

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Monday and Tuesday, October 16-17, 2000
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, Wesley R. Belter, Rex R. Byerly, RaeAnn G. Kelsch, Doug Lemieux, Andrew G. Maragos, Lonny B. Winrich; Senators Dwight C. Cook, Jerome Kelsh, Ralph Kilzer, Jerry Klein, Ken Solberg

Members absent: Representatives Ronald Nichols, Jim Poolman, Mike Timm; Senators Duane Mutch, David O'Connell

Others present: See attached appendix

It was moved by Representative Kelsch, seconded by Representative Byerly, and carried on a voice vote that the minutes of the May 22-23, 2000, meeting of the Legislative Audit and Fiscal Review Committee be approved as distributed.

COMMITTEE DISCUSSION RELATING TO ACCEPTANCE OF CERTAIN AUDIT REPORTS

Chairman Wald called on Representative Winrich who discussed concerns relating to the committee's acceptance of audit reports which include recommendations not agreed to by the agency being audited. He said it may not be appropriate for the Legislative Audit and Fiscal Review Committee to accept an audit report if there is disagreement between the auditor and the agency being audited. He asked if the committee's acceptance of the audit report requires that the agency implement all recommendations included in the report.

Chairman Wald called on Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, Legislative Council, who discussed committee action during previous interims relating to the acceptance of audit reports and the implementation of audit recommendations. The legislative budget analyst and auditor said during the 1977-78 interim, the Legislative Audit and Fiscal Review Committee recommended that all state agencies and institutions comply with and implement, within the limits of law, recommendations contained in audit reports prepared by the State Auditor's office. He said during the 1981-82 interim, the committee requested the State Auditor's office begin to conduct reviews of audited agencies six months after an audit

is performed to determine if agencies have complied with the auditor's recommendations. He said, however, he is not aware of any instances where the committee has taken action against an agency that did not comply with an audit recommendation. The committee's course of action could be to request an Attorney General's opinion if the audit recommendation relates to a question of law or to recommend a bill draft to address the situation.

Senator Solberg said recommendations resulting from a performance audit should be viewed differently than recommendations resulting from a financial audit. He said a financial audit deals with financial issues, such as the misuse of funds, whereas a performance audit deals with other issues, such as the administration of the agency. Representative Winrich said the committee's previous recommendation that state agencies and institutions comply with and implement audit recommendations does not differentiate between recommendations contained in performance audit reports and those contained in financial audit reports. Representative Winrich said in some cases it may be appropriate for the committee to direct an agency to implement an audit recommendation. He said in other cases it may be appropriate to allow an agency the flexibility to refrain from implementing an audit recommendation.

Representative Maragos said the committee's previous recommendation that state agencies and institutions comply with and implement audit recommendations is only a recommendation. He said it does not require compliance by state agencies and institutions. He said if there is disagreement regarding the implementation of an audit recommendation, the issue will be brought to the Legislative Assembly to be resolved.

Chairman Wald called on Mr. Robert Peterson, State Auditor, who said if an audit recommendation relates to a violation of law, the State Auditor's office will followup with the agency to ensure the recommendation is implemented. He said if the agency has not taken steps to address the recommendation at the time of the next audit, it will again be included as an audit finding and recommendation. He said for other recommendations, if the agency can document a justifiable reason for not implementing the recommendation, the State Auditor's office will not

include the recommendation in subsequent audit reports.

In response to a question from Representative Wald, Mr. Peterson said if the State Auditor's office identifies a violation of law, the violation is included as an audit finding. He said the State Auditor's office does not make a determination regarding whether or not the violation was justified based on the circumstances.

Representative Winrich said based on the committee's discussion, it is his understanding agencies have some flexibility regarding implementation of audit recommendations. He said based on this discussion, his concerns have been addressed.

AUDIT REPORTS

Chairman Wald called on Mr. Ed Nagel, Jr., State Auditor's office, who presented the audit report for the Secretary of State's office for the years ended June 30, 2000 and 1999. He reviewed the auditor's responses to the committee's guidelines and the operational efficiency recommendations included in the report.

Mr. Al Jaeger, Secretary of State, said he is pleased with the audit report and his agency has taken steps to implement one of the operational efficiency recommendations. He said implementation of the other operational efficiency recommendations included in the report will be dependent upon resources provided by the Legislative Assembly.

Mr. Nagel presented the audit report for Protection and Advocacy for the years ended June 30, 2000 and 1999. He reviewed the auditor's responses to the committee's guidelines and said the report does not contain any findings or recommendations.

Mr. Nagel presented the audit report for the Department of Agriculture for the years ended June 30, 1999 and 1998. He reviewed the auditor's responses to the committee's guidelines and the audit finding included in the report. Mr. Nagel also reviewed the recommendation for improved operational efficiency included in the audit report.

Chairman Wald said the statement of revenues and expenditures for the Department of Agriculture includes revenue categories labeled "business" and "nonbusiness." Chairman Wald said footnotes should be included in future audit reports to identify the source of these revenues. Mr. Jeff Weispenning, Deputy Commissioner, Department of Agriculture, said the business revenue relates to licensing and registration fees received by the Department of Agriculture.

Mr. Nagel presented the audit report for the State Historical Society for the years ended June 30, 2000 and 1999. He reviewed the auditor's responses to the committee's guidelines and the audit finding included in the report. Mr. Nagel also reviewed the recommendation for improved operational efficiency included in the audit report.

Representative Aarsvold said the audit finding relates to the State Historical Society expending more than 75 percent of its biennial appropriation authority for operating expenses during the first 18 months of the biennium which is a violation of North Dakota Century Code (NDCC) Section 54-27-11. He said the seasonal nature of the state historical site operations may have caused the agency to violate this section.

Mr. Nagel presented the audit report for the International Peace Garden for the years ended December 31, 1998 and 1997. He said the report contains a qualified opinion and seven audit findings and recommendations relating to the following:

- There is a lack of controls regarding chapel collections.
- There is a lack of controls regarding accounting for revenue.
- Travel vouchers are not used, or there is a lack of supporting receipts, or a lack of adequate information on the vouchers.
- There is a lack of proper supporting documentation for expenses and revenues.
- Expenses are classified by natural rather than functional category, in noncompliance with Financial Accounting Standards Board statement No. 117.
- Account balances and transactions are not shown in one functional currency but are reported in both United States and Canadian funds.
- Adequate fixed asset records are not maintained.

Representative Winrich said the audit report for the International Peace Garden is an example of an audit report where the agency needs to have flexibility in implementing the auditor's recommendations. He said the agency has indicated that some of the auditor's recommendations may not be implemented because of a lack of staff or the unique nature of the International Peace Garden operations.

Chairman Wald said for future audits of the International Peace Garden, the State Auditor's office should include a footnote to identify which revenue category includes state general fund moneys.

In response to a question from Representative Maragos, Mr. Nagel said the International Peace Garden land is owned by a nonprofit corporation. Senator Cook asked that the Legislative Council staff provide him with copies of the constitution and bylaws of the nonprofit corporation to determine what would happen to the International Peace Garden property if the nonprofit corporation ceased operations.

Mr. Nagel presented the audit report for the Council on the Arts for the years ended June 30, 1999 and 1998. He reviewed the auditor's responses to the committee's guidelines and the audit finding included in the report.

Mr. Nagel presented the audit report for the Tourism Department for the years ended June 30,

2000 and 1999. He reviewed the auditor's responses of the committee's guidelines and the audit finding included in the report. Mr. Nagel also reviewed the recommendations for improved operational efficiency included in the report.

Chairman Wald called on Mr. Donald LaFleur, State Auditor's office, who presented the information system audit report for the Department of Transportation driver's license master system. Mr. LaFleur discussed the audit findings included in the report, including:

1. Security rights for access to the driver's license master system are not adequate.
2. The driver's license master system does not prevent the use of old conviction codes, which specify the type of conviction being recorded, resulting in improper recording of point penalties against driver's records.
3. There is a lack of properly trained information technology coordinators to provide backup for critical information systems.
4. Adequate edit checks (criteria applied to data input into a computer system) do not exist to ensure accuracy, completeness, and validity of data.
5. Unique identifications are not being assigned to each user.

Mr. LaFleur discussed issues requiring further study. Mr. LaFleur said there appears to be a serious problem in North Dakota relating to drivers continuing to drive with a suspended or revoked license.

In response to a question from Representative Maragos, Mr. Keith Magnusson, Department of Transportation, said the department has not identified geographic regions of the state where the problem of drivers continuing to drive with suspended or revoked licenses is the most prevalent. He said the problem appears to be statewide.

Representative Wald asked if a driver's administrative record is cleared of a citation for actual physical control or driving under the influence after the court has found the driver not guilty of criminal charges for that offense. Mr. Magnusson said the citation is not removed from the driver's administrative record. He said the administrative system authorized by the North Dakota Legislative Assembly and required by federal regulations provides that the citation must be recorded in this manner. Mr. Magnusson said the courts have upheld the system.

In response to a question from Representative Wald, Mr. Magnusson said if the Legislative Assembly passes a law to require the record of a citation for actual physical control or driving under the influence be removed from a driver's administrative record after the driver is found not guilty of criminal charges for that offense, federal funds available to the state will be reduced.

Chairman Wald called on Mr. Gordy Smith, State Auditor's office, who presented a report on the use of

funds received by the Attorney General's office under Appendix B of the American Cyanamid settlement consent decree. Mr. Smith said the Attorney General's office received \$31,114 under Appendix B of the American Cyanamid settlement agreement. He said this amount was deposited in the Attorney General refund fund and, in compliance with NDCC Section 54-12-18, the Attorney General's office spent \$28,924 for expenses related to the Consumer Protection Division, and the remaining \$2,189 was transferred to the state general fund at the end of fiscal year 1998. He said based on the results of the review conducted, it is the opinion of the State Auditor's office that the Attorney General's office spent the Appendix B funds in compliance with the consent decree and the requirements of state law.

Mr. Smith said the State Auditor's office previously conducted a special audit relating to the \$100,000 received by the Attorney General's office under Appendix A of the American Cyanamid settlement consent decree. He said this money was transferred by the Attorney General's office to the North Dakota Farmers Union, which acted as the fiscal agent for the Commission on the Future of Agriculture. He said this audit report was presented to the committee at a previous meeting.

CAMPAIGN CONTRIBUTIONS RELATING TO CONSTITUTIONAL MEASURE NO. 3

Chairman Wald said the Legislative Council chairman, in a letter dated June 9, 2000, assigned to the Legislative Audit and Fiscal Review Committee the duty of obtaining information and reviewing the appropriateness of campaign contributions made by the National Association of State Treasurers and affiliated organizations to the State Treasurer's Office Preservation (STOP) Committee. The STOP Committee is a committee registered with the Secretary of State's office in opposition to constitutional measure No. 3, which was defeated in the June 13, 2000, primary election. Measure No. 3 proposed to remove the State Treasurer as an elected state officer.

Chairman Wald called on Legislative Council staff who presented memorandums entitled *Campaign Contributions Received by the State Treasurer's Office Preservation Committee from National and Regional State Treasurer Organizations and Dues Paid to Those Entities by North Dakota State Agencies and North Dakota Century Code Provisions Relating to Campaign Contributions Received by the State Treasurer's Office Preservation Commission*. Copies of the memorandums are on file in the Legislative Council office.

Campaign contribution statements filed with the Secretary of State's office by the STOP Committee indicate that the following reportable contributions were received to support the committee's campaign in opposition to constitutional measure No. 3:

Contributor	Contributor's State of Residence	Amount of Contribution
Mr. Bob Hanson	North Dakota	\$150
Mr. Jack Markel	Delaware	500
Midwest Association of State Treasurers	Minnesota	5,000
National Association of State Treasurers	Kentucky	30,000
Northeast State Treasurers Association	Vermont	5,000
Southern State Treasurers Association	Kentucky	5,000
Western State Treasurers Association	Utah	5,000
Total		\$50,650

The Legislative Council staff said correspondence received from the National Association of State Treasurers does not indicate the source of moneys used to provide the contributions to the STOP Committee. The correspondence indicates the association is organized under Section 501(c)(6) of the Internal Revenue Code. Although entities organized under Section 501(c)(3) are prohibited from attempting to influence legislation or participating in any political campaign, entities organized under Section 501(c)(6) are not so prohibited. The Legislative Council staff said based on the information reviewed, it appears the National Association of State Treasurers and its regional divisions did not violate state law relating to the contributions to the STOP Committee.

Representative Byerly said the information presented by the Legislative Council staff indicates there are two affiliated organizations of the National Association of State Treasurers--the College Savings Plan Network and the State Debt Management Network. Representative Byerly requested the Legislative Council staff contact the National Association of State Treasurers to obtain information regarding the tax status of the affiliated organizations. Representative Byerly also requested information on whether or not the donations are the result of official actions of boards or committees of the national and regional organizations. The legislative budget analyst and auditor said the letter received from the National Association of State Treasurers indicates the decision regarding the contribution by the national association was made at a membership meeting. He said the correspondence does not indicate whether or not the contributions of the regional divisions were the result of official actions of boards or committees.

In response to a question from Representative Wald, the legislative budget analyst and auditor said the correspondence received from the National Association of State Treasurers indicates the North Dakota State Treasurer was not part of the discussion or vote relating to the decision by the national association to contribute \$30,000 to the STOP Committee. He said the correspondence does not indicate whether or not the North Dakota State Treasurer was involved in

bringing the issue to the attention of the national association.

Senator Solberg, who is a member of the governing board of the Council of State Governments, said the National Association of State Treasurers is affiliated with the Council of State Governments. He said the issue of the campaign contributions made by the National Association of State Treasurers will be discussed at the next meeting of the governing board of the Council of State Governments, which is scheduled for December 2000. He said the governing board includes two members of the National Association of State Treasurers.

Chairman Wald said he is disappointed that the State Treasurer was unable to attend this meeting. He said his concern is that, although it appears no state laws were violated, an out-of-state entity which receives dues from the state of North Dakota made significant political contributions to influence a North Dakota election.

AUDIT REPORTS

Chairman Wald called on Mr. Nagel who presented the audit report for the State Board of Podiatry Examiners for the years ended December 31, 1998 and 1997. The audit was conducted by Imholte & Dahl, P.A., Certified Public Accountants, Fargo. Mr. Nagel said a representative of the firm that conducted the audit was unable to attend the meeting. He said the report contains an unqualified opinion and one audit finding relating to inadequate segregation of accounting functions. He said the statement of revenues, expenditures, and changes in fund balance indicates that during calendar year 1997, the fund balance for the State Board of Podiatry Examiners decreased from a deficit balance of \$3,337 to deficit balance of \$7,606. He said the fund's deficit balance improved slightly to \$6,972 at the end of calendar year 1998.

Representative Byerly said there are pending lawsuits that may prove costly for the board. He said fees paid by podiatrists in the state may need to be increased significantly in order to pay the expenses of the board.

Representative Maragos asked if the State Board of Podiatry Examiners is in violation of state law by continuing to operate with a deficit fund balance. Mr. Nagel said he is unaware of any statute that prohibits an occupational or professional licensing board from operating with a deficit fund balance.

Senator Cook said the committee should determine if the state has any potential liability resulting from the financial activities of the State Board of Podiatry Examiners and other occupational and professional licensing boards.

Representative Byerly said occupational and professional licensing boards are authorized by the Legislative Assembly. He said the committee should determine if the elimination of sovereign immunity

exposes the state to liability relating to the actions of occupational and professional licensing boards.

It was moved by Representative Maragos, seconded by Senator Cook, and carried on a voice vote that the Legislative Audit and Fiscal Review Committee request the Legislative Council staff to prepare memorandums relating to:

- **The state's liability, if any, resulting from financial activities and actions of occupational and professional licensing boards.**
- **Statutory provisions that prohibit an occupational or professional licensing board from operating with a deficit fund balance.**

Mr. Nagel presented the audit report for the Education Standards and Practices Board for the years ended June 30, 1999 and 1998. The audit was conducted by the firm of Steve and Hulsing, P.C., Certified Public Accountants, Dickinson. He said a representative of the firm that conducted the audit was unable to attend the meeting. Mr. Nagel said the report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Nagel presented the audit report for the State Board of Reflexology for the years ended June 30, 2000 and 1999. He said the report contains an unqualified opinion and one finding relating to inadequate segregation of accounting functions.

The committee recessed for lunch at 11:47 a.m. and reconvened at 1:00 p.m.

PERFORMANCE EVALUATION OF THE WORKERS COMPENSATION BUREAU

Chairman Wald called on Mr. Steve Novak, The Hays Group, Minneapolis, Minnesota, who, pursuant to NDCC Section 65-02-30, presented the Workers Compensation Bureau performance evaluation report dated September 2000. The report contains 138 recommendations. The following recommendations are among those presented by Mr. Novak:

- The Workers Compensation Bureau should set a deadline for determining the compensability of claims.
- The Workers Compensation Bureau should combine the three current "first report of injury" forms.
- The Workers Compensation Bureau should consider settlement of certain claims.
- The Workers Compensation Bureau should implement a minimum premium classification schedule instead of charging a minimum flat rate.
- The Workers Compensation Bureau should change from quarterly collections to annual collections for small premium accounts.
- The Workers Compensation Bureau should remove the payroll cap and calculate premiums on gross payroll.

- The Workers Compensation Bureau should eliminate the \$250 medical assessment per claim.
- The Workers Compensation Bureau budget should be removed from the legislative appropriation process.
- The Legislative Assembly should amend open records laws to allow the Workers Compensation Board of Directors to hold closed meetings in certain cases, such as formal meetings to discuss long-range planning and informal meetings to discuss current issues.

Representative Wald said establishing a deadline for determining compensability of claims may lead to increased litigation costs if claims are denied because of a delay in obtaining information. Mr. Novak said the reason for establishing a deadline to determine compensability is not to deny claims but to expedite the receipt of necessary information.

Representative Byerly referred to the recommendation that the Workers Compensation Bureau's three "first report of injury" forms be combined and asked who would be required to sign the proposed form. Currently all three forms are required to be signed--one by the employer, one by the employee, and one by the medical provider. Mr. Novak said The Hays Group recommends only the employer be required to sign the first report of injury form. Representative Byerly asked if the employee signature is required in order to prosecute fraud. Mr. Novak said requiring only the employer's signature on a "first report of injury" form is the standard practice in most states. He said other states do not require the employee's signature in order to prosecute fraud.

Representative Byerly referred to the recommendation the Workers Compensation Bureau consider settlement of certain claims, and said it would be inappropriate for the Workers Compensation Bureau to have a "blanket" policy of settling all long-term claims. Mr. Novak said The Hays Group is not advocating a "blanket" policy, but rather that the Workers Compensation Bureau consider settlement of certain long-term claims.

In response to a question from Representative Maragos, Mr. Novak said by settling claims, the bureau can maintain a larger portion of its fund balance in investments rather than keeping the funds liquid to pay ongoing claims costs.

Representative Maragos said the Workers Compensation Bureau should consider contracting with a third party to administer long-term claims and escrowing, with the Bank of North Dakota, the amount required to make those payments. Mr. Paul Kramer, Acting Director, Workers Compensation Bureau, said the Workers Compensation Bureau has not researched its ability to sell claims to a third-party administrator. He said if the third-party administrator was a state agency, such as the Bank of North Dakota, no savings would be realized by the state

because the state would be required to operate two claims administration systems. He said the Workers Compensation Bureau maintains only a minimal amount (three percent) of its fund balance in cash. He said because the workers compensation fund is pooled with other assets and invested by the State Investment Board, the Workers Compensation Bureau can access sufficient cash without maintaining more than three percent of its fund balance in cash.

In response to a question from Representative Wald, Mr. Novak said elimination of the payroll cap is a fairness issue. He said employers below the payroll cap are paying higher workers compensation rates than those employers above the payroll cap.

Representative Aarsvold said some employers may resist implementation of the recommendation to eliminate the \$250 medical assessment, because it allows a lower premium rate and penalizes only those employers with high injury rates.

In response to a question from Senator Klein, Mr. Novak said the state of Nevada changed from a monopolistic state-run workers compensation system to a competitive system. He said after the workers compensation market was opened to competitive insurers, small employers typically maintained insurance through the state system. He said large national employers were more likely to obtain private insurance.

Vice Chairman Solberg called on Mr. Chuck Peterson, Chairman, North Dakota Workers Compensation Board of Directors, who presented testimony relating the performance evaluation. A copy of his testimony is on file in the Legislative Council office. Mr. Peterson said NDCC Section 65-02-30 requires a performance evaluation of the Workers Compensation Bureau each biennium. He said the purpose of the law is to determine whether the Workers Compensation Bureau is providing quality service in an efficient and cost-effective manner. He said the law also requires an evaluation of the board to ensure that the board is acting within its statutory authority and its bylaws.

Vice Chairman Solberg called on Mr. Kramer, who presented a performance evaluation monitoring report, a copy of which is on file in the Legislative Council office. The report indicates that of the 138 recommendations of The Hays Group, 24 have been completely implemented, 51 have been partially implemented, 18 were determined to be not applicable and will not be implemented, and 45 are pending implementation.

Senator Cook said he served on the Workers Compensation Bureau customer service committee and asked Mr. Kramer to comment regarding the actions of the committee. Mr. Kramer said the committee was composed of legislators, a representative from the Governor's office, members of the Workers Compensation Board of Directors, and a representative of injured workers. He said the

committee met approximately six times to receive public input regarding the services of the Workers Compensation Bureau. He said very few complaints were received by the committee. He said the committee recommended the bureau's Office of Independent Review be moved offsite. He said this recommendation had been implemented in order to allow the Office of Independent Review to provide better customer service. He said the board of directors has not yet determined if the customer service committee will continue.

AUDIT REPORT

Vice Chairman Solberg called on Mr. Pat Brown, Brady, Martz & Associates, P.C., Certified Public Accountants, Bismarck, who presented the audit report for the State Bar Board for the two years ending June 30, 1999. Mr. Brown said the audit report contains an unqualified opinion and one finding relating to inadequate segregation of accounting functions.

GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT NOS. 34 AND 35

Vice Chairman Solberg called Ms. Eileen Holwegner, Office of Management and Budget, who discussed the requirements of Governmental Accounting Standards Board (GASB) Statement Nos. 34 and 35. Ms. Holwegner said the GASB statements require significant changes in governmental accounting. She said the statements will require that depreciation expense and the value of infrastructure be reported in governmental financial statements. She said agencies are currently required to capitalize any asset over \$750, and the new accounting model will require agencies to depreciate those assets. She said to reduce the administrative burden on state agencies, the Office of Management and Budget plans to introduce legislation to be considered by the 2001 Legislative Assembly to amend NDCC Section 54-27-21 to increase the asset capitalization threshold for state agencies and institutions from \$750 to \$5,000. She said the \$5,000 amount is the same threshold established for federal reporting requirements. She said the Office of Management and Budget has discussed the proposed change with the State Auditor's office, and the State Auditor's office supports the change. She said agencies will still be required to maintain adequate inventory records for assets with a value of less than \$5,000 pursuant to NDCC Section 44-04-07.

DEPARTMENT OF HUMAN SERVICES ACCOUNTS RECEIVABLE WRITEOFFS

Vice Chairman Solberg called on Ms. Brenda Weisz, Department of Human Services, who presented information on accounts receivable

writeoffs at the State Hospital, Developmental Center, and human service centers as of June 30, 2000, pursuant to NDCC Sections 25-04-17 and 50-06.3-08. A copy of the information presented is on file in the Legislative Council office.

The information presented by Ms. Weisz is summarized as follows:

Department of Human Services Uncollectible Accounts Written Off as of June 30, 2000	
Human services centers	\$141,057
State Hospital	6,576,631
Developmental Center	227,192
Total	\$6,944,880

The committee recessed at 3:40 p.m. and reconvened at 9:00 a.m., Tuesday, October 17, 2000.

It was moved by Representative Aarsvold, seconded by Senator Solberg, and carried on a roll call vote that the Legislative Audit and Fiscal Review Committee accept the Department of Human Services report on accounts receivable writeoffs as of June 30, 2000. Representatives Wald, Aarsvold, Kelsch, Lemieux, Maragos, and Winrich and Senators Cook, Kilzer, Klein, and Solberg voted "aye." No negative votes were cast.

ACCEPTANCE OF AUDIT REPORTS

Representative Winrich requested the Legislative Audit and Fiscal Review Committee consider the Workers Compensation Bureau performance evaluation separately from the other reports presented, or available for presentation, to the committee.

It was moved by Representative Maragos, seconded by Senator Cook, and carried on a roll call vote that pursuant to NDCC Section 54-35-02.2, the committee accept the following reports:

Audit reports presented to the committee:

- Secretary of State (June 30, 2000 and 1999)
- Protection of Advocacy (June 30, 2000 and 1999)
- Department of Agriculture (June 30, 1999 and 1998)
- State Historical Society (June 30, 2000 and 1999)
- International Peace Garden (December 31, 1998 and 1997)
- Council on the Arts (June 30, 1999 and 1998)
- Tourism Department (June 30, 2000 and 1999)
- State Board of Podiatry Examiners (December 31, 1998 and 1997)
- Education Standards and Practices Board (June 30, 1999 and 1998)
- State Bar Board (two years ended June 30, 1999)

- State Board of Reflexology (June 30, 2000 and 1999)
- Information system audit of the Department of Transportation driver's license master system (June 30, 2000)
- Examination of the Attorney General's office use of funds received under Appendix B of the American Cyanamid settlement consent decree
- Special audit of the Commission on the Future of Agriculture expenditures relating to the American Cyanamid settlement consent decree

Audits reports available but not selected for presentation to the committee:

- Securities Commission (June 30, 2000 and 1999)
- Milk Marketing Board (June 30, 2000 and 1999)
- Dry Pea and Lentil Council (June 30, 2000 and 1999)
- Wheat Commission (June 30, 2000 and 1999)
- Department of Banking and Financial Institutions (June 30, 2000 and 1999)
- Oilseed Council (June 30, 2000 and 1999)
- Beef Commission (June 30, 2000)
- Dairy Promotion Council (June 30, 2000 and 1999)
- Soybean Council (June 30, 2000 and 1999)
- Board of Clinical Laboratory Practice (June 30, 1999 and 1998)
- Board of Dietetic Practice (September 30, 1999 and 1998)
- State Board of Medical Examiners (December 31, 1999 and 1998)
- Real Estate Appraiser Qualifications and Ethics Board (June 30, 1999 and 1998)
- Firemen's Association (April 30, 2000)
- State Board of Public Accountancy (June 30, 2000)

Representatives Wald, Aarsvold, Belter, Byerly, Kelsch, Lemieux, Maragos, and Winrich and Senators Cook, Kilzer, Klein, and Solberg voted "aye." No negative votes were cast.

Representative Winrich said the performance evaluation report for the Workers Compensation Bureau contains many recommendations that the agency does not plan to implement. He said there are other recommendations which the agency agrees with, but he does not support, such as the recommendations that the Workers Compensation Bureau budget be removed from the appropriation process and that the open records laws be amended to allow closed board meetings. He said for those reasons he will not vote to accept the report.

It was moved by Representative Byerly, seconded by Senator Solberg, and carried on a

roll call vote that, pursuant to NDCC Section 54-35-02.2, the committee accept the performance evaluation report for the Workers Compensation Bureau dated September 2000. Representatives Wald, Belter, Byerly, Kelsch, Lemieux, Maragos and Senators Cook, Kilzer, Klein, and Solberg voted "aye." Representatives Aarsvold and Winrich voted "nay."

PERFORMANCE AUDIT OF JOB SERVICE NORTH DAKOTA

Chairman Wald called on Mr. John Mongeon, Brady, Martz, & Associates, P.C., Certified Public Accountants, Bismarck, who, pursuant to NDCC Section 52-02-18, presented the Job Service North Dakota performance audit report dated September 15, 2000. Mr. Mongeon said the report contains 36 recommendations and identifies six issues requiring further study. He presented various audit recommendations including:

- The Legislative Assembly should review the definitions relating to "suitable work" and the benefit duration formula for claimants returning to their previous employer.
- The Legislative Assembly should provide specific appropriations for the administration of the Work Force 2000 program.
- The Legislative Assembly should amend 1999 House Bill No. 1135 to clarify legislative intent regarding the authority of the executive director of Job Service North Dakota to make rate adjustments.
- Job Service North Dakota and the Legislative Assembly should explore ways to improve lines of communication.

Mr. Pete Hoistad, Brady, Martz, & Associates, P.C., Certified Public Accountants, Grand Forks, presented the audit recommendations relating to Job Service North Dakota's information technology plan. Mr. Hoistad reported on the status of the joint-reporting initiative. He said the joint-reporting initiative began with a legislative directive to create a single reporting form to be filed by employers reporting information to the Tax Department, Job Service North Dakota, and the Workers Compensation Bureau. He said Job Service North Dakota indicated that after meeting with legislative leadership during the 1997-99 biennium, the initiative was dropped due to the limited benefits anticipated and the amount of work involved in implementing the proposed initiative. Representative Byerly said he disagrees with Job Service North Dakota's claim that legislative leadership agreed to drop the initiative. He said there is still legislative interest in establishing joint reporting for employers and the issue will be reviewed by the 2001 Legislative Assembly.

In response to a question from Senator Solberg, Mr. Hoistad said Job Service North Dakota currently maintains two information technology systems--a mainframe-based system and a client server-based

system. He said Job Service North Dakota is in the process of transitioning from the use of the mainframe system to a client server system to allow implementation of the "one-stop" service delivery system. He said the "one-stop" system will provide enhanced delivery of services to job seekers and employers.

Mr. Mongeon said federal funds available through the welfare-to-work program fund approximately 12 to 14 full-time equivalent (FTE) positions at Job Service North Dakota. He said the federal program will terminate on June 30, 2001. He said the report includes a recommendation that Job Service North Dakota develop a plan regarding how the agency will restructure in response to changes in federal funding. He said the plan should be presented to the appropriate legislative committee. Representative Byerly said he agrees with the recommendation and encouraged Job Service North Dakota to develop such a plan and present the information to the Appropriations Committees during the 2001 legislative session. He said the report should include not only the welfare-to-work program but any other federal programs where funding levels are estimated to change significantly.

Mr. Mongeon said NDCC Section 52-02-17, which requires Job Service North Dakota to report to the Budget Section if the balance in the job insurance trust fund is anticipated to drop below \$40 million, is unnecessary and can be repealed based on passage of 1999 House Bill No. 1135. He said 1999 House Bill No. 1135 allows Job Service North Dakota to achieve a target balance for the trust fund over a seven-year time period. Representative Byerly said he disagrees that the passage of 1999 House Bill No. 1135 eliminates the need for NDCC Section 52-02-17. He said it is still important for the Legislative Assembly to receive reports regarding the status of the trust fund balance.

Chairman Wald called on Mr. Wayne Kindem, Executive Director, Job Service North Dakota, who discussed the recommendations included in the performance audit report. Mr. Kindem said Job Service North Dakota agrees with all recommendations except the recommendation that 1999 House Bill No. 1135 be amended to clarify legislative intent regarding the authority of the executive director to make rate adjustments. He said Job Service North Dakota does not believe there is ambiguity in the legislative intent of the bill. He said the executive director may make reasonable adjustments to tax rates to prevent significant rate variations between calendar years, with the exception that during the period in which the trust fund balance is being rebuilt, no rate reductions can be made. He said with the exception of this recommendation, the agency has taken steps to implement all recommendations included in the report.

PERFORMANCE AUDIT OF THE CHILD SUPPORT ENFORCEMENT PROGRAM

Chairman Wald called on Mr. Smith who presented background information relating to the performance audit of the child support enforcement program. He introduced Mr. Jeff Ball, TMR-MAXIMUS, Cincinnati, Ohio, who presented the recommendations of TMR-MAXIMUS, a consulting firm that conducted a portion of the performance audit. Mr. Ball presented the recommendations contained in Chapter 2 of the report, including:

1. The Department of Human Services should introduce legislation to allow the child support enforcement program to be state administered rather than county administered.
2. North Dakota should "universalize" its caseload so that almost all child support enforcement cases receive "IV-D services." (The federal child support enforcement program was established in 1975 under Title IV-D of the Social Security Act. Services provided through the state child support enforcement programs referred to as "IV-D services," include establishing and maintaining case records, providing local services to find the legally responsible parent, establishing paternity, establishing legal support orders, providing for the enforcement of support orders, and providing for the collection and distribution of payments.)
3. The Department of Human Services should introduce legislation to implement an administrative process utilizing the Office of Administrative Hearings to conduct child support hearings; establish paternity; establish, modify, and enforce child support and medical support orders; and conduct hearings for license renewal and suspension issues.

Mr. Ball said federal regulations allow the salaries of administrative law judges to be reimbursed with federal funds at the rate of 66 percent but do not allow for the reimbursement of judges' salaries.

Senator Cook asked what benefits are provided by "universalizing" the child support enforcement caseload. Mr. Ball said custodial parents benefit from inclusion in the IV-D system if there is noncompliance with the child support order by the noncustodial parent.

In response to a question from Senator Solberg, Mr. Ball said the recommendations contained in the performance audit, if implemented, will reduce the bureaucracy of the state's child support enforcement system by providing for only one level of administration. The current system involves administration at the state and county level.

Mr. Smith reviewed the recommendations of the State Auditor's office relating to the child support enforcement program.

Chairman Wald called on Mr. Mike Schwindt, Department of Human Services, who provided comments regarding the performance audit report of the child support enforcement program. Mr. Schwindt said the report contains many useful recommendations that, if implemented, will change the direction of the state's child support enforcement program. He said the Department of Human Services agrees with the recommendations contained in the report but needs to perform a cost-benefit analysis to determine the feasibility of implementing them. Mr. Schwindt said the Department of Human Services will be utilizing the performance audit report to develop cost estimates and recommendations to be considered by the 2001 Legislative Assembly.

Chairman Wald called on Mr. Terry Traynor, North Dakota Association of Counties, who said the regional child support enforcement units are difficult for counties to operate. Mr. Traynor said there are eight separate units funded through eight separate agreements. He said county commissioners have passed a resolution indicating support for development of a state-administered child support enforcement system. He said counties may not support implementation of other recommendations contained in the performance audit report if the responsibility for administration for the child support enforcement program is not transferred to the state.

It was moved by Representative Maragos, seconded by Representative Kelsch, and carried on a roll call vote that pursuant to NDCC Section 54-35-02.2, the committee accept the performance audit reports for Job Service North Dakota and the child support enforcement program. Representatives Wald, Aarsvold, Byerly, Kelsch, Lemieux, Maragos, and Winrich and Senators Cook, Kilzer, Klein, and Solberg vote "aye." No negative votes were cast.

FUTURE PERFORMANCE AUDITS

Representative Byerly asked for information regarding agencies or state programs being considered by the State Auditor's office for future performance audits. Mr. Smith said the next performance audit conducted by the State Auditor's office may be an audit of another program within the Department of Human Services. He said at a previous meeting, the Legislative Audit and Fiscal Review Committee indicated support for conducting a performance audit of the Department of Transportation. He said before the State Auditor's office would proceed with an audit of the Department of Transportation, a risk assessment of the department would be done, and the results presented to this committee.

In response to a question from Senator Solberg, Mr. Smith said the State Auditor's office has considered the input of the Legislative Audit and Fiscal Review Committee in conducting past performance audits and will do so in the future. He said the State Auditor's office will present a list of suggested

performance audit topics to this committee at its next meeting.

Senator Solberg suggested the State Auditor's office consider conducting a performance audit of the Milk Marketing Board.

In response to a question from Representative Byerly, Mr. Smith said a performance audit has never been conducted on the state judicial system.

The meeting was adjourned subject to the call of the chair at 12:15 p.m.

Joe R. Morrissette
Senior Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1