

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Monday, March 5, 2001
Brynhild Haugland Room, State Capitol
Bismarck, North Dakota

Representative Francis J. Wald, Chairman, called the meeting to order at 4:00 p.m.

Members present: Representatives Francis J. Wald, Ole Aarsvold, Rex R. Byerly, RaeAnn G. Kelsch, Doug Lemieux, Andrew G. Maragos, Mike Timm, Lonny B. Winrich; Senators Dwight C. Cook, Jerome Kelsh, Ralph Kilzer, Jerry Klein, Duane Mutch, Ronald Nichols, David O'Connell, Ken Solberg

Member absent: Representative Wesley R. Belter

Others present: See attached appendix

NORTH DAKOTA UNIVERSITY SYSTEM
AUDIT REPORT

Chairman Wald called on Mr. John Grettum, State Auditor's office, Fargo, who presented the audit report for the North Dakota University System for the year ended June 30, 2000. He reviewed the auditor's responses to the committee's guidelines and the audit findings included in the report.

The audit report includes three prior audit findings that have not been implemented, including audit finding No. 99-7, relating to the University of North Dakota workers' compensation fund. The State Auditor's office recommends that the University of North Dakota return approximately \$164,000 to the University of North Dakota workers' compensation fund. The \$164,000 in question was used to pay salaries, travel, and office expenses relating to the university's occupational safety nurse program. The university maintains that charging the university's workers' compensation fund for costs associated with the occupational safety nurse program is reasonable and appropriate because the program results in decreased workers' compensation insurance premiums for the university.

Senator Solberg said the finding has been included in two audit reports and the university has not addressed the issue. He said it appears the university does not plan to comply with the State Auditor's recommendation.

Chairman Wald called on Mr. Robert Gallagher, Vice President for Finance and Operations, University of North Dakota, to explain the university's justification for not implementing the auditor's recommendation. Mr. Gallagher said the university gives serious consideration to all recommendations of the State Auditor,

but in this instance believes that it is appropriately funding the costs associated with the occupational safety nurse program. Mr. Gallagher said the university plans to continue its current method of funding the occupational safety nurse program, unless instructed to do otherwise by the Legislative Audit and Fiscal Review Committee.

Representative Winrich said the Workers Compensation Bureau encourages employers to implement safety programs. He said the university's occupational safety nurse program appears to be an appropriate use of university funds. Chairman Wald said the issue is not the appropriateness of the program but the appropriateness of the funding source. He said the university is paying the salary of the occupational safety nurse program from the university's workers' compensation fund, which is normally used to pay workers' compensation premiums.

In response to a question from Representative Aarsvold, Mr. Gallagher said the university does not have a funding source other than the university's workers' compensation fund to pay the salaries and other costs associated with the occupational safety nurse program.

In response to a question from Representative Lemieux, Mr. Gallagher said the savings in workers' compensation insurance premiums resulting from the occupational safety nurse program have exceeded the costs associated with the program.

Chairman Wald said he believes it is the consensus of the Legislative Audit and Fiscal Review Committee that, if possible, the University of North Dakota comply with the State Auditor's recommendation relating to discontinuing the funding of the occupational safety nurse program from the university's workers' compensation fund.

Mr. Grettum presented the following current audit findings and recommendations:

Table with 2 columns: Audit Finding No. and Description. Row 1: 00-1, North Dakota State University tuition revenues - North Dakota State University improperly classified certain tuition revenues as continuing education fees.

00-2	<b>Approval of campus building and improvement projects</b> - Several building improvement projects did not receive the approval of the Budget Section or the Legislative Assembly.
00-3	<b>Williston State College local funds appropriation</b> - Williston State College overspent its 1999-2001 biennium local funds appropriation authority by \$966,504.
00-4	<b>One-time payroll adjustments</b> - North Dakota State University and the State College of Science faculty and staff received one-time salary adjustments; the Office of Management and Budget and the Budget Section were not subsequently notified, as required by North Dakota Century Code (NDCC) Section 54-14-03.1.
00-5	<b>University of North Dakota mandatory transfers</b> - The University of North Dakota improperly coded \$2,414,000 of transfers from various auxiliary funds.

Senator Solberg asked if audit finding No. 00-5 relating to University of North Dakota mandatory transfers was included in a previous audit report. Mr. Grettum said the State Auditor's office became aware of the university's practice during a previous audit, but the issue was addressed informally through a management letter recommendation, not an audit finding. Mr. Grettum said the audit finding is included in the June 30, 2000, audit report because of the significance of the amounts involved and because the university did not address the issue after the previous audit.

In response to a question from Representative Maragos, Mr. Grettum said the university's transfers should have been coded as nonmandatory transfers, rather than mandatory transfers, unless the transfers were required by the bond indenture. He said the university's coding of the transfers as mandatory may have been legal, as indicated by the university's response to the auditor's recommendation, but it is not in accordance with generally accepted accounting principals (GAAP).

Representative Byerly said the University System's response to audit finding No. 00-2 refers to legislation being considered by the 2001 Legislative Assembly to amend NDCC Section 15-10-12.1 to provide that legislative approval is not required for certain University System repair or renovation projects. Representative Byerly asked if the University System is implying that the proposed law change was justification for not obtaining the legislative approval required under current law. Ms. Laura Glatt, North Dakota University System, said some of the projects listed in the audit finding should have received prior legislative or Budget Section approval. She said the bill under consideration by the 2001 Legislative Assembly was mentioned in the response to the audit finding to make readers of the report aware that the issue may be resolved in the future if the legislation under consideration is passed.

**It was moved by Representative Kelsch, seconded by Representative Maragos, and carried on a roll call vote that pursuant to NDCC Section**

**54-35-02.2, the Legislative Audit and Fiscal Review Committee accept the audit report for the North Dakota University System for the year ended June 30, 2000.** Representatives Wald, Aarsvold, Byerly, Kelsch, Lemieux, Maragos, Timm, and Winrich and Senators Cook, Kelsch, Kilzer, Klein, Mutch, Nichols, O'Connell, and Solberg voted "aye." No negative votes were cast.

### **TIMING OF COMPLETION OF FUTURE UNIVERSITY SYSTEM AUDIT REPORTS**

Senator Solberg said the Senate Appropriations Committee of the Fifty-seventh Legislative Assembly has discussed the timing and completion of future University System audit reports. He said various bills under consideration by the 2001 Legislative Assembly may provide the University System greater flexibility in administering its budget and may impose new reporting requirements, as recommended by the 1999-2000 interim Legislative Council Higher Education Committee. He said the audit report will be especially useful to legislators if the proposed legislation is passed by the 2001 Legislative Assembly. He said for this reason, future audit reports for the University System should be completed prior to the legislative session.

Mr. Grettum said the State Auditor's office could have the fiscal year 2002 audit report available by December 1, 2002, if information is reported in a timely manner by the University System.

Representative Winrich asked if the audit report could be distributed to legislators before it is presented to the Legislative Audit and Fiscal Review Committee. Senator Solberg said if the audit report is available by December 1, 2002, the Legislative Audit and Fiscal Review Committee can meet during the 2002 organizational session; in which case the audit report will be available to the committee and other legislators in time for the legislative session.

Mr. Grettum said having the audit available for distribution by December 1 will require the State Auditor's office to have the audit fieldwork completed approximately one month earlier than normal.

**It was moved by Senator Solberg, seconded by Representative Byerly, and carried on a voice vote that the Legislative Audit and Fiscal Review Committee ask the Legislative Council chairman to provide correspondence to the chancellor of the North Dakota University System and to the State Auditor requesting that the agencies take appropriate action to ensure that the fiscal year 2002 audit of the North Dakota University System is available for presentation to the Legislative Audit and Fiscal Review Committee by December 1, 2002.**

### **FUTURE PERFORMANCE AUDITS**

Chairman Wald called on Mr. Gordy Smith, State Auditor's office, who presented information regarding

future performance audits. A copy of the information presented is on file in the Legislative Council office. The following agencies and programs were suggested as possible topics for future performance audits:

1. North Dakota University System.
2. Department of Human Services - Nursing home facilities.
3. Office space rented by state agencies and institutions.
4. Department of Corrections and Rehabilitation.
5. Department of Human Services - Institutional care.
6. Department of Human Services - Foster care.
7. Department of Transportation.
8. Attorney General's office - Gaming Division.

Representative Maragos said the performance audit of rented office space may provide important information to be used by the Legislative Assembly in evaluating future state building projects. He said it is unfortunate the audit was not completed prior to the 2001 legislative session.

**It was moved by Representative Maragos, seconded by Representative Winrich, and carried on a voice vote that pursuant to NDCC Section 54-10-01, the Legislative Audit and Fiscal Review Committee encourage the State Auditor's office to consider conducting a performance audit of office space rented by state agencies and institutions.**

**It was moved by Representative Wald, seconded by Senator Solberg, and carried on a voice vote that pursuant to NDCC Section 54-10-01, the Legislative Audit and Fiscal Review Committee encourage the State Auditor's office to consider conducting a performance audit of the Department of Corrections and Rehabilitation, including Roughrider Industries.**

**It was moved by Representative Byerly, seconded by Senator Solberg, and carried on a voice vote that pursuant to NDCC Section 54-10-01, the Legislative Audit and Fiscal Review**

**Committee encourage the State Auditor's office to consider conducting a performance audit of the driver's license and motor vehicle registration divisions of the Department of Transportation.**

Representative Timm said it may be important for the State Auditor's office to conduct a performance audit of the University System if the 2001 Legislative Assembly approves the recommendations of the 1999-2000 interim Legislative Council Higher Education Committee. Senator Solberg said a performance audit of the University System will be beneficial at some point in the future; however, the 2001-03 biennium may be too early to adequately review the University System's performance based on legislation passed by the 2001 Legislative Assembly.

### **STATE LIABILITY FOR OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS**

Pursuant to the committee's October 16-17, 2000, request, the Legislative Council staff distributed a memorandum entitled *State Liability for Occupational and Professional Licensing Boards*. A copy of the memorandum is on file in the Legislative Council office.

The committee adjourned subject to the call of the chair at 5:25 p.m.

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Joe R. Morrisette  
Senior Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1