

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Tuesday, January 10, 2006
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Francis J. Wald, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Francis J. Wald, Ole Aarsvold, Merle Boucher, RaeAnn G. Kelsch, Andrew G. Maragos, David Monson, Chet Pollert, Bob Skarphol, Blair Thoreson, Mike Timm; Senators Randel Christmann, Jerry Klein, Judy Lee, Tim Mathern

Members absent: Representatives Jeff Delzer, Earl Rennerfeldt; Senator Bill L. Bowman

Others present: See attached appendix

It was moved by Representative Kelsch, seconded by Representative Monson, and carried on a voice vote that the minutes of the August 31, 2005, meeting of the Legislative Audit and Fiscal Review Committee be approved as distributed.

DEPARTMENT OF EMERGENCY SERVICES PERFORMANCE AUDIT

Chairman Wald called on Mr. Gordy Smith, State Auditor's office, who presented the performance audit report of the Department of Emergency Services as of November 18, 2005. He said the Department of Emergency Services consists of the Division of State Radio and the Division of Homeland Security. He said Section 5 of 2005 House Bill No. 1016 provides for the State Auditor's office to conduct a performance audit of the Department of Emergency Services, including a review of fees collected for 911 services and the utilization of the fees.

Mr. G. Smith said the 2005 Legislative Assembly changed the name of the Division of Emergency Management to the Department of Emergency Services. He said because the scope of the audit covers the period July 1, 2002, through April 30, 2005, the performance audit refers to the agency under its former name--Division of Emergency Management. He said the performance audit includes State Radio, which was moved to the control of the Division of Emergency Management by executive order in September 2003.

Mr. G. Smith said the goal of the audit was to determine if management has established effective processes and procedures to fulfill the Division of Emergency Management's purposes, functions, and responsibilities. He said through tests and reviews performed, the State Auditor's office noted that

significant improvements are needed in how the Division of Emergency Management, including State Radio, is establishing, collecting, and using fees.

In response to a question from Representative Wald, Mr. G. Smith said State Radio provides 911 services to 22 counties. He said services are provided by State Radio to counties with a population of fewer than 20,000.

In response to a question from Representative Aarsvold, Mr. G. Smith said State Radio provides voice and data communications to federal, state, local, and tribal public safety entities. He said the North Dakota Century Code provides for requirements relating to the establishment and charging of fees by State Radio for these services. He said due to the lack of an adequate accounting system, State Radio is unable to determine whether fees assessed comply with legislative intent. He said the 911 collections appear to be significantly less than the costs associated with the system, resulting in state general fund appropriations being used to pay certain costs associated with 911.

In response to a question from Representative Aarsvold, Mr. G. Smith said he will look for an example of a prior audit containing findings relating to improper assignment of expenditures and provide that information to the committee.

Mr. G. Smith said the 22 counties receiving 911 services from State Radio are billed quarterly based on the number of landline and wireless lines within each county. He said the line information is obtained directly from the county and State Radio did not verify the information.

Mr. G. Smith said all full-time equivalent employees not on probation within the Division of Emergency Management and State Radio received a salary increase during the 2003-05 biennium. He said 13 employees received increases exceeding 20 percent. He said one employee received a salary increase of over 74 percent while six other employees received salary increases of over 30 percent.

Mr. G. Smith said the salary increases provided were funded with federal United States Department of Homeland Security funds. He said the dollar amount of the salary increases provided was determined by the former director of the Division of Emergency Management and not authorized by Human Resource Management Services within the Office of Management and Budget.

In response to a question from Representative Boucher, Mr. G. Smith said some of the salary increases were not in compliance with the North Dakota Administrative Code salary administration requirements. He said if federal homeland security funding is not continued at the current levels, additional state funding may be necessary to maintain the salary increases.

In response to a question from Representative Skarphol, Mr. G. Smith said the salary increases provided should be reviewed by Human Resource Management Services and the State Personnel Board with assistance from the Attorney General's office to determine whether any action should be taken.

In response to a question from Representative Boucher, Mr. G. Smith said the former director of State Radio felt the dispatchers were underpaid. He said based on information provided by Human Resource Management Services, Division of Emergency Management and State Radio employees appear, on average, to be paid higher than other state government employees in similar pay grades.

In response to a question from Representative Timm, Mr. G. Smith said State Radio received Emergency Commission approval to use federal homeland security funds for adding staff and retaining temporary staff, not for providing salary increases to current employees.

In response to a question from Senator Mathern, Mr. G. Smith said the lack of justification and proper documentation for the salary increases provided has made it difficult for corrective action to be taken.

In response to a question from Representative Skarphol, Mr. G. Smith said a specific dollar amount should be assigned to the reason for or type of salary increase provided.

In response to a question from Senator Christmann, Mr. Ken Purdy, Manager, Classification and Compensation, Human Resource Management Services, Office of Management and Budget, said unlike the old payroll system, the ConnectND system provides for "tracking" the dollar amount associated with each type of salary increase provided by state agencies. He said it is uncommon for agencies to provide increases in excess of the amount allowed by the North Dakota Administrative Code.

In response to a question from Representative Timm, Major General Michael J. Haugen, Department of Emergency Services, said the former department director and deputy director are no longer employed by the Department of Emergency Services. He said the director and deputy director positions are appointed positions and the salaries were reduced when the positions were reappointed. He said Human Resource Management Services will need to be involved in any "corrective" salary adjustments made to classified employees.

In response to a question from Representative Skarphol, Major General Haugen said 80 percent of

the federal homeland security funding is allocated to local government and 20 percent is retained at the state level. He said he would provide the committee with information on the state share of federal homeland security funding being currently used for salaries and wages as compared to the respective amounts approved by the former director. He said the positions and related salaries funded with homeland security dollars will not continue if the homeland security funding is discontinued.

In response to a question from Representative Skarphol, Mr. Purdy said representatives of Human Resource Management Services have met with the State Auditor's office regarding the appropriateness of salary increases provided to the employees of the Department of Emergency Services. He said Human Resource Management Services will review the increases to determine what "corrective" action can be taken. He said the state must be able to justify the reasons for adjusting any previous salary increase provided to a classified employee.

911 FEES - COLLECTION AND USE PERFORMANCE AUDIT

Mr. G. Smith presented the performance audit report of the collection and use of 911 fees as of November 18, 2005. Mr. G. Smith said the goal of the performance audit was to determine if 911 fees are properly used and sufficient for the costs incurred with operating the 911 system.

Mr. G. Smith said a public safety answering point (PSAP) is a communications facility operated on a 24-hour basis which first receives 911 calls from individuals in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies. He said in addition to the PSAP operated by State Radio, there are 22 locally operated PSAPs.

Mr. G. Smith said to implement wireless 911 within the state, all political subdivisions receiving 911 fees contracted with the North Dakota Association of Counties to coordinate the implementation of the networking, nonpremise equipment upgrades, testing, and ongoing services necessary for wireless 911. He said the contracts between the North Dakota Association of Counties and the political subdivisions are for five years and will expire on June 30, 2007. He said political subdivisions are to remit 50 cents per wireless access line per month to the North Dakota Association of Counties for the service.

Mr. G. Smith said as of April 30, 2005, the 911 revenues received by the North Dakota Association of Counties in excess of expenditures, or fund balance, was in excess of \$2.1 million, which is approximately 48 percent of what was collected. He said the North Dakota Association of Counties has since issued a memorandum to political subdivisions indicating that \$500,000 of the fund

balance will be distributed back to the participating jurisdictions based on the amounts of wireless 911 funds remitted to the North Dakota Association of Counties. In addition, he said, starting July 1, 2005, the amount to be submitted was reduced to 40 percent of whatever is received from wireless carriers.

Mr. G. Smith said a monthly \$1 fee is currently assessed for each telephone line and wireless access line for 911 services. He said the 911 fees are collected by phone providers who submit the fees, less an administration cost, to respective political subdivisions. He said the 911 fees received by political subdivisions are to be used for implementing, maintaining, or operating the emergency services communication system. He said the performance audit report identified inconsistencies in the collection and use of 911 fees.

Mr. G. Smith said due to the lack of a uniform system for tracking the use of 911 fees and inconsistencies in how 911 fees are used, no political subdivision was able to provide information to enable the State Auditor's office to determine the reasonableness of 911 fees charged residents. However, he said, based on a limited review of information, it appears the 911 fee amount is more than sufficient to cover the 911 costs.

Mr. G. Smith said there is a lack of adequate guidance provided to political subdivisions on what 911 fees may or may not be used for. He said the State Auditor's office noted differences in how 911 fees were used to pay for the expenditures of locally operated PSAPs. He said the Legislative Assembly could consider granting specific authority to a state agency and/or board or commission to establish guidelines and standards related to the use of 911 fees and/or being responsible for establishing a uniform system of accounting for 911 costs. He said Utah formed a task force to address concerns with the collection and use of 911 fees.

Mr. G. Smith said phone providers are allowed to retain a portion of the fees, not to exceed 5 percent of what is collected for actual administration costs relating to fee collections. He said improvements are needed to ensure phone providers are withholding a reasonable amount of 911 fees for administration costs.

In response to a question from Representative Skarphol, Mr. G. Smith said an entity receiving state funding should have some way of allocating and measuring program costs.

In response to a question from Representative Skarphol, Major General Haugen said the 2005 Legislative Assembly provided for the creation of an 11-member Department of Emergency Services Advisory Committee representing local and state interests in the department. He said he would use the input of this committee in responding to the performance audit recommendations. He said he would provide the committee with a list of the members of the advisory committee.

Chairman Wald said he would like to appoint a subcommittee consisting of Representatives Kelsch (Chairman), Monson, Aarsvold, and Skarphol to meet with the Department of Emergency Services Advisory Committee to develop recommendations to address the audit findings. He said the recommendations would assist the committee in preparing a bill draft for presentation to the 2007 Legislative Assembly. The legislative budget analyst and auditor said approval is needed from the chairman of the Legislative Council for the committee to form a subcommittee.

It was moved by Representative Timm, seconded by Senator Klein, and carried on a voice vote that the Legislative Audit and Fiscal Review Committee ask the chairman of the Legislative Council to approve the formation of a four-member subcommittee to meet with the Department of Emergency Services Advisory Committee to consider recommendations included in the State Auditor's office performance audit of 911 fees.

NORTH DAKOTA RACING COMMISSION AUDIT

Chairman Wald called on Mr. Rob Lynch, General Manager, North Dakota Horse Park, Fargo, who presented information regarding the North Dakota Horse Park and related entities. A copy of the information presented is on file in the Legislative Council office.

Mr. Lynch said the mission of the North Dakota Horse Park Foundation is to guide and direct the building, management, and operation of the North Dakota Horse Park and to promote the programs associated with the facilities. He said the North Dakota Horse Park Foundation is a 501(c)3 nonprofit organization and he provided the committee with a list of the North Dakota Horse Park Foundation members.

Mr. Lynch said the mission of Horse Race North Dakota is to develop and promote the sport of live horse racing and all equine-related activities. He said Horse Race North Dakota is a 501(c)4 nonprofit organization and provided the committee with a list of the executive committee and general membership.

Mr. Lynch said Northern Sheyenne Development LLP is a two-member North Dakota limited liability partnership consisting of Jill Kollman and Susan Schlossman.

Mr. Lynch said the repayment terms for \$1 million of tax increment financing district funds provides for the North Dakota Horse Park property owners to defer or eliminate payment of special assessments based on development of the property surrounding the North Dakota Horse Park. He said if development does not occur or there is a shortfall, the North Dakota Horse Park Foundation/Horse Race North Dakota would be levied special

assessments totaling \$955,718, which would be assessed over a period not to exceed 25 years. He said the first payment would be due January 1, 2009. He said the annual assessment for the North Dakota Horse Park would be \$85,549.

Mr. Lynch said Horse Race North Dakota is planning to begin construction on Phase 1 of a three-phased "clubhouse/grandstand" project. He said Phase 1 is estimated to cost \$1.5 million.

Mr. Lynch said a steering committee was formed to oversee the construction of the North Dakota Horse Park. He said the steering committee assisted in developing the original architect estimate. He said the actual cost of the North Dakota Horse Park was \$3,598,000, or \$1,798,000 more than the original architect estimate of \$1,800,000. He said upgrades to the racetrack and rail/fence design account for the majority of the additional costs above the architect estimate.

Mr. Lynch said because of water and drainage issues, an upgrade to the racetrack was approved which resulted in actual costs being \$2,234,000, or \$1,759,000 more than the architect estimate of \$475,000. He said due to safety concerns, the rail/fence cost \$312,000, or \$182,000 more than the architect estimate of \$130,000. He said all project expenditures were approved by the project manager, the North Dakota Racing Commission, and the Attorney General's office.

In response to a question from Representative Boucher, Mr. Lynch said the original architect estimate was made before the construction bidding process. He said the actual bids were about 20 percent more than the architect estimate. He said the architect estimate provided for a "basic" track. He said he was uncertain if concerns were raised by the steering committee regarding the cost overruns and whether the overall project cost should be "curtailed."

In response to a question from Representative Skarphol, Mr. Lynch said if the special assessments relating to the tax increment financing are not paid, the city of Fargo would assume ownership of the North Dakota Horse Park property.

In response to a question from Representative Skarphol, Mr. Lynch said the North Dakota Horse Park is not currently contracting with an architect.

In response to a question from Representative Wald, Mr. Lynch said based on informal discussions with the Attorney General's office, the state of North Dakota most likely would not be liable for any debts incurred by the North Dakota Horse Park.

Mr. Lynch said horse racing alone will not support the operations of the North Dakota Horse Park. He said additional revenues will be required from "year-round" events. He said an indoor facility or clubhouse is necessary for many of these special events. He said there are future plans for simulcast wagering at the North Dakota Horse Park.

In response to a question from Representative Kelsch, Mr. Lynch said he would provide the

committee with supporting documentation relating to the University of Arizona's estimate that two weeks of live racing at the North Dakota Horse Park generates an economic impact of \$9.9 million to the Fargo/West Fargo area.

In response to a question from Senator Mathern, Mr. Lynch said the original architect plans provided for the North Dakota Horse Park to be a "year-round" facility.

In response to a question from Senator Christmann, Mr. Lynch said the original architect estimate provided for an "economic" track, not an "unsafe" track. He said he does not believe there were any efforts to "low ball" the cost estimates to receive initial Racing Commission approval for the racetrack to be located in Fargo.

Senator Lee said the Political Subdivisions Committee received information regarding the racetrack plans during a previous Legislative Assembly. She said the committee members thought the plan for the North Dakota Horse Park was well-prepared.

Chairman Wald called on Mr. Bill Peterson, Assistant Attorney General, Attorney General's office, who reviewed whether the horse racing tracks licensed by the Racing Commission have liability insurance that extends coverage to the state of North Dakota. A copy of the information presented is on file in the Legislative Council office. He said it is very unlikely the state or the racing commissioners would be subject to liability for injuries occurring at races licensed by the North Dakota Racing Commission. He said the North Dakota Racing Commission does not conduct races or contract with any organization to conduct races. He said the North Dakota Racing Commission grants licenses to organizations to conduct races. He said an action may not be brought against a state employee and a state employee cannot be held personally liable for damages caused by a state employee acting within the scope of the employee's employment.

Mr. Peterson said representatives of the Outdoor Recreation Development Association and the North Dakota Horse Park have indicated that they would seek to add the North Dakota Racing Commission as an additional insured party.

At the request of Chairman Wald, the Legislative Council staff distributed a memorandum entitled [*Other States' Horse Racing Tracks - North Dakota Racing Commission Revenue History*](#). According to a General Accounting Office report and the American Gaming Association, approximately 7 percent, or \$4.2 billion of total annual gambling revenues, is from parimutuel wagering. Parimutuel wagering is a system in which players bet against each other as opposed to the "house" or the management. The winners divide the total amount of the amount wagered, minus the percentage that goes to the house, otherwise known as the "rake," to pay for its expenses. Horse racing, with more than

\$3 billion a year in revenue, is the largest piece of the parimutuel industry.

The memorandum indicated that according to the North American Pari-mutuel Regulators Association, virtually every horse racetrack in the United States is subsidized by simulcast wagering and without revenues from simulcast wagering nearly every horse track facility would lose money. Horse racetracks in Montana, South Dakota, Wyoming, and Nebraska are subsidized by simulcast wagering.

In addition to receiving subsidies from simulcast wagering, a 24-hour card club is located at Canterbury Park (Minnesota) and a casino offering slot machines and card room is located at Prairie Meadows Racetrack (Iowa).

The memorandum indicated that the breeders', purse, and promotion fund and the general fund each receive a percentage of the total amount wagered through parimutuel horse racing in North Dakota. Revenues generated since the 1997-99 biennium from horse racing in North Dakota is:

	1997-99 Biennium	1999-2001 Biennium	2001-03 Biennium	2003-05 Biennium	2005-07 Biennium (July 1, 2005, to September 30, 2005)
General fund	\$592,769	\$6,396,078	\$7,660,826	\$5,250,888	\$62,211
Breeders' fund	135,547	1,137,719	2,779,470	795,815	40,453
Purse fund	135,512	1,136,578	2,767,303	795,815	40,637
Promotion fund	308,234	2,071,931	5,229,897	1,391,644	69,392
Total	\$1,172,062	\$10,742,306	\$18,437,496	\$8,234,162	\$212,693

NOTE: Revenues decreased during the 2003-05 biennium due to a loss of the "big bettors." These were individual bettors that were wagering up to \$170 million per year on simulcast racing in North Dakota. These individuals moved their wagering operations to another state during the 2003-05 biennium.

The committee recessed for lunch from 12:00 noon to 1:00 p.m.

STATE AGENCY AND INSTITUTION AUDIT REPORTS

Chairman Wald called on Mr. Paul Welk, State Auditor's office, who presented the audit report for the Department of Human Services for the years ended June 30, 2005 and 2004. He reviewed the auditor's responses to the committee guidelines and said the report contains three findings relating to internal control weaknesses. He said the findings relate to PeopleSoft access controls, other computer access controls, and lack of controls over drug inventory. He said the report contains two recommendations for operational improvement. He said the recommendations relate to the Department of Human Services checking so that food stamp payments are not provided to incarcerated individuals and participating in the Public Assistance Reporting Information System. He said two prior audit recommendations were not implemented.

In response to a question from Senator Lee, Mr. Welk said food stamp benefits are based on the number of individuals in the family unit. He said if a family member is incarcerated, that person should not be included as part of the family unit for determining the amount of benefits.

Mr. Welk said the security roles used by the Department of Human Services have a design flaw which results in a significant internal control weakness. He said the Office of Management and Budget is responsible for these security roles. He said this finding is identified in a number of the agency audit reports. He said the Office of Management and Budget is in the process of

redefining the roles to address the internal control weakness.

Mr. Welk presented the audit report for the Department of Transportation for the years ended June 30, 2005 and 2004. He reviewed the auditor's responses to the committee guidelines and said the report contains one internal control finding relating to PeopleSoft access controls. He said the report contains one recommendation for operational improvement relating to effective utilization of the department's internal audit functions.

Mr. Ed Nagel, State Auditor's office, presented the audit report for the North Dakota lottery for the year ended June 30, 2005. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not contain any findings or recommendations.

In response to a question from Representative Wald, Mr. Nagel said the audit for the North Dakota lottery is required to be completed on an annual basis while the Attorney General's office audit is completed on a biennial basis.

Mr. Nagel presented the audit report for the Governor's office for the years ended June 30, 2005 and 2004. He reviewed the auditor's responses to the committee guidelines and said the report does not contain any findings or recommendations.

Mr. Nagel presented the audit report for the judicial branch for the years ended June 30, 2005 and 2004. He reviewed the auditor's responses to the committee guidelines and said the report contains one internal control finding relating to PeopleSoft access controls. He said the report contains one recommendation for operational improvement relating to the establishment of credit card and online payment capability for fees and fines.

Mr. Nagel presented the audit report for the Office of Administrative Hearings for the years ended June 30, 2005 and 2004. He reviewed the auditor's responses to the committee guidelines and said the report contains one internal control finding relating to PeopleSoft access controls.

Mr. Nagel presented the audit report for the Aeronautics Commission for the years ended June 30, 2005 and 2004. He reviewed the auditor's responses to the committee guidelines and said the report contains two internal control findings relating to PeopleSoft access controls and inadequate procedures surrounding revenue collections.

Mr. Nagel presented the audit report for the Insurance Commissioner's office for the years ended June 30, 2005 and 2004. He reviewed the auditor's responses to the committee guidelines and said the report contains one internal control finding relating to PeopleSoft access controls. He said the report contains two recommendations for operational improvement relating to increasing the usage of purchase cards and limiting or consolidating deposit codes on the deposit application to only those codes necessary to adequately track revenue for the department's purpose.

Mr. Nagel presented the audit report for the Mill and Elevator for the year ended June 30, 2005. He reviewed the auditor's responses to the committee guidelines and said the report contains an unqualified opinion and does not contain any findings or recommendations.

CONNECTND FINANCE COMPONENT INFORMATION SYSTEM AUDIT

Mr. Don LeFleur, State Auditor's office, presented the finance component of ConnectND information system audit for the year ended June 30, 2005. He said ConnectND finance is used to support integrated enterprisewide business processing and maintain the official accounting records according to generally accepted accounting principles for the state of North Dakota and the North Dakota University System. He said ConnectND finance was selected for this audit because it is considered a "high-risk" information system. He said "high risk" does not necessarily indicate problems with the system but indicates a higher potential for significant problems to occur.

Mr. LeFleur said ConnectND finance is comprised of several modules. He said the five main modules that have been implemented are accounts receivable, accounts payable, general ledger, asset management, and purchasing. He said the audit report contains 10 internal control findings and recommendations relating to security, superuser access, proper reconciliation of data, and adequacy of financial policies, procedures, and edit checks.

STATE AGENCY AND INSTITUTION AUDIT REPORTS

Chairman Wald called on Mr. John Mongeon, Brady, Martz & Associates, P.C., Certified Public Accountants, who presented the audit report for the Retirement and Investment Office for the years ended June 30, 2005 and 2004. He said the report contains an unqualified opinion. He said the report identifies one instance of noncompliance with legislative intent relating to a travel mileage reimbursement form not agreeing with the total reimbursement. He said the actuary for the Teachers' Fund for Retirement has determined the fund's unfunded actuarial accrued liability is approximately \$496 million and \$355 million as of June 30, 2005 and 2004, respectively. He said the funding for the actuarial accrued liabilities is predicated on employer and employee funding rates mandated by North Dakota statutes. He said the actuary has determined that the current statutory contribution rates are insufficient to amortize the unfunded actuarial accrued liability over any period of time, based on the current actuarial assumptions, unless there are sufficient actuarial gains in the future to offset recent investment losses.

Mr. Mongeon presented the audit report for the Housing Finance Agency for the years ended June 30, 2005 and 2004. He said the report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Mongeon presented the audit report for the Board of University and School Lands for the years ended June 30, 2005 and 2004. He said the report contains an unqualified opinion and does not contain any findings or recommendations. He said a prior period adjustment was made to the common schools trust fund to increase accounts receivable and increase the fund balance by \$5,191,210 as of June 30, 2003. He said the change was implemented to comply with the *Governmental Accounting Standards Board's Technical Bulletin No. 2004-1 "Tobacco Settlement Recognition and Financial Reporting Entity Issues."*

In response to a question from Representative Aarsvold, Mr. Rick Larson, Director of Minerals Management, Land Department, said he would provide the committee with information regarding the estimated fair market value of land under the control of the Board of University and School Lands.

In response to a question from Representative Skarphol, Mr. Larson said he would provide the committee with information regarding long-term trends of the department's gains or losses realized on foreign investments versus domestic investments.

Mr. Rick Awalt, Brady, Martz & Associates, P.C., presented the audit report for the State Fair Association for the years ended September 30, 2005 and 2004. He said the report contains an unqualified opinion and contains two findings of

noncompliance with legislative intent. He said in-state lodging expenses were reimbursed at the actual rate instead of amounts stated under North Dakota Century Code Section 44-08-04 and a board member was reimbursed for an entertainment expense. He said cash balances at a local financial institution were not transferred to the Bank of North Dakota within 60 days of the closing of the State Fair as required pursuant to North Dakota Century Code Section 4-02.1-15. He said the report contains one internal control finding relating to segregation of accounting duties.

Chairman Wald called on Ms. Barb Aasen, Eide Bailly LLP, Certified Public Accountants, who presented the audit report for Job Service North Dakota for the years ended June 30, 2005 and 2004. She said the report contains an unqualified opinion and does not contain any findings or recommendations relating to the financial statements.

In response to a question from Representative Wald, Ms. Maren Daley, Executive Director, Job Service North Dakota, said the unemployment insurance trust fund has reached the Legislative Assembly-established target reserve level one year ahead of the scheduled seven-year plan.

Mr. Darrell Lingle, Eide Bailly LLP, Certified Public Accountants, presented the audit report for Workforce Safety and Insurance for the years ended June 30, 2005 and 2004. He said the report contains an unqualified opinion and contains two internal control findings. He said the findings relate to improving the case reserving practices and rectifying data integrity issues within the case management system.

Mr. Lingle said during fiscal year 2005, Workforce Safety and Insurance evaluated the appropriateness of discounting its unpaid loss liability at 6 percent. He said given the condition of the economy and the markets, the board of directors decreased the investment assumption from 6 to 5 percent. He said this change resulted in a \$55.1 million increase to liabilities and is reported separately as a special item on the statement of revenues, expenses, and changes in fund net assets.

In response to a question from Representative Wald, Mr. Sandy Blunt, Executive Director and CEO, Workforce Safety and Insurance, said workers' compensation coverage is continued for 120 days after the premium due date, after which the employer becomes personally liable for damages.

Ms. Aasen presented the audit report for the Public Employees Retirement System for the years ended June 30, 2005 and 2004. She said the report contains an unqualified opinion and does not contain any findings or recommendations.

STATE AUDITOR'S OFFICE AUDIT REPORT

Mr. Tony Hauck, Eide Bailly LLP, Certified Public Accountants, presented the audit report for the State Auditor's office for the years ended June 30, 2005 and 2004. He said the audit report contains an unqualified opinion and does not include any findings or recommendations.

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY AUDIT REPORTS

Mr. Hauck presented the audit report for the Legislative Council for the years ended June 30, 2005 and 2004. He said the audit report contains an unqualified opinion and does not include any findings or recommendations.

Mr. Hauck presented the audit report for the Legislative Assembly for the years ended June 30, 2005 and 2004. He said the audit report contains an unqualified opinion and does not include any findings or recommendations.

Chairman Wald asked that the Ag PACE fund, PACE fund, and the student loan trust fund audit reports for the period ending June 30, 2005 and 2004 be presented at the next Legislative Audit and Fiscal Review Committee meeting.

It was moved by Representative Maragos, seconded by Representative Skarphol, and carried on a roll call vote that, pursuant to North Dakota Century Code Section 54-35-02.2, the committee accept the following reports presented to the committee:

1. **North Dakota Racing Commission (June 30, 2004 and 2003).**
2. **Division of Emergency Management, including State Radio performance audit (November 18, 2005).**
3. **911 fees - Collection and use performance audit (November 18, 2005).**
4. **Department of Human Services (June 30, 2005 and 2004).**
5. **Department of Transportation (June 30, 2005 and 2004).**
6. **North Dakota lottery (June 30, 2005)**
7. **Governor's office (June 30, 2005 and 2004).**
8. **Judicial branch (June 30, 2005 and 2004).**
9. **Office of Administrative Hearings (June 30, 2005 and 2004).**
10. **Aeronautics Commission (June 30, 2005 and 2004).**
11. **Insurance Commissioner's office (June 30, 2005 and 2004).**
12. **Mill and Elevator Association (June 30, 2005).**
13. **Financials component of ConnectND information system audit (June 30, 2005).**
14. **Retirement and Investment Office (June 30, 2005 and 2004).**

15. Housing Finance Agency (June 30, 2005 and 2004).
16. Board of University and School Lands (June 30, 2005 and 2004).
17. State Fair Association (September 30, 2005 and 2004).
18. Job Service North Dakota (June 30, 2005 and 2004).
19. Workforce Safety and Insurance (June 30, 2005 and 2004).
20. Public Employees Retirement System (June 30, 2005 and 2004).
21. State Auditor's office (June 30, 2005 and 2004).
22. Legislative Council (June 30, 2005 and 2004).
23. Legislative Assembly (June 30, 2005 and 2004).
24. Reports available but not selected for presentation:
 - a. Beef Commission (June 30, 2005).
 - b. Soybean Council (June 30, 2005 and 2004).
 - c. Council on the Arts (June 30, 2005 and 2004).
 - d. Development Fund, Inc. (June 30, 2005 and 2004).
 - e. State Building Authority (June 30, 2005 and 2004).
 - f. Board of Registration for Professional Engineers and Land Surveyors (June 30, 2004).
 - g. Board of Plumbing (June 30, 2005 and 2004).
 - h. Board of Accountancy (June 30, 2005).
 - i. Board of Architecture (June 30, 2004).
 - j. Board of Counselor Examiners (June 30, 2004 and 2003).
 - k. Board of Cosmetology (June 30, 2004).
 - l. Real Estate Commission (June 30, 2004 and 2003).
 - m. Board of Clinical Laboratory Practice (June 30, 2005 and 2004).
 - n. Board of Nursing (June 30, 2005 and 2004).
 - o. State Electrical Board (June 30, 2005 and 2004).
 - p. Board of Medical Examiners (December 31, 2004 and 2003).
 - q. Firefighters Association (April 30, 2004).
 - r. Firefighters Association (April 30, 2005 and 2004).
 - s. Board of Reflexology (June 30, 2004).
 - t. Board of Athletic Trainers (June 30, 2004).

- u. Board of Registration for Professional Soil Classifiers (June 30, 2004).
- v. Board of Veterinary Medical Examiners (June 30, 2004 and 2003).
- w. Board of Podiatry Examiners (December 31, 2003 and 2002).
- x. Board of Pharmacy (June 30, 2005 and 2004).

Representatives Wald, Aarsvold, Boucher, Maragos, Pollert, Skarphol, Thoreson, and Timm and Senators Klein, Lee, and Mathern voted "aye." No negative votes were cast.

AUDIT PRESENTATION GUIDELINES - 12 QUESTIONS

Chairman Wald reviewed a memorandum prepared by the Legislative Council staff entitled [Audit Report Presentation Guidelines](#). He said during the 2003-05 interim, the Legislative Audit and Fiscal Review Committee received suggested changes from the State Auditor's office to revise the current 12 questions to be addressed by auditors of state agencies as part of the postaudit program to 6 questions. He said Eide Bailly LLP and Brady, Martz & Associates, P.C., were asked to review the proposed six questions and provide the committee with recommendations for the proposed questions.

In addition, it was proposed that to assist the committee in fulfilling the statutory responsibilities, audit report presentations could be enhanced to highlight eight key areas and issues that are of interest to committee members. The presentations would be similar to those made by auditors to an "audit committee."

Mr. Nagel said he does not have any concerns with the proposed questions. He said issues relating to high-risk information technology systems would be addressed in the six questions; therefore, item No. 8 of the key issues to be addressed by the auditors during the presentation of the audit report is not really necessary.

Mr. Mongeon said there may be different interpretations regarding what constitutes a high-risk information technology system.

Ms. Aasen said information regarding high-risk information technology systems would be addressed in the six questions.

Representative Skarphol said the Legislative Assembly would be interested in receiving information regarding potential problems with specific information technology systems.

It was moved by Senator Mathern, seconded by Representative Boucher, and carried on a roll call vote that for audit periods covering fiscal years ending June 30, 2006, and thereafter, auditors of state agencies are to address:

The six audit questions:

1. **What type of opinion was issued on the financial statements?**
2. **Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?**
3. **Was internal control adequate and functioning effectively?**
4. **Were there any indications of lack of efficiency in financial operations and management of the agency?**
5. **Has action been taken on findings and recommendations included in prior audit reports?**
6. **Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.**

The eight issues to be communicated to the audit committee:

1. **Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.**
2. **Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.**
3. **Identify any significant audit adjustments.**
4. **Identify any disagreements with management, whether or not resolved to the auditor's satisfaction, relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.**
5. **Identify any serious difficulties encountered in performing the audit.**
6. **Identify any major issues discussed with management prior to retention.**
7. **Identify any management consultations with other accountants about auditing and accounting matters.**
8. **Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by auditors are directly related to the operations of an information technology system.**

Representatives Wald, Aarsvold, Boucher, Pollert, Skarphol, and Timm and Senators Christmann, Klein, Lee, and Mathern voted "aye." No negative votes were cast.

CONTINUING APPROPRIATION STUDY

The legislative budget analyst and auditor said the committee has the responsibility to study state agency continuing appropriation authority and the necessity for the authority to be continued. He said at the last meeting, the committee received a summary report of these appropriations and at each meeting, selected agencies will be asked to provide additional information.

Chairman Wald called on Mr. Dave Sandy, Finance Director, Workforce Safety and Insurance, who presented information regarding the committee's study of continuing appropriation authority. A copy of the information presented is on file in the Legislative Council office. Mr. Sandy said Workforce Safety and Insurance has authority for 12 continuing appropriations funded solely through workers' compensation premiums and investment returns. He said no full-time equivalent positions within Workforce Safety and Insurance are funded with continuing appropriation authority.

Mr. Sandy said the new Workforce Safety and Insurance building was completed in 2003 and the continuing appropriation authority for the project has expired. Mr. Sandy provided the department's justification for the remaining 11 continuing appropriations. He said the continuing appropriation authority relates to building operations, reinsurance, other states' workers' compensation coverage, allocated loss adjustment expenses, safety programs, the preferred worker program, performance evaluations, insurance fraud, collection agency fees, educational revolving loan fund, and information fund.

Chairman Wald called on Ms. Korrine Lang, Job Service North Dakota, who presented information regarding the committee's study of continuing appropriation authority. A copy of the information presented is on file in the Legislative Council office. Ms. Lang said Job Service North Dakota has authority for three continuing appropriations. She said the continuing appropriations relate to the federal interest repayment account, the unemployment insurance trust fund, and for providing job task analysis services, testing services, and personal reemployment account services. Ms. Lang provided the department's justification for the continuing appropriation authority.

Chairman Wald called on Ms. Brenda Weisz, Department of Human Services, who presented information regarding the committee's study of continuing appropriation authority. A copy of the information presented is on file in the Legislative Council office. Ms. Weisz said the Department of Human Services has authority for three continuing appropriations. She said the continuing appropriations relate to the child support disbursement fund, child support improvement account, and for cooperative agreements for child

support enforcement services account. Ms. Weisz presented the department's justification for the continuing appropriation authority.

Chairman Wald called on Ms. Kathy Roll, Financial Administrator, Attorney General's office, who presented information regarding the committee's study of continuing appropriation authority. A copy of the information presented is on file in the Legislative Council office. Ms. Roll said the Attorney General's office has authority for seven continuing appropriations. She said three of the continuing appropriations relate to the North Dakota Racing Commission. She said the remaining continuing appropriations relate to the lottery operating fund, the asset forfeiture fund, the Attorney General refund fund, and the tactical team reimbursement fund. Ms. Roll presented the department's justification for the continuing appropriation authority.

Chairman Wald called on Mr. Merl Paaverud, Director, State Historical Society, who presented information regarding the committee's study of continuing appropriation authority. A copy of the information presented is on file in the Legislative Council office. Mr. Paaverud said the State Historical Society has authority for three continuing appropriations. He said the continuing appropriations relate to fees and concessions, gifts and bequests, and archaeological permits. He presented the department's justification for the continuing appropriation authority.

Chairman Wald called on Ms. Sally Holewa, Court Administrator, Supreme Court, who presented information regarding the committee's study of continuing appropriation authority. A copy of the information presented is on file in the Legislative Council office. She said the judicial branch has authority for seven continuing appropriations. She said the continuing appropriations relate to the indigent defense administration fund, the electronic filing administration fund, lawyers disciplinary system/Disciplinary Board, restitution collection assistance fund, court facilities improvement and maintenance fund, juvenile court reinvestment funds, and court receivables fund.

Ms. Holewa said the continuing appropriation authority for the indigent defense administration fund was transferred from the judicial branch to the Commission on Legal Counsel for Indigents as of August 1, 2005.

Ms. Holewa said continuing appropriation authority is not needed for the electronic filing administration fund. She said the department could request an appropriation from the Legislative Assembly for these costs. She said the continuing appropriation authority for the juvenile court reinvestment funds is no longer necessary because the federal funding for the program was discontinued as of June 30, 2004. Ms. Holewa said the department would submit a bill to the 2007 Legislative Assembly providing for removal of the

statutory references for continuing appropriation authority relating to the electronic filing administration fund and the juvenile court reinvestment funds.

In response to a question from Senator Christmann, Ms. Holewa said the judicial branch could request an appropriation to pay expenses relating to the lawyers disciplinary system/Disciplinary Board. She said there is a "strong" need for continuing appropriation authority for the court facilities improvement and maintenance fund.

INFORMATION TECHNOLOGY DEPARTMENT - ANNUAL REPORT

Chairman Wald called on Mr. Mike Ressler, Interim Chief Information Officer, Information Technology Department, who reported on the department's 2004-05 annual report, pursuant to North Dakota Century Code Section 54-59-19. A copy of the report is on file in the Legislative Council office. Mr. Ressler said the annual report contains:

- An executive summary of the benefits realized from investments in information technology.
- Executive highlights of the Information Technology Department's goals and accomplishments.
- A summary of the department's strategic planning and performance, including an update on the department's performance measures.
- Information Technology Department rate comparisons.
- Information Technology Department financial statements for the years ended June 30, 2005 and 2004.
- A summary of major completed and active information technology projects.

In response to a question from Representative Wald, the legislative budget analyst and auditor said the Information Technology Committee, Budget Section, and Legislative Audit and Fiscal Review Committee are all required by statute to receive a summary of the Information Technology Department's annual report. He said the Budget Section is considering a bill draft which will remove these statutory reporting requirements related to the Budget Section. He said the bill could be amended by the 2007 Legislative Assembly, if considered appropriate, to remove the reporting requirements to the Legislative Audit and Fiscal Review Committee. Chairman Wald said the Budget Section is a better committee than the Legislative Audit and Fiscal Review Committee for this report.

DEPARTMENT OF HUMAN SERVICES ACCOUNTS RECEIVABLE

Chairman Wald called on Ms. Weisz who presented information on the status of the department's accounts receivable, pursuant to North

Dakota Century Code Sections 25-04-17 and 50-06.3-08. A copy of the information presented is on file in the Legislative Council office. Ms. Weisz said the total amount written off by the Department of Human Services for fiscal year 2005 was \$5,602,929, of which \$913,730 related to the human service centers, \$4,474,037 related to the State Hospital, and \$215,162 related to the Developmental Center.

AUDIT REPORTS FROM ETHANOL PRODUCTION COMPANIES

The Legislative Council staff indicated that a copy of the June 30, 2005, audit report for Archer Daniels Midland Company was received and is on file in the Legislative Council office. Pursuant to North Dakota Century Code Section 10-19.1-152, any corporation that produces agriculture ethyl alcohol or methanol in this state and receives a production subsidy from

the state must file an annual audit report with the Legislative Audit and Fiscal Review Committee. The report was filed with the committee pursuant to this section.

The meeting was adjourned subject to the call of the chair at 4:10 p.m.

Donald J. Wolf
Senior Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

[ATTACH:1](#)