

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Wednesday, October 2, 2002  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Ken Solberg, Chairman, called the meeting to order at 8:30 a.m.

**Members present:** Senators Ken Solberg, Randel Christmann, Dwight Cook, Duaine C. Espegard, Jerome Kelsh, Jerry Klein; Representatives Ole Aarsvold, Rex R. Byerly, Doug Lemieux, Andrew G. Maragos, Bob Skarphol, Mike Timm, Francis J. Wald, Lonny Winrich

**Members absent:** Senator Kenneth Kroeplin; Representatives Jeff Delzer, RaeAnn G. Kelsch

**Others present:** See Appendix A

The legislative budget analyst and auditor said a correction was made to the June 4-5, 2002, minutes of the Legislative Audit and Fiscal Review Committee. He said a change was made to the component unit determination process guideline No. 4. He said the guideline should have said "Any information in the board minutes that **does not** relate to transactions or relationships between the university and the component unit will not be included in the working papers of the State Auditor's office and therefore will not be available for public inspection." **It was moved by Representative Wald, seconded by Representative Skarphol, and carried on a voice vote that the corrected minutes of the June 4-5, 2002, meeting of the Legislative Audit and Fiscal Review Committee be approved as distributed.**

#### STATE AGENCY AND INSTITUTION AUDIT REPORTS

Chairman Solberg called on Mr. Ed Nagel, State Auditor's office, who presented the audit report for the office of the Governor for the years ended June 30, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and said the audit report does not contain any findings or recommendations.

In response to a question from Representative Timm, Mr. Nagel said the office of the Governor has implemented all prior audit recommendations.

In response to a question from Representative Wald, Mr. Nagel said audit procedures include testing the adequacy of employee bond coverage.

Mr. Nagel presented the audit report for the Office of Management and Budget for the years ended June 30, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and the audit findings included in the report. He also reviewed the

recommendations for improved operational efficiency included in the audit report.

In response to a question from Senator Solberg, Mr. Nagel said all state agencies are required to send fixed asset items for which they no longer have a need to Surplus Property. He said Surplus Property attempts to sell the property to other state agencies or local government entities. He said if this is not possible, the property is sold to the public. He said upon the sale of the property, Surplus Property retains an administrative fee. He said state agencies are refunded sales proceeds in excess of the administrative fee. He said if general fund money was originally used to purchase the property, the agency's share of the sales proceeds must be deposited in the general fund.

In response to a question from Senator Cook, Representative Byerly said fixed assets within Surplus Property are first made available to state agencies, then political subdivisions, and finally to the public. He said the Surplus Property Division can purchase items from the federal government and resell the items to state agencies, political subdivisions, and certain nonprofit organizations.

In response to a question from Representative Skarphol, Ms. Pam Sharp, Deputy Director, Office of Management and Budget, said tobacco settlement collections have declined due to a reduction in tobacco consumption. She said companies not part of the tobacco settlement have experienced sales increases.

Mr. Nagel presented the audit report for the State Department of Health for years ended June 30, 2001 and 2000. 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. Nagel said the audit program for the State Department of Health included tests to verify that funds are properly deposited with the State Treasurer at least on a monthly basis.

Mr. Nagel presented the audit report for the Department of Human Services for the years ended June 30, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and audit findings included in the report. He said there was one internal control recommendation relating to duplicate

Medicaid management information system (MMIS) claims payments. He said the audit found two instances of noncompliance with legislative intent and one prior audit recommendation not implemented. He said the Department of Human Services overspent two line item appropriation amounts and was found to be not in compliance with the Office of Management and Budget procurement procedures manual for purchases over \$1,000. He said the Department of Human Services has agreed to implement both recommendations.

In response to a question from Senator Espegard, Mr. David Zentner, Director of Medical Services, Department of Human Services, said the Department of Human Services will adjust claims relating to the MMIS overpayments. He said most of the duplicated payments have already been recovered by the department. He said the federal government is reimbursed upon recovery of the overpayment.

In response to a question from Representative Aarsvold, Mr. Zentner said the duplicate payments are primarily due to the receipt of multiple billings from providers. He said there is no pattern of duplicate payment requests from certain providers. He said most duplicate billings are identified prior to payment. He said providers are responsible to examine payments and return the excess funds.

In response to a question from Senator Espegard, Mr. Zentner said the current MMIS is 24 years old. He said a new certified MMIS would cost approximately \$20 million, of which 90 percent would be paid by the federal government and the remaining 10 percent would be the state's share.

In response to a question from Senator Solberg, Mr. Zentner said the Health Insurance Portability and Accountability Act standardizes the billing process for all payers and providers.

In response to a question from Representative Skarphol, Mr. Zentner said the MMIS is unique to each state. He said states have the flexibility to design Medicaid programs within federal guidelines.

In response to a question from Representative Wald, Ms. Brenda Weisz, Chief Financial Officer, Department of Human Services, said unexpended general fund appropriations remain in the general fund. She said agencies certify with the Office of Management and Budget the amount of general fund turnback.

Mr. Nagel presented the audit report for the Department of Economic Development and Finance for the years ended June 30, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and said the audit contains one finding relating to noncompliance with the Office of Management and Budget's procurement procedures for purchases greater than \$1,000. He said there are no recommendations for operational improvement.

Mr. Nagel presented the audit report for the Department of Agriculture for the years ended

June 30, 2001 and 2000. 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 Espegard, Mr. Nagel said the Department of Agriculture usually collects license and permit fees in the first year of the biennium, which accounts for the line item variance between fiscal years.

Mr. Nagel presented the audit report for the Parks and Recreation Department for the years ended June 30, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and said the audit contains three recommendations relating to findings of noncompliance with legislative intent. He said the department overspent special fund appropriations due to improperly coding expenditures at the close of the biennium, did not require concessionaires at state parks to be properly bonded, and was in noncompliance with the Office of Management and Budget's procurement procedures for purchases over \$1,000. He said the audit contains three recommendations for operational improvement and one prior audit recommendation that was not implemented. He said the prior audit recommendation related to overspending funding restrictions relating to special funds.

Mr. Nagel presented the audit report for the State Water Commission for the years ended June 30, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and said the audit report contains one internal control recommendation. He said the State Water Commission has received approximately \$4.6 million in grants from the United States Department of Agriculture since November 1998, \$3 million of which was received during the audit period covered by this report. He said this activity was not reported to the Office of Management and Budget or properly disclosed to the auditors performing the audit of the State Water Commission. He said the State Water Commission has agreed to follow the proper procedures for reporting all significant financial information to the Office of Management and Budget.

In response to a question from Senator Klein, Mr. Nagel said the allocation of the tobacco settlement collections is identified in statute. He said the State Auditor's office does examine tobacco settlement expenditures incurred by each agency during the course of its audit.

Mr. Nagel presented the audit report for the Aero-nautics Commission for the years ended June 30, 2001 and 2000. 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 Council on the Arts for the years ended June 30, 2001 and 2000. 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 Public Instruction for the years ended June 30, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and said the report includes one recommendation relating to noncompliance with legislative intent. He said the State Library overspent the operating line item appropriation by \$721. He said the report contains five recommendations for operational improvement.

In response to a question from Senator Solberg, Ms. Bonnie Miller, Fiscal Director, Department of Public Instruction, said the educational and technology grants are federal funds received by the Department of Public Instruction and made available to school districts. She said the department received approximately \$4 million during the 2001-03 biennium and anticipates receiving approximately \$6 million during the 2003-05 biennium.

## **RED RIVER VALLEY POTATO GROWERS ASSOCIATION**

The State Auditor's office distributed a copy of the Red River Valley Potato Growers Association and Valley Potato Grower, Inc., consolidated financial statements for the years ended June 30, 2001 and 2000. The State Auditor's office presented information on the number of agriculture commodity organizations that send promotional "checkoff" funds to national organizations. A copy of the information distributed is on file in the Legislative Council office.

Representative Skarphol said the North Dakota Potato Council sends its "checkoff" funds to the Red River Valley Potato Growers Association, a Minnesota entity. He said he would like to know how many other North Dakota commodity organizations transfer "checkoff" funds to out-of-state entities.

Representative Aarsvold said he believes the Dry Bean Council cooperates with an organization based in Minnesota for promotional purposes.

In response to a question from Representative Maragos, Senator Solberg said the Legislative Assembly does not have authority over the use of the "checkoff" funds, other than that they are used appropriately. The legislative budget analyst and auditor said the commodity organizations report to the Agriculture Committee during the Legislative Assembly regarding the use of the "checkoff" funds.

In response to a question from Senator Cook, Mr. Nagel said the Red River Valley Potato Growers Association voluntarily provided the audit report to the Legislative Audit and Fiscal Review Committee. He said the State Auditor's office did review the audit of the Red River Valley Potato Growers Association as part of the audit of the North Dakota Potato Council. He said documents in possession of the North Dakota Potato Council are open records, unless specifically exempt from open record laws.

In response to a question from Senator Cook, the legislative budget analyst and auditor said the

Legislative Assembly could amend the law for the North Dakota Potato Council as to how the "checkoff" funds are spent.

In response to a question from Representative Byerly, the legislative budget analyst and auditor said according to the audit report the Red River Valley Potato Growers Association received funding of \$520,000 from the North Dakota Potato Council and \$75,000 from the Minnesota Potato Council for the year ended June 30, 2001, and \$550,000 from the North Dakota Potato Council and \$75,000 from the Minnesota Potato Council for the year ended June 30, 2000. Mr. Nagel said the North Dakota Potato Council only provides promotional payments to the Red River Valley Potato Growers Association.

Representative Maragos said the Red River Valley Potato Growers Association is a nonprofit association organized under the laws of the state of North Dakota with authorization to conduct business in Minnesota. He said his major concern is not where the organization operates but how many of the board members are from North Dakota.

In response to a question from Senator Cook, Mr. Nagel said Valley Potato Grower, Inc. is a wholly owned for-profit subsidiary corporation of Red River Valley Potato Growers Association. Senator Cook expressed concern over what responsibility and authority the Legislative Assembly has over the Red River Valley Potato Growers Association. He said the audit determines how the "checkoff" funding is being spent but not whether the commodity organizations are liable for refunding inappropriately spent "checkoff" funds. The legislative budget analyst and auditor said the Legislative Council staff would research the legal issues regarding the state's commodity organizations spending of "checkoff" funds.

Senator Klein said the Red River Valley Potato Growers Association members understand where their "checkoff" funds are being spent. He said the Agriculture Committee reviews the "checkoff" funding during the legislative session.

## **STATE AGENCY AND INSTITUTION AUDIT REPORT**

Chairman Solberg called on Mr. Jason Schuh, Certified Public Accountant, PLLC, Bismarck, who presented the audit report for the Board of Cosmetology for the year ended June 30, 2001. Mr. Schuh said the audit report contains an unqualified opinion and contains one finding relating to the segregation of duties. He said the limited number of office personnel prevents proper segregation of accounting functions necessary to assure adequate internal control.

In response to a question from Representative Wald, Mr. Schuh said the Board of Cosmetology receives investment income from certificates of deposit, a savings account, and an interest-bearing checking account.

Senator Solberg questioned the amount of investment income realized (\$10,255) in comparison to the June 30, 2001, balance of investments (\$51,636) and cash and cash equivalents (\$138,253). He said the total revenues for the Board of Cosmetology were \$161,145, including the \$10,255 investment income.

In response to a question from Representative Skarphol, Ms. Bert Knell, past board member, Board of Cosmetology, said the penalties on late license filings of \$5,250 is generated from a \$10 penalty for late payment of dues.

In response to a question from Senator Cook, Mr. Schuh said the official board minutes were missing certain motions of recorded votes. He said the minutes were corrected to reflect all motions and seconds.

Representative Wald said there has been an improvement in the financial statements for the Board of Cosmetology and credited Ms. Knell for that improvement.

In response to a question from Representative Maragos, Ms. Knell said the Board of Cosmetology issues 6,100 licenses annually.

In response to a question from Representative Aarsvold, the legislative budget analyst and auditor said employees of state boards and commissions are eligible to participate in the North Dakota Public Employees Retirement System (PERS) as determined by PERS.

In response to a question from Representative Wald, the legislative budget analyst and auditor said he believes the statute also allows state boards and commissions to participate in the risk management fund and the North Dakota fire and tornado fund.

In response to a question from Representative Byerly, Mr. Nagel said "reasonable assurance" means that an audit is not designed to look at every transaction and that there is a possibility that errors, irregularities, or illegal acts may exist and not be detected.

Chairman Solberg said the committee was not satisfied with the auditor's responses to questions relating to the Board of Cosmetology's investment income. Representative Byerly said Mr. Schuh does not remember the detailed information relating to the investment income and will provide the details to the committee later in the meeting.

Mr. Schuh later returned to the meeting and said the Board of Cosmetology's checking account earned an average interest rate of 4.49 percent during the year ended June 30, 2001, and had an average balance of \$146,000. He said this equates to approximately \$6,500 in interest income. He said the board had \$52,000 in certificates of deposit which earned a rate of 5.62 percent for the year. He said this equates to approximately \$2,900 in interest income. He said the board had approximately \$9,878 in a savings account which earned interest income. He said the total of these is the \$10,255 in interest income

reported for the Board of Cosmetology for the year ended June 30, 2001.

Representative Maragos said he appreciated Mr. Schuh coming back to the committee with the information. Senator Solberg apologized to Mr. Schuh for comments made previously.

Chairman Solberg read a letter from Ms. Roene J. Hulsing, Certified Public Accountant, Dickinson, regarding the audit of the Education Standards and Practices Board for the years ended June 30, 2001 and 2000. Ms. Hulsing, who was unable to attend the meeting, indicated the audit opinion was unqualified and did not include any findings or recommendations. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Senator Cook, Mr. Nagel said state boards and commissions are not required to respond to the 12 questions relating to audit guidelines. He said some of the questions relate strictly to state agencies and would not apply to boards and commissions.

In response to a question from Representative Timm, Mr. Nagel said the State Auditor's office is responsible for hiring auditors for state agency audits, while state boards and commissions hire their own independent auditors.

In response to a question from Senator Solberg, Ms. Janet Welk, Executive Director, Education Standards and Practices Board, said the duties of the board include licensing of all educators in North Dakota, programming approval for teacher education programs, and overseeing the professional development and practices of educators. She said teachers pay \$20 per year for licensure to teach in North Dakota, which was increased from \$15 in 1999. She said at the present time the cash balance of the Education Standards and Practices Board is projected to continue at its current balance.

In response to a question from Representative Wald, Ms. Welk said Bureau of Criminal Investigation (BCI) and Federal Bureau of Investigation (FBI) background checks are required for all new teachers. She said in 1999 the Legislative Assembly passed a law providing for the issuance of a 40-day temporary teaching permit to allow for the period of time needed to conduct background checks.

In response to a question from Representative Byerly, Ms. Welk said FBI teacher background reports are not open records. She said, however, the supporting information relating to any criminal case, including the legal and court documentation and the testimony from the applicant, is available to the school districts if requested. She said the Education Standards and Practices Board reviews all information in determining whether to license an individual. She said most schools have questions relating to prior conduct on the application; however, the Education Standards and Practices Board does not have a

default system of notifying the school districts of prior questionable conduct.

In response to a question from Representative Wald, Ms. Welk said there is a \$50 per day fine for each teacher in a classroom without a license. She said the fine is less than what it costs for a school district to pay for a substitute teacher.

In response to a question from Representative Wald, Ms. Welk said the Education Standards and Practices Board pays dues and memberships to two national agencies. She said one is an accrediting agency for teacher education programs and the other is the National Association of State Directors of Teacher Education and Certification, which is the clearinghouse for professional practices nationwide.

In response to a question from Representative Maragos, Ms. Welk said the Education Standards and Practices Board jurisdiction covers all schools, including private schools.

Senator Kelsh said the Education Standards and Practices Board followed existing state law when it denied teacher licensure prior to background checks. He said the Legislative Assembly fixed the problem of licensure delays by allowing for an emergency 40-day temporary licensure.

In response to a question from Senator Espegard, Ms. Welk said the income received from fines issued pays for the Attorney General's representation for the Education Standards and Practices Board.

In response to a question from Representative Byerly, Ms. Welk said the list of teachers and administrators fined by the Education Standards and Practices Board is a public record.

Chairman Solberg called on Mr. Brad Oothoudt, Certified Public Accountant, Minot, who presented the audit report for the Board of Podiatry Examiners for the years ended December 31, 2001, 2000, and 1999. Mr. Oothoudt said the audit report contains an unqualified opinion and does not include any findings or recommendations. He said the accounts payable balance of \$24,027 as of December 31, 2001, represents legal fees relating to a case against a licensed podiatrist (Dr. Gale) in North Dakota.

In response to a question from Senator Espegard, Ms. Kelly Schmidt, Secretary/Treasurer, Board of Podiatry, distributed a handout regarding legal fees associated with the Dr. Gale case. A copy of the information presented is on file in the Legislative Council office. Ms. Schmidt said as of August 2002 the Board of Podiatry owed the Pearce and Durick law firm \$14,545 and the Attorney General's office \$7,444. She said the board is anticipating \$14,000 of income from license renewals for the year 2003, monthly payments from Dr. Gale totaling \$12,000 to be received by December 31, 2003, and has a current cash in the bank balance of \$3,980.

In response to a question from Senator Espegard, Ms. Schmidt said as part of the settlement, Dr. Gale is

paying the Board of Podiatry \$750 per month until the end of 2003.

In response to a question from Senator Espegard, Mr. Oothoudt said the December 31, 2001, balance sheet does not show an accounts receivable balance because the settlement with Dr. Gale was not agreed to until March 2002, after the board's fiscal yearend.

In response to a question from Representative Wald, Mr. Oothoudt said audit fees are not included in the statement of revenues and expenditures because the audit was conducted after the period covered by the audit.

In response to a question from Senator Christmann, Ms. Schmidt said the Board of Podiatry has entered into two separate legal cases against Dr. Gale. She said both cases were decided by the North Dakota Supreme Court in favor of the Board of Podiatry.

Representative Winrich said the legal issues regarding the Dr. Gale cases have been resolved since the completion of the Board of Podiatry audit report and financial projections indicate the board is now in good financial shape.

In response to a question from Representative Lemieux, Mr. Oothoudt said the board currently reviews all expenditures and revenues.

Chairman Solberg called on Mr. Greg Honl, Eide Bailly LLP, Certified Public Accountants, who presented the audit report for the Bank of North Dakota for the years ended June 30, 2001 and 2000. Mr. Honl reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion. He said the Bank's primary capital ratio, which is the total capital divided by total assets, is 9.9 percent.

In response to a question from Senator Christmann, Mr. Honl said the minimum required primary capital ratio is 7 percent. He said the primary capital ratio for North Dakota banks range from 7 percent to 12 percent, with approximately 8 percent being the average.

In response to a question from Representative Wald, Mr. Eric Hardmeyer, CEO and President, Bank of North Dakota, said in August 2002 the Budget Section approved a contingent transfer from the Bank of North Dakota to the general fund, pursuant to 2001 House Bill No. 1015. He said the contingent transfer, based on the 2001-03 biennium revenue shortfall as compared to the March 2001 legislative forecast, not to exceed \$25 million, would not impair the Bank's ability to grow. Senator Espegard said the additional transfer to the general fund will decrease the Bank's primary capital ratio.

In response to a question from Representative Wald, Mr. Hardmeyer said 2001 House Bill No. 1015 provides that no transfers may be made from the Bank of North Dakota that would reduce the capital structure below \$140 million. He said the Bank of North Dakota has currently transferred \$30 million to

the general fund and will transfer the remaining \$30 million, as required pursuant to 2001 House Bill No. 1015, before the end of the 2001-03 biennium. He said an additional \$25 million transfer will leave the Bank with capital of approximately \$145 million to \$147 million. Senator Espgard said the Bank should be required to maintain a certain primary capital ratio rather than the \$140 million minimum balance.

Mr. Honl presented the audit report for the beginning farmer revolving loan fund for the years ended December 31, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and said the report includes an unqualified opinion.

Mr. Honl presented the audit report of the developmentally disabled facility loan fund for the years ended December 31, 2001 and 2000. He reviewed the auditor's responses to the committee's guidelines and said the audit report includes an unqualified opinion.

## INFORMATION TECHNOLOGY DEPARTMENT

Mr. Mike Ressler, Director of Operations, Information Technology Department, distributed a copy of the department's annual report on information technology projects, services, plans, and benefits pursuant to North Dakota Century Code (NDCC) Section 54-59-19. A copy of the report is on file in the Legislative Council office. He said the annual report consists of:

- Section 1 - An executive summary that describes and quantifies benefits the state is realizing from investments in information technology.
- Section 2 - Information on the state's information technology planning process.
- Section 3 - A status report on the costs and benefits of large information technology projects, including a summary of each project completed in the last 12 months and an update of ongoing large information technology projects.
- Section 4 - Information on the department's performance, including a rate comparison and an update on the department's performance measures.

In response to a question from Senator Christmann, Mr. Ressler said state agencies are required by law to purchase voice video and data services from the Information Technology Department. He said cities and counties are also required to purchase the services from the Information Technology Department; however, the Chief Information Officer can issue a waiver for these entities. He said private entities are not allowed to participate. He said private entities working cooperatively with and located on university properties are not currently receiving Information Technology Department voice video and data services.

Mr. Dan Sipes, Associate Director for Administration, Information Technology Department, addressed the State Auditor's office recommendation relating to system management facility data sets access included in the Information Technology Department general audit control report for the period July 1, 2000, through June 30, 2001. He said two individuals from the Information Technology Department had "ultra access" to all data sets. He said the Information Technology Department in cooperation with the State Auditor's office have restricted access to those two individuals and has complied with the audit recommendation.

## RETIREMENT AND INVESTMENT OFFICE

Chairman Solberg called on Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, who presented information regarding the minimum asset value required for the pension funds invested by the Retirement and Investment Office to remain actuarially sound. A copy of the information presented is on file in the Legislative Council office. Mr. Cochrane focused on the Teachers' Fund for Retirement. He said for the fiscal years ended June 30, 2002, the market return for the fund was a negative 8.6 percent. He said the June 30, 2002, actuarial value of assets in the Teachers' Fund for Retirement was \$1.44 billion and the market value of assets was \$1.17 billion. He said the actuarial value of assets is based on average returns over a five-year period. He said the estimated actuarial value of assets to the actuarial accrued liability ratio with the fiscal year ended June 30, 2002, is 91.61 percent. He said this projected funded ratio will decline over the next few years as a result of averaging in the return on investments from the previous two years.

## PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chairman Solberg called on Mr. Sparb Collins, Executive Director, North Dakota Public Employees Retirement System, who presented information regarding the minimum asset value required for the Public Employees Retirement System pension fund to remain actuarially sound. A copy of the information presented is on file in the Legislative Council office.

Mr. Collins said the funded ratio of the Public Employees Retirement System as of July 1, 2001, was 112.4 percent. He said the projected funded ratio is anticipated to decline over the next few years. He said for the fiscal year ended June 30, 2002, the Public Employees Retirement System actuarial value of assets was \$1.13 billion and the market value of assets was \$1.03 billion. He said the market return for the year ended June 30, 2002, was a negative 6.94 percent.

In response to a question from Representative Byerly, Mr. Collins said if current market trends

continue, he would not recommend increases in employee retirement benefits.

In response to a question from Senator Cook, Mr. Collins said if future salary increases, which are estimated to determine the liability of the fund, are less than anticipated it will improve the funded ratio.

In response to a question from Representative Wald, Mr. Collins said all state agencies, which includes commodity groups, are eligible to participate in the Public Employees Retirement System. He said nonstate agencies, including political subdivisions, have the option to participate in the system. He said nongovernmental entities are not eligible.

In response to a question from Representative Skarphol, Mr. Collins said both employees and board members of state boards are eligible to participate in the Public Employees Retirement System. He said employees are classified as either full-time or temporary based on whether they work more than 20 hours a week for five months of the year, and if the position is an approved regularly funded position. He said he believes board members can participate in the Public Employees Retirement System as temporary employees.

In response to a question from Representative Wald, Mr. Collins said currently there are not many state board members participating in the Public Employees Retirement System.

In response to a question from Representative Lemieux, Mr. Collins said the 2003-05 Blue Cross Blue Shield of North Dakota state health insurance renewal projection is a 26 percent increase for active employees and a 32 percent increase for retired employees.

The committee recessed for lunch at 12:25 p.m. and reconvened at 1:00 p.m.

## **NORTH DAKOTA VETERANS HOME PERFORMANCE AUDIT**

Chairman Solberg called on Mr. Gordy Smith, State Auditor's office, who presented the performance audit report of the Veterans Home. Mr. Smith said NDCC Section 54-10-01 requires the State Auditor's office to conduct performance audits in accordance with generally accepted government auditing standards. He discussed the following primary goals of the performance audit and the related recommendations and findings:

1. Is the management and administrative structure of the Veterans Home effective?
  - a. Enhancing the administrative structure and organization.
  - b. Monitoring and oversight of the commandant.
  - c. Making changes to the Administrative Committee on Veterans Affairs.
  - d. Developing a strategic plan.
  - e. Making changes in the accounting, budgeting, and financial areas.

- f. Improving the admission process.
  - g. Updating the North Dakota Administrative Code.
  - h. Making improvements in personnel areas.
2. Is the Veterans Home properly obtaining, accounting for, and utilizing financial resources efficiently and effectively?
    - a. Ensuring compliance with state law relating to use of funding from the general fund.
    - b. Generating additional revenue.
    - c. Making improvements to the commandant's custodial fund.
    - d. Improving the use of appropriated funds.
    - e. Improving the accounting for projects.
    - f. Improving procurement processes.
    - g. Automating the skilled care accounting process.
    - h. Making changes to mileage reimbursement.
    - i. Establishing policies in the accounting, budgeting, and financial areas.
    - j. Closing the "petty cash" account.

Chairman Solberg called on Mr. Kim Hysjulien, Chief Operating Officer, Pathway Health Services, who presented information relating to the third goal:

3. Is the Veterans Home reasonably staffed?
  - a. Making improvements to levels of care.
  - b. Making changes to staffing levels.
  - c. Monitoring employee satisfaction.
  - d. Monitoring resident satisfaction.

Attached as Appendix B is the listing of the recommendations included in the performance audit.

In response to a question from Senator Solberg, Mr. Smith said since the completion of the performance audit the State Auditor's office has been notified that the Veterans Home has requested and received permission from Central Personnel to reclassify the two existing account/budget specialist II positions as administrative officer II positions. He said there currently are no accounting positions at the Veterans Home other than an account tech II position. He said apparently the employee who did not meet the minimum qualifications for the account/budget specialist II position does meet the qualifications for the administrative officer II position.

In response to a question from Senator Solberg, Mr. Smith said one employee who did have the minimum required qualifications for the account/budget specialist II position, which is a four-year accounting degree, was also reclassified as an administrative officer II position. He said that employee's primary duties relate to Medicaid expenditures reimbursement collections.

In response to a question from Senator Christmann, Mr. Smith said the management's responses to the recommendations included in the performance

audit are from the Administrative Committee on Veterans Affairs.

In response to a question from Representative Byerly, Mr. Smith said he is unaware if the accounting duties at the Veterans Home have changed as the result of the reclassifications of positions. He said an agency the size of the Veterans Home needs a qualified accountant.

In response to a question from Representative Skarphol, Mr. Smith said Central Personnel has the authority to reclassify positions based on the duties required of the position. He said agencies are to identify to Central Personnel the primary duties performed by the employee and what position best matches those duties. He said Central Personnel does not have the ability to verify that the employee is actually performing the primary duties identified.

In response to a question from Senator Cook, Mr. Smith said it will take a significant amount of time for the Administrative Committee on Veterans Affairs to implement the performance audit recommendations. He said other states have hired consultants to assist board members in monitoring the activities of nursing homes, including veterans homes.

In response to a question from Senator Solberg, Mr. Hysjulien said the financial responsibility associated with a nursing home of this size is too complicated to be handled without a chief financial officer or head accountant.

In response to a question from Representative Aarsvold, Mr. Hysjulien said the type of residents living at the Veterans Home is comparative to other nursing home facilities.

In response to a question from Representative Byerly, Mr. Hysjulien said the finding of an improperly functioning stairwell door alarm is considered an "immediate jeopardy" finding. This is a finding that requires immediate concern. He said the commandant took a "bit of time" to respond and the director of nursing responded immediately.

In response to a question from Representative Byerly, Mr. Hysjulien said he would agree with the statement that the Veterans Home believes that because of taxpayer support the home can afford to employ more people. He said the North Dakota Legislature has been generous to the Veterans Home. He said the Veterans Home is spending the money properly to provide the best service to its residents.

In response to a question from Representative Byerly, Mr. Hysjulien said the Veterans Home has a federal survey or review that is required of all nursing homes.

In response to a question from Representative Byerly, Mr. Hysjulien said the commandant has met North Dakota's continuing education requirements for nursing home administrators.

In response to a question from Representative Wald, Mr. Hysjulien said the skilled care unit is new,

efficient, and a good facility for the residents. He said the basic care unit is older but very well-maintained and sufficient for the people it serves.

In response to a question from Senator Christmann, Mr. Hysjulien said part-time boards generally do not have the expertise or awareness of what to look for in managing a long-term care facility. He said it takes people with experienced backgrounds to understand the complicated financial situations and regulations involved with nursing homes.

In response to a question from Representative Skarphol, Mr. Hysjulien said the state's financial exposure could be significant if the Veterans Home falls out of regulatory compliance, including loss of federal Medicaid matching funds.

In response to a question from Representative Wald regarding the possible move of the Veterans Home to the Department of Human Services or State Department of Health, Mr. Hysjulien said regulating a nursing home is different from operating the facility. He said he would recommend long-term care professionals work with the nursing home board.

In response to a question from Representative Aarsvold, the legislative budget analyst and auditor said the Veterans Home is identified in the North Dakota Constitution and Century Code. He said the Advisory Committee on Veterans Affairs is a statutory committee.

Chairman Solberg called on Mr. Jerry Balzer, Chairman, Advisory Committee on Veterans Affairs, who presented the report on the advisory committee's response to the Veterans Home performance audit. Mr. Balzer said the board considers the findings included within the performance audit to be very serious. He said the board is not proud of the report but believes the audit will result in an improvement in operations. He said the board has delegated the recommendations to board members and has set a timeline for actions to be taken in response to the recommendations. He said the timelines will range from less than 30 days, 31 to 90 days, 91 to 150 days, and 151 days and over. He provided the Legislative Council staff a copy of the audit action forms, a copy of which is on file in the Legislative Council office.

In response to a question from Senator Espeland, Mr. Balzer said the advisory committee will meet after the Legislative Audit and Fiscal Review Committee and consider possible disciplinary action against the commandant.

In response to a question from Senator Kelsh, Mr. Balzer said no individual will be penalized for nonpayment of payroll taxes or lost interest on the savings account. He said the commandant will write a letter to the Internal Revenue Service and the state Tax Department to relieve any individual of responsibility. He said the residents of the Veterans Home are supportive of both the home and the commandant.

In response to a question from Senator Cook, Mr. Balzer said the State Auditor's office, State

Department of Health, and state legislators have offered assistance to the advisory committee in implementing the performance audit recommendations. He said in addition the advisory committee may consider the use of outside consultants to assist the board. He said the board will be prepared to introduce bills to the 2003 legislative session relating to the Veterans Home changes.

Senator Espegard said the management of the Veterans Home has to want to change how it operates. He said he does not believe the commandant would be willing to accept the recommended changes.

In response to a question from Representative Wald, Mr. Balzer said the Administrative Committee on Veterans Affairs members receive mileage and per diem reimbursement. He said funding is not available from the Veterans Home for the committee's expenses. He said the funding has been primarily provided from the veterans' postwar trust fund.

Representative Byerly said the Veterans Home has a history of problems. He said the home needs a professional manager with a background in nursing home administration. He said the current commandant does not have the qualifications to handle the job.

Representative Skarphol said he expects the Veterans Home to comply with Recommendation 3-1 relating to the requirement that the Veterans Home spend special and federal funds prior to spending general fund money and account for all money received in the Veterans Home operating fund except as provided in NDCC Section 37-15-21. Mr. Balzer said Recommendation 3-1 is to be acted upon by the board within 30 days.

In response to a question from Senator Espegard, Mr. Balzer said he does not believe the Veterans Home has the funding to hire management consultants to implement the State Auditor's office recommendations. Senator Espegard said implementing these recommendations is an emergency and will save the Veterans Home money in the long term. Mr. Smith said the State Auditor's office would be willing to assist Mr. Balzer and the Administrative Committee on Veterans Affairs.

In response to a question from Senator Solberg, Mr. Smith said the State Auditor's office would be available to do a financial review of the Veterans Home to determine if funding is available for management advisers to assist the home until the end of the 2001-03 biennium. Representative Byerly said the Veterans Home financial analyst from the Office of Management and Budget could assist the State Auditor's office in the review of the Veterans Home. Representative Skarphol said the State Auditor's office should examine the possible state liability from violations of federal laws and regulations at the Veterans Home.

Chairman Solberg said the Legislative Assembly expects agencies to follow state and federal laws. He said a performance audit reviews agencies for compliance with laws and intent. He said the Legislative Audit and Fiscal Review Committee may meet during the 2003 legislative session. He asked Mr. Balzer to keep the Legislative Council staff notified of the progress of the Administrative Committee on Veterans Affairs.

Chairman Solberg said NDCC Section 54-35-02.2 refers to the powers and duties of the Legislative Audit and Fiscal Review Committee. He said whenever the Legislative Audit and Fiscal Review Committee determines or has reason to believe there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the Attorney General. He said the Attorney General shall receive and accept such evidence or information and shall immediately commence such additional investigation as the Attorney General deems necessary.

**It was moved by Representative Skarphol, seconded by Representative Wald, and carried on a roll call vote that the Legislative Audit and Fiscal Review Committee request, pursuant to NDCC Section 54-35-02.2, the Attorney General's office investigate possible violations of state law as detailed in the June 24, 2002, State Auditor's office performance audit report on the Veterans Home.** Senators Solberg, Christmann, Cook, Espegard, Kelsh, and Klein and Representatives Aarsvold, Lemieux, Skarphol, Timm, Wald, and Winrich voted "aye." Representatives Byerly and Maragos voted "nay."

Senator Cook said the Attorney General's investigation should not infringe on the responsibility of Mr. Balzer and the board to implement the State Auditor's office recommendations for the Veterans Home.

Senator Kelsh said the Administrative Committee on Veterans Affairs is also responsible for not taking action to implement the 1994 State Auditor's office recommendations for the Veterans Home.

Representative Skarphol said the Legislative Audit and Fiscal Review Committee is under obligation when illegal acts have been discovered to turn over that information to the Attorney General's office.

Senator Klein said the Administrative Committee on Veterans Affairs should be allowed a few months to implement the audit recommendations and make the decision themselves on whether they can or cannot work with the commandant.

Senator Kelsh said the Administrative Committee on Veterans Affairs should not be directed by the Legislative Audit and Fiscal Review Committee regarding whether or not to retain the commandant. Representative Byerly said the Legislative Audit and Fiscal Review Committee has not provided any formal

direction regarding the disposition of the commandant. He said some members have strong opinions on what it wants the board to do regarding the commandant, but the committee has not directed any action.

Chairman Solberg called on Mr. Ken Anderson, Commandant, Veterans Home, who said if the board decides to retain him as commandant, he will work with Chairman Balzer to address all the problems at the Veterans Home. He said he will also seek expert assistance with other agencies and organizations.

Chairman Solberg called on Mr. Bill Peschel, Richland County Veterans Service Officer, who said the Veterans Home is a great place and Mr. Anderson is the most honest person he knows.

Chairman Solberg called on Ms. Sharon Ulmer, Accountant, Veterans Home, who said she is the person identified in the audit report as not being qualified for the account/budget specialist II position. Ms. Ulmer said she had worked at the Veterans Home for 10 years prior to accepting the account/budget specialist II position, during which time the Veterans Home employed a certified public accountant who came to her for budget assistance. She said she is currently attending college to receive a bachelor's degree in accounting.

Senator Espeland said the Legislative Audit and Fiscal Review Committee is not reacting to the level of care provided at the Veterans Home; it is reacting to the performance audit findings. Representative Skarphol said the intent of the motion for the Attorney General's investigation is to determine whether there is anything that warrants criminal charges and, if not, it will clear the commandant.

Chairman Solberg called on Ms. Margie Ourenhaugen, Executive Secretary, Veterans Home, who said the State Auditor's office survey of the Veterans Home employees was not returned because the questions were difficult to answer and not specific.

Chairman Solberg presented a bill draft [30176.0100] relating to exempting draft audit reports prepared by the State Auditor's office from open records requirements.

Mr. Smith said currently draft audit reports are exempt from open records laws; however, once the draft is released to an agency for comments the exemption is immediately lost. He said this bill draft allows for agencies to confidentially review the audit recommendations and suggest changes in language prior to finalization of the audit report.

In response to a question from Representative Winrich, Mr. Smith said the word "confidential" within the bill draft prohibits anyone from issuing the draft audit report. He said the removal of the word "confidential" would allow discretion for the agency or the State Auditor's office to release the draft audit report. He said as a policy the State Auditor's office has never released a draft audit report.

Representative Wald said the performance audit of the Veterans Home should have remained the exclusive property of the Legislative Audit and Fiscal Review Committee. He expressed concern over the audit report being presented to another interim committee before the Legislative Audit and Fiscal Review Committee.

Mr. Smith said approximately 8 to 10 years ago the State Auditor's office did not release any audit report until it was presented to the Legislative Audit and Fiscal Review Committee. He said, however, the Attorney General's office determined that once an audit is "substantially complete" the audit report becomes an open record.

Chairman Solberg called on Mr. Jack McDonald, North Dakota Newspaper Association, who said the bill will create more secrecy. Mr. McDonald said there is a benefit in the public being aware of findings and recommendations. Representative Timm said the audit report will be available to the public when it is finalized. Senator Solberg said the bill draft provides that only the draft audit reports are kept confidential and not the final report.

Mr. McDonald said he would prefer not to have any changes to the existing bill draft which would at least give the agencies the option to release the draft audit report.

Representative Wald said the bill draft allows the State Auditor's office to complete its work with its client, rather than through the press.

**It was moved by Representative Byerly, seconded by Representative Skarphol, and carried on a roll call vote that the bill draft exempting draft audit reports prepared by the State Auditor's office from open records requirements be amended to provide that the draft audit reports are also confidential and the bill draft be approved and recommended to the Legislative Council as amended.** Senators Solberg, Christmann, Cook, and Klein and Representatives Aarsvold, Byerly, Lemieux, Maragos, Skarphol, Timm, and Wald voted "aye." Representative Winrich voted "nay."

Representative Byerly said he had asked the Legislative Council staff to prepare a memorandum entitled *State Liability for Acts of State Employees*. He said the memorandum discusses the liability of the state and the state's employee for the acts or omissions of the state employee, including the acts of a state employee which may be inappropriate.

At the request of Representative Byerly, Chairman Solberg called on Ms. Darleen Bartz, Chief, Health Resource Section, State Department of Health, who presented information to the committee regarding the State Department of Health's response to the incident in which the commandant became angry at State Department of Health employees and retrieved a toy gun from his desk. Ms. Bartz said because the incident occurred late in the day, the two state nursing

home surveyors reported the incident to management the following morning. She said the nursing home surveyors had already returned to the Veterans Home prior to calling management. She said she had asked the employees if they felt threatened or if they would like to be pulled from the Veterans Home. She said the employees said they felt safe and wanted to continue the survey. She said she then asked the employees if they would like representation from management to be onsite at the Veterans Home until the completion of the survey. She said she did go to the Veterans Home immediately after the telephone call and upon arrival discussed the incident with the commandant. She said she told Mr. Anderson the behavior was not acceptable and that the staff would be pulled if it happens again.

Ms. Bartz said while at the Veterans Home she attended a meeting between two members of the Administrative Committee on Veterans Affairs and Veterans Home employees. She said the board members, who were not aware she worked for the State Department of Health, made unprofessional comments regarding the survey of the Veterans Home, including hostile comments about the survey process. She said after the meeting she talked to both of the board members about the need for professional behavior. She said she did not recall if she talked to the board members about the toy gun incident. She said upon return to the State Department of Health office, she met with the State Health Officer, Mr. Murray Sagsveen, who requested that the employees draft affidavits regarding the incident, which they did.

Representative Byerly said the State Department of Health did not handle the situation correctly. He said the department should have had the incident investigated to make sure it was a toy gun and not a real gun.

Ms. Bartz said both of the employees were made aware that it was a toy gun and safety was of utmost concern. She said both employees were given the option to leave the Veterans Home immediately and that members of management did drive to the Veterans Home as soon as the incident was reported. She said in addition there was a federal surveyor onsite at the Veterans Home at the time of the incident.

Representative Byerly said the surveyors were exposed to risk.

In response to a question from Representative Skarphol, Ms. Bartz said the State Department of Health employees did not receive feedback from the federal surveyor, who was not in the room during the incident.

In response to a question from Representative Skarphol, Ms. Bartz said the incident occurred two years ago and does not recall if the board members had knowledge of the gun incident.

At the request of Chairman Solberg, Ms. Bartz reported to the Legislative Council staff after the meeting that the board members which she heard make the comments to the staff were Mr. Ken Evenson, Valley City, and Mr. Rudy Jenson, Valley City.

Representative Byerly said he examined two years of minutes of the Administrative Committee on Veterans Affairs meetings and did not see any discussion of the gun incident.

## **WORKERS COMPENSATION PERFORMANCE AUDIT**

Chairman Solberg called on Mr. Alton Nitschke, Eide Bailly LLP, Certified Public Accountants, who presented the performance audit report for the Workers Compensation Bureau. Mr. Nitschke said the audit report focuses on the following eight elements that were felt to be the highest priorities for the Workers Compensation Bureau:

1. Contracts for services.
2. Review of the Workers Compensation Board.
3. Performance measures.
4. Safety and loss prevention programs.
5. Special investigation unit.
6. Department/major program performance reviews for claims support services and policyholder services.
7. Prior recommendations.
8. New building.

In response to a question from Representative Skarphol, Mr. Nitschke said the Workers Compensation Bureau negotiated contract prices for information technology projects. He said the performance audit concluded that the contract prices were reasonable. He said the Information Technology Department's policy is not to oversee computer systems hosted outside the department.

In response to a question from Representative Timm, Mr. Nitschke said the audit recommendations are weighted as high, medium, or low priority. He said he does not believe there are any recommendations that are critical to the continued operations of the Workers Compensation Bureau.

In response to a question from Representative Winrich, Mr. Nitschke said the criteria used in determining high, medium, or low priorities is based upon cost-savings, level of importance, and the impact to the Workers Compensation Bureau.

In response to a question from Representative Wald, Mr. Brent Edison, Executive Director and CEO, Workers Compensation Bureau, said the 2001 Legislative Assembly provided the bureau with 25 additional full-time equivalent employees to replace contract employees and provided the Workers Compensation Board authority to add 10 additional full-time equivalent employees. He said the replacement of contract employees with full-time employees has resulted in a substantial savings to the bureau.

In response to a question from Representative Wald, Mr. Edison said the estimated cost of the new Workers Compensation Bureau building is \$11.5 million, which is under budget. He said the estimated completion date for the Workers Compensation Bureau portion of the building is May 1, 2003.

In response to a question from Representative Lemieux, Mr. Edison said the workers' compensation fund is invested primarily in fixed income securities and the fund is "sound."

In response to a question from Representative Lemieux, Mr. Edison said the bureau has expanded safety service programs in many areas and has achieved significant results particularly in the reduction of lost-time claims.

In response to a question from Senator Solberg, Ms. Tammy Dolan, Vice President of Fiscal Information Services, Workers Compensation Bureau, said the Workers Compensation Bureau has realized approximately \$1 million in savings to date this biennium from the replacement of the contract employees with 25 full-time equivalent employees. She said most of this savings is off budget or not on the claims side. She said the bureau is expecting the savings to increase during this second year of the biennium. She said the replacement of contract employees with 10 additional information technology employees, as approved by the board, has resulted in savings of several hundred thousand dollars.

## **JOB SERVICE NORTH DAKOTA PERFORMANCE AUDIT**

Chairman Solberg called on Mr. John Mongeon, Brady, Martz & Associates, P.C., Certified Public Accountants, who presented a performance audit report for Job Service North Dakota. Mr. Mongeon said the performance audit was conducted in association with Management Advisors, Inc., a consulting firm from Denver, Colorado. He said the scope of the performance audit was limited to the following activities:

1. The unemployment insurance trust fund.
2. Suitable work and reemployment process policies.
3. Unemployment insurance tax and benefit processes.
4. Administrative and total cost analysis.
5. Previous performance audit progress.

Mr. Mongeon said the report includes 16 separate recommendations.

In response to a question from Representative Skarphol, Mr. Mongeon said based on November 2001 projections, without rate limiters, the projected Job Service North Dakota tax revenue for 2002 would increase by approximately \$7.3 million. He said the scope of the engagement is to make sure Job Service North Dakota complies with the law and achieves the appropriate solvency level as required for the Job Service North Dakota trust fund.

In response to a question from Senator Solberg, Mr. Mongeon said recommendation No. 10 is for Job Service North Dakota to continue to seek funding for complete replacement of its unemployment insurance tax and benefit computer systems. He said the system is a proprietary system designed in the early to mid-1970s. He said there have been periodic updates to the system.

In response to a question from Senator Klein, Ms. Maren Daley, Executive Director, Job Service North Dakota, said rate limiters were enacted to ease in rate increases needed for the trust fund to achieve required solvency levels. She said the removal of the rate limiters will result in a more rapid increase in the trust fund balance.

In response to a question from Senator Cook, Ms. Daley said the trust fund balance as required in NDCC Section 52-04-05 requires a balance sufficient to pay one year of unemployment benefits based upon past history. She said the targeted balance is to be achieved over a seven-year period starting on January 1, 2000. She said the current balance in the trust fund is sufficient to pay approximately three months of benefits, which is slightly behind projections. Mr. John Graham, Director, Centralized Services, Job Service North Dakota, said a moving formula is used to determine the target level to pay one year of benefits. He said the formula is based upon the year in which the highest amount of unemployment claims were paid within the last 20 years and two of the years with the highest claims in the last 10 years.

In response to a question from Senator Christmann, Ms. Daley said she considers employers to be the primary customer of Job Service North Dakota because without employers or businesses there are no jobs to meet the employees' needs.

In response to a question from Representative Winrich, Ms. Daley said rate limiters apply to both the positive and negative balance employers.

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

1. Office of the Governor (June 30, 2001 and 2000).
2. Office of Management and Budget (June 30, 2001 and 2000).
3. State Department of Health (June 30, 2001 and 2000).
4. Department of Human Services (June 30, 2001 and 2000).
5. Department of Economic Development and Finance (June 30, 2001 and 2000).
6. Department of Agriculture (June 30, 2001 and 2000).
7. Parks and Recreation Department (June 30, 2001 and 2000).

8. State Water Commission (June 30, 2001 and 2000).
9. Aeronautics Commission (June 30, 2001 and 2000).
10. Council on the Arts (June 30, 2001 and 2000).
11. Department of Public Instruction (June 30, 2001 and 2000).
12. Board of Cosmetology (June 30, 2001).
13. Education Standards and Practices Board (June 30, 2001 and 2000).
14. Board of Podiatry Examiners (December 31, 2001, 2000, and 1999).
15. Bank of North Dakota (December 31, 2001 and 2000).
16. Beginning farmer revolving loan fund (December 31, 2001 and 2000).
17. Developmentally disabled facility loan fund (December 31, 2001 and 2000).
18. North Dakota Veterans Home performance audit (June 24, 2002).
19. Workers Compensation Bureau performance audit (August 2002).
20. Job Service North Dakota performance audit (September 2002).
21. Reports available but not selected for presentation:
  - a. Department of Labor (June 30, 2001 and 2000).
  - b. Soybean Council (June 30, 2002 and 2001).
  - c. Beef Commission (June 30, 2002).
  - d. Private Investigative and Security Board (June 30, 2000 and 1999).
  - e. Board of Dietetic Practice (September 30, 2001 and 2000).
  - f. Board of Medical Examiners (December 31, 2000 and 1999).
  - g. Board of Registration for Professional Soil Classifiers (June 30, 2001 and 2000).
  - h. Community water facility loan fund (December 31, 2001 and 2000).
  - i. Board of Accountancy (June 30, 2002).
  - j. Board of Law Examiners (June 30, 2001 and 2000).
  - k. Board of Examiners for Hearing Instrument Dispensers (June 30, 2001 and 2000).

Senators Solberg, Christmann, Cook, Espeland, and Klein and Representatives Aarsvold, Lemieux, Skarphol, Timm, Wald, and Winrich voted "aye." No negative votes were cast.

## OTHER REPORTS AND COMMITTEE DISCUSSION

In response to a question from Senator Solberg, the legislative budget analyst and auditor said Representative Boucher has requested and been provided information regarding the spending of appropriated funds within the Division of Tourism and has also requested information on travel vouchers, which the department has agreed to provide.

Chairman Solberg said it would be up to the Legislative Audit and Fiscal Review Committee to decide if there should be an audit of the Division of Tourism before the new director takes office.

Representative Timm said the committee should allow Representative Boucher to complete his investigation before requesting an audit of the Division of Tourism.

Representative Aarsvold said with many boards it is common practice for an audit to be conducted after a change of administration. He said the committee should wait for the findings from Representative Boucher's investigation. Senator Espeland said based upon his experience, an audit of expense reports of a previous manager is not a normal practice.

Chairman Solberg said the committee will continue to monitor the Division of Tourism investigation.

Chairman Solberg said the committee has received a copy of the writeoff of accounts receivable as of June 30, 2002, for services provided at the State Hospital, the Developmental Center, and the human service centers, which are being submitted as required per NDCC Sections 25-04-17 and 50-06.3-08. He said in addition the report includes an "aging of accounts receivable" as of June 30, 2002. A copy of the information provided is on file in the Legislative Council office.

**It was moved by Representative Wald, seconded by Representative Aarsvold, and carried on a roll call vote that pursuant to NDCC Sections 25-04-17 and 50-06.3-08, the committee accept the report on the status of the accounts receivable of the Department of Human Services.** Senators Solberg, Christmann, Cook, Espeland, and Klein and Representatives Aarsvold, Lemieux, Skarphol, Timm, Wald, and Winrich voted "aye." No negative votes were cast.

The legislative budget analyst and auditor reviewed a memorandum entitled *Audit Guidelines for State Agencies - 12 Questions*. He said the memorandum addresses the 12 questions required by auditors of state agencies to address upon completion of the audit report. He said the committee may want to discuss and consider updating the 12 questions during the next interim.

Chairman Solberg said the Legislative Council staff and the Legislative Audit and Fiscal Review Committee will continue to monitor the Veterans

Home situation. He said the committee will be notified if a special meeting is required.

**It was moved by Representative Wald, seconded by Representative Timm, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill draft recommended by the committee and to present the report and the recommended bill draft to the Legislative Council.**

The meeting was adjourned subject to the call of the chair at 6:00 p.m.

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Donald J. Wolf  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:2