

05hr_JC-Au_Misc_pt16



Details: Proposed Audit: Personnel Policies and Practices, Wisconsin Technical College System

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Record of Committee Proceedings

Joint Legislative Audit Committee

Proposed Audit: Personnel Policies and Practices, Wisconsin Technical College System

November 29, 2005 **PUBLIC HEARING HELD**

- Present: (9) Senators Roessler, Cowles, S. Fitzgerald, Miller and Lassa; Representatives Jeskewitz, Kaufert, Kerkman and Cullen.
- Absent: (1) Representative Travis.

Appearances For

- Dennis Murphy, Beloit
- Judy Robson, Beloit — Senator, Wisconsin State Senate
- Randy Wessel, Racine

Appearances Against

- None.

Appearances for Information Only

- Janice Mueller, Madison — State Auditor, Legislative Audit Bureau
- Paul Stuiber, Madison — Legislative Audit Bureau
- James Zylstra, Madison — VP of Finance, Wisconsin Technical College System
- Greg Wagner, Madison — Associate VP of Finance, Wisconsin Technical College System

Registrations For

- None.

Registrations Against

- None.

November 29, 2005 **EXECUTIVE SESSION HELD**

- Present: (8) Senators Roessler, Cowles, Miller and Lassa; Representatives Jeskewitz, Kaufert, Kerkman and Cullen.
- Absent: (2) Senator S. Fitzgerald; Representative Travis.

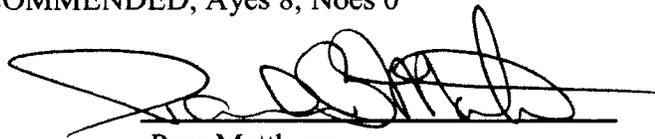
Moved by Representative Kerkman, seconded by Senator Roessler that **Proposed Audit: Personnel Policies and Practices, Wisconsin Technical College System** be approved according to the scope statement dated November 21, 2005 prepared by the Legislative Audit Bureau.

Ayes: (8) Senators Roessler, Cowles, Miller and Lassa; Representatives Jeskewitz, Kaufert, Kerkman and Cullen.

Noes: (0) None.

Absent: (2) Senator S. Fitzgerald; Representative Travis.

ADOPTION RECOMMENDED, Ayes 8, Noes 0

A handwritten signature in black ink, appearing to read 'Pam Matthews', written over a horizontal line.

Pam Matthews
Committee Clerk

Vote Record

Joint committee on Audit

Date: 11/29/05

Moved by: Rep. Kerkman Seconded by: Sen. Roessler

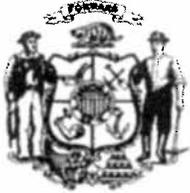
Motion to to direct the Legislative Audit Bureau to conduct the audit outlined in the scope on the Wisconsin Technical College System dated November 21, 2005.

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Scott Fitzgerald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Jeff Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Travis	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative David Cullen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>0</u>	<u>2</u>	<u>0</u>





Wisconsin State Legislature

August 8, 2005

Senator Carol Roessler, Co-Chair
Joint Committee on Audit
State Capitol, 8 South

Representative Suzanne Jeskewitz, Co-Chair
Joint Committee on Audit
State Capitol, 314 North

Dear Senator Roessler and Representative Jeskewitz:

We write to express our concern over the Gateway Technical College's potential use of generous retainer agreements, back-up positions, and exceptionally lucrative retirement plans for the current Chief Operations and Academic Officer Bryan Albrecht, retiring Gateway Board President Sam Borden, former President John Bucholz, and other Gateway executive officers.

In light of the recent Legislative Audit Bureau audit that specifically criticized Gateway Technical College and based on information that we have received informally regarding generous retirement plans for executive staff, we respectfully request that you instruct the Legislative Audit Bureau to audit the Wisconsin Technical College system's use of retainer agreements, paid leave of any type for administrators, and executive retirement benefits and plans.

Thank you for your attention to this request.

Sincerely,

Judith B. Robson
State Senator
15th Senate District

Glenn Grothman
State Senator
20th Senate District

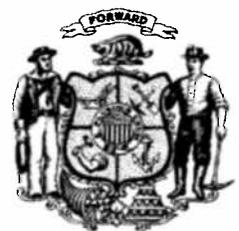
Bob Wirth
State Senator
22nd Senate District

John Lehman
State Representative
62nd Assm. District

JBR:jss



WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

November 16, 2005

Mr. Daniel Clancy, President
Wisconsin Technical College System
345 West Washington Avenue, 2nd Floor
Madison, Wisconsin 53703

Dear Mr. Clancy:

The Joint Legislative Audit Committee will hold a public hearing at 10:00 a.m. on Tuesday, November 29, 2005, in Room 411 South of the State Capitol. At that time, the Committee will consider a proposed audit of the personnel policies and practices of the Wisconsin Technical College System.

As this proposed audit relates to the activities of your agency, we ask that you, or appropriate members of your staff, be present at the hearing to offer comments on the proposed audit and to respond to questions from committee members. The Legislative Audit Bureau will forward a memorandum outlining the scope of the proposed audit for your review in advance of the hearing.

Please contact Ms. Pamela Matthews in the office of Representative Suzanne Jeskewitz at 266-3796 by Wednesday, November 23rd to confirm your participation at the hearing. Thank you for your cooperation and we look forward to seeing you on November 29th.

Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

Enclosure

cc: Brent Smith, President
Wisconsin Technical College System Board

Janice Mueller
State Auditor





STATE OF WISCONSIN

Legislative Audit Bureau

22 E. Mifflin St., Ste. 500
Madison, Wisconsin 53703
(608) 266-2818
Fax (608) 267-0410
Leg.Audit.Info@legis.state.wi.us

Janice Mueller
State Auditor

DATE: November 21, 2005

TO: Senator Carol A. Roessler and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee

FROM: Janice Mueller
State Auditor *(Janice Mueller)*

SUBJECT: Proposed Audit of Wisconsin Technical College System Personnel Policies
and Practices—Background Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request for an audit of selected personnel policies and practices in the Wisconsin Technical College System. The request was made by Senators Robson, Grothman, Wirch, and Representative Lehman.

The Wisconsin Technical College System consists of 16 technical college districts that provide occupational education and training, customized training, and technical assistance to businesses and industry. In the 2003-04 academic year, the System had revenues totaling \$1.2 billion, more than 9,950 full-time equivalent (FTE) employees, and more than 416,800 students, most of whom attended on a part-time basis. With over 1,960 FTE employees, Milwaukee Area Technical College is the System's largest employer. Six other technical college districts employ over 500 FTE employees.

Governance of the System is shared between the System Board and nine-member boards within each district. While the System Board is responsible for the planning and coordination of state-wide operations, district boards are responsible for local planning, budgeting, and development of course curricula.

Concerns have been raised about the use of retainer agreements for contractual services, as well as the type and amount of paid leave and retirement benefits provided to System executives. In addition, the recently initiated audit of personnel policies and practices within the University of Wisconsin System has generated interest in more comprehensive information on personnel policies and practices within all public post-secondary educational institutions, including the technical colleges.

An audit of personnel policies and practices within the Wisconsin Technical College System could include:

- a review of the management and oversight of the System's personnel functions as established in state statutes and System Board policies;
- a review of the amount and type of paid leave and retirement benefits provided to System executives;
- a review of the use of retainer agreements for contracted services;
- the identification of felons currently on the System payroll, including the nature of the crime, the date of the conviction, and the status of any internal System investigation if the individual was a System employee at the time of conviction;
- an analysis of sick leave, vacation, sabbatical use by employment category, including administrators, teachers, and other staff;
- a review of any cash settlements paid to individuals who have left System employment; and
- a review of personnel policies at selected institutions in other states, including identification of the role teachers and other staff play in the modification of those policies.

If you have any questions regarding this request, please contact me.

JM/PS/km

cc: Senator Robert Cowles
Senator Scott Fitzgerald
Senator Mark Miller
Senator Julie Lassa

Representative Samantha Kerkman
Representative Dean Kaufert
Representative David Travis
Representative David Cullen

Senator Judith Robson
Senator Glenn Grothman
Senator Robert Wirch

Representative John Lehman

Daniel Clancy, President
Wisconsin Technical College System

Expanded scope - state + 16 Districts - shared Governance
Policies Standards Univ. etc.
Each college
sick leave
vacation leave
Jim



no date

Dear Senators and Representatives:

Due to my teaching schedule, I am unable to physically attend today's Legislative Hearing but would like to enter the following information into this morning's official Legislative Hearing records if I may please:

I fully support your concerns and would like to convey my continued support for further review of Administrative compensation as it applies to Gateway Technical College.

The bullet points below summarize the current contracts between Dr. Samuel Borden and Gateway Technical College. *(faxed copies of current agreements to follow)*.

Current Employment Contract:

Annual Base Salary \$163,900 at present
Plus: \$7,000 funded annually to a 403b tax deferred annuity
Plus: \$10,000 funded annually to a 403b tax deferred annuity based on goals being met annually
Plus: \$1,000 per month, \$12,000 annual --automobile allowance
Total: \$192,900 annual *(plus Wisconsin retirement system benefits)*.

Other:

--FULLY paid up life insurance policy upon completion of employment equal to his annual base salary at termination. *(this will be equal to \$163,900 in full cash surrender value as of January 3, 2006 at retirement)*.

--30 days annual sabbatical for every year of service paid at 60% of FULL salary and benefits with the other 40% paid via applying accrued/unused sick leave.

(I would like to point out that no other GTC represented/bargaining unit employee or administrative position is granted payment for unused sick leave - which is in conflict with a statement made to Senator Jeskewitz by Dr. Borden at the legislative hearing on legal fees when Dr. Borden indicated that all administrative benefits were the same as other represented/bargaining unit personnel).

Dr. Borden's Retirement Agreement - effective January 2, 2006

--\$91,664 to be paid for accrued/unused sick leave and vacation leave.

--Fully paid up \$163,900 whole life policy

--Attendance (and expenditures) on GTC's behalf at the annual NISOD Conference and Awards in Austin for 5 years

--\$90 per hour compensation plus travel and other expenses on behalf of Gateway to meet with officers, administrators, board members, accountants, lawyers or other GTC representatives to provide consultation, information, or testimony regarding legal, governmental, accounting, financial or other matters.

--Benefit of legal counsel supplied by Gateway for any action or proceeding against Borden arising from Borden's employment with Gateway for acts committed within the scope of employment.

Fax of both contracts to follow.

Thank you for this opportunity.

Your continued support with regard to recent Gateway issues--including the use of taxpayer dollars to contract with private business entities that Dr. Borden and other "related" GTC parties created, contracted with (without open bid process), and sit on the boards of -- without taxpayer accountability as to the use of the funds --is greatly appreciated and supported in full.

Lonnie Benning

Accounting Instructor - Gateway Technical College
Secretary, Legislative, & Co-Grievance Chair---GTEA
262-741-8312 benningl@gtc.edu



November 29, 2005

Dear Senators: Roessler, Robson, Grothman, and Wirch; and Representatives Jeskewitz, and Lehman.

Thank you for calling this hearing. I am Dennis Murphy, a 24-year Gateway Technical College business and marketing instructor. I strongly support a legislative audit of Gateway Technical College's administrative compensation including any additional compensation and gifts provided to administrators by vendors or clients.

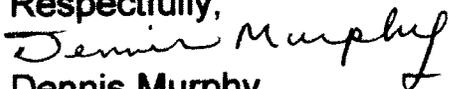
It was reported in the Kenosha News, November 25, 2005, that Dr. Sam Borden's retirement package includes a payment of more than \$255,000 and that legal counsel will be paid by Gateway for any action or proceedings against him. Dr. Borden will also consult with the college on an ongoing basis and will be compensated by Gateway at \$90 per hour plus payment for travel and other expenses.

Dr. Borden acknowledged on October 31 that he was retiring early, in part, related to controversy surrounding the college's non-profit entities BioCATT, Inc. and CATI, Inc. Dr. Borden is actively involved as a co-owner of these private entities which are under investigation by the State Department of Justice.

Given many unresolved questions and serious concerns regarding various conflicts of interest, I support a thorough legislative audit of Gateway Technical College.

Thank you for your time.

Respectfully,



Dennis Murphy
Lead Business and Marketing Instructor
Gateway Technical College
Elkhorn Campus
G.T.E.A. Member





Judith B. Robson

Wisconsin State Senator

Testimony before the Joint Legislative Audit Committee November 29, 2005

Request for Audit of Gateway Technical College

I wish to express my appreciation to the Joint Legislative Audit Committee for holding this hearing to consider an audit of the personnel policies and practices of the Wisconsin Technical College System.

Our request for this audit hopefully will not be construed as an attack on the technical colleges as a whole. As a technical college teacher I know first hand the high quality and dedication of the educators and the quality of instructional programs at the tech colleges

Having said this, the request for this audit was triggered by one technical college, namely Gateway Tech. And I am confident when the audit is complete you will find that the Gateway President, its Board and some administrators are the problem, not the Tech College System. I want to stress the importance of ensuring that the scope of this audit remains focused on the serious concerns at Gateway Tech that prompted the request for this audit.

I'm referring to the tangled relationship of Gateway Tech and its administrators and some of its board members to create "spin off" not-for-profit organizations loosely attached to the college. These same administrators and some board members also serve on the boards of BioCATT and CATT, these 501 (C) (3) corporations. They create, vote for appropriations and divert Gateway tax money to an organization that does not have to be accountable to anyone except themselves. There are little, if any, checks and balances.

Despite news media, investigations and requests by area legislators, there has been a startling lack of openness and forthrightness on the part of Gateway administrators to discuss these relationships with the public, legislators and most importantly the taxpayers. In fact, they continue to proceed with an arrogant style that is dismissive of accountability.

When these issues began to come to light last spring, Gateway refused to respond to questions by legislators who represent this college. In fact, they hired attorneys to file an open records request of our office for any correspondence related to Gateway Tech. When the Technical College System's state auditors came to the Gateway, their administrators hired attorneys to follow them around and what I have heard impeded their audit. One can only come to the logical conclusion that they have little concept of their role in being either accountable to the taxpayers or the need to be transparent in the privilege given to them in spending tax dollars.

Finally, it has come to light that Gateway has provided generous retainer agreements, back-up positions and exceptionally lucrative retirement plans to some of its administrators.

The need for this audit has become even more urgent because the current president has a compensation package of \$160,000 per year, plus health insurance for life and a \$1,000 car allowance. When he retires and becomes "president emeritus, on January 3, 2006, he will receive \$160,000 (equivalent to one year's salary), plus health insurance. He will also be able to return to Gateway as a paid consultant for \$90 per hour.

On top of that, since the Wisconsin Attorney General is investigating possible criminal activities, all his legal bills will be paid for any activities relating to Gateway. No other public official that I know of enjoys this kind of open checkbook for legal fees. The state needs to make sure that we have consistency as well as other reliable controls such as statements of economic interest and a stronger role for the State Tech board. Also, as president emeritus, he will be entitled to paid junkets to represent Gateway and all income as co-owner of BioCATT Inc, and CAT1 Inc. which he created.

Beyond the obvious evaluation of salaries and benefits, we also need to decide the extent to which college administrators are allowed to engage in private businesses with direct financial links to the college. That is a critical piece of information that the State Technical College System audit could not uncover with the statutory tools at their disposal.

In the case of Gateway, we need to examine all links to BioCATT Inc, and CAT1 Inc. to determine the extent to which taxpayers' moneys have been mingled with and played a strong financial role in their creation and continued arrangements.

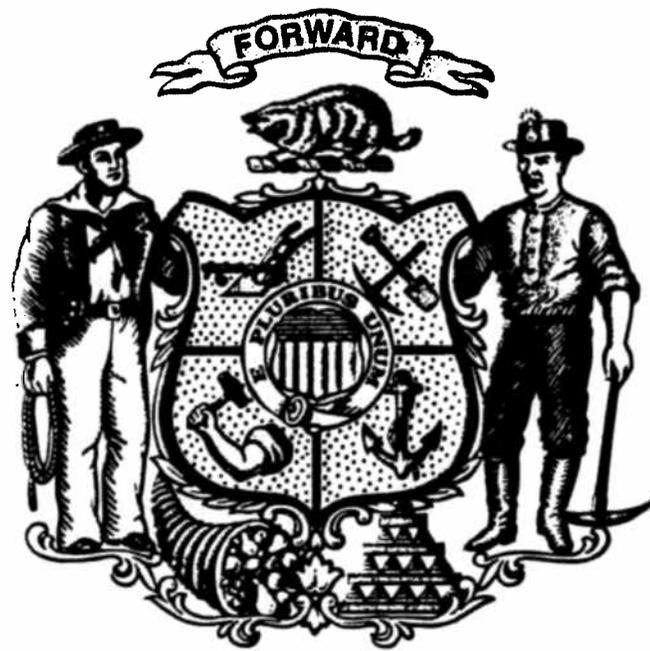
Because neither Gateway nor either of these non-for-profit organizations has been willing to share any information, we have no way of knowing how these arrangements work and whether they are appropriate. It is critical for us to know what information is subject to open records and what employee protections apply.

As I review the items listed in the Audit Bureau's memo of November 21, I am concerned that the broad scope envisioned in the memo will have the unintended consequences of diverting attention from the pressing issues at Gateway that prompted this request.

While I can understand why we would want to have a system-wide audit, I believe that the issues relating to Gateway require more immediate and focused review and remediation.

Therefore, I am here to ask the committee to make sure that your audit request focused on the most egregious examples and does not allow them to be lost in a mammoth audit which will not see the light of day for many months.

Having spent a lot of time on this issue, there seems to be a lack of checks and balances in the case of Gateway. The appointed Tech Board seems not to be involved in being stewards for the taxpayers of Racine, Kenosha and Walworth counties. I hope the audit will also make recommendations in this area to prevent future problems. When the dust settles, the biggest losers are the Technical College students. We need to make sure that they remain our priority and focus. Thank you.



TO: Legislative Audit Committee

FROM: Randy Wessel
Wessel Computer Resources
& Chair, Advisory Committee for Computer Support and Network
Specialists, Gateway Technical College

DATE: November 29, 2005

I appear before you today in support of your review of Presidential salaries, benefits and compensation in the Wisconsin Technical College System. The basis of that support rests on my recent and continuing exposure to Gateway Technical College's administration and the manner in which they have denied public requests to explain their need to establish private businesses to run the Advanced Technology Centers (BioCATT, Inc. and CATI, Inc.) in the respective buildings (BioCATT Center and CATI Center). The impunity demonstrated by the current administration to these requests has tarnished Gateway's image locally, and seems to also negatively impact the technical college system statewide based on dialog I recently had with instructors and other advisors at a WTCS Computer Security Conference held at Lakeshore Technical College.

Since I began asking questions about the manner in which these entities have been structured earlier this year, it has become clear to me that this administration has been stonewalling requests by the public and by legislative members of this committee (Robson, Wirch and Lehman) to explain the need for these entities. The Attorney General has been conducting its own investigation into Gateway on these matters which is ongoing. The WTCS has released parts of its investigation but still has more data to release regarding the IBM/ACE program and the Every Child's Place child care facility housed in the BioCATT Center.

I stand before you as a small business owner in the Gateway district with almost 15 years of experience as an Information Technology Advisory Committee Member and long time Chair supporting computer and networking instruction at Gateway Technical College. These years of experience give me rather unique qualifications to comment on the events at Gateway over the past few years. The current administration's stonewalling of legislators' requests is but one example of how unresponsive they have become to community feedback and dialog.

Page Two

The role of presidents within the WTCS is to maintain the mission of providing high quality technical education for residents within their respective districts, while monitoring the needs of the businesses within that same community. Their compensation and benefits package needs to reflect a level of parity with other technical college systems in the country for similar work. And this compensation package needs to reflect an amount that will attract qualified administrators to lead a school into the future. The amounts paid to presidents in this system should also reflect a genuine respect for the taxpayers in their districts, since it is to these taxpayers that these presidents be held accountable. Given our experiences with Gateway Technical College, I seriously question whether that has been the case in the Gateway district.

In addition to examining salaries and benefits of presidents in the system, I invite you to consider adding a very specific component to your review that you might not have considered before today. The component that needs to be examined in detail is the extent to which "presidents" or other technical college administrators can engage in business(es) outside the school which they manage. This is even more significant if the transactions and finances of those businesses are hidden from public scrutiny. The WTCS Report released on September 28th regarding Gateway and its Advanced Technology Centers revealed that Dr. Sam Borden, President of Gateway, sits on the Board of Directors of both BioCATT, Inc. and CATI, Inc. These private businesses have been hired directly by Gateway to manage the Advanced Technology Centers.

Meetings held between Gateway officials and these entities have been closed to the public, attended to instead by a cadre of high priced legal counsel. Even meetings held on the "public" Gateway campus about these entities – witness the recent three hour closed door session with two attorneys from Michael Best and Frederick held in the CATI Building on October 4th with the express purpose of discussing the recently released Programmatic and Financial Review of BioCATT and CATI by the WTCS – have been closed to the public throughout this process.

How appropriate is it for a president of one of these technical schools to sit on the boards of outside entities that are linked to the school being administered? This is a question that has been driving the ongoing investigations by the Department of Justice and the WTCS. At a time when corporate accountability and integrity are themes that ring loudly throughout boardrooms all across the country, the technical college system in this state needs to echo those concerns and take a strong stance in demanding similar accountability and integrity system-wide presidents and administrators. Given all that has transpired at Gateway over the past few years, I seriously question whether the values of accountability and integrity have influenced the current administration.

Page Three

Connections that Dr. Borden has to these external private entities requires that your committee considers opening a full blown forensic audit into each business (BioCATT, Inc., CATI, Inc., BioCATT Enterprises, Inc. and the Gateway Foundation, Inc.) so that you might see the extent to which taxpayers' money has been managed properly (or not) with these arrangements. Unless you expand your audit to include these entities (BioCATT, Inc. CATI, Inc., BioCATT Enterprises, Inc. and the Gateway Foundation), you will not get a full and complete picture of the salaries, benefits and compensation that Borden has derived from his role as President of Gateway Technical College. Please do not restrict your review of compensation that has been derived historically from his association with Gateway and these entities. Please be sure to examine the potential income to be derived from having created these entities under his direction, and with legal advice and counsel paid for with taxpayer dollars.

Your investigation must also examine the retirement packages that system presidents will get when they leave the schools they administer. Based on Dr. Borden's recent "early retirement" he will be able to return to Gateway as a paid consultant earning an attractive hourly rate, in addition to having his legal bills paid for any "Gateway related matter" that might involve him. Given that two investigations are still ongoing, at what point in time will this connection be terminated and Dr. Borden held responsible for his own actions and his own legal fees? Clearly, this is not a model that we would like to see replicated in any other part of the state technical college system.

While I must admit that my experiences are limited to the exposure I have had with Gateway Technical College, I believe there is much to be learned for the entire statewide technical college system from the behaviors we have witnessed here. First, the WTCS could have been more aggressive in establishing boundaries for the Technical College system and effectively could have prevented much of the controversy we are now witnessing. Their failure to take a more aggressive stance toward Gateway has resulted in these time-consuming and costly investigations. Second, the WTCS can also take a stance on the compensation packages for school presidents instead of letting them climb out of control. What message is being sent to the taxpayers about the values that are being represented by such actions?

Page Four

In summary, I support your decision to examine the salaries, benefits and compensation packages of the presidents of schools within the WTCS. I further support the expansion of this review at Gateway Technical College to include a full blown forensic audit into the transactions that have taken place between the school and all four entities so that the public can see that their tax dollars are being managed with the utmost concern for fiscal responsibility.

Sincerely,

Randy Wessel
Wessel Computer Resources
P.O. Box 081728
Racine, WI 53408-1728
262-598-9325
wesselr@concentric.net

ATTACHMENT: The Case for a Forensic Audit of Gateway Technical College and Related Entities, November 29, 2005



The Case for a Forensic Legislative Audit of Gateway Technical College and Related Entities

November 29, 2005

In April, 2005, Senators Judy Robson and Robert Wirth and Representative John Lehman sent a letter to Sam Borden, President of Gateway Technical College requesting clarification for the need to have external businesses configured as 501(c)3 corporate entities manage and run the Advanced Technology Centers (known as BioCATT, Inc. and CATI, Inc.) at Gateway Technical College. The requests were made in response to concerns and complaints received from residents, taxpayers and small business owners of the districts which they represent and which Gateway serves.

Dr. Borden did not reply to the request and therefore, these same three legislators requested that the Department of Justice through its office of the Attorney General open an investigation into the school and its relationships to these entities. While the Department of Justice investigation is ongoing, further information has surfaced which warrants that the Legislative Audit Committee immediately begin a full scale forensic audit of Gateway Technical College, and each of the non-profit entities that are linked to the school (i.e., BioCATT, Inc., CATI, Inc., The Gateway Foundation). An additional entity, BioCATT Enterprises, Inc., created on a "for profit" basis should also be included in this audit given this company's link to the school and the other entities in question.

Substantial data derived from several sources has surfaced since April of this year that supports this request for a full forensic audit. It must be emphasized that this is not a partisan challenge to the school even though the legislators that made the initial request of Dr. Borden and the Attorney General are indeed all Democrats. Since the investigations into Gateway has begun, considerable bi-partisan support for understanding the issues involved and arriving at a complete and thorough explanation for these behaviors have come from both sides of the aisle. The current review of Presidential compensation by the Legislative Audit Committee comes from bi-partisan support. The primary reasons for a full blown forensic audit appear below:

1. Legislative Audit Bureau review of the legal expenditures of Gateway Technical College, revealing the William Nikolai's "post employment" contractual relationship for legal counsel (which has been subsequently terminated).
2. Legislative Audit Bureau review of expenses paid to Michael Best and Friederich related to creation and support of these entities paid directly by Gateway Technical College.

3. The Wisconsin Technical College System Programmatic and Financial Review into the Advanced Technology Centers and the WTCS's System Office failure to fully examine the financial relationships between Gateway Technical College and the entities in question. Examples of these unexamined transactions include but are not limited to the following: Memoranda of Understanding between Gateway Technical College and each of the entities that were drafted, approved by the Gateway Board and then later modified without Board approval; Contracts with IBM regarding the IBM/ACE program taught in the BioCATT Center; Personal use of Gateway aircraft for college administrators; Income tax forms (990's) filed by BioCATT, Inc. and CATI, Inc.; review of George Stinson's resignation from the Gateway Technical College Board of Trustees.
4. The failure of the Wisconsin Technical College System Board to fully and properly disclose that one of its own board members, Allen Kehl, sits on the Board of BioCATT, Inc., one of the entities under investigation. No mention was made as to how this "conflict of interest" issue impacted either the investigation or the report write-up.
5. Dan Clancy's (President of the WTCS) decision to wait on the completion of the investigation by the Department of Justice before assessing a "fine" or "reduction of state aid" to Gateway Technical College as a reprimand for the inappropriate use of funds linked to these entities.
6. The Wisconsin Technical College System's choice to not address the "legal" issues associated with these entities. These include whether or not it is legal for the entities to operate affiliated businesses connected to technical colleges, whether school administrators who sit on the boards of these entities create "conflicts of interest," and the extent to which these entities must be subjected to "open meetings" and "open records" requests given the business they are conducting with Gateway. Even though the WTCS manages the technical college system in the state, its refusal to take a stand on these issues has necessitated that such a ruling come from a "higher authority" before it the WTCS will complete its work.
7. The fact that investigators for the Attorney General have admitted that they do not conduct "financial audits", and the belief of the authors of this request that unless a complete picture is painted of the financial connections between Gateway Technical College, and these entities, and each other, we will never fully understand the flow of money into and out of these companies. Specific attention needs to be given to the flow of money to and from Gateway and these entities, and to the flow of money to and from the Gateway Foundation and these entities. Taxpayers of the district deserve nothing less than full and public disclosure of these records.

8. Table 4 of the first component of the WTCS Report released on September 28th revealed the ratio of revenues to expenses for BioCATT, Inc. and CATI, Inc. That same table shows that BioCATT, Inc. took in revenue of \$2150 for the period from its inception in 2003 through August, 2005 compared to over one million dollars in expenses. Chapter 38 of the Wisconsin State Statutes specifies that direct expenses of advanced technology centers are to be paid by businesses deriving services from the centers. It is not clear, however, if Gateway Technical College has followed that statute correctly. Indeed, the WTCS only challenged \$990 of over \$1.3 million dollars of operating expenses for both centers. And during the public "ad hoc" committee established by the Gateway Board to reply to the WTCS, Gateway administrators chuckled over the 31 cent underpayment by the Kenosha Public Library while failing to explain the remaining \$1.3 million in expenditures.
9. The November 3, 2005, article in the Kenosha News (Page 1) regarding monies transferred from the Gateway Foundation to support the completion of construction for Every Child's Place housed in the BioCATT Center. To what extent does it make sense for the Gateway Foundation to financially extend itself regarding this business housed in the BioCATT Center when a similar childcare program established on the Racine Gateway Campus is run successfully directly by the school? Every Child's Place was included in the WTCS investigation, and as of yet no report has been made public documenting these financial transactions.
10. Borden's recent announcement to move up his retirement by five months making it effective on January 3, 2006, thereby opening up the President's role at Gateway. Bryan Albrecht, once the Vice President of the Advanced Technology Centers and recently promoted to the role of Chief Operating Officer/ Chief Academic Officer (COO/CAO) appears to be in direct line for promotion to President. Such an "automatic" promotion needs to be examined very critically especially given that two investigations into Gateway have not been completed, and the audit of presidential salaries which this committee is currently exploring, is just getting underway. In light of this data, one must ask – "What has really motivated Dr. Borden's 'early retirement'?"
11. The evolution of the IBM/ACE Training Program and its financial impact on Gateway, given the clear "double standards" that exist between traditional IT Programs and IBM/ACE. Couple that with the fact that the WTCS has been dragging its feet in releasing its report on IBM/ACE which has had only 30 students enrolled since its inception in 2003. Over half of those students have dropped from the program. These results seriously question the program's viability and success and stand in stark contrast to the historical results of three traditional IT Programs offered directly by Gateway (i.e., Computer Support, Network Specialist and Web Developer).

12. The need to examine the actual construction costs for both the BioCATT Center and the CATI Center and the flow of money from Gateway Technical College's general fund to cover cost overruns in each center. These behaviors allowed Gateway Technical College to proceed with the building construction without going to referendum or including taxpayer feedback.
13. The long term debt that Gateway Technical College (and its supporting taxpayers) assumed by building not ONE but TWO Advanced Technology Centers. The current fiscal year '05-06 Budget reveals a line item representing over \$300,000 needed to support just the first year of this debt. That amount more than doubles over the course of the debt reduction period!
14. Sam Borden's lucrative retirement package which includes an hourly consulting fee arrangement and continued legal fee payments for any legal matters related to Gateway that surface during his retirement. The amount of monies paid to Michael Best and Frederick, and other law firms under Dr. Borden's tenure surely raises the question of the extent to which all fees represented school related matters.

Clearly any one of these stories might not be a tremendous cause for concern for the taxpayers in the Gateway district. However, added together the combination paints a portrait of a school that is clearly operating outside the guidelines established by Chapter 38 of the Wisconsin State Statutes. The experimental nature of having specific public-private partnerships linked to schools within the Technical College System seems to mandate a much more thorough legal review of the financial records of these entities to ensure taxpayer dollars are being managed properly.

Borden's recent decision to take an early retirement from Gateway ought not be misinterpreted by the organizations conducting these investigations as creating any undue hardship for the school by not having an immediate successor in place when he retires. To manipulate this retirement into the "need for speedy conclusion" to these investigations would not serve the taxpayers or the school well, especially since Borden's likely successor has been at his side throughout most of the time these entities have operating at Gateway.

Furthermore, since April the key questions asked of Gateway's Administration regarding the need to establish these entities separate and apart from the school to manage the Advanced Technology Centers remain unanswered. A forensic audit that opens the books of these entities would be helpful in explaining what benefits the school's president and local district has derived, if any, from these structures. Results from such an audit would also provide future guidance to the rest of the Wisconsin Technical College System when a request to establish an Advanced Technology Center elsewhere in the state arises.

Page Five

The undersigned represent a small cross section of the individuals and organizations that have been desirous of a clear and open dialogue about these issues for several months. Instead, they have been met with resistance, double-talk, legal challenges and open records requests. And most of the initial questions are still in need of answers. Please weigh this data and act quickly in your decision to dispatch a team of auditors to Gateway to conduct a full blown forensic audit of the financial records of Gateway and these entities.

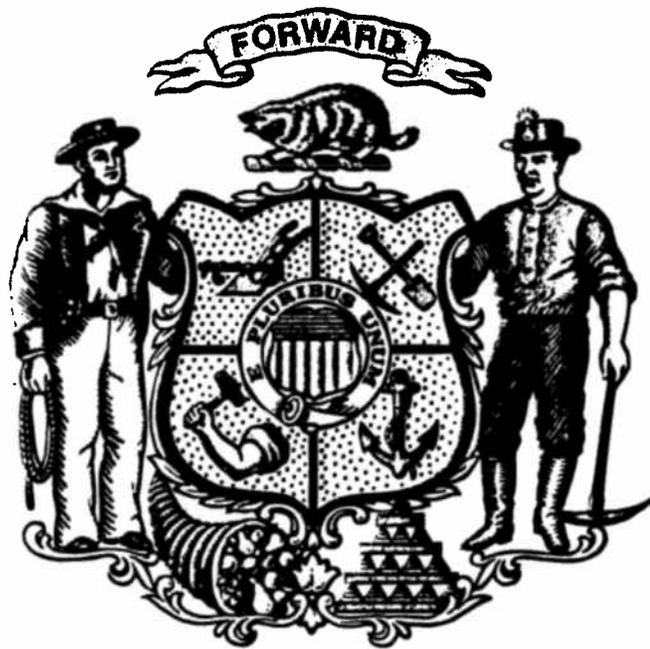
Respectfully,

Randy Wessel, *Wessel Computer Resources, Chair, Advisory Committee for IT Computer Support and Network Specialist (volunteer and unpaid position), Racine County Taxpayer*

Jackie Bynsdorp, *Volkswagen, Vice-Chair, Advisory Committee Chair for IT Computer Support and Network Specialist (volunteer and unpaid position), Kenosha County Taxpayer*

Lonnie Benning, *Accounting Instructor, Gateway Technical College*

Jayne Siler, *President, Racine Taxpayers Association*



no date


WISCONSIN
TECHNICAL COLLEGE
SYSTEM

**James Zylstra, Vice President of Finance
Wisconsin Technical College System
Testimony before the Joint Legislative Audit Committee
Regarding the Proposed Audit Scope of the Technical College System's
Personnel Policies and Procedures**

Good morning Senator Roessler, Representative Jeskewitz, and members of the Joint Audit Committee. My name is Jim Zylstra and I am joined today by Greg Wagner of the System Office. Thank you for your invitation to provide the Wisconsin Technical College System's perspective regarding the proposed audit of personnel policies and procedures within the System. President Clancy apologizes for not being able to attend this morning's hearing. He had to attend a State Board meeting today.

The System greatly appreciates the Legislature's support for the Technical College System and its mission of workforce education and training, which is extremely critical in these challenging economic times. We stand proudly behind our record of rapidly responding to the training needs of Wisconsin's employers to assist in strengthening Wisconsin's economy. As a result, more than 90 percent of our graduates are employed within six months of graduation and nearly 90 percent stay in Wisconsin.

We certainly recognize that there is a heightened level of interest over personnel policies and procedures within post-secondary education. However, the original audit request was significantly narrower in scope than the proposed audit before you today. I would like to make a few comments about the implications of this expanded scope.

As you know, the Wisconsin Technical College System operates under a model of shared governance in which responsibility for the operation of the system is shared by the State Board and the 16 technical college district boards. Under this arrangement, the State Board establishes statewide policies and standards for educational programs and services, certifies instructional staff, creates uniform accounting standards, distributes discretionary grants and general state-aids, and approves facility development projects at the colleges. The district boards are responsible for the direct operation of their respective colleges and programs, including hiring instructors and staff. Accordingly, the shared governance model creates a system where:

- technical college staff are local government employees—not state employees— therefore, each college has its own personnel policies and procedures;
- there are 44 separate collective bargaining agreements at the colleges—with multiple unions representing full-time faculty, part-time faculty, and support staff—with each agreement containing unique personnel policies and procedures;
- each technical college has its own payroll and personnel systems which will contain the sick leave, vacation, sabbatical, and personal information necessary to complete the proposed evaluation.

Daniel Clancy, President

345 West Washington Avenue, Second Floor P.O. Box 7874 Madison, Wisconsin 53707-7874
Telephone: 608.266.7983 TTY: 608.267.2483 Fax: 608.266.1690
e-mail: daniel.clancy@wtcsystem.org www.wtcsystem.org www.witechcolleges.com

Consequently, while some of the information that will be needed by the Audit Bureau is available centrally at the System Office, most of the information will have to be obtained directly from the technical college districts. Of course, we will cooperate fully with the Audit Bureau as we have done in previous reviews and look forward to working with State Auditor Mueller and her staff during the course of this evaluation.

Thank you for your time. We would be happy to answer any questions you may have.