

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Tuesday, October 6, 1998
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Mike Timm, Chairman, called the meeting to order at 8:00 a.m.

Members present: Representatives Mike Timm, Ole Aarsvold, Rex R. Byerly, John Dorso, Gereld F. Gerntholz, Richard Kunkel, Andrew G. Maragos, Stacey L. Mickelson, Bob Skarphol, Francis J. Wald, Gerry L. Wilkie; Senators Evan E. Lips, Duane Mutch, Ken Solberg, Harvey D. Tallackson

Members absent: Representative Jim Poolman; Senator Dan Wogsland

Others present: See Appendix A

It was moved by Senator Lips, seconded by Representative Skarphol, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

The Legislative Council staff presented a bill draft providing for local gaming enforcement grants to be distributed to counties and cities based on the prior quarter's adjusted gross proceeds instead of the current quarter's adjusted gross proceeds.

Ms. Kathy Roll, Attorney General's office, testified in support of the bill draft providing for local gaming enforcement grants to be distributed based on the prior quarter's adjusted gross proceeds.

It was moved by Senator Lips, seconded by Senator Mutch, and carried that the bill draft providing for local gaming enforcement grants to be distributed based on the prior quarter's adjusted gross proceeds be approved and recommended to the Legislative Council. Voting "aye" were Representatives Timm, Aarsvold, Byerly, Gerntholz, Kunkel, Maragos, Mickelson, Skarphol, Wald, and Wilkie and Senators Lips, Mutch, Solberg, and Tallackson. No negative votes were cast.

The Legislative Council staff presented a bill draft providing for the transfer of the beginning farmer revolving loan fund into the Bank of North Dakota and thereby eliminating the need for a separate audited financial statement for the beginning farmer revolving loan fund. The bill draft provides for the assets, liabilities, and fund equity of the beginning farmer revolving loan fund to be transferred to the Bank of North Dakota on July 1, 1999. In addition, the Legislative Council staff presented a memorandum entitled *Transfer of Beginning Farmer Revolving Loan Fund Into the Bank of North Dakota* which provided information regarding the asset, liability, and equity balances of the beginning farmer revolving loan fund

as of December 31, 1997. The memorandum indicated that the total assets of the beginning farmer revolving loan fund as of December 31, 1997, were \$16,276,449 and that this amount would be transferred to the Bank of North Dakota.

It was moved by Senator Mutch, seconded by Representative Mickelson, and carried that the bill draft transferring the beginning farmer revolving loan fund into the Bank of North Dakota be approved and recommended to the Legislative Council. Voting "aye" were Representatives Timm, Aarsvold, Byerly, Gerntholz, Kunkel, Maragos, Mickelson, Skarphol, Wald, and Wilkie and Senators Lips, Mutch, Solberg, and Tallackson. No negative votes were cast.

The Legislative Council staff presented a bill draft creating a centralized collection unit within the State Treasurer's office. The centralized collection unit would be available to state agencies and institutions for the provision of debt collection services. The Legislative Council staff said the bill draft is based on the Minnesota statute which created the Minnesota debt collection unit. The Legislative Council staff said lines 12, 13, and 14 on page 5 should be removed from the bill draft because they relate to a provision that was in the Minnesota statute but are not needed in this bill draft.

It was moved by Representative Skarphol, seconded by Representative Maragos, and carried that the bill draft creating a centralized debt collection unit within the State Treasurer's office be amended to remove lines 12, 13, and 14 on page 5 and that the bill draft, as amended, be approved and recommended to the Legislative Council. Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Kunkel, Maragos, Mickelson, Skarphol, Wald, and Wilkie and Senators Lips, Mutch, and Solberg. Voting "nay" was Senator Tallackson.

The Legislative Council staff presented a bill draft creating a centralized commodity group collection process and providing for the auditing of handlers. The bill draft also provides for the exclusion of the commodity groups from Central Personnel Division and Central Services Division requirements.

Ms. Carol M. Siegert, State Treasurer's office, said if this bill is passed, the State Treasurer's office would need an increase in staff positions and funding. She

said the budget request submitted already requests an additional part-time FTE position due to child support checks being processed through the Department of Human Services instead of the clerk of court offices. She said this bill draft would add additional duties to the workload of a very limited staff.

In response to a question from Senator Solberg, Ms. Deborah Johnson, North Dakota Soybean Council, said the checkoff form for the Soybean Council is based on federal requirements and cannot be changed at the state level. She said in her opinion centralizing the collection process through the State Treasurer's office would not save time because the Soybean Council would still need to review each return for accuracy. She said the State Treasurer's office would need to copy all of the returns and forward them to the Soybean Council in order for the Soybean Council staff to review the information filed by each handler. Ms. Johnson said the Soybean Council does not want to be removed from Central Personnel because it provides important guidance regarding personnel matters. She said she has not incurred problems complying with Central Purchasing requirements, although she could save money in certain instances if she were not required to utilize Central Purchasing.

Mr. Alan Lee, North Dakota State Wheat Commission, testified in opposition to the bill draft. He said the State Wheat Commission staff currently does crop production comparisons to the checkoff returns in order to verify the dollar amounts and bushels indicated on the returns. He said centralizing all commodity checkoff collections within the State Treasurer's office will not be very cost effective. He said it would require the various commodity organizations to use marketing and research funds to pay the State Treasurer's office for the collection and auditing functions.

In response to a question from Senator Solberg, Mr. Neal Fisher, North Dakota State Wheat Commission, said the enabling legislation for the commodity groups is needed. He said he does not support the bill draft because he thinks that audits of first handlers would not be cost effective since the current procedures indicate that the State Wheat Commission is collecting the appropriate checkoff funds based on statewide production information. He said he has not had problems complying with Central Purchasing and Central Personnel guidelines and rules.

Ms. Nancy Jo Bateman, North Dakota Beef Commission, spoke in opposition to the bill draft creating the centralized commodity collection process. She said the current checkoff system does not need the drastic changes contained in the bill draft. She said the Beef Commission has federal regulations with which it must comply. Ms. Bateman said she has not had problems complying with Central Purchasing and Central Personnel policies and procedures.

Senator Solberg said he opposes the bill draft because it would change a system which is functioning properly. He said it appears that the bill draft

would create more work by having the State Treasurer's office receipt all collections and then forward the information to the commodity groups so the commodity group personnel could review and analyze the returns and make sure the returns are correct.

It was moved by Representative Aarsvold, seconded by Representative Byerly, and failed that the bill draft creating a centralized commodity group collection process and auditing procedures be approved and recommended to the Legislative Council. Voting "aye" were Representatives Aarsvold, Byerly, Dorso, Mickelson, Skarphol, Wald, and Wilkie. Voting "nay" were Representatives Timm, Gertholz, Kunkel, and Maragos and Senators Lips, Solberg, and Tallackson.

The Legislative Council staff presented a bill draft providing for the confidentiality of audit reports. The bill draft provides that state agency and institution financial audit reports, financial-related audit reports, or performance audit reports prepared by the State Auditor's office or a private firm under contract with the State Auditor's office are confidential until the reports are presented to the Legislative Audit and Fiscal Review Committee.

Ms. Karlene Fine, Industrial Commission, said the bill draft creates difficulties for various agencies under the Industrial Commission's authority. She said the Bank of North Dakota and the Housing Finance Agency have deadlines for the delivery of their audit reports to bond agencies. She said oftentimes these deadlines do not coincide with this committee's meeting dates; therefore the agencies need the ability to distribute the audit reports to the bond agencies before the reports are presented to this committee. She said she is not sure how to resolve the problem but is considering the possibility of seeking an exemption, within the Industrial Commission's appropriation bill, from the provisions of this bill draft.

In response to a question from Representative Skarphol, Mr. Ed Nagel, Jr., State Auditor's office, said the provisions of this bill draft differ from current practice because audit reports are currently released and considered public when the report is finalized, not after presentation to this committee.

It was moved by Representative Maragos, seconded by Representative Aarsvold, and carried that the bill draft providing for the confidentiality of audit reports be approved and recommended to the Legislative Council. Voting "aye" were Representatives Timm, Aarsvold, Dorso, Kunkel, Maragos, Mickelson, and Skarphol and Senators Lips, Solberg, and Tallackson. Voting "nay" were Representatives Byerly, Gertholz, Wald, and Wilkie.

The Legislative Council staff presented a memorandum entitled *Governor's Special Fund*. The memorandum summarized the revenues deposited in the Governor's special fund during the 1993-95 and 1995-97 bienniums and for fiscal year 1998. The memorandum indicated that during the 1993-95 biennium and the 1995-97 biennium a total of \$505,678 and \$50,750, respectively, was deposited in the

Governor's special fund. The memorandum also indicated that during fiscal year 1998 a total of \$180,704 was deposited in the Governor's special fund.

Ms. Brenda Weisz, Department of Human Services, presented, pursuant to North Dakota Century Code (NDCC) Sections 25-04-17 and 50-06.3-08, a report on the State Hospital, Developmental Center, and human service centers' accounts receivable writeoffs for the fiscal year ended June 30, 1998. A copy of her report is on file in the Legislative Council office. The amounts of the accounts receivable writeoffs for fiscal year 1998 were:

Human service centers	\$85,185.02
State Hospital	7,759,453.00
Developmental Center	221,066.30
Total	\$8,065,704.32

In response to a question from Representative Byerly, Ms. Weisz said the jail transfer, juvenile court, and juvenile service amounts are the responsibility of the individuals. She said based on statutory provisions the department cannot bill for jail transfer charges.

Representative Byerly said he would like to see future requests for accounts receivable writeoffs show all charges relating to the Indian Health Service separately.

In response to a question from Representative Dorso, Ms. Carol K. Olson, Department of Human Services, said she is not sure what the federal reaction will be to the department's request for payment on prior Indian Health Service writeoffs. She said she would like to begin discussions with representatives of the Indian Health Service and the state's congressional delegation before any court action is pursued.

Representative Dorso said the Appropriations Committees should be kept informed of those discussions. He said a decision regarding a possible lawsuit against the Indian Health Service should be made before the end of the 1999 legislative session.

In response to a question from Representative Dorso, Ms. Olson said the court referrals have not been billed to the Indian Health Service. She said the department will look into the possibility of changing how these charges are billed.

Representative Dorso said the Appropriations Committees need to be kept informed of the status of the accounts receivables relating to the Indian Health Service. He said a decision needs to be made regarding when the state stops serving American Indian clients if Indian Health Service is not willing to pay for the services.

Senator Solberg suggested that committee members be informed of the congressional delegation's response to the department regarding the Indian Health Service charges written off. Ms. Olson said she will keep the committee informed.

It was moved by Senator Lips, seconded by Representative Dorso, and carried that the

Legislative Audit and Fiscal Review Committee accept the Department of Human Services report on the writeoff of accounts receivable of \$85,185.02 at the human service centers, \$7,759,453 at the State Hospital, and \$221,066.30 at the Developmental Center. Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Kunkel, Maragos, Mickelson, Skarphol, Wald, and Wilkie and Senators Lips, Solberg, and Tallackson. No negative votes were cast.

Mr. Nagel distributed a summary of the management letter recommendations relating to the Statewide Accounting and Management Information System (SAMIS) audit, the Higher Education Uniform Accounting System audit, and the State Personnel System performance audit. A copy of the report is on file in the Legislative Council office.

Mr. Nagel distributed an Office of Management and Budget schedule comparing legislatively authorized FTE and current FTE. A copy of the schedule is on file in the Legislative Council office. He said at the last Legislative Audit and Fiscal Review Committee meeting the State Auditor's office was asked to include FTE information in future audit reports. He asked if the schedule prepared by the Office of Management and Budget could be used as an alternative to including the FTE information in future audit reports.

Representative Dorso said what the committee is interested in receiving is information on how much salaries and wages funding is being spent on actual filled FTE positions and how much salaries and wages funding relating to vacant FTE positions is spent for other purposes. Mr. Nagel said he was not sure how that information could be developed or reflected in the audit reports. He said he would discuss it with the audit managers within the State Auditor's office and develop a way of obtaining and reporting the information.

Mr. Nagel presented the Agricultural Products Utilization Commission audit report for the biennium ended June 30, 1997. He reviewed the auditor's responses to the committee's guidelines and said the report does not contain any findings or recommendations.

Without objection, the chairman accepted the Agricultural Products Utilization Commission audit report for the biennium ended June 30, 1997.

Mr. Donald R. Wolf, Donald R. Wolf & Associates, P.C., Certified Public Accountants, presented the North Dakota Stockmen's Association audit report for the years ended December 31, 1997 and 1996. He said the report contains an unqualified opinion and does not contain any reportable conditions.

Mr. Wade Moser, North Dakota Stockmen's Association, said the Supreme Court recently ruled against the North Dakota Stockmen's Association and provided that brand fees are public funds and are to be deposited in the state treasury. He said the decision was staid until after the 1999 Legislative Assembly meets and has a chance to correct the

problem. He said because the decision was staid it has not had a negative impact on the operations of the North Dakota Stockmen's Association. He said he is working with legislators on a draft of a bill to be introduced during the 1999 Legislative Assembly to correct this problem.

Without objection, the chairman accepted the North Dakota Stockmen's Association audit report for the years ended December 31, 1997 and 1996.

Mr. John Mongeon, Brady Martz & Associates, Certified Public Accountants, presented the performance audit report of Job Service North Dakota. A copy of the report is on file in the Legislative Council office. He said Section 6 of 1997 Senate Bill No. 2017 provides for a biennial performance audit of Job Service North Dakota. He said the section also provides that the report be presented to the Legislative Audit and Fiscal Review Committee and the House and Senate Industry, Business and Labor standing committees.

Mr. Mongeon said the audit consisted of a review of the following areas within Job Service North Dakota:

- Determining the efficiency and effectiveness of the unemployment insurance benefits program in providing accurate and timely benefits to eligible claimants.
- Determining the efficiency and effectiveness of the reemployment services function in regard to minimizing the time that job insurance claimants are unemployed.
- Analyzing staffing levels and workloads of the various divisions within the agency.
- Determining the adequacy of Job Service North Dakota's computer system and identifying inefficiencies surrounding its operation, particularly in the preparation of year-end financial reports and other management reports.

Mr. Mongeon reviewed the first 12 recommendations contained in the performance audit. A copy of the recommendations is attached as Appendix B.

The committee recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

Mr. Pete Hoistad, Brady Martz & Associates, Certified Public Accountants, reviewed the next 22 recommendations contained in the Job Service North Dakota performance audit. A copy of the recommendations is attached as Appendix B.

Mr. Mongeon said three issues were identified during the performance audit as being significant issues needing further study. He said the three issues are listed as Recommendations 35, 36, and 37 and relate to program marketing for Work Force 2000 and the new jobs training program, cross-training of employees, and the unemployment insurance trust fund. A copy of the significant issues needing further study is attached as Appendix B.

Representative Dorso asked about the current balance of the trust fund and if actuarial impacts on the trust fund were considered. Mr. Mongeon said the

scope did not include looking at any actuarial impacts to the trust fund. He said as of June 30, 1998, the trust fund balance was \$37.3 million.

Ms. Jennifer Gladden, Executive Director, Job Service North Dakota, said Job Service North Dakota is pleased with the results of the performance audit. She said many of the recommendations are already in the process of being implemented and fit within the business plan of Job Service North Dakota. She said it is important to note that the implementation of many of the recommendations contained in the performance audit would require the expenditure of funds in addition to the funding included in the 1999-2001 biennial budget request.

Representative Dorso said during the 1995 legislative session legislation was passed requiring the Workers Compensation Bureau, Tax Department, and Job Service North Dakota design a process for employers to be able to electronically file the wage and salary information needed by the three agencies. He said to the best of his knowledge this has not been completed, and he is wondering why the filing process is taking so long to develop. Ms. Gladden said the three agencies are working on resolving the reporting need differences between the agencies and removing any "glitches" in the process. She said the project is a priority and will hopefully be completed soon.

Representative Dorso asked if the sharing of audit staffs has been implemented by Job Service North Dakota and the Workers Compensation Bureau. Ms. Gladden said it is in place and the Workers Compensation Bureau audit staff and the Job Service North Dakota audit staff are doing common audits. She said because of this more audits are being conducted.

Representative Dorso asked how many audits Job Service North Dakota conducts each year, how many FTE positions Job Service North Dakota has performing audits, and how Job Service decides who to audit. He said the goal of combining the audit functions of the two agencies was to become more efficient and perform the audits with fewer people. Ms. Gladden said she would provide information to the committee regarding the number of audits, FTE positions, and how audits are selected. She said the audit staffs of Job Service North Dakota and the Workers Compensation Bureau were not reduced, but instead more audits are being conducted with the same number of people.

In response to a question from Representative Skarphol, Mr. Rick Clayburgh, Tax Commissioner, Tax Department, said the joint electronic filing project of the Workers Compensation Bureau, Job Service North Dakota, and the Tax Department is more complex than it appears. He said the Tax Department will have a paperless combined reporting system proposal ready for the 1999 Legislative Assembly.

In response to a question from Representative Dorso, Ms. Gladden said a couple of the reasons for the decrease in the unemployment insurance trust fund are the rate decreases over the last three years

and a \$3 million trust fund impact due to the flood in Grand Forks.

Without objection, the chairman accepted the performance audit report of Job Service North Dakota dated September 3, 1998.

Mr. Alton A. Nitschke, Eide Bailey LLP, Certified Public Accountants, and Mr. Malcolm Dodge, Applied Risk Management, presented the performance audit report of the North Dakota Workers Compensation Bureau. A copy of the report is on file in the Legislative Council office.

Mr. Nitschke said the North Dakota Workers Compensation Bureau is required to have a performance audit each biennium. He said the areas audited included:

- A comprehensive claims audit.
- A review of legal services and legal billing practices.
- Recommendations on how the bureau can improve its internal performance measures.
- A review of the policyholder services, loss prevention, and fraud divisions of the bureau.
- A review of Workers Compensation Board performance.

Mr. Nitschke reviewed the recommendations relating to the policyholder services division, legal services and legal billing practices, the loss prevention division, the fraud division, the North Dakota Workers Compensation Board, and the bureau's internal performance measures.

Mr. Dodge reviewed the report recommendations relating to the claims department.

Mr. Dick Johnson, Chairman, North Dakota Workers Compensation Board Audit Committee, said when the Legislative Assembly established the performance audit requirements, it also established a monitoring function. He said the board has taken an active role in monitoring the status of the recommendations contained in the performance audit report. He said the board's audit committee reviewed each finding and recommendation and the bureau's response to each finding and recommendation with the bureau staff.

Mr. Johnson reviewed an *Ends Monitoring Report* with the committee. A copy of the *Ends Monitoring Report* is on file in the Legislative Council office. He said 28 of the 89 recommendations have been acted on, 51 will be acted on, five will have an alternative implemented, and five have not yet been addressed.

Mr. Pat Traynor, Director, Workers Compensation Bureau, distributed a summary of the 89 recommendations and the impact to the bureau of each recommendation. A summary of the performance audit report recommendations is attached as Appendix C. Mr. Traynor said the bureau looks forward to future performance audits and the monitoring of the recommendations contained in this performance audit.

In response to a question from Representative Dorso, Mr. Mike Wolf, Workers Compensation Bureau, distributed information regarding premium audits conducted as of June 30, 1998. A copy of his

presentation is on file in the Legislative Council office. He said the bureau's auditors are spending approximately 65 to 70 percent of their time doing Job Service North Dakota audits. Mr. Wolf said the five bureau auditors perform just under 600 audits annually while the 10 Job Service auditors perform approximately 240 audits per year.

Without objection, the chairman accepted the performance audit report of the Workers Compensation Bureau dated May 19, 1998.

Mr. Gordy Smith, State Auditor's office, presented the performance audit report of the state of North Dakota's personnel systems - Central Personnel Division. A copy of the report is on file in the Legislative Council office. He said the performance audit was conducted at the request of the Legislative Audit and Fiscal Review Committee. He said the report includes information on the Central Personnel Division and state agencies and that a separate report will be issued on the North Dakota University System.

Mr. Smith said the State Auditor's office reviewed the structure of the Central Personnel Division to determine if the structure meets the needs of the state. He said they also conducted a limited review of state agencies to determine if state agencies have adequate personnel systems in place to provide for compliance with significant laws, rules, and regulations. Mr. Smith reviewed the recommendations contained in the performance audit. A copy of the recommendations is attached as Appendix D.

In response to a question from Representative Dorso, Mr. Rod A. Backman, Director, Office of Management and Budget, said to a large extent Central Personnel is decentralized. He said the Central Personnel Division located within the Office of Management and Budget mainly provides services to smaller agencies. He said most of the larger agencies have internal human resource staffs.

Mr. Backman said in his opinion human resource costs and salaries for nonclassified personnel would probably be higher than those same costs associated with classified personnel.

Representative Dorso asked if Mr. Backman could provide a copy of his statistics relating to human resource costs and salaries for classified and nonclassified personnel to committee members. He said he thinks it will be difficult for Central Personnel to make an accurate comparison of state classified positions to nonclassified positions within the North Dakota University System.

Mr. Backman said he was not talking about comparing to the North Dakota University System but was referring to a comparison with other state agencies which are outside Central Personnel such as the Bank of North Dakota and the Workers Compensation Bureau.

Representative Skarphol suggested that Mr. Backman's statistics regarding the comparison of human resource costs and salaries of classified and nonclassified personnel also include a turnover rate comparison of classified and nonclassified personnel.

Without objection, the chairman accepted the performance audit report of the state of North Dakota's personnel systems - Central Personnel Division dated August 31, 1998.

Mr. Donald LaFleur, State Auditor's office, presented the Statewide Accounting and Management Information System (SAMIS) report for the period July 1, 1997, through March 13, 1998. A copy of the report is on file in the Legislative Council office. He said the report provides interested persons with an understanding of the application controls in place within SAMIS during the period July 1, 1997, through March 13, 1998. He said application controls are those controls that exist either within an application or in support of an application to ensure that the application functions properly.

Mr. LaFleur said the prior SAMIS audit report contained one recommendation which has been implemented. He reviewed the current findings as follows:

- That the Office of Management and Budget restrict, alter, and update access for the SAMIS data files to authorized personnel.
- That the Office of Management and Budget ensure all manual adjustments to the SAMIS master files are documented and authorized by an appropriate individual as evidenced by the individual's signature.
- That the Office of Management and Budget review transaction code restrictions for journal vouchers and modify the edit checks to prevent the use of inappropriate transaction codes.
- That the State Treasurer's office ensure checks are distributed only to authorized people.

Without objection, the chairman accepted the SAMIS report for the period July 1, 1997, through March 13, 1998.

Mr. LaFleur presented the Higher Education Uniform Accounting System report as of April 29, 1998. A copy of the report is on file in the Legislative Council office. He said the report provides interested persons with an understanding of the application controls in place within the Higher Education Uniform Accounting System as of April 29, 1998. He reviewed the recommendations as follows:

- That the North Dakota University System ensure that the Higher Education Uniform Accounting System is adequately addressed in the contingency plan for the University of North Dakota computer center.
- That the North Dakota University System restrict date fields to allow only the valid number of days for a month.
- That the North Dakota University System more narrowly define date fields for input screens.
- That the North Dakota University System restrict the use of transaction classification codes on purchase orders.

- That the North Dakota University System disallow the use of negative receipt amounts.
- That the North Dakota University System disallow the refund of cash from credit card charges on receipts.

Without objection, the chairman accepted the Higher Education Uniform Accounting System application audit as of April 29, 1998.

Mr. Nagel presented a state agency audit followup report dated October 6, 1998. A copy of the report is on file in the Legislative Council office. He said this committee has requested that the State Auditor's office perform followup reviews within six months after presentation of audit reports to the committee. He said the report addresses recommendations which have not been fully implemented.

Mr. Nagel said one agency and three colleges had recommendations which were not fully implemented. He said the Indian Affairs Commission had three recommendations in its June 30, 1997 and 1996 audit report, none of which were fully implemented. Mr. Nagel said UND-Lake Region had two recommendations in its June 30, 1997 and 1996 audit report, one of which was implemented. He said MSU-Bottineau had three recommendations in its June 30, 1997 and 1996 audit report, two of which were implemented and one which will be implemented when applicable. He said Valley City State University had five recommendations in its June 30, 1997 and 1996 audit report, four of which were implemented and one which will be implemented when applicable.

Without objection, the chairman accepted the state agency audit followup report dated October 6, 1998.

It was moved by Representative Mickelson, seconded by Senator Lips, and carried that the Legislative Audit and Fiscal Review Committee accept the following reports:

- **Reports accepted without objection by the chairman:**
 - **For the biennium ended June 30, 1997:**
Agricultural Products Utilization Commission
 - **For the years ended December 31, 1997 and 1996:**
North Dakota Stockmen's Association
 - **For the period dated September 3, 1998:**
Performance audit report of Job Service North Dakota
 - **For the period dated May 1998:**
Performance audit report of the North Dakota Workers Compensation Bureau
 - **For the period dated August 31, 1998:**
Performance audit report of the State of North Dakota's personnel systems - Central Personnel Division

- For the period July 1, 1997 through March 13, 1998:
Statewide Accounting and Management Information System (SAMIS)
- For the period dated April 29, 1998:
Higher Education Uniform Accounting System
- For the period dated October 6, 1998:
State agency audit followup
- Audit reports available but not selected for presentation to the committee:
 - State Bar Board (two years ended June 30, 1997)
 - Firemen's Association (April 30, 1998)
 - Real Estate Appraiser Qualifications and Ethics Board (June 30, 1997 and 1996)
 - Peace Officer Standards and Training Board (June 30, 1997 and 1996)
 - State Board of Optometry (June 30, 1998 and 1997)
 - State Board of Public Accountancy (June 30, 1998)
 - State Board of Dental Examiners (June 30, 1997 and 1996)
 - Board of Dietetic Practice (September 30, 1997 and 1996)
 - Board of Clinical Laboratory Practice (June 30, 1997 and 1996)
 - State Board of Medical Examiners (December 31, 1997 and 1996)
 - State Board of Examiners for Hearing Instrument Dispensers (18 months ended June 30, 1997)

Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Kunkel, Mickelson, Skarphol, Wald, and Wilkie and Senators Lips, Mutch, Solberg, and Tallackson. No negative votes were cast.

The Legislative Council staff presented a bill draft providing for the complete disclosure of all internal service funds and how the funds within the internal service funds are spent.

It was moved by Representative Wald and seconded by Representative Skarphol that the bill draft providing for the complete disclosure of all internal service funds and how the funds within the internal service funds are spent be approved and recommended to the Legislative Council.

Ms. Laura Glatt, North Dakota University System, presented information in opposition to the bill draft providing for the complete disclosure of all internal service funds. A copy of her presentation is on file in the Legislative Council office. She said the North Dakota University System in cooperation with the State Auditor's office has developed an internal operating policy for recharge centers (internal service funds). She said the policy has been updated over the past two years and will be fully implemented by

June 30, 1999. Ms. Glatt said the policy states that transfers will only be permitted for items related to the core activity of the internal service fund except for mandatory transfers for service-related debt and routine operating expenditures associated with the fund. Ms. Glatt said the North Dakota University System has worked hard to respond to internal service fund concerns raised by legislators and the State Auditor's office. She said she would like to see the results of implementing the internal operating policy for recharge centers before the drastic measures contained in the proposed bill draft are implemented.

In response to a question from Representative Dorso, Mr. Nagel said if the North Dakota University System complies with its internal operating policy regarding recharge centers, the problems will be resolved without the need for the proposed bill draft.

The motion and second were withdrawn.

Mr. Smith reviewed a list of performance audits which could be conducted during the next interim. A copy of his presentation is on file in the Legislative Council office. He said the staff of the State Auditor's office developed the following list of potential performance audits:

- Contracts for services entered into by state agencies and institutions of higher education - The audit could review the agency and institution management of contracts, whether or not the contracts for services were efficiently and effectively used by state agencies and institutions, and whether or not the agency or institution has a system in place to monitor performance and compliance with the contract.
- Department of Transportation - The audit could review and determine if the agency is spending its funding in an effective and efficient manner.
- Department of Corrections and Rehabilitation - The audit could review various aspects of the operations of the agency.
- Youth crime and prevention - The audit may be able to determine if there are gaps or overlapping services provided by the various programs.
- Child protection services - The audit could review the various programs supported either directly or indirectly by the state.
- Department of Human Services - The State Auditor's office will conduct a risk analysis of the programs administered by the department to determine which programs offer the best opportunities for improvement.
- North Dakota University System - The audit could review the University of North Dakota School of Medicine and Health Sciences and its related family practice centers to determine if the school and family practice centers are operating in an efficient and effective manner.

- Bank of North Dakota - The audit could focus on any particular function or program administered by the Bank.

Senator Solberg said he would consider priority 1 to be the review of contracts, priority 2 to be the Department of Transportation, priority 3 to be the Bank of North Dakota, and priority 4 to be the Department of Corrections and Rehabilitation.

Representative Wald said he considers the review of contracts to be the first priority and the Department of Corrections and Rehabilitation to be the second priority.

Chairman Timm asked if there was any objection to rating the review of contracts as the committee's first priority and the Department of Transportation as the committee's second priority.

It was moved by Representative Skarphol, seconded by Representative Gerntholz, and carried that the Legislative Audit and Fiscal Review Committee's first priority for performance audits be an audit of contracts for services entered into by state agencies and institutions of higher education and that the committee's second priority for performance audits be an audit of the Department of Transportation. Voting "aye" were Representatives Timm, Byerly, Dorso, Gerntholz, Mickelson, Skarphol, and Wald and Senators Mutch and Solberg. Voting "nay" were Representatives Aarsvold, Kunkel, and Wilkie and Senators Lips and Tallackson.

Chairman Timm said in accordance with the request made earlier, a representative of Job Service has provided committee members with information on the job insurance tax audits. A copy of the information is on file in the Legislative Council office.

It was moved by Senator Lips, seconded by Representative Byerly, and carried on a voice vote that the chairman and staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and the recommended bill drafts to the Legislative Council.

Ms. Beth Baumstark, Attorney General's office, presented an Attorney General's opinion regarding the application of the nepotism statute. A copy of the opinion is on file in the Legislative Council office. She said at its last meeting this committee encouraged the State Auditor's office to request an Attorney General's opinion regarding the application of the nepotism statute in the North Dakota University System June 30, 1997, audit report. She said in the opinion of the Attorney General the phrase "head of any executive or administrative department" means that person or group of persons with ultimate control over the hiring, dismissal, and salaries of the employees of any given department or agency. She said it can only apply to the highest agency administrator or department head and not to subordinate department or division heads. Ms. Baumstark said the opinion states that the hiring decisions made at the University of North Dakota cannot constitute nepotism and be in violation of NDCC Section 44-04-09 unless the decisions are made by one of the members of the State Board of Higher Education.

Ms. Baumstark said the opinion encourages the 1999 Legislative Assembly to review NDCC Section 44-04-09 to determine if the statute provides the level of protection desired by the Legislative Assembly.

The meeting was adjourned subject to the call of the chair at 6:05 p.m.

Paul R. Kramer
Senior Fiscal Analyst

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

ATTACH:4