnesota Statutes 2010, 43A.17, subd. 4 (b), allowed information systems staff, actuaries in the departments of Health, Human Services, and Commerce, and epidemiologists in the Department of Health to have salaries that exceeded their respective agency head's salary.

⁶ Chapter 14 - Salary Administration in the Managerial Plan and Chapter 14 – Salary Administration in the Commissioner's Plan.

Table 3
Managerial Plan and Commissioner's Plan
Employees Receiving Performance-based Salary Increases
Effective as of January 5, 2011

<u>Agency</u> ¹	<u>Managerial Plan</u>	<u>Commissioner's Plan</u> ²
Corrections	50	46
Economic Development	38	31
Health	26	8
Human Services	0	59
Management & Budget	29	61
MN State Colleges & Universities	18	100
Natural Resources	54	24
Public Safety	25	21
Transportation	52	30
40 Other Agencies	107	77

¹ The departments of Corrections and Natural Resources processed salary increases after our April 30, 2011 analysis and selection date.

² We did not include insufficient work time employees under the Commissioner's Plan because they were not eligible for performance-based salary increases. Those positions are granted salary adjustments under the same terms as granted under the bargaining agreement that covers similar positions. Additionally, we did not include medical specialists or certain employees covered under conditions outlined in plan appendices.

Source: The state's payroll system.

We focused our review on the managers and employees receiving increases at the Minnesota State Colleges and Universities and the departments of Employment and Economic Development, Management and Budget, Health, Human Services, Public Safety, and Transportation. This selection was based on our analysis of performance increases processed through April 30, 2011.

Early Retirement Incentive

Minnesota Laws 2010, Chapter 337, allowed state agencies to offer certain employees an early retirement incentive. State agencies could deposit up to 24 months worth of health and dental insurance premiums into eligible employees' health care savings plan accounts after the employees retired. The amount of the incentive depended on whether the employees had single or family health insurance coverage at the time of retirement. To receive the incentive, employees needed to be eligible to retire and have at least 15 years of service credit in one of the state's retirement systems.⁷ The employees also needed to accept the offer by December 31, 2010, and retire by June 30, 2011. Table 4 shows the number of executive branch employees accepting the early retirement incentive, by agency.

⁷ See *Minnesota Statutes 2010*, 356.30, subd. 3, for a list of the allowable retirement systems.

Table 4
Employees Accepting the Early Retirement Incentive
Minnesota Laws 2010, Chapter 337
As of April 2011

<u>Agency¹</u>	<u>Number of Employees</u>
Transportation	415
Economic Development	128
Natural Resources	120
Human Services	104
Corrections	49
Agriculture	24
Labor and Industry	22
Education	21
Pollution Control Agency	21
Health	19
Public Safety	17
Minnesota State Academies	15
Housing and Finance Agency	12
Office of Enterprise Technology	11
Administration	6
Commerce	5
Zoological Board	5
Administrative Hearings	4
Veterans Affairs	4
Teachers Retirement Association	3
Bureau of Mediation Services	2
Minnesota Management and Budget	2
Animal Health Board	1
Optometry Board	1
Total Employees Accepting Early Retirement Incentive	<u>1011</u>

¹ Executive Branch agencies only. We do not have audit jurisdiction over the legislative branch and, therefore, we did not review those employees that accepted this early retirement incentive. No employees from the judicial branch accepted the incentive.

Source: Minnesota Management and Budget, *Report on the 2010 Early Retirement Incentive*, issued April 2, 2011.

The law also required state agencies in the executive branch to obtain approval from the commissioner of the Department of Management and Budget before offering the incentive to employees. Once employees accepted the incentive, the employees could not be rehired as a state employee or hired as a state consultant for three years.

Post-retirement Option

Minnesota Statutes 2010, 43A.346, provided a post-retirement option where retired employees in the executive or legislative branches of state government may be rehired by a state agency with a reduced work schedule. The statute had the following requirements:

- The work schedule must be a reduction of at least 25 percent from the employee's previous work schedule and must be limited to 1,044 hours or less for every 12-month period.
- The appointment must be for 12 months or less but may be renewed for additional appointments.
- The employee cannot work longer than five years in post-retirement option appointments.
- The employee cannot earn additional service credit in their retirement account during their post-retirement option appointment.

The Department of Management and Budget published guidance for agencies regarding policies and procedures for post-retirement option appointments.⁸ The guidance explained eligibility, how to develop the post-retirement option position, insurance and benefits for the employee, how to create post-retirement option records in the state's payroll system, and the payment process for contributions to the health care savings plan accounts. The Department of Management and Budget also provided the post-retirement option agreement form to be completed by agency management and the employee.

Thirty-one agencies elected to offer post-retirement option appointments to their employees, and 165 employees participated in the program during the period from July 2008 through April 2011. Table 5 shows a summary of the agencies and the number of employees participating in the program:

⁸ Department of Management and Budget PERSL #1408 *Agency Instructions for Post-retirement Option*.

Table 5
Post-retirement Option Employees per Agency
July 1, 2008, through April 30, 2011

<u>Agency</u>	<u>Number of Employees</u>
Transportation	53
Human Services	21
Employment and Economic Development	20
Revenue	14
Department of Health	9
State Colleges and Universities	6
Commerce	4
Natural Resources	4
Corrections	3
Board of Water and Soil Resources	3
Management and Budget	3
20 Other Agencies ¹	<u>25</u>
Total Post-retirement Option Employees	<u>165</u>

¹ The following five state agencies had two post-retirement option employees: Public Utilities Commission, Administration, Attorney General, Administrative Hearings, and the Pollution Control Agency.

The following 15 executive branch state agencies had one post-retirement option employee: Agriculture, Explore Minnesota Tourism, Office of Higher Education, Minnesota Zoological Garden, Human Rights, State Investment Board, Office of Enterprise Technology, Secretary of State, State Auditor, Minnesota State Retirement System, Public Employees Retirement Association, Pharmacy Board, Ombudsman for Mental Health and Developmental Disabilities, Military Affairs, and Public Safety.

Source: The state's payroll system.

Objective, Scope, and Methodology

Our audit of the state's compliance with personnel and payroll legal provisions focused on the following audit objective for the period July 1, 2008, through April 30, 2011:

- Did state agencies comply with selected personnel and payroll provisions related to employee overtime, discretionary performance-based salary increases, early retirement incentives, and post-retirement options?

To meet the audit objective, we gained an understanding of state agencies' personnel and payroll policies and procedures related to these specific areas. We considered the risk of potential noncompliance with relevant legal requirements and errors in the payroll records. We analyzed payroll data to identify unusual trends or significant changes in employee overtime expenditures or adjustments to compensation. We examined samples of personnel and payroll transactions and reviewed supporting documentation at certain agencies for selected employees to

test whether the transactions complied with state statutes and laws, policies, and provisions of bargaining agreements and compensation plans.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective.

We used various criteria to evaluate compliance. We used state statutes and laws, state bargaining agreements, and compensation plans, as well as policies and procedures established by the Department of Management and Budget and individual state agencies' internal policies and procedures as evaluation criteria over compliance.

Conclusion

Generally, for the items tested, state agencies complied with the personnel and payroll provisions related to employee overtime, discretionary performance-based salary increases, early retirement incentives, and post-retirement options. Exceptions are identified in our findings.

The following *Findings and Recommendations* provide further explanation about the exceptions noted above.

Findings and Recommendations

Several state agencies paid an insufficient amount into the post-retirement option employees' health care savings plan accounts, and other employees received benefits not authorized by statute or policy.

The departments of Corrections and Human Services, the Minnesota State Retirement System, and the departments of Commerce and Employment and Economic Development did not pay sufficient funds into health care savings plan accounts for some of their employees who chose the post-retirement option. Under the post-retirement option program, state statute and policy requires state agencies to make specified contributions into a health care savings plan account if, after retirement, the employee worked less than 40 hours a pay period and/or was scheduled to work for less than a 12-month assignment.⁹ According to state policy, the agencies should have calculated the contributions based on the number of hours the employee actually worked including any hours charged as sick, vacation and holiday hours. Some agencies, however, used only hours that the employee worked and excluded sick, vacation, and holiday hours. Other agencies did not make any contributions to the employee's health care savings plan account. Some agencies' staff stated that they contributed the wrong amount because the Department of Management and Budget's policy was unclear as to which hours to include in the total.

Table 6 shows the state agencies that paid an insufficient amount into employees' health care savings plan accounts and the amounts of the deficiencies for 8 of the 12 employees tested that were eligible for this benefit.

Table 6
Insufficient Payments to Health Care Savings Plan Accounts
for Post-retirement Option Employees, by Agency
July 1, 2008, through April 30, 2011

<u>Agency</u>	<u>Number of Employees</u>	<u>Insufficient Payments</u>
Corrections	3	\$3,258; \$2,238; and \$1,103
Human Services	2	\$3,455 and \$460
Minnesota State Retirement Services	1	\$2,056
Commerce	1	\$1,085
Employment and Economic Development	1	\$52

Source: Auditor calculation.

Finding 1

⁹ Minnesota Statutes 2010, 43A.346, subd. 9, and Department of Management and Budget PERSL #1408, *Agency Instructions for Post-retirement Option* (page 4).

In addition, the following departments provided some employees incorrect post-retirement option benefits:

- Minnesota Department of Transportation paid one of six post-retirement option employees tested too many holiday hours, resulting in a \$2,392 overpayment. The employee's bargaining agreement required employees working part-time to receive holiday pay at a prorated rate, and the employee received a full eight hours of holiday pay for most holidays.¹⁰
- The Department of Corrections paid \$3,595 to one of two post-retirement employees tested for vacation not allowed by the employee's compensation plan because the employee worked less than six months in a post-retirement position.¹¹
- The Department of Natural Resources allowed one of two employees tested to sign up for contributions to the health care savings plan account but should have provided health insurance. State policy stipulates employees scheduled to work 40 hours every two weeks under a post-employment agreement are entitled to receive state health insurance benefits.¹² Due to the number of hours this employee was scheduled to work during the post-retirement assignment, the employee should have received a health insurance benefit rather than the contribution to his health care savings plan account.

Recommendations

- *The departments should pay the additional amounts to the health care savings accounts of those employees who did not receive the correct amounts.*
- *The departments should recover any overpayments of post-retirement employment benefits.*
- *The Department of Management and Budget should coordinate with other agencies to review post-retirement employees' benefits to ensure that those employees received the correct benefits.*
- *The Department of Management and Budget should clarify its guidance on post-retirement employee eligibility for health care savings plan contributions and how to determine the amount to pay to employees' health care savings plan accounts.*

¹⁰ Minnesota Association of Professional Employees Plan, article 11 (page 18).

¹¹ Managerial Plan, chapter 4 (page 5).

¹² Department of Management and Budget PERSL #1408 *Agency Instructions for Post-retirement Option* (page 4).

The departments of Human Services and Commerce allowed some employees to work more hours than allowed during their post-retirement option appointments.

The departments of Human Services and Commerce allowed some post-retirement option employees to work more hours than the limitation established in statute. State statute limited the number of hours an employee can work in any post-retirement option position to 1,044 hours during a 12-month period.¹³ This 12-month period could have included more than one post-retirement option position for the same employee.

The Department of Human Services allowed two of eight employees tested to work more than the 1,044 hour limit during a 12-month period. One employee worked 1,066 hours. The other employee exceeded the 1,044 hour limit in both of his two separate post-retirement appointments by working 1,072 hours and 1,250 hours, respectively. The department paid these employees a total of \$8,711 for the excess hours.

The Department of Commerce allowed the one employee tested to exceed the 12-month limit of 1,044 hours for three consecutive years while working on separate six month post-retirement option appointments. The employee worked 1,098, 1,190, and 1,203 hours during each of the three 12-month periods. The department paid the employee a total of \$10,547 for the excess hours.

These two departments did not sufficiently monitor the employees' actual hours worked or compare those hours to the work schedule established in the post-retirement option agreements, resulting in payment for excessive hours worked. The Department of Management and Budget did not provide sufficient guidance for agencies to monitor this requirement of the post-retirement option program.

Recommendations

- *The departments of Human Services and Commerce should develop processes to track the hours that post-retirement option employees work in their appointments to ensure compliance with the 1,044 hour limit and with the hours set forth in their post-retirement option agreements.*
- *The Department of Management and Budget should clarify the responsibility for agencies to monitor the annual 1,044 hour limit for post-retirement employment benefits and consider developing and providing a report to agencies to ensure compliance.*

Finding 2

¹³ Minnesota Statutes 2010, 43A.346, subd. 2 (a) (4).

Finding 3

The departments of Natural Resources and Human Services did not consistently comply with overtime provisions for some employees.

The Department of Natural Resources overpaid overtime to one of the five employees we tested, and the Department of Human Services overpaid overtime to one of the five employees we tested.¹⁴ The departments had the following errors:

- The Department of Natural Resources overpaid a pilot \$235 over two pay periods. This employee's bargaining agreement required the employee to work 40 hours during one week of the pay period before being eligible to earn overtime at a rate of time and one-half. Per the agreement, holiday time off is not included in the calculation of the 40 hours worked.¹⁵ During the two pay periods we tested, the employee received eight hours of holiday pay each pay period. The department paid the employee time and one-half for all overtime hours, rather than reducing the first eight hours of overtime to straight time to correctly compensate for the holiday hours.
- The Department of Human Services overpaid a registered nurse \$364 over seven pay periods. The errors in the employee's pay occurred when the department changed the employee's shift without giving the employee a 14 day notice. The employee's bargaining agreement required the department pay the employee time and one-half for hours worked within the schedule change without the 14-day notice.¹⁶ The department did not always calculate the shift change penalty pay for this employee correctly, which resulted in overpayments.

Departments rely on supervisors to review and authorize timesheets and ensure the hours worked are accurately recorded in accordance with the bargaining agreement and compensation plan provisions. The overtime provisions in the various bargaining agreements and compensation plans are complex and diverse. Even within the same agreement or plan there are different provisions for different classifications of employees. For example, employees that are exempt from the requirements of the Fair Labor Standards Act have different overtime provisions than those that are not exempt. These complexities increase the risk that errors may occur in employees' compensation.

¹⁴ We tested a total of 35 employees for the five agencies where we tested overtime. For each employee tested, we examined timesheets to support three or four pay periods in which the agency paid the employee for overtime.

¹⁵ Minnesota Association of Professional Employees Agreement, Article 27, Section 2.

¹⁶ Minnesota Nurses Association Agreement, article 4, section 9.

Recommendations

- *The departments of Natural Resources and Human Services should recover the overpayments made to the above employees and review other employees' compensation to ensure similar errors did not occur.*
 - *To reduce the risk of errors, department management needs to design controls that help prevent and detect errors in overtime compensation. For example, management could develop and provide training to ensure supervisors understand the overtime provisions within bargaining agreements and compensation plans related to their employees.*
-



November 4, 2011

James R. Nobles
Office of the Legislative Auditor
658 Cedar Street
140 Centennial Office Building
St. Paul, MN 55155-4708

Dear Mr. Nobles:

Thank you for the opportunity to discuss your audit findings with the individuals in your office responsible for the Statewide Personnel & Payroll Compliance Audit. We are committed to providing an accurate policy framework from which agencies can appropriately administer personnel and payroll programs. We will continue to improve our processes and value the suggestions brought forward by your team which will clarify our existing processes.

Findings

Finding 1. Several state agencies paid an insufficient amount into the post-retirement option employees' health care savings plan accounts and other employees received benefits not authorized by statute or policy.

Response

We recognize that the post-retirement option (PRO) program requirements are complex. We have reevaluated the program instructions and have provided additional clarification regarding the computation of hours for the Health Care Savings Plan. We have updated and distributed those instructions to all HR Directors/Designees. The communication also emphasizes the need for agencies to review the benefit provisions outlined in PRO agreements to be certain they comply with the provisions allowed by collective bargaining agreements or other compensation plans. Agencies were also instructed to audit their PRO agreements if they have not been including the appropriate list of earnings in their calculations.

Person Responsible: Laurie Hansen, Director Human Resource Management

Implementation Date: Completed

Finding 2. The departments of Human Services and Commerce allowed some employees to work more hours than allowed during their post-retirement option appointments.

Mr. James Nobles

November 4, 2011

Page 2

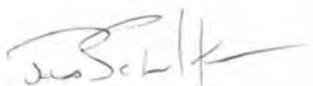
Response

With the revised instructions, we also informed agencies of their responsibility to monitor the annual 1,044 hour limit for PRO positions and referred them back to the instructions for more specific tracking information.

Person Responsible: Laurie Hansen, Director Human Resource Management

Implementation Date: Completed

Sincerely,



James Schowalter

Commissioner



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October 27, 2011

James Nobles, Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155-1603

Dear Mr. Nobles:

Thank you for your recent audit of select statewide personnel and payroll provisions. We realize the importance of regularly auditing aspects of our business and we appreciate the effort you and your staff invested in the review. As with all audits and reviews, we welcome your guidance and will do our best to implement your recommendations. The department's response to the audit findings are listed below but please note our response only covers the portion of the audit report that impacts our agency.

Finding 1:

Several state agencies paid an insufficient amount into the post-retirement option employees' health care savings plan accounts, and other employees received benefits not authorized by statute or policy.

Recommendations:

- *The departments should pay the additional amount to the health care savings accounts of those employees who did not receive the correct amounts.*

Response:

The department partially agrees. Commerce performed calculations based on guidance received in 2008 from Minnesota Management and Budget (MMB). The MMB guidance was to base contributions on hours worked, not paid. This guidance was followed until February, 2011, when PERSL 1408 was updated and new guidance was issued. Since that point, calculations have been based on hours paid, not worked.

The department will adjust health care account payments for eligible employees to the best of our ability. The department will determine how best to handle additional payments based upon guidance to be received from MMB.

Staff responsible for implementation: Tim Jahnke and Amy Trumper

Expected date of completion: December 31, 2011

James Nobles, Legislative Auditor

October 27, 2011

Page Two

Finding 2:

The departments of Human Services and Commerce allowed some employees to work more hours than allowed during post-retirement option appointments.

Recommendations:

- *The departments of Human Services and Commerce should develop processes to track the hours that post-retirement option employees work in their appointments to ensure compliance with the 1,044 hour limit and with the hours set forth in their post-retirement option agreements.*

Response:

The department agrees. As indicated under Finding 1, the department was following direction provided by MMB. Since we received the new guidance in February, 2011, all post-retirement agreements have been limited to 1,044 hours paid not worked. A process has been established to track the number of hours paid for each employee with a post-retirement agreement to ensure compliance with the 1,044 hour limit and with the hours set forth in the their post-retirement option agreement.

Staff responsible for implementation: Colleen Hegstrom and Sheldon Klugman

Expected date of completion: Completed

Sincerely,



Mike Rothman
Commissioner



OFFICE OF THE COMMISSIONER
Contributing to a Safer Minnesota

October 27, 2011

James R. Nobles
Office of the Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603

Dear Mr. Nobles,

Thank you for the opportunity to review and respond to the findings and recommendations reported as a result of the recent compliance audit of selected personnel and payroll legal provisions for the State of Minnesota for the period July 1, 2008 through April 30, 2011. The Department of Corrections (DOC) views the oversight of the personnel and payroll processing as one of our most important responsibilities and appreciates the professional review conducted by your office. The audit encompassed multiple state agencies and resulted in one finding that referenced the DOC, as responded to below.

Finding 1: Several state agencies paid an insufficient amount into the post-retirement option employee's health care savings plan accounts, and other employees received benefits not authorized by statute or policy.

Recommendations

- *The departments should pay the additional amounts to the health care savings accounts of those employees who did not receive the correct amounts.*
- *The departments should recover any overpayments of post-retirement employment benefits.*
- *The Department of Management and budget should coordinate with other agencies to review post-retirement employees' benefits to ensure that those employees received the correct benefits.*
- *The Department of Management and Budget should clarify its guidance on post-retirement employee eligibility for health care savings plan contributions and how to determine the amount to pay to employees' health care savings plan accounts.*



The DOC agrees with the recommendations. Additional payments to the health care savings accounts for three employees were processed in the pay period ending September 27, 2011. In accordance with M.S. 16D.15, the department appropriately chose to compromise the debt of one employee that resulted from the inadvertent use of vacation time. Additional reviews have been put into place to ensure future post-retirement transactions are reviewed for compliance with employee compensation plans. Clarification and guidance by the Department of Management and Budget would be very helpful to ensure the accuracy of these complicated transactions.

Person Responsible:

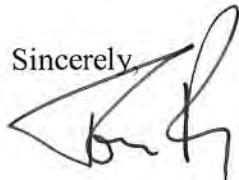
Lori Kingston, Human Resources Director

Estimated Completion Date:

Completed

Thank you again for this opportunity to respond, and for the efforts of your staff. It is our intent to resolve these finding as quickly as possible.

Sincerely,



Tom Roy, Commissioner

C: Cecile M. Ferkul, CPA, CISA, Deputy Legislative Auditor

Chris Dodge, Chief Financial Officer

Lori Kingston, Human Resources Director

Jeanine Kuwik, Internal Control Director, Department of Management and Budget

October 21, 2011

Mr. James Nobles
Legislative Auditor
First Floor, Centennial Building
658 Cedar St.
St. Paul, MN 55155

Dear Mr. Nobles:

Thank you for the opportunity to respond to the audit finding and recommendation related to the statewide payroll audit encompassing the period from July 1, 2008 through April 30, 2011.

Audit Finding 1: The Department of Employment and Economic Development paid an insufficient amount into the post-retirement option employees' health care savings plan account.

Recommendation:

- *The department should pay the additional amount to the health care savings account of the employee who did not receive the correct amount.*

Response:

The department agrees with the finding and the recommendation. This isolated error occurred because a prior year worksheet was used to perform the calculation. The department corrected the error by posting \$52 to the former employee's health care savings account during the payroll period ending July 5, 2011. The department considers this finding resolved and no further actions will be taken.

If you need further information or have additional questions you may contact Cindy Farrell at 651-259-7085 or Cindy.Farrell@state.mn.us.

Sincerely,



Mark Phillips
Commissioner



Minnesota Department of **Human Services**

October 26, 2011

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

Dear Mr. Nobles:

The enclosed material is the Department of Human Services' response to the findings and recommendations included in the draft audit report titled "Statewide Personnel and Payroll Compliance" for the period July 1, 2008, through June 30, 2011. It is our understanding that our response will be published in the Office of the Legislative Auditor's final audit report.

The Department of Human Services' policy is to follow up on all audit findings to evaluate the progress being made to resolve them. Progress is monitored until full resolution has occurred.

If you have any further questions, please contact Gary L. Johnson, Internal Audit Director, at (651) 431-3623.

Sincerely,

Lucinda E. Jesson
Commissioner

Enclosure

**Department of Human Services
Response to the Legislative Audit Report on
Statewide Personnel and Payroll Compliance
For the Period July 1, 2008, through June 30, 2011**

Audit Finding #1

Several state agencies paid an insufficient amount into the post-retirement option employee's health care savings plan accounts, and other employees received benefits not authorized by state or policy.

Audit Recommendation #1-1

- *The Department's should pay the additional amounts to the health care savings accounts of those employees who did not receive the correct amounts.*

Agency Response to Audit Recommendation #1-1

The department agrees with the recommendation. The additional amounts have been paid to the health care savings accounts of those employees who did not receive the correct amounts. Additionally, a review of payments made to the post-retirement option employee's health care savings plans accounts will be added to the quality control check process.

Person Responsible: Connie Jones, Human Resources Director

Estimated Completion Date: On-going

Audit Finding #2

The departments of Human Services and Commerce allowed some employees to work more hours than allowed during their post-retirement option appointments.

Audit Recommendation #2

- *The departments of Human Services and Commerce should develop processes to track the hours that post-retirement option employees work in their appointments to ensure compliance with the 1,044 hour limit and with the hours set forth in their post-retirement option agreements.*

Agency Response to Audit Recommendation #2

The department agrees with this recommendation. A review of hours that post-retirement option employees work in their appointments will be included in a quality control check process in order to ensure compliance with the 1,044 hour limit and with the hours set forth in their post-retirement option agreements.

Person Responsible: Connie Jones, Human Resources Director

Estimated Completion Date: On-going

**Department of Human Services
Response to the Legislative Audit Report on
Statewide Personnel and Payroll Compliance
For the Period July 1, 2008, through June 30, 2011**

Audit Finding #3

The departments of Natural Resources, Human Services, and Corrections did not consistently comply with overtime provisions for some employees.

Audit Recommendation #3-1

- *The departments of Natural Resources, Human Services, and Corrections should recover the overpayments made to the above employees and review other employees' compensation to ensure similar errors did not occur.*

Agency Response to Audit Recommendation #3-1

The department agrees with this recommendation. We will recover the identified overpayments and conduct limited testing to determine if similar errors occurred.

Person Responsible: Marty Cammack, Director of Financial Operations

Estimated Completion Date: June 30, 2012

Audit Recommendation #3-2

- *To reduce the risk of errors, department management needs to design controls that help prevent and detect errors in overtime compensation. For example, management could develop and provide training to ensure supervisors understand the overtime provisions within bargaining agreements and compensation plans related to their employees.*

Agency Response to Audit Recommendation #3-2

The department agrees with this recommendation. We will review the existing control environment and add any necessary controls to prevent or detect errors in overtime compensation.

Person Responsible: Marty Cammack, Director of Financial Operations

Estimated Completion Date: June 30, 2012

November 3, 2011

James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603

Dear Mr. Nobles:

Thank you very much for the opportunity to review and respond to the comments pertaining to MSRS in your recent statewide payroll audit. We concur with the finding that we made errors in the computations of two Health Care Savings Plan (HCSP) contributions for an employee working under a post-retirement option (PRO) agreement. These errors resulted from our misinterpretation of Minnesota Management and Budget's guidance on how to compute the HCSP contributions.

With clarification of this guidance from your audit staff, we immediately corrected our errors. The PRO employee received an additional \$2,056.17 payment in July 1, 2011, for the hours worked during fiscal years 2008, 2009, and 2010.

We made a subsequent payment to the individual for hours worked during fiscal year 2011 in the correct amount.

Please contact Finance Manager Joan Weber (651-284-7765 / joan.weber@msrs.us) or Assistant Executive Director Judy Hunt (651-284-7890 / judy.hunt@msrs.us) for documentation evidencing our resolution of this audit finding.

Thank you very much.

Sincerely,



Dave Bergstrom
Executive Director

cc: Joan Weber
Judy Hunt

Minnesota Department of Natural Resources

500 Lafayette Road · Saint Paul, Minnesota · 55155-4037

Office of the Commissioner

651-259-5555



November 8, 2011

James Nobles, Legislative Auditor
Office of the Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155-1603

Dear Mr. Nobles:

Thank you for the opportunity to respond to the findings of the compliance audit of selected personnel and payroll legal provisions for the State of Minnesota for the period of July 1, 2008 through April 30, 2011.

Following is a response to the audit findings for the Department of Natural Resources.

Audit Finding 1: Several state agencies paid an insufficient amount into the post-retirement option employees' health care savings plan accounts, and other employees received benefits not authorized by statute or policy.

Audit Recommendation:

- ***The departments should recover any overpayments of post-retirement employment benefits.***

Resolved: After reviewing the Post-Retirement Agreement of the employee referenced in the audit finding, it was determined that the agreement was completed inaccurately. Under advisement of the Department of Minnesota Management and Budget, a revised Post-Retirement Agreement was prepared on this employee correcting his post-retirement option benefits.

Audit Finding 3: The departments of Natural Resources, Human Services, and Corrections did not consistently comply with overtime provisions for some employees.

Audit Recommendations:

- ***The departments of Natural Resources, Human Services, and Corrections should recover overpayments made to employees and review other employees' compensation to ensure similar errors did not occur.***
- ***To reduce the risk of errors, department management needs to design controls that help prevent and detect errors in overtime compensation. For example, management could develop and provide training to ensure supervisors understand the overtime provisions within bargaining agreements and compensation plans related to their employees.***



Not resolved: The department concurs with the finding and the above audit recommendation for the overtime paid to the pilot. The department is in the process of recouping the overpayments made to this employee and will complete a review of the other potential issues identified by the auditors to correct any other overpayments that are found as a result of this review.

The department also concurs with the recommendation of designing controls to help prevent and detect errors in overtime compensation. The department will develop a policy/procedure to provide guidance to agency management on overtime administration and approvals.

Person responsible for resolving: Lisa Hager, DNR Human Resources, Operations Manager

Date for resolution:

- December 30, 2011 The overtime overpayments will be identified and repayment plans will be provided to employees for their agreement.
- June 30, 2012 The department will develop the recommended policy/procedure on overtime administration.

Again, thank you for the opportunity to respond to the audit findings and recommendations.

Sincerely,



Tom Landwehr
Commissioner



Minnesota Department of Transportation
OFFICE OF COMMISSIONER, MS 120
395 John Ireland Boulevard
Saint Paul, MN 55155

October 25, 2011

James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603

RE: Recent compliance audit of selected personnel and payroll legal provisions for the State of Minnesota for the period of July 1, 2008 through April 30, 2011.

Dear Mr. Nobles:

We received the draft audit report summarizing the results of your recent compliance audit of selected personnel and payroll legal provisions for the State of Minnesota for the period of July 1, 2008 through April 30, 2011. The report cited one finding and recommendation related to the Department of Transportation, as follows:

- Minnesota Department of Transportation paid one of six post-retirement option employees tested too many holiday hours, resulting in a \$2,392 overpayment. The employee's bargaining agreement required employees working part-time to receive holiday pay at a prorated rate, and the employee received a full eight hours of holiday pay for most holidays.

As recommended, this department has already taken action to recover the overpayment of post-retirement employment benefits. We have notified the former employee of the overpayment and requested he return a personal check, bank draft, or cashier's check for the gross amount of the overpayment. As of this date, the former employee has failed to remit payment. Our Human Resources Director plans to confer with legal counsel from the Attorney General's Office on next steps should he fail to remit payment by the October 31, 2011.

Sincerely,

/s/ Thomas K. Sorel

Thomas K. Sorel
Commissioner

cc: Eric Davis, MnDOT Human Resource Director
Dan Kahnke, MnDOT Internal Audit Director

