

August 2001

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE - STATUTORY DUTIES AND RESPONSIBILITIES FOR THE 2001-03 INTERIM - RECOMMENDATIONS AND REQUESTS MADE DURING PREVIOUS INTERIMS

The Legislative Council by law appoints a Legislative Audit and Fiscal Review Committee as a division of its Budget Section. Pursuant to North Dakota Century Code (NDCC) Section 54-35-02.1, the committee is created:

- For the purpose of studying and reviewing the financial transactions of the state.
- To assure the collection of revenues and the expenditure of moneys in compliance with law, legislative intent, and sound financial practices.
- To provide the Legislative Assembly with formal, objective information on revenue collections and expenditures as a basis for legislative action to improve the fiscal structure and transactions of the state.

STATUTORY DUTIES AND RESPONSIBILITIES

The committee is charged by statute with the following duties and responsibilities for the 2001-03 biennium:

1. **State Fair Association** - Receive annual audit reports from the State Fair Association pursuant to NDCC Section 4-02.1-18.
2. **Ethyl alcohol and methanol producers** - Receive annual audit reports from any corporation that produces agricultural ethyl alcohol or methanol in this state and which receives a production subsidy from the state, pursuant to NDCC Section 10-19.1-152, and receive annual audit reports from any limited liability company that produces agricultural ethyl alcohol or methanol in this state and which receives a production subsidy from the state, pursuant to Section 10-32-156.
3. **Department of Human Services accounts receivable** - Receive annual reports on the status of accounts receivable for the Department of Human Services and Developmental Center at Westwood Park, Grafton, pursuant to NDCC Sections 25-04-17 and 50-06.3-08.
4. **Low-risk incentive fund** - Receive annual audit reports and economic impact reports from the North Dakota low-risk incentive fund. North Dakota Century Code Section 26.1-50-05 provides for the audit report to be

submitted to the Legislative Council, which has assigned the responsibility to this committee.

5. **Stockmen's Association** - Receive biennial audit report from the North Dakota Stockmen's Association. North Dakota Century Code Section 36-22-09 provides for the audit report to be submitted to the Legislative Council. The Legislative Council assigned the responsibility to this committee.
6. **Job Service North Dakota** - Receive the biennial performance audit report for the divisions of Job Service North Dakota, pursuant to NDCC Section 52-02-18.
7. **Performance audits** - The State Auditor is to conduct or provide for performance audits of state agencies as determined necessary by the State Auditor or this committee, pursuant to NDCC Section 54-10-01.
8. **Frequency of audits** - Determine the frequency of audits or reviews of state agencies, pursuant to NDCC Section 54-10-01.
9. **Political subdivisions** - Determine if the State Auditor is to perform audits of political subdivisions on a more frequent basis than once every two years, pursuant to NDCC Section 54-10-13, and direct the State Auditor to audit or review the accounts of any political subdivision, pursuant to Section 54-10-15.
10. **Study and review audit reports** - Pursuant to NDCC Section 54-35-02.2, the committee is charged with the following responsibilities:
 - a. To study and review audit reports selected by the committee from those submitted by the State Auditor.
 - b. To confer with the State Auditor regarding the audit reports reviewed by the committee.
 - c. As necessary, to confer with representatives of state departments, agencies, and institutions audited in order to obtain information regarding fiscal transactions and governmental operations.
11. **Workers Compensation Bureau** - Receive annual reports from the director of the Workers Compensation Bureau and the

chairman of the Workers Compensation Bureau Board of Directors, pursuant to NDCC Section 65-02-03.3, and receive reports from the director of the Workers Compensation Bureau, the chairman of the Workers Compensation Bureau Board of Directors, and the auditor regarding the biennial performance audit of the Workers Compensation Bureau, pursuant to Section 65-02-30.

12. **Information Technology Department** - Receive a report on the development of performance measures to assist the Legislative Assembly in determining the effectiveness and efficiency of the operations of the Information Technology Department, pursuant to Senate Bill No. 2043, and receive annual reports on state information technology projects and plans, pursuant to NDCC Section 54-59-19.

REQUESTS AND RECOMMENDATIONS DURING PREVIOUS INTERIMS

The committee has made various recommendations and requests during past interims, including those listed below:

1. **Discussion of audit findings prior to presentation of report** - The State Auditor should consider discussing audit findings with appropriate boards or commissions prior to the audit report being presented to the committee.
2. **Actions taken by audited agency** - Audited agencies, boards, and commissions should report to the committee at the time the audit report is presented regarding any actions taken as a result of audit findings contained in the report.
3. **Implementation of recommendations** - Each state agency and institution should comply with and implement, within the limits of the law, recommendations contained in audit reports prepared by the State Auditor's office. Such compliance and implementation should be viewed toward improvement of government operations, including fiscal operations and to full execution of the law.
4. **Six-month review** - The State Auditor's office should determine whether agencies have complied with the auditor's recommendations within six months after a report has been accepted by this committee; the State Auditor should report to this committee, or another appropriate legislative committee, regarding any recommendations not implemented.
5. **Response to recommendations** - Each audit report prepared by the State Auditor should include a summary of audit

recommendations, along with the audited agency's written response to the recommendations. The summary is to be in recommendation-response format.

6. **Copies of management letters** - The State Auditor should provide copies of management letters to committee members.
7. **Use of salaries and wages funding** - The State Auditor should consider including in audit reports information on the amount of salaries and wages funding spent on filled FTE positions and the amount relating to vacant FTE positions which is spent for other purposes.
8. **Report on significant findings and recommendations** - The State Auditor should consider providing a report to the Appropriations Committees and each member of the Legislative Audit and Fiscal Review Committee at the beginning of each legislative session regarding significant audit findings and recommendations contained in the financial and performance audit reports presented to the Legislative Audit and Fiscal Review Committee during the previous interim.
9. **Timing of University System audit** - The State Auditor, along with the chancellor of the North Dakota University System, should take appropriate action to ensure that the fiscal year 2002 audit of the North Dakota University System is available for presentation to the Legislative Audit and Fiscal Review Committee by December 1, 2002.

AUDIT GUIDELINES

The committee has developed guidelines for audits performed by the State Auditor's office and independent certified public accountants. The guidelines require that audit reports include specific statements and recommendations regarding:

1. Whether expenditures are made in accordance with legislative appropriations and other state fiscal requirements and restrictions.
2. Whether revenues are accounted for properly.
3. Whether financial controls and procedures are adequate.
4. Whether the system of internal control is adequate and functioning effectively.
5. Whether financial records and reports reconcile with those of state fiscal offices.
6. Whether there is compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning.
7. Whether there is evidence of fraud or dishonesty.

8. Whether there are indications of inefficiency in financial operations and management of the agency.
9. Whether actions have been taken by agency officials with respect to findings and recommendations set forth in the audit reports for preceding periods.
10. Whether all activities of the agency are encompassed within appropriations of specific amounts.
11. Whether the agency has implemented the statewide accounting and management information system, including the cost allocation system.
12. Whether the agency develops a budget of anticipated expenditures and revenues and compares, on at least a quarterly basis, budgeted expenditures and revenues to actual expenditures and revenues accounted for using the accrual basis of accounting.

ACCEPTANCE OF AUDIT REPORTS AND IMPLEMENTATION OF AUDIT RECOMMENDATIONS

During the 1999-2000 interim, the committee discussed the obligation of state agencies and institutions to implement audit recommendations of the State Auditor. The committee, as discussed earlier, by accepting the audit reports has encouraged state agencies and institutions to comply with and implement, within the limits of the law, recommendations contained in the audit reports. The committee considered the differences between recommendations contained in financial audits, which deal with financial issues, and recommendations contained in performance audits, which deal with issues such as an agency's administration and management. A representative of the State Auditor's office indicated that for an audit recommendation that relates to a violation of state law, the State Auditor's office will follow up with the agency to determine that the recommendation is implemented. If the recommendation does not relate to a violation of law, the State Auditor's office will not include the recommendation in a subsequent audit report if the agency can document a justifiable reason for not implementing the recommendation. The committee determined that a state agency has some flexibility regarding the implementation of audit recommendations included in audit reports accepted by the Legislative Audit and Fiscal Review Committee and that if an agency disagrees with the auditor regarding implementation of an audit recommendation, the issue may be brought to the Legislative Assembly to be resolved.

NEW AUDIT APPROACH

During the 1999-2000 interim, the committee received testimony from a representative of the State Auditor's office regarding the agency's plan to change the audit approach used in conducting audits of state agencies and institutions. For audits of state agencies and institutions conducted by the State Auditor's office, governmental auditing standards for performance audits are more applicable than governmental auditing standards for financial audits. A report on an audit conducted using performance auditing standards includes audited financial statements but does not include an opinion on those financial statements because the audit will not determine if the financial statements are prepared in accordance with generally accepted accounting principles. The committee supported the proposal presented by the State Auditor's office to begin conducting audits of state agencies and institutions using governmental auditing standards for performance audits.

All financial audits conducted by the State Auditor's office during the 2001-02 interim will utilize the new audit approach. Financial audits conducted by public accounting firms will continue to utilize governmental auditing standards for financial audits.

PERFORMANCE AUDITS

During the 1999-2000 interim, the committee received performance audit reports on contracts for services, the child support enforcement program, Job Service North Dakota, and the Workers Compensation Bureau. At the committee's March 5, 2001, meeting, the State Auditor was encouraged to consider conducting performance audits of:

1. Office space rented by state agencies and institutions.
2. The Department of Corrections and Rehabilitation, including Roughrider Industries.
3. The Driver's License and Motor Vehicle Registration Divisions of the Department of Transportation.

The State Auditor's office is currently conducting a performance audit of the service payments for elderly and disabled (SPED) and expanded SPED programs. In addition to other performance audits required by law or requested by the committee, the State Auditor's office was directed by the 2001 Legislative Assembly to conduct a performance audit of the Veterans Home (Senate Bill No. 2007). The performance audits of SPED and expanded SPED and the Veterans Home will be available for presentation to the committee during the 2001-02 interim.

AUDIT OF STATE AUDITOR'S OFFICE

North Dakota Century Code Section 54-10-04 provides that it is the duty of the Legislative Assembly

to contract with a public accountant to conduct an audit of the State Auditor's office. Although providing for the audit is not a duty assigned to this committee, this committee will receive the audit report upon its completion. Recent audits of the State Auditor's office, contracted for by the Legislative Council, have included a "peer review" in addition to the financial audit. A "peer review" includes a review of audit procedures and practices of the State Auditor's office. The State Auditor's office in recent years has also contracted with the National State Auditor's Association (NSAA) for a peer

review and plans for another review in May 2002. The State Auditor's office appropriation for the 2001-03 biennium includes \$14,000 from the general fund for an NSAA peer review. To avoid duplication in the services contracted for by the Legislative Council and the State Auditor's office, the financial audit of the State Auditor's office for the period ended June 30, 2001, will not include a peer review. The State Auditor's office will share the results of the review with the committee when completed.