

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Tuesday and Wednesday, June 2-3, 1998  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Mike Timm, Chairman, called the meeting to order at 9:00 a.m.

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

**Members absent:** Representative Richard Kunkel; Senators Duane Mutch, Dan Wogsland

**Others present:** See Appendix A

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

Mr. Ed Nagel, State Auditor's office, presented the offices of the Governor and Lieutenant Governor 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.

Representative Wilkie asked how committee members should know when to ask for copies of the management letters provided to agency personnel. Mr. Nagel said it is up to the committee as to when it wishes to request a copy of a management letter.

In response to a question from Representative Timm, Mr. Nagel said the State Auditor's office could provide copies of the management letters to either the committee members or the Legislative Council staff.

Chairman Timm said the State Auditor's office should provide committee members with copies of the management letters at all future meetings.

In response to a question from Representative Maragos, Mr. Nagel said it would be possible to include full-time equivalent (FTE) information in future audit reports. He said the information can change from day to day and the audit report would have to be as of a specific day.

Representative Maragos said the FTE information should include the current authorized FTE level in addition to the prior authorized and actual FTE information.

Chairman Timm said the State Auditor's office should start including FTE information in all future audit reports.

Without objection, the chairman accepted the offices of the Governor and Lieutenant Governor audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Office of Management and Budget audit report for the biennium ended June 30, 1997. He reviewed the auditor's responses to the committee's guidelines and said the report contains a finding and recommendation related to the lack of proper documentation for the statewide cost allocation plan billing procedures.

In response to a question from Representative Poolman, Mr. Nagel said the \$4.1 million allowance for uncollectible loans within the Office of Intergovernmental Assistance is not loan-specific. He said the amount is based on a percentage of the total outstanding loans.

Mr. Rod Backman, Office of Management and Budget, said the Office of Intergovernmental Assistance outstanding loan balance and allowance for uncollectible loans relates to the community development block grant revolving loan fund. He said the money is provided to political subdivisions which then make loans to local businesses for economic development.

In response to a question from Representative Skarphol, Mr. Backman said he would see if a list is available of the loans making up the \$4.1 million allowance for uncollectible loans.

In response to a question from Representative Gerntholz, Mr. Backman said he could provide a list of the \$14.25 million of outstanding loans.

Representative Poolman asked if someone from the Office of Intergovernmental Assistance was available to answer a question regarding transferring the program to the Department of Economic Development and Finance. Chairman Timm indicated that someone would be available this afternoon and that the audit report would be held until that time so that committee members could have their questions answered.

Mr. Nagel presented the State Treasurer's office 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 State Treasurer's office audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Attorney General's office audit report for the biennium ended June 30, 1997. He reviewed the auditor's responses to the committee's guidelines and said the report contains one finding and recommendation. He said the agency has not implemented a prior finding and recommendation and that same issue is included in the audit presented today. He said the recommendation relates to the timing of the local gaming enforcement grant payment.

In response to a question from Representative Dorso, Mr. Nagel said there are other agencies in state government which also have payments, based on revenue collections through the end of the biennium, due at the end of the biennium. He said these agencies only have about two weeks to process the payment information and apply it back to the correct biennium. He said in order to give agencies more time the revenue cutoff date could be moved from the end of June to the end of May.

**It was moved by Representative Dorso, seconded by Representative Wald, and carried that the Legislative Council staff prepare and present at the next meeting a bill draft to extend the time period for the disbursement of gaming enforcement grant revenue collections by the Attorney General's office.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Maragos, Mickelson, Poolman, Skarphol, and Wald and Senators Lips, Solberg, and Tallackson. Voting "nay" was Representative Wilkie.

Ms. Rosie Sand, Attorney General's office, said until the gaming tax collections are received and it can be determined where the receipts came from the distributions back to the local political subdivisions cannot be made. She said the 1993-95 biennial audit report contained a recommendation regarding the payment not being made on time. She said the 1995-97 biennium audit report refers to the payment being made on time but being applied to the wrong biennium. She said if the staff within the Attorney General's office had been more diligent this error could have been avoided.

Without objection, the chairman accepted the Attorney General's office audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Tax Department 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 Tax Department audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the judicial branch 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 judicial branch audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Public Instruction 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 Department of Public Instruction audit report for the biennium ended June 30, 1997.

Ms. Diane Lillis, Securities Commissioner's office, said in regard to earlier questions, the source of funds in the Governor's special fund is from a national lawsuit against Prudential. She said the lawsuit specified that the funds received by the states were to be used for technology and education.

Mr. Jerry Coleman, Department of Public Instruction, presented a status report on the 1997-99 biennium appropriation for foundation aid program payments. A copy of his handout is on file in the Legislative Council office. He said for the 1997-98 fiscal year the appropriation for the foundation aid program was \$228.5 million. Mr. Coleman said the estimated total obligations for the first year of the biennium are \$224.8 million, leaving a positive variance of \$3.7 million. He said the current projections for the biennium show a \$12 million positive variance for the foundation aid program. He said the actual variance will depend on enrollments during the second year of the biennium.

Representative Wilkie said the percentage variance for the foundation aid program is only 1.6 percent. He said he hopes that the excess funding in the foundation aid program is distributed to school districts.

Representative Dorso said during the 1997 Legislative Assembly statements were made that any excess funding in the foundation aid program was to be turned back to the general fund and that the 1999 Legislative Assembly would decide how to allocate the money.

Representative Wald said the Legislative Assembly committed to a per student payment amount. He said the per student amount is being paid and there is no reason for school districts to think that the excess funds attributable to the lower than anticipated enrollments are to be given to school districts.

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, Legislative Council, said a previous Legislative Audit and Fiscal Review Committee developed a foundation aid status reporting format in conjunction with the Department of Public Instruction. He said the report presented today did not include the estimated turnback information requested by the previous committee and the Department of Public Instruction. He said in addition the form was to be used to inform school districts,

legislators, and other interested persons of the status of the foundation aid program. He asked if the form had been distributed to any of those groups. Mr. Coleman said he was not aware of the distribution requirements. He said the report can be distributed to individuals in those groups. He said the report is essentially in the same format as the prior report with the exception of the additional information regarding enrollment and weighted pupil units and he was not aware of a report requested by the committee.

Mr. Nagel presented the Department of Health 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 Department of Health audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Insurance Department 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 Insurance Department audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Labor audit report for the biennium ended June 30, 1997. He reviewed the auditor's responses to the committee's guidelines and said the report contains one finding and recommendation. He said the finding and recommendation relate to inadequate fixed asset internal controls.

Without objection, the chairman accepted the Department of Labor audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Public Service 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 Public Service Commission audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Division of Emergency Management 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 Division of Emergency Management audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Corrections and Rehabilitation 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 Department of Corrections and Rehabilitation audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Indian Affairs 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 contains three findings and recommendations. He said the findings relate to the overspending of the salaries and wages line item, a lack of internal controls, and inappropriate travel expenditures.

Without objection, the chairman accepted the Indian Affairs Commission audit report for the biennium ended June 30, 1997.

Mr. Greg Honl, Eide Bailey LLP, presented the State Fair Association audit report for the years ended September 30, 1997 and 1996. He reviewed the auditor's responses to the committee's guidelines and said the report does not contain any findings other than the lack of segregation of duties due to the small number of employees. He said the report contains an unqualified opinion.

Without objection, the chairman accepted the State Fair Association audit report for the years ended September 30, 1997 and 1996.

Mr. Honl presented the Bank of North Dakota audit report for the years ended December 31, 1997 and 1996. 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 Bank of North Dakota audit report for the years ended December 31, 1997 and 1996.

Mr. John Hoeven, President, Bank of North Dakota, presented information regarding options for the Bank to transfer the assets and liabilities of the beginning farmer revolving loan fund to the Bank of North Dakota and discontinue the need to have a separate audited financial statement. A copy of his presentation is on file in the Legislative Council office. He said the beginning farmer revolving loan fund was originally created in 1983 as a revolving loan fund to make low interest rate loans to beginning farmers. He said the fund was created through the transfer of \$5 million from Bank of North Dakota profits to the revolving loan fund. He said in 1991 the law was changed to provide that the biennial appropriation for the beginning farmer revolving loan fund was to be used for interest buydowns on beginning farmer loans made by the Bank of North Dakota.

Mr. Hoeven said under the current arrangement the revolving fund is used to make loans after all of the appropriated funds have been used. He said if the program is merged into the Bank of North Dakota that flexibility would no longer exist. He said once the appropriated amount to be used for interest buydowns is gone, the program would not be able to provide additional funds until the next biennium's appropriation is available.

Mr. Hoeven said the beginning farmer revolving loan fund could be merged into the Bank of North Dakota and eliminated as a separate entity. He said if that is done the biennial appropriation for the beginning farmer program would need to be increased from

\$921,500 to \$1,200,000 to meet the anticipated demand for the program.

Mr. Hoeven said the Industrial Commission's analysis of merging the beginning farmer revolving loan fund into the Bank of North Dakota indicated there would be an advantage due to the streamlining of administrative functions and reduced audit fees of approximately \$2,500 per year. He said the Industrial Commission opposes the merging of the fund into the Bank of North Dakota because of the following disadvantages:

- The revolving loan fund provides a separate entity for holding and tracking the interest buydowns appropriated to the beginning farmer program.
- Flexibility to meet loan demand is reduced; currently loan demand in excess of the amount met through the appropriated interest buydown funds can be funded out of the revolving loan fund, thereby eliminating gaps in the delivery of the program.
- Farm groups have "ownership" of the funds and will think that it has been taken from them.

In response to a question from Representative Aarsvold, Mr. Hoeven said the statutory provisions for the program would not need to be removed. He said the only change he would anticipate would be that the program would no longer be a separate fund within the Bank of North Dakota.

Representative Dorso said by consolidating this fund into the Bank of North Dakota there would be some streamlining of administrative functions and the reduction of audit fees as referred to by Mr. Hoeven. He said the Legislative Assembly would still have to appropriate interest buydown funding. Mr. Hoeven said the program would work as well within the Bank as it does as a separate fund if sufficient funds are appropriated for the interest buydown program.

Representative Dorso said he thinks the Legislative Assembly will continue to recognize the benefits of the program even if it is combined into the Bank of North Dakota. He said this committee should request a bill draft to merge the fund with the Bank of North Dakota because the funds belong to the taxpayers of North Dakota. He said the fund is currently controlled by the Industrial Commission and he thinks it should be under legislative control and authority.

**It was moved by Representative Dorso, seconded by Representative Maragos, and carried that the Legislative Council staff prepare and present at the next meeting a bill draft to merge the beginning farmer revolving loan fund with the Bank of North Dakota.** Voting "aye" were Representatives Timm, Byerly, Dorso, Gerntholz, Maragos, Mickelson, Skarphol, and Wald and Senator Solberg. Voting "nay" were Representatives Aarsvold and Wilkie.

The committee recessed for lunch at 12:20 p.m. and reconvened at 1:15 p.m.

The State Auditor's office distributed copies of the management letters relating to the audits to be presented at the June 2-3, 1998, Legislative Audit and Fiscal Review Committee meeting. A copy of the letters is on file in the Legislative Council office.

In response to earlier questions by committee members, Mr. Backman presented additional information on the Office of Management and Budget's audit report, the Governor's office audit report, and the Office of Intergovernmental Assistance. He said the risk management expenses included in the Office of Management and Budget audit report were \$540,928. He said the risk management claims for the biennium ended June 30, 1997, were \$52,114.

Mr. Backman said the Governor's special fund was started with the settlement from Prudential. He said revenues continue in the fund because the settlement proceeds are amortized over the period covered by the settlement. Mr. Backman said in addition the Governor's office has the authority to receive private donations and other income which is then deposited in this fund and spent through this fund.

Mr. Backman said in regard to the earlier questions relating to the Office of Intergovernmental Assistance community development block grant program, a specific list is not available for the \$4.1 million allowance for doubtful accounts. He said the amount is developed as a percentage of the total outstanding loans. Mr. Backman said in regard to the request for a detailed list of the \$14.25 million of outstanding loans, the Office of Intergovernmental Assistance has a letter from the Attorney General's office stating that that information is not open to the public.

In response to a question from Representative Poolman, Mr. Backman said his understanding of the Attorney General's letter is that the Office of Intergovernmental Assistance is not allowed to release the information regarding writeoffs of uncollectible loans.

In response to a question from Representative Poolman, Mr. Backman said he could provide information by region regarding potentially uncollectible loans as long as the information does not disclose specific loans.

Representative Dorso said he thinks that once a loan is written off it becomes public information. Mr. Backman said he would have to ask the Attorney General's office if that information is public.

Representative Dorso said the Office of Intergovernmental Assistance should provide committee members an aged analysis of the accounts receivable without company names and a list of all loans written off including the company name and the amount written off. Mr. Backman said he would provide whatever he could within the limits of the open records statutes.

Without objection, the chairman accepted the Office of Management and Budget audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Economic Development and Finance 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 Department of Economic Development and Finance audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Agriculture audit report for the biennium ended June 30, 1997. He reviewed the auditor's responses to the committee's guidelines and said the report contains two findings and recommendations. He said the first finding relates to overspending specific special fund appropriations and the second finding relates to not complying with the Century Code provisions relating to the anhydrous ammonia storage facility inspection fund.

Without objection, the chairman accepted the Department of Agriculture audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the State Historical Society audit report for the biennium ended June 30, 1997. He reviewed the auditor's responses to the committee's guidelines and said the report contains one finding and recommendation. He said the finding relates to a lack of proper internal controls in the agency's accounting procedures.

Without objection, the chairman accepted the State Historical Society audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Game and Fish Department 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 Game and Fish Department audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Tourism 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 Department of Tourism audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Parks and Recreation 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 Department of Parks and Recreation audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the State Water 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 State Water Commission audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the Department of Transportation 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 Department of Transportation audit report for the biennium ended June 30, 1997.

Mr. Nagel presented the UND-Lake Region audit report for the years ended June 30, 1997 and 1996. He reviewed the auditor's responses to the committee's guidelines and said the report contains two findings and recommendations. He said the first finding relates to refunds of appropriated expenditures and the second finding relates to not conducting an equipment inventory by June 30 of each fiscal year.

Without objection, the chairman accepted the UND-Lake Region audit report for the years ended June 30, 1997 and 1996.

Mr. Nagel presented the University of North Dakota audit report for the years ended June 30, 1997 and 1996. He reviewed the auditor's responses to the committee's guidelines and said the report contains one finding and recommendation. He said the finding and recommendation relate to noncompliance with the State Board of Higher Education policy on nepotism.

In response to a question from Representative Dorso, Mr. Nagel said the audit report did not indicate that the nepotism was a violation of the North Dakota Century Code. He said the report does indicate that the nepotism was a violation of the State Board of Higher Education policy.

Representative Dorso asked when a nepotism violation goes from being a violation of policy to being a violation of the North Dakota Century Code. Mr. Nagel said if the State Auditor's office found a violation of the Century Code it would refer to that in the audit report and would cite a legal remedy to address the issue. He said the law regarding nepotism is an old law and it is not clear as to the application of the law. He said the State Auditor's office consulted with the Attorney General's office on this issue and based on those discussions the audit finding and recommendation were left as being a violation of board policy and not a violation of the North Dakota Century Code.

Mr. Nagel said if this committee wishes the State Auditor's office to get an Attorney General's opinion regarding this issue, it would proceed with that course of action.

Chairman Timm said the State Auditor's office should proceed with an Attorney General's opinion regarding the nepotism statute in regard to the University of North Dakota audit in order to clarify the issue for the Legislative Audit and Fiscal Review Committee.

Without objection, the chairman accepted the University of North Dakota audit report for the years ended June 30, 1997 and 1996.

Mr. Nagel presented the Valley City State University audit report for the years ended June 30, 1997 and 1996. He reviewed the auditor's responses to the committee's guidelines and said the report contains five findings and recommendations as follows:

- Weak internal controls for interdepartmental billings.
- Not receiving Office of Management and Budget approval for equipment trade-ins.
- Not properly submitting the appropriate items to unclaimed property.
- Not properly documenting lease versus purchase analysis.
- Not receiving approval from the State Auditor's office for each petty cash and till fund.

Without objection, the chairman accepted the Valley City State University audit report for the years ended June 30, 1997 and 1996.

Mr. Nagel presented the Minot State University - Bottineau audit report for the years ended June 30, 1997 and 1996. He reviewed the auditor's responses to the committee's guidelines and said the report contains three findings and recommendations as follows:

- Maintaining more than one clearing account for the cashing of checks and making change.
- Improperly crediting expenditures of appropriated funds for refunds of appropriated expenditures.
- Not properly documenting lease versus purchase analysis.

In response to a question from Representative Skarphol, Mr. Nagel agreed that it appears that based on the institution's response, Minot State University - Bottineau is not going to comply with the recommendation regarding the closing of two of its three clearing accounts.

Mr. Larry Eide, Minot State University, said Minot State University - Bottineau has a written agreement with the State Auditor's office that it can maintain two separate clearing accounts but only use one clearing account per year. He said this will allow the institution to maintain a relationship with each bank in Bottineau and still comply with the requirement of only having one clearing account.

Without objection, the chairman accepted the Minot State University - Bottineau audit report for the years ended June 30, 1997 and 1996.

Ms. Peggy Lucke presented information regarding progress made by the University of North Dakota toward eliminating the deficit fund balances contained in the June 30, 1997, North Dakota University System Comprehensive Annual Financial Report. A copy of her presentation is on file in the Legislative Council office. She presented the following summary of the June 30, 1997, deficit fund balances and the projected June 30, 1998, balance for the same funds:

Fund	Balance June 30, 1997	Projected Balance June 30, 1998
Center for Aerospace Sciences	(\$3,957,196)	\$46,198
Minot Family Practice Center	(137,296)	150,000
Local operating	(250,267)	0
Energy and Environmental Research Center flood downtime	(467,099)	(466,000)
Energy and Environmental Research Center natural materials lab	(143,404)	(150,000)
Rural technology parking lot	(391,407)	0
Medical school construction	(691,183)	0
<b>Total</b>	<b>(\$6,037,852)</b>	<b>(\$419,802)</b>

Ms. Lucke explained how the deficits in the funds are being eliminated. She said the two funds relating to the Energy and Environmental Research Center will not be totally eliminated by June 30, 1998. Ms. Lucke said these two fund deficits will be recovered over a period of approximately six years through the federally approved rates for the Energy and Environmental Research Center.

Representative Skarphol asked how the university generated \$2.1 million of funds from the sale of aircraft if the university then turned around and purchased new aircraft. Ms. Terri Clark, University of North Dakota, said the \$2.1 million was related to the sale of two specific aircraft which had no outstanding debt. She said in addition other older aircraft from the fleet were disposed of and replaced. She said the overall size of the aircraft fleet was reduced. Ms. Clark said the payments relating to the newly acquired aircraft are included in the fund balance projections presented earlier by Ms. Lucke.

In response to a question from Representative Byerly, Mr. Tom Clifford, University of North Dakota Aerospace Foundation, said the foundation contracts with outside entities for the training of pilots. He said the outside entity could include a foreign government or a private corporation or any other entity interested in having pilots trained by the Center for Aerospace Sciences. He said the foundation then leases facilities and equipment from the university in order to provide the training for these pilots.

In response to a question from Representative Wald, Mr. Clifford said the foundation does not keep an administrative percentage or profit percentage from any of these contracts. He said virtually all of the proceeds go back to the university in the form of payments for services provided by the university.

In response to a question from Representative Byerly, Ms. Clark said she could provide him with a breakdown of the costs relating to the Center for Aerospace Sciences sponsorship of an acrobatic flying team.

Representative Dorso said he thinks it is important for the Legislative Assembly or an interim legislative committee to continue monitoring the progress made by these three institutions on their deficit fund balances. Mr. Larry Isaak, Chancellor, North Dakota University System, said the State Board of Higher Education will be looking at this issue during its fall meeting. He said depending upon the timing of the State Board of Higher Education meetings and the last meeting of this committee, he will try to provide this committee with a status report of the deficit fund balances at its final meeting.

Mr. Eide presented information regarding the Minot State University deficit fund balances contained in the June 30, 1997, North Dakota University System Comprehensive Annual Financial Report. He said the report included three funds with deficit balances in excess of \$100,000. He said the first fund was the food service fund which had a deficit balance of \$113,887. He said as of May 29, 1998, that deficit had been reduced to \$31,000 and was projected to be eliminated by June 30, 1998.

Mr. Eide said the second deficit fund was the Minot State University development office which had a deficit balance of \$263,394 as of June 30, 1997. He said the fund is projected to have a deficit balance of \$251,000 as of June 30, 1998. He said the deficit is projected to be eliminated by June 30, 1999.

Mr. Eide said the third deficit fund balance was the dome floor fund which had a negative balance of \$285,334 as of June 30, 1997. He said the university has received pledges of \$400,000 to be received over the next four years. He said \$240,000 of the pledges has been collected. Mr. Eide said in addition the city has budgeted \$40,000 per year through the year 2006 to be used for dome improvements. He said the \$40,000 per year will be used toward the deficit until the deficit balance is eliminated.

Mr. Steve Bensen, Valley City State University, presented information on the Valley City State University deficit fund balance contained in the June 30, 1997, North Dakota University System Comprehensive Annual Financial Report. He said the fund with the deficit balance was the campus telecommunications fund which had a deficit balance of \$163,838 as of June 30, 1997. He said the deficit fund balance is related to the acquisition of a new telephone switch and the related wiring. He said the switch was financed, but the related wiring costs were not. Mr. Bensen said as of May 30, 1998, the deficit in the campus telecommunications fund had been reduced to \$149,206. He said rates have been adjusted to generate sufficient revenues to eliminate this deficit balance over the next seven to eight years. He said this is different than the comments included in the

audit report which indicated that the negative fund balance would be funded over the next four years.

Mr. Nagel presented the revised North Dakota University System Comprehensive Annual Financial Report for the year ended June 30, 1997. He said the revision to the audit report relates to a land sale made by the University of North Dakota Aerospace Foundation. He said the sale agreement for the land was entered into on June 30, 1997, and in the earlier audit the proceeds were reflected in the year ended June 30, 1997. Mr. Nagel said since the actual closing date was August 28, 1997, the sale proceeds were removed from the June 30, 1997, audit report and will be reflected in the fiscal year 1998 audit report.

Without objection, the chairman accepted the revised North Dakota University System Comprehensive Annual Financial Report for the year ended June 30, 1997.

Mr. Bob Lane, Attorney General's office, presented a bill draft regarding the complete disclosure of all internal service funds and how the funds within the internal service funds are spent. A copy of the bill draft is on file in the Legislative Council office. He said the proposed bill draft would require each college and university under the control of the State Board of Higher Education to prepare an annual financial statement on all internal service funds of that institution. He said the financial statements would need to be prepared in a format developed and distributed by the State Auditor to each higher education institution and must include at least a balance sheet and an activity statement which would provide complete and specific detail on all revenues and expenditures and transfers from each internal service fund. He said the financial statements required by this bill draft would need to be prepared on a fiscal year basis and be filed with the Legislative Council by December 31 following the close of each fiscal year.

Representative Dorso said this bill draft appears to be much more than is needed or wanted by the Legislative Assembly in regard to internal service funds.

In response to a question from Representative Dorso, Mr. Nagel said the State Auditor's office has reviewed the bill draft. He said he does not think the bill draft is needed.

Representative Dorso asked how legislators can get the information they want regarding internal service funds and be assured that the information presented in higher education audit reports is accurate. He suggested all internal service funds be eliminated unless specifically approved by the State Auditor's office.

Mr. Nagel said the provisions within this bill draft would create a lot of work for the University System. He said he is not sure if the problem is a lack of information or too many internal service funds. Mr. Nagel said internal service funds should maintain as close to a zero balance as possible, thereby indicating that the fund is not making money or losing money. He said what the State Auditor's office was finding was that

the money was being moved between funds. Mr. Nagel said the State Auditor's office has been working with the University System to prevent large accumulations of funds in internal service funds. He said they have not recommended reducing the number of internal service funds.

Ms. Laura Glatt, North Dakota University System, said since internal service funds became an issue the University System has been working with the State Auditor's office to implement the recommendations of the State Auditor's office regarding internal service funds. She said the most significant recommendation related to the offset of revenues and expenditures in internal service funds in order to avoid the accumulation of large balances in internal service funds. She said the board is working with all campuses for compliance with this recommendation and is drafting procedures for the campuses to follow regarding internal service funds. Ms. Glatt said the State Auditor's office is working with the University System on the drafting of the procedures. She said what the University System needs to know is exactly what it is legislators want regarding internal service funds so that the appropriate information can be provided to legislators.

Representative Dorso said he wants to know that the audits presented to this committee accurately reflect the financial position of the campuses. He said he wants to know that financial transactions and deficit balances and other such items are not being hidden through internal service fund transfers and transactions. He said if this can be addressed without this bill draft he does not see a need for such a drastic measure as what is proposed in the bill draft. Ms. Glatt said hopefully the work being done between the University System and the State Auditor's office will provide the comfort level desired by the State Auditor's office and legislators regarding internal service funds.

The committee took no action on the bill draft relating to internal service funds.

Mr. Nagel presented the Department of Human Services 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 Department of Human Services audit report for the biennium ended June 30, 1997.

Mr. Sheldon Wolf, Department of Human Services, presented information, pursuant to North Dakota Century Code Sections 25-04-17 and 50-06.3-08, regarding the Department of Human Services accounts receivable writeoffs and other information relating to the aging of the accounts receivable writeoffs, collection efforts utilized by the department, the Department of Human Services contract with Indian Health Service, the department's policy regarding the provision of services when the ability to pay does not exist, and the provisions of *White v. Califano*. A copy of his presentation is on file in the

Legislative Council office. He said in September 1992, the Department of Human Services entered into a contractual agreement with Indian Health Service for the provision of mental health and chemical dependency treatment for eligible American Indian patients referred to the State Hospital. He said the original contract covered the period beginning October 1, 1991, and ending September 30, 1992. He said the contract provided for reimbursement not to exceed \$974,900. Mr. Wolf said the contract included two additional one-year options with reimbursement not to exceed \$1 million for each additional year. He said in addition other amendments were accepted which extended the contract through January 20, 1995. He said these additional amendments added \$293,723 to the contract. He said the total amount of the contract was \$3,217,923.

Mr. Wolf said the billable charges generated during the contract period were \$7,646,935. He said Indian Health Service reimbursed the Department of Human Services \$3,218,415 and third-party payers paid an additional \$312,830, resulting in an unpaid balance of \$4,115,690. He said of this amount \$3,985,573 has previously been approved by this committee for writeoff and subsequently written off. He said an additional amount of \$35,048 is included in the writeoff request currently before this committee and approximately \$100,000 will be submitted to this committee as a part of the 1998 writeoff request.

Mr. Wolf said on January 20, 1995, Indian Health Service identified services which it would and would not pay for through a medical purchase order (MPO). He said the MPO billable charges since January 20, 1995, have been \$786,316, of which all but \$129,942 has been collected. He said the State Hospital expects to collect the \$129,942.

Mr. Wolf said the case of *White v. Califano* provided that since the state lacked the power to initiate and carry out involuntary commitment procedures of a mentally ill Indian residing on an Indian reservation, the law imposed no duty on the state to provide mental health care for indigent Indians. He said in addition since indigent Indians lacked an alternative source of health care, responsibility for providing the necessary care was upon the United States.

Mr. Wolf reviewed the departmental policy which precluded the State Hospital and human service centers from serving tribal court-committed patients or referrals from Indian Health Service without prior arrangements for payment. He said the department later rescinded that policy. He said since January 1995 Indian Health Service has contracted with other mental health and chemical dependency service providers. Mr. Wolf said the State Hospital continues to honor tribal court commitments for American Indians. He said the State Hospital also receives patients under tribal commitment orders who are not the responsibility of Indian Health Service. He said the bills for these individuals are handled the same as other patients. He said similarly the human service

centers provide services for American Indians and handle the billings in the same manner as for other clients.

Mr. Wolf reviewed the collection efforts utilized for client accounts before the account is proposed to be written off. He said accounts are determined to be uncollectible by the human service centers or the State Hospital through normal collection activities. He said such accounts are then turned over to the Department of Human Services credit and collections officer who follows a three-stage collection procedure as follows:

- Send a letter to the individual requesting payment.
- Follow up with a telephone contact to negotiate payment of the account.
- If the first two attempts are unsuccessful, the account is turned over to one of two collection agencies which provide collection services for the department.

Mr. Wolf said the collection agency retains 25 percent of all regular collections and 50 percent of all collections which are litigated or are out of state. He said if the collection agency cannot collect on the account, it is returned to the department and presented to this committee for writeoff.

Mr. Wolf reviewed the June 30, 1997, accounts receivable to be written off for the Department of Human Services as follows:

Human service centers	\$61,750.24
Developmental Center	180,950.99
State Hospital	4,881,407.40
Total	\$5,124,108.63

Mr. Wolf said of the \$4,881,407 to be written off from the State Hospital, \$35,048 relates to Indian Health Service. He said about \$3.1 million of the writeoffs relates to services provided to clients which were jail transfers, district or juvenile court clients, or juvenile services clients.

In response to a question from Representative Byerly, Mr. Mike Schwindt, Department of Human Services, said based on a state Supreme Court ruling, tribal courts have the same status as state courts; therefore, the Department of Human Services is required to honor tribal court commitments.

In response to a question from Representative Dorso, Mr. Wolf said services were provided which Indian Health Service was not required to pay for in addition to the fact that more service units were delivered than the Indian Health Service contract provided.

In response to a question from Representative Maragos, Mr. Schwindt said the issue of Indian Health Service accounts receivable writeoffs will need to be addressed one more time with the June 30, 1998, writeoff of approximately \$100,000.

Representative Dorso said if the department cannot reach an agreement with Indian Health Service regarding payment for the services provided it

should pursue action through the courts or the Congressional Delegation. He said the *White v. Califano* case is clear in that it is the responsibility of the federal government to provide for the care of American Indians.

**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 \$4,881,407.40 at the State Hospital, \$180,950.99 at the Developmental Center, and \$61,750.24 at the human service centers and that the Department of Human Services is encouraged to pursue any legal actions necessary to recover, from the federal government, all amounts written off by the department which relate to services provided to individuals eligible for reimbursement through Indian Health Service.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Maragos, Skarphol, Wald, and Wilkie and Senators Lips, Solberg, and Tallackson. Voting "nay" was Representative Poolman.

In response to a question from Representative Dorso, Ms. Carol K. Olson, Department of Human Services, said she believes the department has the resources needed to pursue a legal course of action against Indian Health Service in an attempt to recover the amounts written off.

The committee recessed at 6:05 p.m. and reconvened at 9:00 a.m. on Wednesday, June 3, 1998.

Mr. Gordy Smith, State Auditor's office, presented a report on the status of recommendations from the child support enforcement program performance audit. A copy of the report is on file in the Legislative Council office. Mr. Smith said the original performance audit contained 14 recommendations. He said during the review of the status of the recommendations, it was determined that one recommendation was fully implemented, four recommendations were partially implemented, and nine recommendations were not implemented.

Representative Dorso said the Legislative Audit and Fiscal Review Committee needs to continue monitoring the child support enforcement program performance audit due to the large number of partially implemented and not implemented recommendations.

**It was moved by Representative Dorso, seconded by Senator Solberg, and carried that the Legislative Audit and Fiscal Review Committee request the State Auditor's office to review the status of the recommendations contained in the child support enforcement program performance audit after the new computer system for the child support enforcement program is operational and provide a report on the status of the recommendations to the Legislative Audit and Fiscal Review Committee.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Maragos, Mickelson, Poolman, Skarphol, and Wilkie and

Senators Lips, Solberg, and Tallackson. No negative votes were cast.

Without objection, the chairman accepted the report on the status of recommendations from the child support enforcement program performance audit.

Mr. Smith presented a report on the status of recommendations from the North Dakota agricultural mediation program performance audit. A copy of the report is on file in the Legislative Council office. Mr. Smith said the original performance audit contained nine recommendations. He said during the review of the status of the recommendations, it was determined that five recommendations were fully implemented, two recommendations were partially implemented, one recommendation was not implemented, and one recommendation was determined to no longer be applicable.

Without objection, the chairman accepted the report on the status of recommendations from the North Dakota agricultural mediation program performance audit.

Mr. Smith presented a report on the status of recommendations from the Department of Public Instruction performance audit. A copy of the report is on file in the Legislative Council office. Mr. Smith said the original performance audit contained 18 recommendations. He said during the review of the status of the recommendations, it was determined that nine recommendations were fully implemented, five recommendations were partially implemented, and four recommendations were not implemented.

Without objection, the chairman accepted the report on the status of recommendations from the Department of Public Instruction performance audit.

Representative Dorso said Mr. Nelson told him the foundation aid status report from the prior day was not as prescribed by this committee. He said the Department of Public Instruction needs to redo the report and include the information requested by the committee four years ago, including distributing the report. Attached as Appendix B is a revised foundation aid status report.

Mr. Robert Meidinger, Office of Management and Budget, presented the statewide Comprehensive Annual Financial Report (CAFR) for the year ended June 30, 1997. He also presented an outline of the CAFR, a copy of which is on file in the Legislative Council office. He said the CAFR covers all of the state's funds and account groups and financial transactions during the year. He said the CAFR is a general purpose report intended to meet the needs of a broad array of user groups.

Mr. Meidinger reviewed the various sections of the CAFR and the notes to the financial statements. He also reviewed the budgetary report showing actual expenditures to budget for the biennium ended June 30, 1997, and he reviewed the departmental statements by fund for the fiscal year ended June 30, 1997.

Without objection, the chairman accepted the North Dakota Comprehensive Annual Financial Report for the year ended June 30, 1997.

Ms. Pam Sharp, Office of Management and Budget, presented a status report on the procurement practices performance audit recommendations. A copy of her presentation is on file in the Legislative Council office. She reviewed the 30 recommendations contained in the performance audit report on state procurement practices and said progress has been made on all 30 of the recommendations.

Ms. Dina Butcher, Office of Intergovernmental Assistance, presented information on community development block grant loan writeoffs, the status of community development block grant loans, and an aged loan listing report by region. Copies of her handouts are on file in the Legislative Council office. She said the history of unpaid loans is public information, but the aging of currently outstanding loans is still confidential information. Ms. Butcher said the loan information distributed regarding the aged loan listing does not contain the names of the companies. She said the allowance of \$4.1 million is an estimate based on the total amount of loans outstanding and therefore a specific list cannot be provided.

In response to a question from Representative Poolman, Ms. Butcher said the Department of Economic Development and Finance did have this program for a while. She said because the funding comes through Housing and Urban Development and is targeted to low to moderate income families, it is difficult to manage with the rest of the economic development and finance loan portfolios. She said the Office of Intergovernmental Assistance does work closely with the Department of Economic Development and Finance and other economic development agencies.

Representative Skarphol asked if the Office of Intergovernmental Assistance could provide information to this committee similar to what was provided by the Department of Economic Development and Finance. He said the Department of Economic Development and Finance provided a listing of all outstanding loans and loans written off for all programs. He said he would like to see the Office of Intergovernmental Assistance work with the Department of Economic Development and Finance to incorporate the loans made through the community development block grant loan program into the information provided by the Department of Economic Development and Finance. Ms. Butcher said she would coordinate that with the Department of Economic Development and Finance and would provide the information to committee members. She said she will provide as much as possible within the confines of the open records law.

Ms. Beth Baumstark, Attorney General's office, presented a report on the Attorney General's investigation of the Lake Agassiz Regional Council. A copy of her presentation is on file in the Legislative Council office. She said the Attorney General's office had

been requested by this committee to determine if the regional council inappropriately formed a separate nonprofit corporation, if the regional council inappropriately transferred powers and duties to a separate nonprofit corporation, and if the regional council inappropriately transferred funds or money to a separate nonprofit corporation.

Ms. Baumstark said based upon the investigation, the Attorney General's office concluded that the transfers of staff, assets, bank accounts, and the assignment of grants and loans by the Lake Agassiz Regional Council to the Lake Agassiz Regional Development Corporation effective July 1, 1997, were clearly inappropriate. She said the conclusion is based on:

- The North Dakota constitutional provision prohibiting donations of public property to private entities except through a business, enterprise, or industry or for the benefit of the poor has apparently been violated both through the original transfers and through the provisions for distribution of the assets upon the dissolution of the regional development corporation. She said one effect of the transfers would be to deprive the cities and townships who participated in the regional council of their right to the return of any portion of the assets upon regional council dissolution. She said the counties who have participated in the regional council also lose the right to the return of any portion of the assets transferred to the regional development corporation upon the dissolution of the regional council.
- The regional council's transfer of all staff and thereby the ability to comply with its statutory responsibilities and the handling of the regional council's responsibilities by the regional development corporation also present the question of whether the regional council has circumvented the statutory procedures for dissolution and distribution of its assets.

Ms. Baumstark said based on this investigation, a copy of this report is being forwarded to the city attorneys and the county state's attorneys of the cities and counties participating in the regional council for any action they deem appropriate.

Representative Poolman asked if the timeline for the transfer of assets by the regional council imply that the transfer was done to circumvent the law passed by the 1997 Legislative Assembly. Ms. Baumstark said based upon the timing of the transfers, that would be a reasonable assumption. She said transfers were not made based on the 1995 Attorney General's opinion which stated that regional councils were political subdivisions, but transfers were made after the bill was passed by the 1997 Legislative Assembly. She said the Lake Agassiz Regional Council did not actually close bank accounts and reopen new accounts under the regional development corporation but only changed the names on the accounts.

In response to a question from Representative Byerly, Ms. Baumstark said no criminal laws have been violated and the responsibility for taking action in a court of law falls upon the local state's attorneys or city attorneys to recoup the assets improperly transferred to the regional development corporation.

Representative Dorso suggested that all county commissioners of the counties associated with the regional council or the regional development corporation be provided a copy of the Attorney General's report. He said they should be notified that they need to pursue legal action in order to recover taxpayer property which was illegally transferred from the regional council to the regional development corporation. He said all state agencies should be urged to discontinue financial transactions with the regional council until it has regained its assets which were transferred to the regional development corporation.

**It was moved by Senator Solberg and seconded by Representative Poolman that the Legislative Audit and Fiscal Review Committee request that the Legislative Council chairman request the Attorney General to ask county state's attorneys, city attorneys, and county commissioners of political subdivisions affiliated with the Lake Agassiz Regional Council to take such action as may be necessary to dissolve the Lake Agassiz Regional Development Corporation and transfer its assets back to the Lake Agassiz Regional Council and that the Legislative Council chairman urge state agencies to cease financial activity with the Lake Agassiz Regional Development Corporation and the Lake Agassiz Regional Council until this issue is resolved.**

Ms. Baumstark said she thought the directive to the state's attorneys, city attorneys, and county commissioners would come through the Legislative Council. She said in her opinion that would give it more of an impact than it will have coming from the Attorney General's office.

Chairman Timm said North Dakota Century Code Section 54-35-02.2 provides that whenever the Legislative Audit and Fiscal Review Committee determines or has reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds, the committee shall present such evidence or information to the Attorney General. He said this section then provides that the Attorney General shall receive and accept such evidence or information and shall immediately commence any additional investigation necessary and upon completion of the investigation, if the evidence supplied by the committee and through the investigation indicates the probability of a violation of law, the Attorney General shall immediately prosecute such official or employee as provided by law.

**The motion carried.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Mickelson, Poolman, and Skarphol and Senators

Lips, Solberg, and Tallackson. No negative votes were cast.

The committee delayed action on the following audit reports and requested that the reports be presented at the next committee meeting:

- Agricultural Products Utilization Commission for the biennium ended June 30, 1997.
- North Dakota Stockmen's Association for the years ended December 31, 1997 and 1996.

**It was moved by Senator Lips, seconded by Senator Tallackson, 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
    - Offices of the Governor and Lieutenant Governor
    - North Dakota State Treasurer's office
    - Office of the Attorney General
    - Tax Department
    - Judicial branch
    - Department of Public Instruction
    - Department of Health
    - Insurance Department
    - Department of Labor
    - Public Service Commission
    - Division of Emergency Management
    - Department of Corrections and Rehabilitation
    - Indian Affairs Commission
    - Office of Management and Budget
    - Department of Economic Development and Finance
    - Department of Agriculture
    - State Historical Society
    - Game and Fish Department
    - Department of Tourism
    - Department of Parks and Recreation
    - State Water Commission
    - Department of Transportation
    - Department of Human Services
  - For the years ended September 30, 1997 and 1996
    - North Dakota State Fair Association
  - For the years ended December 31, 1997 and 1996
    - Bank of North Dakota
  - For the years ended June 30, 1997 and 1996
    - UND-Lake Region
    - University of North Dakota
    - Valley City State University
    - Minot State University - Bottineau
  - For the year ended June 30, 1997
    - Revised North Dakota University System Comprehensive Annual Financial Report

### **Statewide Comprehensive Annual Financial Report**

- For the period dated November 15, 1997
  - Report on the status of recommendations from the North Dakota agricultural mediation program performance audit
- For the period dated February 4, 1998
  - Report on the status of recommendations from the Department of Public Instruction performance audit
- For the period dated February 5, 1998
  - Report on the status of recommendations from the child support enforcement program performance audit
- Audit reports available but not selected for presentation to the committee:
  - Office of Administrative Hearings (biennium ended June 30, 1997)
  - State Board for Vocational and Technical Education (biennium ended June 30, 1997)
  - Children's Services Coordinating Committee (biennium ended June 30, 1997)
  - Protection and Advocacy Project (biennium ended June 30, 1997)
  - Industrial Commission (biennium ended June 30, 1997)
  - Aeronautics Commission (biennium ended June 30, 1997)
  - Department of Banking and Financial Institutions (biennium ended June 30, 1997)
  - Securities Commissioner (biennium ended June 30, 1997)
  - Municipal Bond Bank (years ended December 31, 1997 and 1996)
  - Highway Patrol (biennium ended June 30, 1997)
  - Council on the Arts (biennium ended June 30, 1997)
  - Soil Conservation Committee (biennium ended June 30, 1997)
  - Beginning farmer revolving loan fund (years ended December 31, 1997 and 1996)
  - North Dakota guaranteed student loan program (years ended September 30, 1997 and 1996)
  - North Dakota student loan trust fund (years ended June 30, 1997 and 1996)
  - Developmentally disabled facility loan program (years ended December 31, 1997 and 1996)

**Community water facility loan fund (years ended December 31, 1997 and 1996)**  
**Abstracters Board of Examiners (August 31, 1997 and 1996)**  
**State Board of Chiropractic Examiners (December 31, 1997)**  
**State Examining Committee of Physical Therapists (for the two years ended June 30, 1996)**  
**Board of Social Work Examiners (June 30, 1997 and 1996)**  
**State Electrical Board (June 30, 1997 and 1996)**  
**State Board of Psychologist Examiners (June 30, 1997 and 1996)**  
**State Board of Architecture (June 30, 1997 and 1996)**  
**State Board of Podiatry Examiners (December 31, 1996 and 1995)**  
**State Board of Pharmacy (June 30, 1997 and 1996)**  
**Real Estate Commission (June 30, 1997 and 1996)**  
**State Board of Registration for Professional Soil Classifiers (June 30, 1997 and 1996)**  
**Board of Nursing (June 30, 1997 and 1996)**  
**State Board of Addiction Counseling Examiners (June 30, 1997 and 1996)**  
**State Board of Cosmetology (June 30, 1997)**

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

The Legislative Council staff presented a memorandum entitled *Comparison of Commodity Group Assessments, Late Filing Penalties, and Auditing Procedures*. The memorandum provided information on the statutory reference for each commodity group, assessment provisions, estimated average biennial collections, nonpayment penalty provisions, collection procedures, and procedures for the auditing of handlers.

The Legislative Council staff presented a memorandum entitled *South Dakota Commodity Checkoff Process*. The memorandum provided information regarding what commodity checkoff collections have been centralized by the state of South Dakota.

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 and Central Services requirements.

In response to a question from Senator Solberg, Ms. Nancy Bateman, North Dakota Beef Commission,

said in her opinion the checkoff process is already adequately handled and this bill draft may be creating more administrative processes and costs than are needed to address any problems that have been raised in individual commodity group audits. She said the Beef Commission has an excellent working relationship with all of its handlers and would prefer to continue collecting its own funds.

Mr. Neal Fisher, North Dakota Wheat Commission, said the Wheat Commission monitors its checkoff collections against agricultural statistics in order to ensure that the collections received are accurate in comparison to the state's production. He said in his opinion the bill draft creates unnecessary administrative processes relating to the collection of commodity checkoffs.

Representative Gerntholz said he does not think this bill draft is necessary to address the few problems cited in a few of the commodity group audit reports.

Representative Skarphol said uniformity is needed regarding the assessment provisions and penalty provisions for the commodity groups. He said some are currently in the Administrative Code and some are in the Century Code.

Mr. Scott Krueger, Arthur Companies, Inc., testified in support of the bill draft. He said he would support a consolidated checkoff and remittance form for the various commodity groups.

Mr. Larry Kleingartner, National Sunflower Association, said if the commodity group checkoff collection process is transferred to the State Treasurer's office, the commodity groups lose the hands-on relationship and oversight they currently have with the commodity handlers. He said North Dakota has a higher checkoff collection percentage than South Dakota because the people handling the collections in North Dakota are the commodity group people.

The committee recessed for lunch at 12:40 p.m. and reconvened at 1:20 p.m.

Chairman Timm indicated that the bill draft creating a centralized commodity group collection process would be held until the next committee meeting. He said the committee staff is requested to amend the bill draft to provide for uniform filing dates for the various commodity groups under the centralized collection process.

Chairman Timm announced that the next committee meeting would be held on Monday and Tuesday, October 5-6, 1998.

The Legislative Council staff presented a memorandum entitled *Eligibility Requirements for Participation in the State Bonding Fund, State Fire and Tornado Fund, Risk Management Fund, and Public Employees Retirement System*. The memorandum provided information on what employees and public entities are eligible to participate in the state bonding fund, state fire and tornado fund, risk management fund, and the Public Employees Retirement System.

The Legislative Council staff presented a memorandum entitled *Summary of Minnesota Statute*

*Chapter 16D Regarding State Debt Collection.* The memorandum summarized the Minnesota law providing for the Minnesota statewide centralized collection agency.

Representative Dorso said he thinks this is a good idea and that a centralized collection agency should be pursued for the state of North Dakota. He said the current system of having all agencies do their own collections is not efficient when one individual owes money to more than one state agency. He said other state agencies are not aware of this and then more than one state entity is pursuing collection efforts against the same individual.

**It was moved by Representative Skarphol, seconded by Representative Gerntholz, and carried that the Legislative Council staff prepare and present at the next meeting a bill draft to create a centralized debt collection agency similar to the one established in the state of Minnesota and that the debt collection agency be established within the State Treasurer's office.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Mickelson, Poolman, Skarphol, and Wilkie and Senator Solberg. No negative votes were cast.

Mr. Nelson presented a memorandum entitled *Contents of a Report to the Appropriations Committees on Audit Findings and Recommendations.* He said in accordance with the Legislative Audit and Fiscal Review Committee request for information on a way to inform the Appropriations Committees of findings and recommendations contained in agency audit reports, the Legislative Council staff and the State Auditor's office concluded that significant findings and recommendations contained in audit reports and performance audits presented to the Legislative Audit and Fiscal Review Committee could be compiled into a document to be presented to the Appropriations Committees.

In response to a question from Representative Timm, Mr. Nelson said the report could also be distributed to members of the Legislative Audit and Fiscal Review Committee.

Representative Dorso asked if recommendations made by this committee to the Appropriations Committee would also be included in this report. Mr. Nelson said the findings and recommendations of this committee are included in this committee's report to the Legislative Council. He said it has been common practice for the Legislative Council fiscal staff to make the Appropriations Committees aware of any recommendations made by this committee.

Mr. Nelson said at this committee's last meeting of the interim a motion will be made directing the committee chairman and the staff to prepare a final report. He said this report would include all of the recommendations made by the committee throughout the interim. He said additional recommendations could be made by the committee at that time and would be included in the committee's report to the Legislative Council.

**It was moved by Representative Skarphol, seconded by Representative Byerly, and carried that the Legislative Audit and Fiscal Review Committee recommend that the State Auditor's office prepare a report and present the report to the Appropriations Committees and each member of the Legislative Audit and Fiscal Review Committee, at the beginning of the legislative session, of significant audit findings and recommendations contained in the audit reports and performance audits presented to the Legislative Audit and Fiscal Review Committee during the previous interim.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Mickelson, Poolman, Skarphol, and Wilkie and Senator Solberg. No negative votes were cast.

Mr. Nelson presented a memorandum entitled *Possible Changes to the North Dakota Century Code Regarding the Acquisition of Assets and Services by State Agencies and Institutions.* He also presented a bill draft relating to the recommendations contained in the memorandum. He said the bill draft prohibits state agencies and institutions from entering into contracts for services to be provided in one biennium which provide for the payment for the services to extend beyond that biennium. He said in addition the bill draft would provide that the contents of the budget data prepared by the director of the budget include a list of every individual asset or service excluding real estate with a value of at least \$50,000 or every group of assets or services comprising a single system with a value of at least \$50,000 acquired through a capital or operating lease arrangement or other financing arrangement.

**It was moved by Senator Solberg, seconded by Representative Skarphol, and carried that the bill draft relating to the acquisition of assets and services through financing activities by state agencies and institutions be approved and recommended to the Legislative Council.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Mickelson, Poolman, Skarphol, and Wilkie and Senator Solberg. No negative votes were cast.

The Legislative Council staff presented a bill draft relating to the confidentiality of audit reports. The bill draft provides that state agency or 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. Glatt said the bill draft creates a problem in that the State Board of Higher Education's Audit Subcommittee meetings are public. She said the only exception for the board to hold a nonpublic meeting relates to the hiring or firing of a president of an institution of higher education. She requested that the committee consider amending the bill draft to allow the State Board of Higher Education to go into

executive session in order to receive audit reports relating to the institutions of higher education.

**It was moved by Representative Skarphol, seconded by Representative Aarsvold, and carried that the bill draft providing for the confidentiality of audit reports be amended to include a section providing that the State Board of Higher Education or a committee of the State Board of Higher Education may go into executive session in order to receive audit reports relating to the institutions of higher education.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Mickelson, Poolman, Skarphol, and Wilkie and Senator Solberg. No negative votes were cast.

**It was moved by Representative Skarphol, seconded by Representative Byerly, and carried that the Legislative Audit and Fiscal Review Committee request that the University of North Dakota Aerospace Foundation provide committee members with a list of assets, 1099s, W-2s, and activities not related to aerospace for 1997.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Mickelson, and Skarphol and Senator Solberg. Voting "nay" were Representatives Poolman and Wilkie.

**It was moved by Representative Aarsvold, seconded by Representative Byerly, and carried**

**that the Legislative Audit and Fiscal Review Committee request the Legislative Council staff to provide information at the next committee meeting regarding the Governor's special fund referred to in the audit of the Governor's office.** Voting "aye" were Representatives Timm, Aarsvold, Byerly, Dorso, Gerntholz, Mickelson, Skarphol, and Wilkie and Senator Solberg. Voting "nay" was Representative Poolman.

**It was moved by Representative Wilkie, seconded by Representative Mickelson, and carried on a voice vote that the meeting be adjourned.** The meeting was adjourned at 2:20 p.m.

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Paul R. Kramer  
Senior Fiscal Analyst

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

ATTACH:2