

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Monday, December 22, 2003  
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, Larry Bellew, Jeff Delzer, Andrew Maragos, Bob Skarphol, Blair Thoreson; Senators John M. Andrist, Randel Christmann, Jerry Klein, Aaron Krauter

**Members absent:** Representatives Al Carlson, RaeAnn G. Kelsch, Mike Timm, Amy Warnke, Lonny Winrich

**Others present:** See attached appendix

**It was moved by Representative Maragos, seconded by Representative Aarsvold, and carried on a voice vote that the minutes of the September 3-4, 2003, meeting of the Legislative Audit and Fiscal Review Committee be approved as distributed.**

#### AUDITS OF STATE AGENCIES

Chairman Wald called on Mr. John Mongeon, Brady, Martz & Associates, P.C., Certified Public Accountants, who presented the audit report for the Retirement and Investment Office for the years ended June 30, 2003 and 2002. He said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

In response to a question from Representative Delzer, Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, distributed a memorandum to the committee. A copy of the information presented is on file in the Legislative Council office. Mr. Cochrane said a change was implemented for the fiscal year ended June 30, 2003, to streamline the payment of Teachers' Fund for Retirement (TFFR) professional fee expenses. He said these expenses were previously paid directly from the pension fund account and not "booked" to the internal service fund. He said professional fee expenses are now paid from the internal service fund and then allocated to the pension fund.

Mr. Mongeon presented the audit report for Workforce Safety and Insurance for the years ended June 30, 2003 and 2002. He said the report contains an unqualified opinion and does not contain any significant findings or recommendations.

In response to a question from Senator Andrist, Mr. Mongeon said the primary reason Workforce

Safety and Insurance had a \$76 million operating loss for the year ended June 30, 2003, was due to an increase in the actuarial estimate for unpaid loss and loss adjustment expenses. He said Workforce Safety and Insurance's fiscal year ended June 30, 2003, underwriting loss was \$77.6 million.

In response to a question from Representative Delzer, Ms. Tammy Dolan, Vice President of Finance, Workforce Safety and Insurance, said an actuary reviewed prior claims for the years 1987 to 1995 and as a result of the review approximately 80 claims were reclassified from temporary to permanent total disability status. She said an actuarial review is conducted on an annual basis.

In response to a question from Representative Skarphol, Ms. Dolan said generally accepted accounting principles require changes in loss estimates be recognized when they can be reasonably estimated. She said the actuarial review for the year ended June 30, 2003, was conducted in July or August 2003.

In response to a question from Senator Christmann, Ms. Dolan said the loss realized from the prior claims adjustment will result in a reduction in the Workforce Safety and Insurance fund balance.

In response to a question from Representative Maragos, Ms. Dolan said on May 9, 2002, the Workforce Safety and Insurance Board of Directors set a goal of recording the unpaid loss liability on a full value or undiscounted basis at such a time when the move can be made and a surplus can be maintained. She said the unpaid loss liability is currently reported on a 6 percent discounted basis. She said based on estimated portfolio earnings, Workforce Safety and Insurance should be able to record the unpaid loss liability on an undiscounted basis within three to five years.

In response to a question from Senator Andrist, Ms. Dolan said rates will not increase directly as a result of the prior claims loss adjustment; however, the adjustment may indirectly affect actuarial estimates for future claims moved to permanent total disability status.

In response to a question from Representative Wald, Ms. Dolan said Workforce Safety and Insurance cannot withhold payment for an employee claim due to the employer's premium payments being in

arrears. She said she would provide the Legislative Council with a copy of a schedule of aging of receivables.

In response to a question from Representative Wald, Mr. Mongeon said during the audit process both the draft and final actuarial reports were reviewed by the auditors for reasonableness.

In response to a question from Representative Aarsvold, Ms. Dolan said net premiums earned decreased by approximately \$3 million from 2002 to 2003. She said emphasis on safety and deductible programs has had an effect on premiums billed.

In response to a question from Senator Krauter, Mr. Mongeon said workers' compensation claims require the use of estimates which are reassessed on an ongoing basis. Ms. Dolan said she would provide the Legislative Council with a history of actuarial underwriting adjustments.

In response to a question from Representative Skarphol, Ms. Dolan said it is "less likely" for an individual who has received a declaration of permanent total disability to be reassessed back to a temporary total disability status.

In response to a question from Representative Skarphol, Ms. Dolan said the cost of the new Workforce Safety and Insurance building, including the land, is approximately \$12 million.

In response to a question from Representative Skarphol, Mr. Mongeon said the separate entity created by Workforce Safety and Insurance to provide out-of-state coverage had no significant activity during the period covered by the audit.

Mr. Mongeon presented the audit report for the Board of University and School Lands for the years ended June 30, 2003 and 2002. He said the report contains an unqualified opinion and does not contain any significant findings or recommendations.

Chairman Wald called on Mr. Paul Welk, State Auditor's office, who presented the audit report for the Attorney General's office for the years ended June 30, 2002 and 2001. He reviewed the auditor's responses to the committee's guidelines and said the audit report contains two instances of noncompliance with legislative intent. He said charges for State Fire Marshal program services were \$1,946 more than allowed pursuant to 2001 House Bill No. 1003. He said gaming organizations that have dissolved operations are required to file an action plan with the Attorney General's office relating to the disbursement of net proceeds pursuant to North Dakota Century Code (NDCC) Section 53-06.1-06. He said the Attorney General Gaming Division did not have a dissolution action plan on file for all gaming organizations that had dissolved operations.

Mr. Welk said the audit report contains two recommendations for operational improvement. He said it was recommended that the Gaming Division of the Attorney General's office implement additional control procedures related to the processes and procedures

for receiving, processing, and auditing of gaming tax returns. He said the Racing Division receives a monthly report from the authorized simulcast service provider, listing the total wagers on a weekly basis, for each site in the North Dakota Racing Association (NDRA). He said the Racing Division could obtain weekly or monthly reports directly from each of the 10 racing sites in North Dakota to confirm the wager amounts reported by the simulcast service provider.

In response to a question from Representative Skarphol, Mr. Welk said the Legislative Audit and Fiscal Review Committee receives the audit reports prepared by the State Auditor's office from six months to one year from the completion date of the audit.

Mr. Ed Nagel, State Auditor's office, presented the audit report for the Mill and Elevator Association for the year ended June 30, 2003. He said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

In response to a question from Representative Delzer, Mr. Nagel said the net income of the Mill and Elevator Association was approximately \$1.9 million for the year ended June 30, 2002, and \$2 million for the year ended June 30, 2003. He said the \$2 million net income in fiscal year ended 2003 is prior to a \$6 million transfer made to the general fund.

In response to a question from Representative Delzer, Mr. Ed Barchenger, Controller, Mill and Elevator Association, said 2003 House Bill No. 1015 provides for the Mill and Elevator Association to transfer \$5 million to the general fund during the 2003-05 biennium. In response to a question from Representative Skarphol, Mr. Barchenger said the Mill and Elevator Association transferred \$3 million to the general fund during the 1999-2001 biennium.

## STATE AGENCY INFORMATION SYSTEM AUDITS

Mr. Donald LaFleur, State Auditor's office, presented the information system audit of the Secretary of State's business entity and accounting systems for the period January 1, 2002, through December 31, 2002. He said the objective of the audit of the business entity and accounting systems was to answer the following questions:

- Are security controls surrounding the systems adequate?
- Do the input screens contain necessary edit checks?
- Are reports from the systems accurately prepared?
- Are late fees properly charged for annual reports?
- Is the status properly updated for business entities that fail to file annual reports?

Mr. LaFleur said the report contains six findings, including two instances of noncompliance with legislative intent. He said the Secretary of State did not charge nonprofit corporations a \$5 late fee for annual

reports not filed on a timely basis, pursuant to NDCC Section 10-33-139. He said the section also provides that the Secretary of State may waive any penalties provided when an annual report form could not be delivered to the corporation. He said prior to 1997, nonprofit corporations were not required to file annual reports. He said the Secretary of State's data base included the names of 12,000 nonprofit corporations, of which approximately 40 percent are no longer in existence. He said the Secretary of State's office conducted a process, which took several years, to update the data base and will assess late fees for nonprofit corporation annual reports filed after February 1, 2004.

Chairman Wald called on Mr. Alvin A. Jaeger, Secretary of State, who responded to the Secretary of State's business entity and accounting systems information system audit. Mr. Jaeger said several of the responses to the auditor's recommendations include references to the previous administration of the Secretary of State's office. He said these references were not meant to be fault-finding.

In response to a question from Senator Krauter, Mr. LaFleur said there are 15 or 16 state information systems that have been identified as being high-risk systems. In response to a question from Representative Skarphol, Mr. LaFleur said various criteria were used in determining what constitutes a high-risk information system, including who developed the system, the age of the system, the environment in which the system is used, how much money is processed in the system, and the importance of the system to an agency.

Mr. LaFleur presented a followup report on the VISION - temporary assistance for needy families information system audit. He said the report indicates two prior audit recommendations were fully implemented, one prior audit recommendation has been partially implemented, and three prior audit recommendations were not implemented.

### **CHILD SUPPORT ENFORCEMENT PROGRAM PERFORMANCE AUDIT FOLLOWUP REPORT**

Chairman Wald called on Mr. Gordy Smith, State Auditor's office, who presented a followup report on the child support enforcement program performance audit. He said 8 prior audit recommendations were fully implemented, 16 prior audit recommendations were partially implemented, 25 prior audit recommendations were determined to be not implemented, and 7 prior audit recommendations were determined to be no longer applicable. He said of the 25 audit recommendations not implemented, 13 were not implemented due to the fact that the child support program was not "statized"--state-administered rather than the current state-supervised, county-administered structure.

In response to a question from Representative Delzer, Mr. Smith said in conducting the original performance audit of the child support enforcement program, the State Auditor's office used the consulting services of TMR-MAXIMUS, based in Omaha, Nebraska. He said the cost of the consultant was \$98,000, which was paid from a \$100,000 general fund appropriation to the State Auditor's office to hire a consultant.

In response to a question from Senator Christmann, Mr. Mike Schwindt, Director, Child Support Enforcement Division, Department of Human Services, said the Fully Automated Child Support Enforcement System (FACSES) Advisory Committee consists of individuals who use the system, including regional administrators, caseworkers, and representatives of the judicial system. He said the committee is nonstatutory and makes recommendations for changes and enhancements to FACSES.

In response to a question from Senator Christmann, Mr. Smith said the Department of Human Services is concerned with the State Auditor's recommendation that criteria be established for turning child support cases over to a private collection agency. He said the department's concern is that custodial parents will give up a portion of support due as fees to the collection agency.

In response to a question from Representative Skarphol, Mr. Schwindt said North Dakota is able to collect 72 cents of every dollar due in child support.

In response to a question from Representative Delzer, Mr. Schwindt said the state has more effective child support enforcement methods than those available to private collection agencies, such as revoking hunting licenses, income withholding by employers, and collecting from federal and state income tax refunds, workers' compensation payments, or unemployment compensation.

In response to a question from Representative Maragos, Mr. Schwindt said custodial parents who do not receive child support may be eligible for other state programs, including Medicaid, food stamps, and temporary assistance for needy families. He said when child support is later collected for these clients, the federal and state government is reimbursed for program costs.

### **REQUEST FOR PERFORMANCE AUDIT CONSULTANT**

Mr. Smith requested approval from the committee to hire a consultant to assist with conducting the Department of Corrections and Rehabilitation performance audit pursuant to NDCC Section 54-10-01. He said the section provides that the State Auditor must notify the agency of the need for a consultant and subsequently obtain approval of the Legislative Audit and Fiscal Review Committee prior to hiring a consultant to assist with conducting a performance audit. He said the section provides that

the agency that is audited is required to pay for the cost of the approved consultant.

Mr. Smith said the estimated start date for the Department of Corrections and Rehabilitation performance audit is March 2004. He said request for proposals need to be sent in order to have a consultant hired and available during the audit process. He said the Department of Corrections and Rehabilitation will be allowed to review the proposals received and provide input into the decision process. Mr. Smith said the most money spent to date by the State Auditor's office for a consultant was the \$98,000 for the child support enforcement program performance audit. He said the scope of work to be completed by the consultant cannot be determined until a preliminary evaluation by the State Auditor's office is completed. He suggested the committee authorize up to \$100,000 as a maximum amount for a consultant for the Department of Corrections and Rehabilitation performance audit.

Senator Krauter said the Department of Corrections and Rehabilitation budget is "underfunded" and really is not in a position to pay that amount.

Representative Delzer said 2003 House Bill No. 1506 provides for the State Auditor's office to **consider conducting** a performance audit of the Department of Corrections and Rehabilitation during the period beginning July 1, 2003, and ending January 1, 2005.

In response to a question from Representative Maragos, Mr. Smith said the State Auditor's office was directed in 2003 House Bill No. 1007 to conduct a performance audit of the Department of Veterans Affairs and the Administrative Committee on Veterans Affairs during the 2003-05 biennium.

**It was moved by Representative Skarphol, seconded by Representative Delzer, and carried on a roll call vote that the Legislative Audit and Fiscal Review Committee approve the State Auditor's office request to hire a consultant to assist with conducting the Department of Corrections and Rehabilitation performance audit pursuant to NDCC Section 54-10-01 at a cost not to exceed \$50,000 and that any consultant costs in excess of \$50,000 are subject to prior approval by the Legislative Audit and Fiscal Review Committee.** Representatives Wald, Bellew, Delzer, Skarphol, and Thoreson and Senators Andrist, Christmann, Klein, and Krauter voted "aye." Representative Aarsvold voted "nay."

The committee recessed for lunch from 12:10 to 1:00 p.m.

### **BOARD OF MESSAGE AUDIT**

Chairman Wald called on Mr. Thomas L. Elliott, Certified Public Accountant, Fargo, who presented the audit report for the Board of Message for the years ended June 30, 2001 and 2000. Mr. Elliott said the board's former secretary-treasurer borrowed \$2,500

from the Board of Message on April 28, 1997. He said the board of directors also determined \$8,045 of expenditures incurred by the former secretary-treasurer were not properly documented or approved. He said the loan and expenditures have been repaid with interest by the former secretary-treasurer. Mr. Elliott said he will complete the June 30, 2003 and 2002 audit of the Board of Message by the end of 2003. He said it appears the Board of Message has addressed the internal control weaknesses identified in the June 30, 2001 and 2000 audit report.

In response to a question from Senator Christmann, Mr. Elliott said the former secretary-treasurer did a lot of work for the Board of Message for minimal compensation. He said the former secretary-treasurer did not notify or seek approval for the loan from the board of directors.

In response to a question from Representative Skarphol, Mr. Elliott said the former secretary-treasurer is no longer a member of the board of directors.

Ms. Lanette Hellman, noncertified member, Board of Message, said the Board of Message has increased its board membership from three to five individuals to address the segregation of duties problem.

### **FUTURE PERFORMANCE AUDITS**

Mr. Smith presented a summary of potential future performance audits for consideration by the Legislative Audit and Fiscal Review Committee. A copy of the information presented is on file in the Legislative Council office. Mr. Smith said the State Auditor's office list of suggestions for future performance audits includes:

- North Dakota University System performance measures.
- North Dakota University System - Other areas.
- Commerce Department.
- Attorney General's office - Gaming Division.
- Department of Human Services.
- Leased building space by state government entities.
- Tax Department.
- Agriculture commodity groups.
- State cell phone usage and travel costs.

In response to a question from Senator Andrist, Mr. Smith said the state could contract with independent auditors to conduct performance audits. He said there are four individuals in addition to himself employed by the State Auditor's office responsible for conducting performance audits.

In response to a question from Representative Skarphol, Mr. Smith said he would provide the committee at its next meeting with a time estimate for the State Auditor's office to complete each of the suggested performance audits. Senator Andrist asked the State Auditor's office to identify the

suggested performance audits that would require a consultant.

In response to a question from Senator Krauter, Mr. Smith said the State Auditor's office does not charge state agencies a fee for conducting performance audits. He said the agency is charged a fee for the cost of a consultant, if required, for the performance audit. He said the State Auditor's office charges state agencies a fee for financial audits, unless the agency is entirely funded from the general fund.

### **"BLENDED" COMPONENT UNITS**

Mr. Nagel presented information regarding component units which are "blended into" state-reporting entities. A copy of the information presented is on file in the Legislative Council office. He said the North Dakota Building Authority (component unit) is blended into the state's debt service and capital projects funds and the North Dakota University System Foundation, North Dakota State University Research Foundation, and Bismarck State College Mystic Athletic Club (component units) are blended into the North Dakota University System financial statements. He said "blended" component units, even though they are legally separate entities, are so intertwined with the state or the North Dakota University System that they are, in substance, the same as the state or the North Dakota University System.

### **STATE AGENCY, BOARD, AND INSTITUTION AUDITORS**

Mr. Nagel presented a summary of the auditors of state agencies, boards, and institutions and whether the audits are required to be completed by either the State Auditor's office or independent auditors. A copy of the information presented is on file in the Legislative Council office. Mr. Nagel said NDCC Sections 6-09-29, 10-30.5-08, and 4-02.1-18 provide for independent certified public accounting firms to conduct the audits of the Bank of North Dakota, North Dakota Development Fund, Inc., and State Fair Association, respectively. He said the Legislative Council is responsible for selecting the auditor for the Legislative Council, Legislative Assembly, and State Auditor's office.

In response to a question from Senator Krauter, Mr. Nagel said because the controller of the Housing Finance Agency is his brother-in-law, the State Auditor's office would not be able to conduct the audit of the agency.

In response to a question from Senator Krauter, the legislative budget analyst and auditor said the Legislative Council would research the history of the law that provides for independent auditors to conduct the audits of North Dakota Development Fund, Inc., and State Fair Association. He said auditors are required to maintain their independence and meet professional standards even when selected to

conduct an agency audit for several consecutive years.

### **STATUS OF THE CONNECTND PROJECT**

Chairman Wald called on Ms. Pam Sharp, Director, Office of Management and Budget, who presented information on the status of the ConnectND project. Ms. Sharp said Phase 1 of the ConnectND project consisted of implementing payroll on a state-wide basis and the financial program for the Office of Management and Budget. She said the project is currently in the second phase which involves implementing financial programs for all state agencies. She said the projected "go live" date for the second part of the project is July 2004.

Ms. Sharp said the PeopleSoft software requires a "lag" in the time from the end of a payroll period until the payroll checks are issued. She said the ConnectND steering committee will decide by December 31, 2003, to implement either a monthly or semimonthly pay period with a minimum 15-day "lag." She said the steering committee feels that a semimonthly pay period might be the best option.

In response to a question from Senator Krauter, Ms. Sharp said the current state payroll system has an eight-day "lag" period only for supplemental payroll. She said under the new system the steering committee is proposing a 15-day "lag" period for all payroll.

Ms. Sharp said implementation of the "lag" period will result in employees receiving payment for only 15 days of service during the first month of the transition to the new system, based on a semimonthly pay period. In response to a question from Senator Christmann, Ms. Sharp said the steering committee will consider offering a one-time payroll advance, which will be repaid over a period of months, to assist state employees during the transition to the new payroll system.

Chairman Wald called on Mr. Grant Crawford, Chief Information Officer, North Dakota University System, who presented information on the status of the ConnectND project. A copy of the information presented is on file in the Legislative Council office. Mr. Crawford said the North Dakota University System pilot sites consisting of the North Dakota University System office, Mayville State University, and Valley City State University are currently running and utilizing several ConnectND modules, including accounts payable, general ledger, purchasing, core human resources, base benefits, payroll, recruiting and admission, financial aid, student records, student finance, and the portal. He said additional modules will be implemented over the next year. He said the remaining nine campuses will "go live" with admissions, recruitment, financial aid, and student records in May-June 2004 and student financials and all financial and human resource modules will "go live" in July 2004.

Chairman Wald called on Mr. LaFleur who presented information on the impact of ConnectND on the auditing process. A copy of the information presented is on file in the Legislative Council office. Mr. LaFleur said advantages of the PeopleSoft system include better background information on financial transactions and easier access to information. He said the PeopleSoft system will initially require more audit effort.

### **STATE HISTORICAL SOCIETY**

Chairman Wald called on Mr. Merl Paaverud, Director, State Historical Society, who presented a status report regarding the implementation of previous State Auditor's office audit recommendations. A copy of the information presented is on file in the Legislative Council office. He said the State Auditor's office audit report included recommendations related to inventory control weaknesses, documentation controls, cash control weaknesses, and operational improvement. He said the State Historical Society has taken steps to address each of the recommendations and is committed to working cooperatively with the State Auditor's office.

### **AUDITS OF STATE AGENCIES**

Chairman Wald called on Ms. Barb Aasen, Eide Bailly LLP, Certified Public Accountants, who presented the audit report for Job Service North Dakota for the year ended June 30, 2003. Ms. Aasen reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

Ms. Aasen presented the audit report for the Public Employees Retirement System for the years ended June 30, 2003 and 2002. She reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Darrell Lingle, Eide Bailly LLP, Certified Public Accountants, presented the audit report for the Housing Finance Agency for the years ended June 30, 2003 and 2002. He reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

Ms. Aasen presented the audit report for the State Building Authority for the years ended June 30, 2003 and 2002. She reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

Mr. Greg Honl, Eide Bailly LLP, Certified Public Accountants, presented the audit report for the partnership in assisting community expansion (PACE) fund for the years ended June 30, 2003 and 2002. He reviewed the auditor's responses to the committee's guidelines and said the audit report contains an

unqualified opinion and does not contain any findings or recommendations.

In response to a question from Senator Krauter, Mr. Bob Humann, Senior Vice President of Lending, Bank of North Dakota, said PACE funds identified for specific projects, which are not completed, remain at the Bank of North Dakota in the PACE fund. He said because of confidentiality reasons, the Bank of North Dakota cannot provide the names associated with the unused funds.

In response to a question from Representative Wald, Mr. Honl said the 12 questions required to be addressed by the auditor of state agencies upon completion of the audit report were appropriate 10 years ago, but some of the questions have become outdated. He said Eide Bailly LLP, Certified Public Accountants, would be willing to work with the State Auditor's office and Brady, Martz & Associates, P.C., to provide the committee with suggested changes to the 12 questions.

In response to a question from Representative Skarphol, Mr. Honl said questions relating to information systems would be useful to readers of financial statements. Representative Skarphol suggested that the changes provided by independent auditors include questions relating to information systems and the suggested changes relating to information technology be presented to the interim Information Technology Committee in addition to the Legislative Audit and Fiscal Review Committee.

Mr. Honl presented the audit report for the Ag PACE fund for the years ended June 30, 2003 and 2002. He reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

Chairman Wald called on Ms. Aasen who presented the audit report for North Dakota Development Fund, Inc., for the years ended June 30, 2003 and 2002. She reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

In response to a question from Representative Wald, Ms. Aasen said the management letter for North Dakota Development Fund, Inc., contains three minor recommendations. She said North Dakota Development Fund, Inc., should follow the unclaimed property rules for old outstanding checks, the fund should consider investing the cash balances in higher interest-bearing financial instruments, and nonrefundable origination fees should be credited to an income account at the time the fees are received.

In response to a question from Representative Wald, Ms. Aasen said North Dakota Development Fund, Inc., has a cash balance of \$12 million in .55 percent or .40 percent Bank of North Dakota interest-bearing accounts.

In response to a question from Representative Skarphol, Ms. Aasen said the \$500,000 increase in the net assets of North Dakota Development Fund, Inc., from 2002 to 2003 was primarily due to timing of dividend income and a reduction in bad debt expenses. She said equity investments written off were \$581,532 for the fiscal year ended June 30, 2003, and \$935,000 for the fiscal year ended June 30, 2002. She said she would ask North Dakota Development Fund, Inc., to provide the committee with a list of the entities receiving writeoffs for each of the two years.

Mr. Honl presented the audit report for the student loan trust for the year ended June 30, 2003. He reviewed the auditor's responses to the committee's guidelines and said the audit report contains an unqualified opinion and does not contain any findings or recommendations.

In response to a question from Representative Wald, Mr. Ed Sather, Senior Vice President of Treasury Services, Bank of North Dakota, said the United States Department of Education will most likely continuously guarantee the 9.5 percent rate of return on current holdings of the student loan trust fund. He said the reauthorization Act for the Department of Education is considered by Congress every five or six years. He said any changes to the Act would most likely be prospective and not impact the current holdings of the student loan trust fund.

In response to a question from Senator Christmann, Mr. Honl said the State Auditor's office and independent auditors report under the same auditing standards. He said independent auditors as compared to the State Auditor's office are more likely to discuss "nonmaterial" findings with the client rather than include the findings in the audit report.

### **STATE AUDITOR'S OFFICE AUDIT REPORT**

Ms. Aasen presented the audit report for the State Auditor's office for the years ended June 30, 2003 and 2002. She said the audit report contains an unqualified opinion and does not include any findings or recommendations.

### **LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY AUDIT REPORTS**

Ms. Aasen presented the audit report for the Legislative Council for the years ended June 30, 2003 and 2002. She said the audit report contains an unqualified opinion and does not include any findings or recommendations.

In response to a question from Representative Wald, the legislative budget analyst and auditor said the operating expenses of the Legislative Council include legislators' per diem and travel costs incurred during the interim.

In response to a question from Representative Skarphol, the legislative budget analyst and auditor said there typically is no interim committee travel when the Legislative Assembly is in session; thus, during odd-numbered years the travel expenses of the Legislative Council are significantly lower. He said information technology consulting and development costs are generally incurred during even-numbered years in preparation for the next session. He said when the Legislative Assembly is in session, information technology costs are paid by the Legislative Assembly.

In response to a question from Representative Wald, the legislative budget analyst and auditor said accrued annual leave is paid in full to a departing employee from within the Legislative Council's existing appropriation and a specific appropriation is not provided.

Ms. Aasen presented the audit report for the Legislative Assembly for the years ended June 30, 2003 and 2002. She said the audit report contains an unqualified opinion and does not include any findings or recommendations.

In response to a question from Representative Delzer, the legislative budget analyst and auditor said the Legislative Assembly's fringe benefits consist of the employer's share of Social Security paid for legislators and legislative temporary staff.

### **INFORMATION TECHNOLOGY DEPARTMENT - ANNUAL REPORT**

Chairman Wald called on Mr. Mike Ressler, Deputy Chief Information Officer, Information Technology Department, who reported, pursuant to NDCC Section 54-59-19, on the department's 2002-03 annual report. A copy of the report is on file in the Legislative Council office. Mr. Ressler said the annual report is composed of the following four sections:

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

### **REGIONAL PLANNING COUNCILS**

Mr. Gordy Smith presented an overview of the independent audit reports for the eight regional planning councils. A copy of the information presented is

on file in the Legislative Council office. Mr. Smith said pursuant to a request of the Legislative Audit and Fiscal Review Committee, the State Auditor's office performed a desk review of the audit reports of the eight regional planning councils. He said the review identified two instances where it appeared more information would be needed in order to determine if assets had been transferred to a nonprofit corporation.

Mr. Smith said according to the Lake Agassiz Regional Council's notes to the financial statements, a \$100,000 grant was given to the Lake Agassiz Regional Development Corporation. He said the funds were used to match a \$100,000 grant from the community development financial institution. He said the \$200,000 provided the equity needed to obtain debt financing for the construction of a \$2.2 million 24-plex senior congregate living complex in Wahpeton.

Mr. Smith said according to the Lewis and Clark Regional Development Council's notes to the financial statements, the council is related to and has entered into a working agreement with the Lewis and Clark CommunityWorks. He said according to Mr. Paul Rechlin, the executive director of Lewis and Clark Regional Development Council, the Lewis and Clark CommunityWorks owes the council approximately \$160,000 for expenses incurred during the development of the Lewis and Clark CommunityWorks. He said the council was reducing the debt by \$1,000 per month because of the efficiencies gained by the council after the formation of the Lewis and Clark CommunityWorks. He said examples provided included sharing a fax machine and an administrative employee compared to the council paying for both previously.

In response to a question from Senator Christmann, Mr. Smith said he does not believe interest is being charged to the Lewis and Clark CommunityWorks on the loan owed to the council.

In response to a question from Representative Delzer, Mr. Smith said Mr. Rechlin indicated cost allocations between the council and the Lewis and Clark CommunityWorks are documented.

Mr. Smith said the State Auditor's office noticed different interpretations of accounting principles and auditing standards among the audit reports of the eight regional planning councils. He said instances were noted where it appears the financial statements were not prepared in accordance with generally accepted accounting principles for political subdivisions, nor was it reflected in the audit opinion.

In response to a question from Representative Wald, Mr. Smith said the State Auditor's office has not suggested a specific reporting format to the regional planning councils. He said the State Auditor's office will notify the regional planning councils regarding instances where there is a departure from generally

accepted accounting principles in the reporting of their financial statements.

In response to a question from Senator Andrist, Mr. Smith said the regional councils do not directly receive general fund money. He said the regional planning councils do receive economic development support from state sources; however, this is a small amount of their total funding.

In response to a question from Representative Delzer, Mr. Smith said there are federal funds and other grants that are available only to nonprofit corporations and the regional planning councils are identified in the North Dakota Century Code as political subdivisions. He said the development of nonprofit corporations provides another source of funding to the regional planning councils. Representative Aarsvold said certain philanthropic groups will make grants only to nonprofit organizations.

In response to a question from Representative Skarphol, Mr. Smith said seven of the eight regional planning councils have established a nonprofit corporation.

In response to a question from Representative Wald, Mr. Smith said his suggestion to improve consistency in reporting of the financial statements of the eight regional planning councils would be for the Legislative Assembly to direct the regional planning councils to be audited by the State Auditor's office for a period of years.

## **AUDIT GUIDELINES FOR STATE AGENCIES - 12 QUESTIONS**

Mr. Nagel presented a report regarding the State Auditor's office suggested changes to the 12 questions required to be addressed by the auditor of state agencies upon completion of the audit report. A copy of the information presented is on file in the Legislative Council office.

Mr. Nagel said the State Auditor's office feels that some of the questions address the same issue, while others are simply no longer applicable. He said the 12 questions could be replaced with the following four questions:

1. Was internal control adequate and functioning effectively?
2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?
3. Were there any indications of lack of efficiency in financial operations and management of the agency?
4. Has action been taken on findings and recommendations included in prior audit reports?

Chairman Wald said the committee members should review the State Auditor's office suggested changes and compare it to the 12 questions prior to the next meeting. He said the committee will receive the suggestions from the private auditors and

consider changes to the 12 questions at the next meeting.

Senator Christmann said question No. 7 (was there any indication of fraud or dishonesty?) and No. 12 (has the agency developed budgets of actual anticipated expenditures and revenues on at least a quarterly basis and compared, on at least a quarterly basis, actual expenditures and revenues on the accrual basis to budgeted expenditures and revenues?) are questions that should be kept. He said a question should be added to address whether agencies are taking full advantage of the services of the Information Technology Department.

In response to a question from Representative Delzer, Mr. Nagel said it is not necessary that the changes to the 12 questions correlate to the planned change to the new accounting system in 2004.

Representative Skarphol said the State Auditor's office, Legislative Council, Legislative Audit and Fiscal Review Committee, and Information Technology Committee should cooperatively develop a separate set of questions for information system audits.

### **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Chairman Wald asked that the Board of Nursing audit report for the years ended June 30, 2003 and 2002 be presented at the next Legislative Audit and Fiscal Review Committee meeting.

**It was moved by Representative Skarphol, seconded by Representative Thoreson, 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. **Retirement and Investment Office (June 30, 2003 and 2002).**
2. **Workforce Safety and Insurance (June 30, 2003 and 2002).**
3. **Board of University and School Lands (June 30, 2003 and 2002).**
4. **Attorney General (June 30, 2002 and 2001).**
5. **Mill and Elevator Association (June 30, 2003).**
6. **Secretary of State's business entity and accounting systems - information system audit (December 31, 2002).**
7. **VISION - temporary assistance for needy families information system audit followup report.**
8. **Child support enforcement program performance audit followup report.**
9. **Board of Massage (June 30, 2001 and 2000).**
10. **Job Service North Dakota (June 30, 2003).**
11. **Public Employees Retirement System (June 30, 2003 and 2002).**
12. **Housing Finance Agency (June 30, 2003 and 2002).**

13. **State Building Authority (June 30, 2003 and 2002).**
14. **PACE fund (June 30, 2003 and 2002).**
15. **Ag PACE fund (June 30, 2003 and 2002).**
16. **North Dakota Development Fund, Inc. (June 30, 2003 and 2002).**
17. **Student loan trust (June 30, 2003).**
18. **State Auditor's office (June 30, 2003 and 2002).**
19. **Legislative Council (June 30, 2003 and 2002).**
20. **Legislative Assembly (June 30, 2003 and 2002).**
21. **Reports available but not selected for presentation:**
  - a. **Board of Medical Examiners (December 31, 2001 and 2000).**
  - b. **Board of Pharmacy (June 30, 2003 and 2002).**
  - c. **Board of Registration for Professional Engineers and Land Surveyors (June 30, 2002).**
  - d. **Board of Accountancy (June 30, 2003).**
  - e. **Board of Architecture (June 30, 2002 and 2001).**
  - f. **Beef Commission (June 30, 2003).**
  - g. **Council on the Arts (June 30, 2003 and 2002).**
  - h. **Soybean Council (June 30, 2003 and 2002).**
  - i. **State Fair Association (September 30, 2003 and 2002).**

Representatives Wald, Aarsvold, Delzer, Skarphol, and Thoreson and Senators Andrist, Christmann, Klein, and Krauter voted "aye." No negative votes were cast.

Representative Skarphol said the committee may want to review the benefits of state agencies periodically changing their auditor or actuary.

Representative Skarphol said the State Auditor's office should consider providing in the audit report the estimated cost to the agency of implementing its recommendations.

Representative Skarphol said he would like to receive a copy of the companies that have been "subsidized" from the PACE and Ag PACE funds, including identification of the successful and unsuccessful companies.

Representative Skarphol said he has learned that there may be several thousand "accounts" used at the University of North Dakota and North Dakota State University. He said he would like the North Dakota University System to provide information on the number of "accounts" at all the institutions, including a brief description of the purpose of the account and the amount of money in the account.

**It was moved by Representative Skarphol, seconded by Representative Delzer, and carried**

**on a voice vote that the North Dakota University System be requested to provide a summary of accounts used at each institution, including information on the number, purposes, and balances of the accounts.**

Chairman Wald said the presentation by a representative of the Racing Commission regarding the status of Racing Commission revenues was not presented at this meeting due to the ongoing investigations of a North Dakota simulcast service provider; however, that presentation will be included on the agenda for the next meeting.

Chairman Wald asked the State Auditor's office to compile a list of items that are required to be included in each regional planning council audit and mail the list to each of the regional planning councils. He said the committee will consider during the next meeting whether to require the regional planning councils to use the audit services of the State Auditor's office for a specified period of time.

In response to a question from Representative Delzer, the legislative budget analyst and auditor said NDCC Section 54-10-14 provides that a political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the State Auditor. He said the section defines a political subdivision as including regional planning councils. He said a bill would have to be presented to the next Legislative Assembly requiring the State Auditor's office to conduct the audit for a period of years. He said the

State Auditor's office does have authority to require certain minimum standards related to political subdivision audits.

Representative Skarphol said he is concerned with the delay in the presentation of audit reports to the committee. He said many of the audit reports presented relate to audit periods ending more than one or two years ago. Mr. Nagel said the State Auditor's office keeps a list of all the occupational and professional boards. He said a reminder letter is sent to each of the boards when the audit report is due. He said if a response is not received, he personally calls the board to follow up on the situation.

The meeting was adjourned subject to the call of the chair at 4:20 p.m.

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Donald J. Wolf  
Senior Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1