

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Wednesday, January 22, 2003
Brynhild Haugland Room, State Capitol
Bismarck, North Dakota

Representative Francis J. Wald, Chairman, called the meeting to order at 3:30 p.m.

Members present: Representatives Francis J. Wald, Jeff Delzer, RaeAnn G. Kelsch, Andrew Maragos, Bob Skarphol, Mike Timm, Lonny Winrich; Senators Randel Christmann, Dwight Cook, Duaine C. Espegard, Jerry Klein

Member absent: Representative Ole Aarsvold

Others present: Rick Berg, State Representative, Fargo

See attached appendix

NORTH DAKOTA UNIVERSITY SYSTEM AUDIT REPORT

Mr. Ed Nagel, State Auditor's office, presented the audit report of the North Dakota University System as of June 30, 2002. He said the audit report includes the financial statements of the following component units which were not audited by the State Auditor's office, the North Dakota State University Research and Technology Park, Inc., and the University of North Dakota Aerospace Foundation. He said these financial statements were audited by other auditors whose reports were furnished to the State Auditor's office.

Mr. Nagel said the audit report contained one finding of noncompliance with statutes, laws, rules, and regulations in which institutions did not provide financial information regarding revenue-producing buildings within the financial reports. The audit report contained one recommendation for methods to improve consistency and audit efficiency and effectiveness.

In response to a question from Representative Skarphol, Mr. Nagel said Governmental Accounting Standards Board (GASB) accounting standard No. 34 was recently implemented, which provides several significant changes to the financial statement reporting format. He said these changes created problems for the North Dakota University System and led to audit inefficiencies. He said a private accounting firm rather than the State Auditor's office assisted the North Dakota University System in preparing the financial statements.

COMPREHENSIVE ANNUAL FINANCIAL REPORT

Ms. Eileen Holwegner, Office of Management and Budget, presented the *Comprehensive Annual Financial Report* (CAFR) for the year ended June 30, 2002. She said because of GASB accounting standard No. 34, there were a number of format changes and new financial statements added to the CAFR. She reviewed the various sections of the CAFR and notes to the financial statements.

In response to a question from Representative Wald, Ms. Holwegner said requests for copies of the CAFR are received primarily from the general public and bonding companies.

In response to a question from Representative Berg, Ms. Holwegner said the major assets of the state of North Dakota include state highways and other infrastructure and buildings. She said the state provides guidelines for the depreciation of assets; however, each agency can determine the appropriate depreciation rate within the guidelines. She said fully depreciated assets remain on the balance sheet at "book value," cost less depreciation.

In response to a question from Representative Wald, Mr. Ron Tolstad, State Auditor's office, said the Public Employees Retirement System's health insurance contract includes the use of \$3 million deposited with Blue Cross Blue Shield for health insurance claims exceeding actual premiums collected during the 2001-03 biennium. He said any unused funds will be returned to the Public Employees Retirement System at the end of the contract period and can be applied to reduce the future cost of premiums.

CONTRACTS FOR SERVICES

Mr. Gordy Smith, State Auditor's office, presented the followup report of the status of recommendations from the contracts for services performance audit, which was completed on November 5, 2002. He said the original performance audit was issued on March 27, 2000. He said the North Dakota University System, Office of Management and Budget, and a sample of state agencies were contacted and limited testing was performed during the followup process. He said based on the findings, two prior audit recommendations were determined to be fully implemented, five prior recommendations were determined to be

partially implemented, and five prior recommendations were determined to be not implemented.

In response to a question from Representative Skarphol, Mr. Smith said state agencies are encouraged to follow the Office of Management and Budget policies for contracts for services; however, there is no law requiring the policies be followed.

Representative Delzer said when a state agency disagrees with an audit recommendation, there is usually an attempt made to find a compromise. He said the Legislative Assembly may have to present legislation to ensure the audit recommendations are implemented.

In response to a question from Representative Skarphol, Ms. Pam Sharp, Interim Director, Office of Management and Budget, said 2003 House Bill No. 1180 would direct state agencies to follow the Office of Management and Budget's guidelines for contracts for services. She said the Office of Management and Budget used a consultant in developing the policies.

In response to a question from Representative Skarphol, Ms. Sherry Neas, Procurement Manager, Office of Management and Budget, said procurement policies are based on the item's cost. She said if the cost is less than \$5,000, the purchase policy is for one fair and reasonable quote, three written or oral bids are required if the cost is between \$5,000 and \$25,000, five written bids are required if the cost is between \$25,000 and \$50,000, and a formal bidding process or request for proposal process with public notice is required for items over \$50,000.

STATE AGENCY AND INSTITUTION AUDIT REPORTS

Mr. Nagel presented the audit report for the North Dakota Mill and Elevator Association for the period ending June 30, 2002. He reviewed the auditor's responses to the committee's guidelines and said the report does not contain any findings or recommendations.

In response to a question from Representative Wald, Mr. Ed Barchenger, Controller, North Dakota Mill and Elevator Association, said some positions at the Mill and Elevator require significant overtime. He said currently the Mill and Elevator operates on three shifts and to significantly reduce overtime would require four shifts. He said, however, the Mill and Elevator does not always operate on weekends, in which case with a four-shift system, the staff would not work 40 hours per week.

Senator Espeguard said a significant amount of the total earnings received by some employees of the Mill and Elevator are from overtime which is not eligible for retirement benefits. He said the retiring employees are receiving benefits based on the lower base wage rather than actual earned wages.

In response to a question from Representative Timm, Mr. Barchenger said insurance costs for the

Mill and Elevator increased by \$809,000 per year after the terrorist attacks on September 11, 2001.

Mr. Nagel presented the audit report for the Tourism Department for the year ended June 30, 2001. He reviewed the auditor's responses to the committee's guidelines and said the report does not contain any findings or recommendations.

In response to a question from Senator Espeguard, Ms. Sara Otte Coleman, Director, Division of Tourism, Department of Commerce, said advertising design and production costs are included in professional services expenditures and the actual cost of advertising is included in radio, television, and newspaper expenditures. She said advertising production costs can fluctuate from year to year depending on when new campaigns are started.

Mr. Nagel presented the audit report for the Department of Financial Institutions for the years ended June 30, 2002 and 2001. He reviewed the auditor's responses to the committee's guidelines and said the report does not contain any findings or recommendations.

NORTH DAKOTA VETERANS HOME PERFORMANCE AUDIT

Mr. Smith presented information relating to the State Auditor's office financial review of the Veterans Home. A copy of the information presented is on file in the Legislative Council office. He said the purpose of the financial review was to determine if sufficient funding is available for management consultants to assist the Veterans Home in implementing the performance audit recommendations. He said based on the review of the Veterans Home, the State Auditor's office concluded funds are available to hire management advisors or consultants. He said in November 2002, the Veterans Home received Emergency Commission and Budget Section approval for \$137,500 of special funds from the Veterans Home operating fund for operating expenses to retain a consultant.

Mr. Smith identified noncompliance issues noted in the Veterans Home performance audit in which the state may incur liability or risk. These issues include noncompliance with federal regulations relating to Medicaid, veterans' per diem, and tax withholding on bonuses.

Attorney General Wayne Stenehjem presented a report on the Attorney General's office investigation of possible violations of state law as detailed in the June 24, 2002, State Auditor's office performance audit report on the Veterans Home. A copy of the information presented is on file in the Legislative Council office. Attorney General Stenehjem said the incident in which the commandant of the Veterans Home lost his temper during a meeting with two State Department of Health nursing home surveyors and took a toy gun from his desk could have resulted in a criminal offense of disorderly conduct, which is a

misdeemeanor under North Dakota law. He said a misdemeanor offense prosecution must be commenced within two years of its commission. He said the toy gun incident occurred on January 6, 2000, and first became a matter of inquiry in June 2002, which is after the two-year statute of limitations period.

Attorney General Stenehjem said the noncompliance with state and federal laws, rules, and regulations in the operation of the Veterans Home is "disturbing" but not of sufficient level to be a prosecutable criminal offense.

Mr. Ken Anderson, Commandant, North Dakota Veterans Home, presented information to the committee regarding steps being taken to address the performance audit recommendations for the Veterans Home. A copy of the information presented is on file in the Legislative Council office. Mr. Anderson said a majority of the recommendations have been implemented.

In response to a question from Senator Cook, Mr. Anderson said he believes the next audit of the Veterans Home would be "favorable"; however, he will not likely be employed with the Veterans Home when the next audit is conducted as his appointment ends on July 1, 2003.

Chairman Wald called on Mr. Brad Maasjo, Chairman, Veterans Home Subcommittee, Administrative Committee on Veterans Affairs, who presented information on the committee's implementation of the recommendations included in the State Auditor's office performance audit of the Veterans Home, a copy of which is on file in the Legislative Council office. He said the Administrative Committee on Veterans Affairs worked with the Central Personnel Division and the Office of Management and Budget to create a new position for a chief financial officer at the Veterans Home. He said the position was advertised and interviews were conducted; however, the committee has currently been unable to find a qualified applicant to accept the position.

Mr. Maasjo said 2003 House Bill No. 1030 provides for a Legislative Council study of the Veterans Home to develop a strategic plan for the operation of the home and to assist in implementing the audit recommendations. He said a strategic plan is key to the development of the Veterans Home.

In response to a question from Representative Delzer, Mr. Maasjo said the Administrative Committee on Veterans Affairs has the authority to prepare a strategic plan without the assistance of the Legislative Council. Representative Skarphol said a strategic plan will not be effective unless it would involve the Administrative Committee on Veterans Affairs.

In response to a question from Representative Wald, Mr. Anderson said the average age of the residents at the Veterans Home is 68.

In response to a question from Representative Wald, Mr. Maasjo said the Administrative Committee

on Veterans Affairs needs persons with expertise in various areas to serve on the committee, including health care and financial management experience. He said North Dakota law provides for veterans' preference; however, if a more qualified person is available, it should not be a requirement that the administrator at the Veterans Home be a veteran.

In response to a question from Representative Maragos, Mr. Maasjo said the salary offered for the chief financial officer position was competitive and the inability to hire an individual may be due to the time of the year in which the position was advertised. He said the committee will conduct interviews again during the spring of 2003.

Chairman Wald said he would like the Administrative Committee on Veterans Affairs to present a followup report on the status of the Veterans Home during the first Legislative Audit and Fiscal Review Committee meeting of the 2003-04 interim.

It was moved by Representative Timm, seconded by Representative Kelsch, and carried on a voice vote that pursuant to North Dakota Century Code (NDCC) Section 54-35-02.2, the committee accept the following audit reports presented to the committee:

- North Dakota University System (June 30, 2002)
- North Dakota Comprehensive Annual Financial Report (June 30, 2002)
- Contracts for services performance audit followup report (November 5, 2002)
- Mill and Elevator Association (June 30, 2002)
- Tourism Department (June 30, 2001 and 2000)
- Department of Financial Institutions (June 30, 2002 and 2001)

It was moved by Representative Maragos, seconded by Representative Kelsch, and carried on a voice vote that pursuant to NDCC Section 54-35-02.2, the committee accept the following audit reports available but not selected for presentation to the committee:

- Dairy Promotion Commission (June 30, 2002 and 2001)
- Dry Bean Council (June 30, 2002 and 2001)
- Board of Respiratory Care (January 31, 2001 and 2000)
- Milk Marketing Board (June 30, 2002 and 2001)
- Oilseed Council (June 30, 2002 and 2001)
- Potato Council (June 30, 2002 and 2001)
- Corn Utilization Council (June 30, 2002 and 2001)
- Dry Pea and Lentil Council (June 30, 2002 and 2001)
- Wheat Commission (June 30, 2002 and 2001)

- **Barley Council (June 30, 2002 and 2001)**
- **Board of Nursing (June 30, 2002 and 2001)**
- **Board of Optometry (June 30, 2002 and 2001)**
- **Board of Architecture (June 30, 2001 and 2000)**
- **Board of Water Well Contractors (June 30, 2002 and 2001)**
- **Board of Cosmetology (June 30, 2002)**
- **Board of Barber Examiners (August 31, 2001 and 2000)**
- **Board of Pharmacy (June 30, 2002 and 2001)**

The meeting was adjourned subject to the call of the chair at 5:30 p.m.

Donald J. Wolf
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1