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Free meals, drinks questioned on audit of North Dakota state employees

By [Mike Nowatzki](#) on Apr 19, 2016 at 4:06 p.m.

BISMARCK – Still bruised from two critical audits in February, the state Department of Trust Lands took another clubbing Tuesday in a broader performance audit that found employees crossed ethical lines by accepting free meals and drinks from investment firms managing state assets.

The state auditor's office also uncovered trusts assigned to the wrong tracts of land, resulting in mineral royalty payments and investment income going to the wrong trusts.

The department admitted the error and said it resulted in the state's Youth Correctional Center receiving about \$177,000 that should have gone to other trust beneficiaries – a mistaken appropriation that will likely need legislative approval to correct, it noted.

The Legislative Audit and Fiscal Review Committee, which requested the performance audit in October 2014, will receive the results during its meeting Thursday.

“We determined the department was not obtaining, accounting for and using certain resources efficiently and effectively,” the audit states.

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The report comes on the heels of two audits released in February that found aspects of the department's programs for oil impact grants and unclaimed property had operated ineffectively.

Among the findings was that the department awarded oil impact grants for projects that didn't appear to meet lawmakers' intent for the program, including the relocation of baseball fields to a different side of the highway.

The audit being released Tuesday says Trust Lands Commissioner Lance Gaebe and department employees "were willingly accepting free meals and drinks (including alcoholic beverages) from representatives of the investment entities," both in Bismarck and when employees traveled to conduct "due diligence reviews" of the investment firms.

One employee accepted a meal from a money manager who was being considered and was later hired for investment services. Employees commonly took their spouses to the social meetings, a practice that stopped during the audit, the report notes.

"The acceptance of free items from vendors and forming personal relationships may affect the ability of the Department to independently and impartially evaluate vendors. We conclude employees' actions have created an appearance of losing independence or impartiality," the audit states.

In its response, the department explained that staff members follow an ethics policy

that precludes accepting anything of value in excess of \$100 annually in dealings with existing and prospective contractors.

But auditors suggested the value wasn't the issue.

“Based on reviews of information, including an email from an employee to an investment firm representative to ‘put you on the beer calendar and can add you to the work calendar if needed,’ and discussions with employees, we would conclude the actions of employees have resulted in noncompliance with the Code of Ethics policy,” the audit states.

Auditors also identified instances of employees being reimbursed for meals after a contractor had already paid for the meal being claimed.

Auditors made 29 formal recommendations. The department agreed with 22 of them, disagreed with four and had mixed responses to three.

Gaebe couldn't immediately be reached for comment.

The department manages about 656,000 surface acres of original trust lands, having sold much of the nearly 3.2 million acres that Congress granted to the state in the Enabling Act of 1889 to support common schools, colleges, the state Capitol and other public institutions. It also manages another 51,000 surface acres acquired through foreclosures, gifts and other means and 2.6 million acres of mineral rights.

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