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

FINANCIAL AUDIT DIVISION REPORT

Minnesota State Colleges and Universities

Employee Separation Payments

Internal Controls and Compliance Audit

July 2013 through March 2016

October 20, 2016 **Report 16-15**

FINANCIAL AUDIT DIVISION
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Conclusion on Internal Controls

The Financial Audit Division bases its conclusion about an organization's internal controls on the number and nature of the control weaknesses we found in the audit. The three possible conclusions are as follows:

Conclusion	Characteristics
Adequate	**The organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Generally Adequate	**With some exceptions, the organization designed and implemented internal controls that effectively managed the risks related to its financial operations.**
Not Adequate	**The organization had significant weaknesses in the design and/or implementation of its internal controls and, as a result, the organization was unable to effectively manage the risks related to its financial operations.**

OLA **OFFICE OF THE LEGISLATIVE AUDITOR**
STATE OF MINNESOTA • James Nobles, Legislative Auditor

October 20, 2016

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Legislative Audit Commission

Members of the Legislative Audit Commission

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Minnesota State Colleges and Universities

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Minnesota State Colleges and Universities

This report presents the results of our internal controls and compliance audit of separation pay for the period July 1, 2013 through March 31, 2016. The objectives of the audit were to determine whether Minnesota State Colleges and Universities had adequate internal controls over the calculation and payment of employee separation payments, and compliance with applicable bargaining unit agreements and other legal requirements.

This audit was conducted by Pat Ryan, Audit Coordinator, and Lori Leysen, CPA, Senior Auditor.

We received the full cooperation of Minnesota State Colleges and Universities' staff while performing this audit.

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Report Summary

The Office of the Legislative Auditor conducted this audit to determine whether Minnesota State Colleges and Universities (MnSCU)[1] had adequate internal controls over the calculation and payment of employee separation payments in compliance with state statutes, MnSCU board policies, applicable collective bargaining agreements, and other legal requirements. Employee separation payments are payments made to employees when they separate from employment. These include, for example, payments of unused vacation hours to employees who resign their positions and payments of a portion of a retiring employee's unused sick leave into a health care savings account. MnSCU paid approximately $46.4 million in separation payments in fiscal years 2014, 2015, and 2016 (through March 31, 2016).

Conclusions

For most separation payments, Minnesota State Colleges and Universities had generally adequate internal controls to ensure that its human resources staff accurately calculated and paid separation payments. However, it did not have adequate internal controls for certain early retirement incentive payments related to health insurance benefits.

For the items we tested, Minnesota State Colleges and Universities generally complied with financial-related legal requirements for most separation payments. However, it did not consistently comply with legal requirements for early retirement incentives related to health insurance benefits.

Audit Findings

- For faculty age 65 or turning 65 in the year following separation, who choose an early retirement option, Minnesota State Colleges and Universities paid a larger health insurance benefit for university faculty than it paid for college faculty, although the contractual basis for the different approaches is unclear. (Finding 1, page 9)
- Minnesota State Colleges and Universities lacked internal controls to ensure the accuracy of all separation payments paid to employees eligible for early retirement incentives. Inaccurate payments primarily occurred related to health insurance benefits, but also occurred in other areas. (Finding 2, page 12)

[1] In July 2016, Minnesota State Colleges and Universities changed its name to Minnesota State for marketing and communication purposes. In this report, we refer to the entity by its legal name, Minnesota State Colleges and Universities (MnSCU).

- Minnesota State Colleges and Universities did not have documentation to justify payments of early retirement incentives, as required by the Minnesota State College Faculty bargaining agreement. This is a repeat finding.[2] (Finding 3, page 16)

[2] Office of the Legislative Auditor's Financial Audit Division Report 10-29, *Minnesota State Colleges and Universities*, Finding 3, issued September 14, 2010.

Background

Minnesota State Colleges and Universities (MnSCU) is a system of 37 public colleges and universities with 54 campuses throughout Minnesota. Of the 37 colleges and universities, 30 are two-year community and technical colleges and 7 are larger, four-year universities.[3]

MnSCU is governed by a 15-member board of trustees who are appointed by the governor and confirmed by the senate. Each college and university is led by a president who reports to the system chancellor, Steven Rosenstone.

The colleges and universities have human resources staff at 31 of their 54 campuses. Some campuses provide human resources services to those campuses without human resources staff. The MnSCU system office provides little oversight over the colleges' and universities' decisions, calculations, and processing of separation payments. Employee separation payments are payments made to employees when they separate from employment. These include, for example, payments of unused vacation hours to employees who resign their positions and payments of a portion of a retiring employee's unused sick leave into a health care savings account.

The employees of MnSCU are represented by 12 bargaining units as defined by the Minnesota Public Employment Labor Relations Act.[4] The employees, the employer, and union representatives negotiate the bargaining agreements associated with each of the bargaining units to establish salaries and benefits.[5] The various bargaining agreements and plans provide separation payment eligibility and the calculations for determining the amount of each payment.

Our audit focused mainly on the eligibility determinations, calculations, and separation payments for those employees receiving the largest payouts, which occurred in the following bargaining agreements and plan:

- The Inter Faculty Organization bargaining agreement covers faculty employed by state universities;
- The Minnesota State College Faculty bargaining agreement covers faculty from state community and technical colleges;

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[3] Universities are generally four-year institutions which provide baccalaureate degrees. Additionally, universities offer masters and doctorate programs. In contrast, community and technical colleges are two-year institutions and offer diplomas, certificates, and associate degrees.

[4] *Minnesota Statutes* 2015, 179A.

[5] Some college and university employees are administrators and are included in the Personnel Plan for Administrators, which is not a bargaining unit. Therefore, no contract negotiations occur. Administrators are staff who create or formulate, influence, or manage policy, or direct the college/university system.

- The Minnesota State University Association of Administrative and Service Faculty bargaining agreement covers nonteaching faculty from universities in such positions as admissions and financial aid; and
- The Personnel Plan for Administrators covers employees who create or formulate, influence, or manage policy, or direct the college/university system.

MnSCU paid approximately $46.4 million in separation payments for fiscal years 2014, 2015, and 2016 (through March 31, 2016). These payments included a combination of severance, vacation, and early retirement incentives.[6]

In addition to the separation payments in the bargaining agreements, state statutes established an Early Separation Incentive Program for selected employees.[7] The MnSCU board developed a policy to further define the purpose, eligibility, and the maximum amount of the incentive.[8] The board policy permits each campus president (the chancellor for employees in the MnSCU system office) to identify positions at their college or university for possible elimination or replacement.

MnSCU provides early retirement incentives as a way to reduce salary and benefit obligations, reallocate resources, and to achieve other cost savings and efficiencies. In Appendix A, we recap the eligibility requirements and calculations for separation benefits under the various bargaining agreements and plan.

Table 1 summarizes the separation payments made by colleges and universities during our audit scope, including the number of employees receiving those payments. Any significant year-to-year variations were mainly due to the timing of when individual colleges and universities offered a Board Early Separation Incentive to its employees. This incentive allows a payment in an amount not to exceed an employee's annual salary, which can dramatically increase the total benefit payments occurring in the applicable fiscal year. Additionally, Table 2 provides a distribution of payments by payment range and employee count. See Appendix B for the 20 largest separation payments by employee.

[6] Although the bargaining agreements and plans use different terminology to refer to an incentive for an employee who separates early, we will use early retirement incentive throughout the report to provide consistency and ease of reading.

[7] *Minnesota Statutes* 2015, 136F.481.

[8] Minnesota State Colleges and Universities Board Policy 4.11.

Table 1
Separation Payments Made by
Minnesota State Colleges and Universities
July 1, 2013, through March 31, 2016

College/University (number of employees receiving separation payments)	Fiscal Years 2014	2015	2016[1]	Total
Winona State University (147)	$ 3,817,752	$ 906,983	$ 422,072	$ 5,146,807
St. Cloud State University (238)	1,297,652	2,668,803	763,178	4,729,633
MN State University Moorhead (148)	2,967,055	585,145	826,371	4,378,571
MnSCU system office: Presidents (15)[2]	475,715	698,178	400,013	1,573,906
Others (76)	457,766	898,010	539,734	1,895,510
MN State University Mankato (269)	1,059,892	1,282,892	722,840	3,065,624
Century College (131)	294,242	747,414	1,142,710	2,184,366
Minneapolis Community and Technical College (162)	461,945	941,283	556,320	1,959,548
Bemidji State University (101)	580,678	681,860	256,796	1,519,334
Normandale Community College (97)	406,690	660,028	426,085	1,492,803
Southwest MN State University (59)	750,564	436,764	116,306	1,303,634
Metropolitan State University (134)	454,691	340,230	297,171	1,092,092
Rochester Community and Technical College (78)	337,986	379,614	319,679	1,037,279
MN State Community and Technical College (100)	334,606	452,301	118,944	905,851
Inver Hills Community College (77)	369,800	190,977	337,387	898,164
Anoka-Ramsey Community College (92)	335,345	300,195	233,378	868,918
MN West Community and Technical College (37)	437,521	157,782	138,192	733,495
Hibbing Community College (31)	210,333	298,017	152,572	660,922
Central Lakes College (57)	275,075	189,760	95,262	560,097
Itasca Community College (27)	319,333	171,878	48,462	539,673
MN State College Southeast (36)	114,109	252,317	74,744	441,170
Fond du Lac Tribal and Community College (26)	11,308	105,652	164,091	281,051
Other Colleges (805)[3]	3,618,627	3,398,473	2,076,134	9,093,234
Totals (2,943)	$19,388,685	$16,744,556	$10,228,441	$46,361,682

[1] Expenditures through March 31, 2016.

[2] The MnSCU system office includes centrally located divisions and offices for use by all colleges and universities, such as the academic and student affairs division, human resources division, and information technology services. The system office also processes payroll transactions for college and university presidents.

[3] Other Colleges include separation payments for 17 colleges. We did not perform any substantive work specifically at these colleges.

Source: State of Minnesota's accounting system.

Table 2
Analysis of Employee Separation Payments
July 2013 through March 2016

	Employees		Payments		
Payment Amounts by Employee	**Number**	**Percentage**	**Amount**	**Percentage**	**Average**
Less than $50,000	2682	91.1%	$23,879,114	51.5%	$8,903
$50,000 - $99,999	187	6.4%	$13,333,657	28.8%	$71,303
$100,000 - $149,999[1]	65	2.2%	$7,607,941	16.4%	$117,045
$150,000 or Greater	9	0.3%	$1,540,969	3.3%	$171,219
Totals	2943	100%	$46,361,681	100.0%	

[1]Our initial sample population included all 74 employees receiving payments greater than $99,999.

Source: State of Minnesota's accounting system.

Our objective for this audit was to answer the following questions:

- Did Minnesota State Colleges and Universities (MnSCU) have adequate internal controls to ensure that it accurately calculated separation payments?

- Did Minnesota State Colleges and Universities comply with financial-related legal requirements related to separation payments?

Our audit scope was comprised of separation payments made by MnSCU for the period of July 1, 2013, through March 31, 2016. Our sample testing initially consisted of all 74 employees who received separation payments in excess of $100,000. This represented 20 percent of the total amount of separation payments in our population.[9]

Because 9 of 44 separation payments in our sample related to health insurance benefits had errors (resulting in $17,793 in overpayments and $4,323 in underpayments), we expanded our sample and tested an additional 75 separation payments for health insurance benefit payments.[10] We focused our testing on those employees who received payment for family coverage at the time of separation, which is substantially higher than single coverage.[11]

To meet our audit objectives, we used the following methodology:

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[9] Of the 74 sample items tested, 66 were employees who received early retirement incentives.

[10] As part of this expanded testing, we also included payments made in fiscal year 2013.

[11] For 12 months of health insurance coverage in 2016, the full employer and employee cost is $19,910 for family coverage and $6,771 for single coverage.

- We gained an understanding of the various employee bargaining unit agreements and the policies issued by MnSCU.
- We sent questionnaires to the colleges and universities to identify internal controls over the calculation, review, and processing of separation payments.
- We obtained access to MnSCU's payroll system.
- We considered the risk of errors in the accounting records and noncompliance with relevant legal requirements.
- We examined a sample of separation payments and reviewed supporting documentation to determine whether the colleges' and universities' controls were effective.
- We recalculated separation payments, which included verification of the sick and vacation leave balances, years of service, and the employee's age.
- We also tested whether separation payments complied with applicable legal criteria.

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.

Audit Criteria

We assessed MnSCU's internal controls against the guidance contained in the Internal Control-Integrated Framework, published by the Committee of Sponsoring Organizations of the Treadway Commission.[12]

We used the following legal criteria:

- Bargaining agreements
  - Inter Faculty Organization
  - Middle Management Association
  - Minnesota Association of Professional Employees
  - Minnesota State College Faculty
  - Minnesota State University Association of Administrative and Service Faculty

[12] The Treadway Commission and its Committee of Sponsoring Organizations were established in 1985 by the major national associations of accountants. One of their primary tasks was to identify the components of internal control that organizations should have in place to prevent inappropriate financial activity. The resulting Internal Control-Integrated Framework is an accepted accounting and auditing standard for internal control design and assessment.

- Personnel Plan for Administrators
- MnSCU Board Policy 4.6, related to the re-employment of early retirees
- MnSCU Board Policy 4.11, related to the board early separation incentive program
- *Minnesota Statutes* 2015, 43A.17, related to salary limits and ranges
- *Minnesota Statutes* 2015, 43A.18, related to total compensation, collective bargaining units, and plans
- *Minnesota Statutes* 2015, 136F.481, related to the board early separation incentive program

Conclusion

For most separation payments, Minnesota State Colleges and Universities had generally adequate internal controls to ensure that its human resources staff accurately calculated and paid separation payments. However, it did not have adequate internal controls for certain early retirement incentive payments related to health insurance benefits.

For the items we tested, Minnesota State Colleges and Universities generally complied with financial-related legal requirements for most separation payments. However, it did not consistently comply with legal requirements for early retirement incentives related to health insurance benefits.

The following Findings and Recommendations section provides further explanation about the exceptions noted above.

Findings and Recommendations

Finding 1

For faculty age 65 or turning 65 in the year following separation, who choose an early retirement option, Minnesota State Colleges and Universities paid a larger health insurance benefit for university faculty than it paid for college faculty, although the contractual basis for the different approaches is unclear.

As part of early retirement incentives, the bargaining agreements for college and university faculty each provided a cash payment in lieu of providing post-retirement health insurance.[13] MnSCU informed us it calculated each cash payment benefit based on bargaining agreement negotiations at different points in time; it negotiated the university faculty benefit twelve years ago and the college faculty benefit five years ago. See Exhibit A on the following page for the specific language from the bargaining agreement for college faculty and the two bargaining agreements for university faculty. The bargaining agreements do not explicitly indicate that the amount of the payment might be different depending on whether the employee is over or under 65 years of age in the year following separation. However, the cost of health insurance significantly drops once a recipient turns 65 due to eligibility for Medicare.

Minnesota State College Faculty employees who are or will turn 65 in the year following separation receive an amount determined using the State Employee Group Insurance Program[14] rates for retirees age 65 or older.[15] In contrast, regardless of their age, separated employees in the university faculty unions (Inter Faculty Organization and the Minnesota State University Association of Administrative and Service Faculty) receive a payment determined using the rates set by the State Employee Group Insurance Program for separated employees under age 65. As a result, separated university faculty employees receive higher benefit payments, and those payments exceed their cost of health insurance for the year following separation.

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[13] MnSCU contributes the cash payment into the employee’s health care savings plan, which is administered by the Minnesota State Retirement System.

[14] The Department of Management and Budget administers the State Employee Group Insurance Program. The program sets insurance rates and develops and administers coverage for all three branches of state government, including the Minnesota State Colleges and Universities.

[15] As identified in Finding 2, human resources staff did not consistently use these rates at all colleges despite MnSCU’s interpretation of the contract language.

Exhibit A
2015 through 2017 Faculty Bargaining Agreements
Early Retirement Health Insurance Incentive Payments[1]

For University Faculty

Inter Faculty Organization, Article 16, Section D, Subd. 5.

> ***Benefits Contribution****. A faculty member qualifying for an early separation incentive payment(s) as provided in this section shall have an amount equivalent to the Employer contribution for one year's health insurance premiums deposited in his/her health care savings plan at the time of separation.*

Minnesota State University Association of Administrative Service Faculty, Article 16, Section E., Subd. 3.

> ***Benefit Contribution Payment****. For any ASF* [Administrative and Service Faculty] *Member who separates under this Section, the Employer will deposit in the ASF Member's Health Care Savings Plan account upon separation an amount equivalent to the Employer's expense of health insurance benefits for one (1) year.*

For College Faculty

Minnesota State College Faculty, Article 16, Section 2, Subd. 4 (for former members of the Minnesota Community College Faculty Association).[2]

> ***Maintenance of Benefits****. . . . The separated faculty member shall have the right to continue, at the Employer's expense, health insurance benefits for one (1) year after separation. The parties agree that the faculty member's college shall make payment(s) into the faculty member's Health Care Savings Plan (HCSP) . . . .* A *payment in the amount equivalent to the employee and employers health insurance contribution . . .*

[1] The 2013-2015 bargaining agreement language applied to a majority of our sample testing, which contained the same health insurance benefit language as in the 2015-2017 bargaining agreements.

[2] Minnesota State College Faculty is the exclusive bargaining representative for all technical and community college faculty in Minnesota. It was created in 2001 by the merger of United Technical Educators and Minnesota Community College Faculty Association. Former United Technical Educators do not have a benefit similar to the one described above for former Minnesota Community College Faculty Association members.

Source: Minnesota State Colleges and Universities bargaining agreements for faculty, available at http://www.hr.mnscu.edu/contract_plans/

The MnSCU system human resources staff informed us the different cash benefit calculations are based on the understanding of the terms of the cash benefit as determined between the parties at the time the benefit was originally negotiated; however, the difference in the language of the relevant provisions is subtle. MnSCU asserts that despite some errors in calculating the cash benefit (see Finding 2), it has consistently applied its understanding of the bargaining agreements.

According to the State Employee Group Insurance Program, "In order to remain with the State Employee Group Insurance Program as a retiree, you must apply for Medicare Parts A and B. The insurance plans available to retirees age 65 and over in the State Employee Group Insurance Program all coordinate with Medicare coverage."[16] The State Employee Group Insurance Program would charge the separated, 65-and-older employee rates for retirees age 65 or older, assuming the employee stays with the State Employee Group Insurance Program and is on Medicare.

Table 3 shows how the differing methodology results in different benefits.

Table 3
Calculation of Health Insurance Benefit Payments for Early Retirement Employees Age 65 or Older[1]

	Months	Rate	Total
Calculation Using Under 65 Rates			
Inter Faculty Organization and Minnesota State University Association of Administrative and Service Faculty	12	$1,467	$17,604
Calculation Using 65 and Older Rates			
Minnesota State College Faculty	12	$ 590	7,080
Difference in Health Insurance Benefit Calculation			$10,524

[1] This example assumes both the employee and spouse are age 65. The rate for the Minnesota State College Faculty bargaining unit is the 2016 State Employee Group Insurance Program rate for employees age 65 and older. The other two bargaining units use the 2016 State Employee Group Insurance Program rate for separated employees under age 65.

We reviewed 12 Inter Faculty Organization employees who separated from the state when they were age 65 or would turn 65 in the year following separation. This review showed that the universities paid $28,983 more for this benefit than the colleges would have paid faculty for the same benefit under the Minnesota State College Faculty bargaining agreement.

[16] *Continuing insurance upon separation.* https://www.mn.gov/mmb/assets/ContinuingInsuranceUponRetirement-RegularRetirees_tcm1059-126975.pdf

Recommendation

- *The system office should attempt to negotiate language in the bargaining agreements that more clearly reflects MnSCU's understanding of the bargaining parties.*

Finding 2

Minnesota State Colleges and Universities lacked internal controls to ensure the accuracy of all separation payments paid to employees eligible for early retirement incentives. Inaccurate payments primarily occurred related to health insurance benefits, but also occurred in other areas.

As employees separate from Minnesota State Colleges and Universities, they are eligible for a variety of separation payments. Because the various bargaining agreements have differing eligibility requirements, types of payments, and calculation methodologies, there is a high risk that errors may occur.

In our testing of separation payments, we found MnSCU staff made numerous errors in most types of payments we tested, but the most significant errors occurred when determining the amount of health insurance benefit payments.

Health Insurance Benefit Errors

The human resources staff at several colleges and universities did not accurately calculate the health insurance benefits paid to employees who received early retirement incentives. As shown in Table 4, human resources staff incorrectly calculated payments for 20 out of 119 employees we tested eligible for this benefit, resulting in overpayments totaling $35,711 and underpayments totaling $13,612.

Table 4
Health Insurance Benefit Errors
Fiscal Years 2013 through 2016[1]

Inter Faculty Organization	Number Tested	Number Paid in Error	Percent Paid in Error	Overpayment Amount	Underpayment Amount
Bemidji State University	10	1	10%	$ 0	$ 705
MN State University Moorhead	19	6	32%	19,575	0
Universities Tested with No Errors	26	0	0%	0	0
Minnesota State University Association of Administrative and Service Faculty					
Universities Tested with No Errors	14	0	0%	0	0
Minnesota State College Faculty					
Central Lakes College	2	2	100%	0	3,599
Century College	6	2	33%	11,891	1,315
MN State Community and Technical College	5	1	20%	1,383	0
MN West Community and Technical College	3	3	100%	0	5,389
Normandale Community College	8	4	50%	54	2,604
Rochester Community and Technical College	3	1	33%	2,808	0
Colleges Tested with No Errors	23	0	0%	0	0
Total	119	20	17%	$35,711	$13,612

[1] Through March 31, 2016.

Source: Office of the Legislative Auditor testing of health insurance benefit payments.

Early retirement incentives under the three faculty bargaining agreements have a health insurance benefit equal to the cost of health insurance coverage for one year. The colleges and universities deposit the payment into the employee's health care savings plan.

Separated employees under the Inter Faculty Organization[17] and the Minnesota State University Association of Administrative and Service Faculty[18] bargaining agreements, who are eligible for an early retirement incentive, receive a health insurance benefit in an amount equal to the employer's cost of insurance for one year from the date of separation.

In contrast, employees retiring under the Minnesota State College Faculty bargaining agreement, who are eligible for an early retirement incentive, receive a

[17] Inter Faculty Bargaining Agreement for 2013-2015, art. 16, sec. D, subd. 5.

[18] Minnesota State University Association of Administrative and Service Faculty Agreement for 2013-2015, art. 16, sec. E, subd. 3.

health insurance benefit in an amount equal to both the employer's and the employee's cost of insurance for one year from the date of separation.[19]

For example, our testing of Minnesota State College Faculty employees age 65 and older at separation, or in the year following separation, showed that human resources staff incorrectly used the separated employee under age 65 rate for three out of four sample items we tested, resulting in overpayments totaling $16,081. MnSCU's interpretation of the contract language requires the use of the retiree age 65 and older rate.[20] Also, human resources staff did not use both the employer and employee rate as required by the applicable bargaining agreements when calculating the health insurance benefit payments to six employees we tested. Underpayments totaling $10,876 occurred as a result of using only the employer rate of the health insurance costs.

In another example, human resources staff at one university did not use the correct rates when calculating the health insurance benefit for one Inter Faculty Organization employee we tested. The employee was paying for single coverage up until their separation date, but the university paid the benefit based on the rate for family coverage. This resulted in an overpayment of $10,399. Also, one university incorrectly used the employer and employee rate when calculating the health insurance benefit for five Inter Faculty Organization employees we tested. The bargaining unit agreement requires only the employer rate when calculating the benefit. This resulted in overpayments to each of the five employees of $1,835, totaling $9,175.

Recognizing that this is an area prone to error, the MnSCU system office created a system-wide calculator for each of the bargaining unit agreements to ensure consistent and accurate calculations. However, the system office did not identify two errors in the Minnesota State College Faculty calculator before system-wide implementation in September 2015. The calculator erroneously used only the employer's portion of the health insurance rates as opposed to using both the employer's and employee's contributions. Additionally, the calculator did not recalculate the benefit if the twelve months following separation covered more than one calendar year. The colleges and universities did not use the calculator for any of the sample items we tested because most employees separated before its implementation.

Other Separation Payment Errors

In addition to the errors we found with the health insurance benefits, we identified numerous, less significant errors with other types of separation payments. For example, one college had an error as a result of miscalculating the employee's daily rate of pay when calculating a severance payment. This resulted in an

[19] Minnesota State College Faculty Agreement for 2013-2015, art. 16, sec. 2, subd 4.

[20] See Finding 1 for further discussion of MnSCU's interpretation of the health insurance benefit paid to faculty as an early separation benefit.

underpayment of $530. In another example, human resources staff at one university incorrectly entered a severance payment into the state's payroll system resulting in an underpayment of $320.

Table 5 summarizes our testing results by bargaining agreement and campus.

Table 5
Other Separation Payment Errors
Fiscal Years 2014 through 2016[1]

Inter Faculty Organization	**Employees Tested**	**Paid in Error**	**Percent Paid in Error**	**Overpayment Amount**	**Underpayment Amount**
MN State University Mankato	1	1	100%	$401	$ 0
MN State University Moorhead	16	2	13%	66	320
Winona State University	9	2	22%	0	262
Universities Tested with No Errors	10	0	0%	0	0
Minnesota State University Association of Administrative and Service Faculty					
Bemidji State University	1	1	100%	0	333
Universities Tested with No Errors	2	0	0%	0	0
Minnesota State College Faculty					
Century College	3	2	67%	0	104
Normandale Community College	4	1	25%	0	114
Rochester Community and Technical College	2	1	50%	0	530
Colleges Tested with No Errors	10	0	0%	0	0
Other Bargaining Agreements Tested with No Errors[2]	16	0	0%	0	0
Total	74	10	14%	$467	$1,663

[1] Through March 31, 2016.

[2] Includes the following bargaining agreements: Minnesota State Colleges and Universities Personnel Plan for Administrators (13), Minnesota Association of Professional Employees (2), and Middle Management Association (1).

Source: Office of the Legislative Auditor testing of other separation payments.

Most colleges and universities told us they performed a secondary review of the health insurance benefit and separation payment calculations; however, many errors still occurred. The reviewers may have verified the accuracy of the math, but they perhaps did not verify that the calculation of the benefit agreed with the bargaining agreement language or with MnSCU's interpretation of the language.

Recommendations

- *The Minnesota State Colleges and Universities system office should implement procedures to ensure separation payments are accurately calculated and paid.*
- *Minnesota State Colleges and Universities should resolve the payment errors made to employees. Additionally, they should identify and resolve any other potential errors.*

Finding 3

Minnesota State Colleges and Universities did not have documentation to justify payments of early retirement incentives, as required by the Minnesota State College Faculty bargaining agreement. This is a repeat finding.[21]

None of the 12 colleges we tested were able to show how $1,613,638 of early retirement incentive payments to 19 faculty employees provided cost savings or other benefits to the colleges. The Minnesota State College Faculty bargaining agreement states, "Individual applications for early retirement incentive will only be granted where it can be shown that the specific application would prevent a layoff, allow the recall of a laid off faculty member and/or would result in a cost savings to the system."[22] Table 6 shows the early retirement incentives we tested.

Table 6
Minnesota State College Faculty
Early Retirement Incentive Payments that Lacked Sufficient Justification to Demonstrate a Benefit to the College
July 1, 2013, through March 31, 2016

College	Number of Employees	Total Early Retirement Incentives
Anoka-Ramsey Community College	1	$ 89,113
Century College	3	262,524
Central Lakes College	1	87,369
Fond du Lac Tribal & Community College	1	79,285
Hibbing Community & Technical College	1	81.716
Inver Hills Community College	1	91,566
Itasca Community College	1	89,113
Minneapolis Community & Technical College	2	176,122
MN State Community and Technical College	1	94,328
MN West Community & Technical College	1	73,189
Normandale Community College	4	328,157
Rochester Community and Technical College	2	161,157
Total	19	$1,613,639

Source: Office of the Legislative Auditor testing of early retirement incentive payments.

[21] Office of the Legislative Auditor's Financial Audit Division Report 10-29, *Minnesota State Colleges and Universities,* Finding 3, issued September 14, 2010.

[22] Minnesota State College Faculty Bargaining Agreement for 2013-2015, art. 16, sec. 2, subd. 2.

In the response to our prior audit finding, MnSCU stated it had made substantial progress in this area.[23] However, the MnSCU system office and the colleges we tested were unable to demonstrate to us that a process to analyze and document its compliance with these contract provisions was in place.

Recommendation

- *Minnesota State Colleges and Universities should analyze and document that payments for early retirement incentives accomplished cost savings or complied with other related requirements of the Minnesota State College Faculty bargaining agreement.*

[23] Office of the Legislative Auditor's Financial Audit Division Report 10-29, *Minnesota State Colleges and Universities,* Finding 3, issued September 14, 2010.

Appendix A. Eligibility and Benefits for Separation Payments – Page 1[1]

Inter Faculty Organization[2]

Severance

Eligibility

- At least 20 years of service; or
- After ten years of service and whose combined years of service and age equal 68

Benefits

- 40 percent of unused sick leave multiplied by the employee's daily rate of pay at the time of separation
- If 25 years or more of service, payment is calculated at 45 percent with an increase of one percent per year to a maximum of 50 percent
- The base for computing severance shall not exceed 125 days

Early Separation Incentive

Eligibility

- Hired before July 1, 1996
- At least 55 years old
- At least 15 years of service

Benefits

- A payment equal to the base salary amount less ten percent for each year beyond age 55
- A payment equal to the employer's contribution for one year of health insurance coverage

Early Notice of Retirement

Eligibility

- Hired before July 1, 1996
- At least 55 years old
- At least 15 years of service
- Must submit a written letter of retirement by October 15 if retirement will occur no earlier than the end of the following spring semester but no later than the day prior to the beginning of the subsequent fall semester or by January 15 if retirement will occur at the end of the subsequent fall semester.

Benefits

- An employee shall have their salary increased by two steps in the final two semesters of employment.[3]

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[1] For items we tested, only eligibility requirements applicable during testing were included in the appendix. Other eligibility requirements include such requirements as upon death or involuntary separation.

[2] Inter Faculty Organization Bargaining Agreement for 2013-2015, arts. 11, 15, and 16.

[3] The bargaining agreement provides a salary schedule for each fiscal year based on steps. When an employee receives a two-step salary increase, the employee's salary increases according to the salary associated with each step.

(continued on next page)

Appendix A. Eligibility and Benefits for Separation Payments – Page 2

Minnesota State University Association of Administrative and Service Faculty[3]

Severance

Eligibility

- At least 20 years of service; or
- After ten years of service and whose combined years of service and age equal 68

Benefits

- 45 percent of unused sick leave multiplied by the employee's current rate of pay at the time of separation
- Payment is increased by one percent for each year of service over 25 years to a maximum of 50 percent
- The base for computing severance shall not exceed 1,000 hours

Vacation

Eligibility

- At least five years of pension service and is immediately eligible to receive a retirement benefit or an annuity

Benefits

- Payment for the first 120 hours of unused vacation leave in cash
- Payment in excess of 120 hours of unused vacation leave to the employee's health care savings plan
- Total payment not to exceed 272 hours

Separation Incentive

Eligibility

- At least 55 years old and less than 65 years old
- At least 15 years of service

Benefits

- A payment equal to the base salary subject to a ten percent decrease for each year beyond age 55
- A payment equal to the employer's contribution for one year of health insurance coverage

Early Notice Incentive

Eligibility

- At least 15 years of service

Benefits

- A payment equal to five percent of their base salary

[3] Minnesota State University Association of Administrative and Service Faculty Bargaining Agreement for 2013-2015, arts. 12, 16, and 18.

(continued on next page)

Appendix A. Eligibility and Benefits for Separation Payments – Page 3

Minnesota State College Faculty[4]

Severance

Eligibility

- At least 20 years of service or
- After ten years of service and whose combined years of service and age equal 68

Benefits

- 40 percent of unused sick leave not to exceed 112 days at the employee's daily rate of pay at time of separation
- 12.5 percent of unused sick leave bank

Early Retirement Incentive

Eligibility

- Hired before July 1, 1995
- At least 55 years old
- At least 15 years of service

Benefits

- A payment equal to the base salary less 20 percent for each year beyond age 60
- A payment equal to the employee and employer's contribution for one year of health insurance coverage

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[4] Minnesota State College Facility Bargaining Agreement for 2013-2015, art. 16. The early retirement incentives defined in this article are only available to former members of the Minnesota Community College Faculty Association.

(continued on next page)

Appendix A. Eligibility and Benefits for Separation Payments – Page 4

Personnel Plan for Administrators[5]

Severance

Eligibility
- At least age 65
- At least five years of continuous state employment with the Personnel Plan for Administrators or 20 years of continuous state employment or
- At least ten years of continuous state service with immediate entitlement at the time of retirement to receive a pension under a state retirement program

Benefits
- 40 percent of unused sick leave at the employee's final rate of pay
- Payment shall not exceed the lesser of 50 percent of the annual base salary of the administrator at the time of separation or 50 percent of the maximum base salary identified in the contract

Severance Per Employment Contracts

Eligibility
- Upon completion of the full term of a contractual appointment which is not renewed

Benefits
- Up to six months salary[6]

Vacation

Eligibility
- Upon separation

Benefits
- Payment up to 34 days of unused vacation multiplied by the employee's daily rate of pay

Early Notice of Separation Incentive

Eligibility
- At least five years of continuous service
- At least nine months written notice of intent to separate

Benefits
- A lump-sum payment equal to five percent of the final annual base salary[7]

[5] Personnel Plan for Administrators for 2013-2015, secs. 1.06, 1.08, and 1.13.

[6] This benefit applies to employees with a contractual appointment.

[7] According to the plan, "This provision does not apply to Administrators with individual employment contracts or Administrators in interim or acting appointments with no continuing employment status under the terms of this Plan."

(continued on next page)

Appendix A. Eligibility and Benefits for Separation Payments – Page 5

Minnesota State Colleges and Universities[8]

Board Early Separation Incentive

Eligibility

- Continuing position with Minnesota State Colleges and Universities at the time of separation
- Position identified for elimination or replacement by the president or chancellor
- At least 55 years of age
- Eligible for employer contributions for health and dental insurance rates
- Voluntarily accepts the board early separation incentive

Benefits

- Amount not to exceed the employee's annual base salary

[8] Minnesota State Colleges and Universities Board Policy 4.11.

Appendix B. 20 Largest Separation Payments by Employee
July 1, 2013, through March 31, 2016

Location	Bargaining Unit/Plan	Position Description	Payment[1]
Winona State University	Administrators Plan	Administrator	$ 233,024
MN State University Moorhead	Inter Faculty Organization	University Faculty	207,635
MnSCU System Office[2]	Administrators Plan	College President	163,955
MnSCU System Office	Administrators Plan	College President	160,650
Century College	Minnesota State College Faculty	College Faculty	158,611
St Cloud State University	Inter Faculty Organization	University Faculty	156,939
Century College	Minnesota State College Faculty	College Faculty	156,067
MnSCU System Office	Administrators Plan	College President	153,011
MN State College Southeast Technical	Administrators Plan	Administrator	150,908
MN State University Moorhead	Inter Faculty Organization	University Faculty	148,702
MN State University Moorhead	Inter Faculty Organization	University Faculty	147,775
MnSCU System Office	Administrators Plan	College President	146,480
Bemidji State University	Inter Faculty Organization	University Faculty	141,568
MN State University Moorhead	Inter Faculty Organization	University Faculty	141,448
MN State University Moorhead	Inter Faculty Organization	University Faculty	140,600
MN State University Moorhead	Inter Faculty Organization	University Faculty	138,117
MN State University Moorhead	Inter Faculty Organization	University Faculty	137,578
Southwest MN State University	Inter Faculty Organization	University Faculty	134,388
MN State University Moorhead	Inter Faculty Organization	University Faculty	134,275
Century College	Minnesota State College Faculty	College Faculty	132,304
Total			$3,084,035

[1]These payments consisted of severance payoffs, vacation payoffs, early retirement incentives, and board early separation incentives.

[2]The MnSCU system office processes payroll and separation payments for all college and university presidents.

Source: State of Minnesota's accounting system.

MINNESOTA STATE

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October 18, 2016

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

Dear Mr. Nobles,

The purpose of this letter is to respond to the recently conducted internal controls and compliance audit of employee separation payments within the Minnesota State system.

The Office of Legislative Auditor performs a vital part of our human resource and finance payroll assurance program through its audits of our system. The Board of Trustees, Chancellor Rosenstone, Vice Chancellor Laura King and I all strive to maintain an environment of the highest professional standards. The work of your staff helps test that environment and provides continuing assurance that state laws and internal control procedures are in place and in force at our colleges, universities and the system office. We are pleased to note in the report summary conclusion that *"For most separation payments, Minnesota State Colleges and Universities had generally adequate internal controls to ensure that its human resources staff accurately calculated and paid separation payments."* The conclusion statement further notes that *"…Minnesota State Colleges and Universities generally complied with financial-related legal requirements for most separation payments."*

The focus in the audit finding statement regarding the inadequacy of internal controls for certain early retirement incentive payments primarily related to health insurance benefits and inadequate justification for granting early retirement incentives for some college faculty, are areas requiring our immediate attention. You have my assurance that we take these findings very seriously and will work diligently to remedy these issues.

We have evaluated all of the findings with the appropriate college and university staff. The colleges, universities and the system office have developed action plans, as cited in this response, to implement the necessary improvements. On behalf of the presidents and the human resources management staff at each of the colleges and universities and the system office, please extend our appreciation to the audit managers and the audit staff responsible for the audit.

Attached please find specific responses to the audit findings.

Mark D. Carlson,
Vice Chancellor for Human Resources

c: Steven Rosenstone, Chancellor
Laura M. King, Vice Chancellor – Chief Financial Officer

Minnesota State
Response to the audit of Employee Separation Payments
October 2016

Finding 1. For faculty age 65 or turning 65 in the year following separation, who choose an early retirement option, Minnesota State Colleges and Universities paid a larger health insurance benefit for university faculty than it paid for college faculty, although the contractual basis for the different approaches is unclear.

Minnesota State disagrees with Finding No. 1. Contrary to the finding's basic premise, the underlying collective bargaining agreements clearly support the differences in the calculation of the early separation incentive benefits among the three bargaining groups at issue. With respect to faculty who turn age 65 in the year following separation, Minnesota State has calculated the separation payments in accordance with the plain language of the governing bargaining agreement.

Through a collective bargaining process intended to simplify administration of the early retirement incentives for college and university faculty, the Excusive Representative of each of the three bargaining units at issue agreed to accept a cash payment in lieu of post-separation health insurance ("benefits payment").[1] The relevant provisions of each of the bargaining agreements require that this payment be made to the employee's health care savings plan which is administered by the Minnesota State Retirement System.

The central area of disagreement is the audit's reading of the IFO Master Agreement. The audit finds confusion in the benefits payment language of the IFO Agreement, where none actually exists. With respect to the benefits payment, the IFO Agreement provides in pertinent part as follows:

> **Subd. 5. Benefits Contribution**. A faculty member qualifying for an early separation incentive payment(s) as provided in this section shall have <u>an amount equivalent to the Employer contribution</u> for one year's health insurance premiums deposited in his/her health care savings plan at the time of separation.

Article 16 § D, Subd. 5 of the IFO Master Agreement (emphasis added). As can be plainly seen from the quoted language, the calculation of the benefits contribution payment turns on the meaning of the term "Employer contribution."

It is a fundamental principle of labor contract construction that contract terms will be given a consistent meaning throughout the contract, absent evidence that a different meaning is intended. In the IFO Master Agreement, the term "Employer contribution" is used repeatedly, and always with the same meaning, which is provided in the contract as follows:

> **a.** Faculty Member Coverage. Beginning on January 1, 2015, for faculty member health coverage, the <u>Employer contributes an amount equal to</u> ninety-five percent (95%) of the employee-only premium of the Minnesota Advantage Health Plan (Advantage).

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1 The Auditor has referred to these cash payments as "health insurance benefits." This abbreviated term is confusing as none of the bargaining agreement at issue provide post-employment health insurance benefits for early separating faculty. The payments are referred to herein as "benefits payments."

b. Dependent Coverage. For dependent health coverage for the 2016 and 2017 plan years, the Employer contributes an amount equal to eighty five percent (85%) of the dependent premium of Advantage.

Article 35 § D, Subd. 1, IFO Master Agreement (emphasis added).

As the quoted provision makes clear, the IFO Agreement defines an Employer contribution as a fixed percentage of the current State of Minnesota insurance premiums for active employees. Significantly, neither Article 35 nor any other provision of the IFO Agreement establishes an Employer obligation to contribute to the health insurance costs of retirees.[2] Thus, alternative readings that focus on the actual cost of actually providing health insurance to separated faculty, and thus subject to differing premiums based on the age of the separated employee, are not tenable.

In sharp contrast to the IFO Master Agreement, the MSCF Master Agreement explicitly ties the calculation the benefits payment provided to college faculty to the employer's cost of providing post-separation health insurance. The MSCF Master Agreement provides in pertinent part as follows:

> **Subd. 4. Maintenance of Benefits**. In order for a faculty member to be eligible to receive the health insurance benefits, under this section, the faculty member must be eligible for and receive a benefit under Article 16, Section 2, Subd. 3. The separated faculty member shall have the right to continue, at the Employer's expense, health insurance benefits for one (1) year after separation. The parties agree that the faculty member's college shall make payment(s) into the faculty member's Health Care Savings Plan (HCSP) as follows:

Article 16, Section 2, Subd. 4 MSCF Master Agreement (emphasis added).

The plain meaning of the underscored sentence is that the payment provided to separating college faculty is to be equivalent to the cost of providing those faculty with post-separation health insurance benefits. Thus, when a college calculates the amount of the maintenance of benefits payment, it properly consults the State's retiree insurance premiums, as those premiums measure what it would cost the college to provide a year of insurance to the affected faculty member following separation.

Each of the bargaining agreement provisions was negotiated at different points in time; the university faculty twelve years ago and the college faculty benefit five years ago. Thus, it is not surprising that the provisions are different and have produced differing outcomes.

In summary, the MSCF Master Agreement requires colleges to calculate the maintenance of benefits payment based on the actual cost of providing health insurance to the affected faculty member for one year following separation. The IFO Master Agreement requires the state universities to calculate the benefits contribution payment based on the cost of providing one year of insurance to active employees at the time the affected faculty member separates from employment. The audit's conclusion that the underling collective bargaining agreements do not support this distinction is incorrect.

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[2] Indeed, the IFO Agreement makes it clear that retirees who are allowed to continue participating in the State insurance plan, do so at their own expense. (Article 35, Section B, Subd. 2 c. (citing Minn. Stat. §43.27, Subd. 3a(2)).

Finding 2. Minnesota State Colleges and Universities lacked internal controls to ensure the accuracy of all separation payments paid to employees eligible for early retirement incentives. Inaccurate payments primarily occurred related to health insurance benefits, but also occurred in other areas.

The system office agrees with this finding and has made substantial progress in this area. Minnesota State employees who separate are eligible for a variety of separation payments. Many payments are unique to Minnesota State which are provided by collectively bargained agreements, by administrative plan or by statute and/or Board Policy. Eligibility for such payments is unique, as is the calculation of the payment, depending on the eligible separating employee. Minnesota State recognizes that the variety of payments has the potential for a high risk for error. As such the system has proceeded to clarify and promulgate existing procedures to manage the risk for error.

The system office has developed and disseminated separation calculators [automated spreadsheets] to aid the colleges and universities in accurately and consistently applying the terms of the separation payments for employees. For most of this audit period the calculators were not in place, with systemwide adoption of the tool as of September 2015. Moving forward the system anticipates marked improvement in accuracy. Additionally, the noted calculation/programming error for one calculator affecting college faculty has been resolved.

To further aid in the accurate and consistent application of separation payments, along with many other human resources employment transactions, the system is presently moving toward a transactional service center model. The transactional staff at each center will be fully trained to ensure accurate and consistent management of all transactions. The volume and reoccurrence of a wide variety of transactions managed by center staff will reinforce their knowledge base so that all employment transactional calculations and data entries are handled correctly. This new model will be supported by ongoing training activities so center staff will always be current regarding the latest laws, policies, procedures or employment contract/administrative plan language affecting their roles. The transactions for Minnesota State faculty will be the first to be managed in the new service center environment, which is scheduled for Spring 2017. Finally, this new model will eliminate the inherent challenges created by turnover of key staff at each respective college or university, which was the case during the audit testing period for two universities noted in Tables 4 and 5.

Finding 3. Minnesota State College and Universities did not have documentation to justify payment of early retirement incentives, as required by the Minnesota State College Faculty bargaining agreement. This is a repeat finding.

The system office agrees with this finding and, in consultation with the system's Internal Audit unit, is committed to the development of an appropriate and easily sustainable methodology for documenting cost savings to the system. It is important to note that although the finding correctly cites the absence of documentation to support the payment of these incentives, it is not the case that the faculty who received the payments were not entitled to them. The MSCF Master Agreement contains salary limiting language[3] for newly hired faculty. Retiring faculty members are the highest base salaried faculty. Based on a ten-year look back, on average 89% of faculty are at the top step of the salary schedule, and when combined with faculty at the penultimate step of the salary schedule the percent increases to 92%. New

[3] The salary limit language is contained in Article 13, Section 1, Subd. 1 of the Minnesota State College Faculty bargaining agreement.

hires are limited on average to a base salary that is 30% lower than the salary of a retiring faculty member. Thus, the salary limiting language of the MSCF Agreement creates an inherent savings to the system in virtually all cases where retiring faculty are replaced. While there can be some exceptions to the salary limitation upon hire, these exceptions are not significant enough to eliminate the inherent savings based on the salary limiting language.

The system office has reviewed the retiring faculty members during this audit period and has concluded that of the outgoing base salaries compared to the direct full-time incoming replacement salaries, and an estimate of all other positions replaced at half time, a savings of approximately 43% has occurred.

Appendix B. 20 Largest Separation Payments by Employee July 1, 2013 through March 31, 2016

The system office disagrees with the inclusion of this Appendix. The information as listed does not serve to address any findings in accordance with the terms of the internal controls and compliance audit. Therefore, the purpose of the Appendix is unclear. The confusion created by the Appendix is compounded by its exclusive focus on large separation payments, whether correctly calculated or not, which is likely to have the effect of sensationalizing separation payments in general. Minnesota State acknowledges that the system has various unique separation pay flexibilities different than those found in other areas of State service. However, such flexibilities are imbedded in enabling statutory authority[4] and collectively bargained agreements and/or administrative plans approved by the Legislature. The system separation flexibilities are one of several acknowledgments by the Legislature that the system must be able to effectively react to the changing needs of students and business and industry educational priorities by being able to manage staff and faculty levels accordingly and fairly.

The system office believes the separation payment information contained in Table 2 is a more clear depiction of the overall scope of separation payments made by the system. Table 2 indicates by comparison that 91.1% of separation payments are less than $50,000, with only 2.5% of separation payments $100,000 or greater during the period of this audit.

[4] Minn. Stat. § 136F.481 Early Separation Incentive Program and Board Policy 4.11 Board Early Separation Incentive Program; and Minn. Stat. § 136.40 Appointment of Personnel, enabling language regarding the terms of employment contacts for Minnesota State executive leadership.