

April 2004

STATE FAIR ASSOCIATION AND NORTH DAKOTA DEVELOPMENT FUND, INC. - AUDITORS

This memorandum provides the legislative history of North Dakota Century Code (NDCC) Sections 4-02.1-18 and 10-30.5-08, relating to the requirement that the audits of the State Fair Association and North Dakota Development Fund, Inc., be prepared by independent auditors.

STATE FAIR ASSOCIATION

Pursuant to NDCC Section 4-02.1-18, the State Fair Association is to submit annually to the Governor and the Legislative Audit and Fiscal Review Committee an audit report prepared by a certified public accountant based upon an audit of all records and accounts of the association.

The 1965 Legislative Assembly approved House Bill No. 620, which provided for the establishment of the State Fair Association for the purpose of conducting an annual North Dakota state fair. Section 18 of House Bill No. 620 provided that it is the duty of the State Auditor to annually examine the records and accounts of the State Fair Association and to submit the report to the Governor and the Legislative Audit and Fiscal Review Committee.

The 1979 Legislative Assembly approved House Bill No. 1024, which amended NDCC Section 4-02.1-18, providing that the State Auditor is to biennially audit the general fund money appropriated to the State Fair Association and to report to the Governor and the Legislative Audit and Fiscal Review Committee. In addition, the bill provided for the State Fair Association to submit annually to the Governor and the Legislative Audit and Fiscal Review Committee an audit report prepared by a certified public accountant based upon all records and accounts of the association.

Based on testimony provided for House Bill No. 1024, the State Fair Association had some concerns relating to audit recommendations and findings made by the State Auditor's office in the audit report dated November 11, 1978, in particular the recommendation that the association implement fund division and accrual basis of accounting. The concerns related to the cost and time requirements needed to implement and follow the State Auditor's office recommendations in proportion to the amount of restricted funds received. The State Fair Association indicated it would be more expedient to make "worksheet" entries for the few accrual items before each report date, rather than try to maintain the books themselves on the accrual basis. The State Auditor's office indicated that

it could not provide an opinion on an audit of only state funds provided to the State Fair Association; thus, the amendment provided for the State Fair Association to be audited annually by an independent auditor and for the State Auditor's office to biennially audit the general fund money appropriated to the State Fair Association.

The 1989 Legislative Assembly approved House Bill No. 1109, which amended NDCC Section 4-02.1-18, removing the requirement that the State Auditor biennially audit the general fund money appropriated to the State Fair Association. According to testimony submitted by Mr. Ed Nagel, State Auditor's office, the amendment was introduced by the State Auditor's office to eliminate duplicate auditing of the State Fair Association. Because a certified public accountant was responsible for conducting an annual audit of all records and accounts, Mr. Nagel said the State Auditor's office biennial audit of general fund money received by the State Fair Association was in effect a duplication of services.

NORTH DAKOTA DEVELOPMENT FUND, INC.

Section 8 of 1995 House Bill No. 1021 created NDCC Section 10-30.5-08, providing that the board of directors of the North Dakota Development Fund, Inc., is to contract with a certified public accounting firm to audit annually the financial statements of North Dakota Development Fund, Inc., in accordance with generally accepted auditing standards.

The 1989 Legislative Assembly approved Senate Bill No. 2234, providing for the establishment of a statewide nonprofit equity corporation, which was named the North Dakota Future Fund. The bill was introduced by Governor Sinner as a method of enhancing the state's economic development program. Section 8 of Senate Bill No. 2234 provided for the board of directors of the statewide nonprofit equity corporation to contract with a certified public accounting firm to audit annually the financial statements of the corporation in accordance with generally accepted auditing standards. Testimony for Senate Bill No. 2234 did not provide any information as to why the audit is to be prepared by an independent auditor.

The 1995 Legislative Assembly approved House Bill No. 1021, the appropriations bill for Department of Economic Development and Finance, which created NDCC Chapter 10-30.5, providing that the regional rural development revolving fund and the North Dakota Future

Fund be combined into a newly established North Dakota Development Fund, Inc. The bill repealed NDCC Chapter 10-30.3 dealing with the regional rural development revolving fund and the North Dakota Future Fund. The purpose of the North Dakota Development Fund, Inc., is to create a statewide nonprofit development corporation that will have the authority to take equity positions in, to provide loans to, or to use other

innovative financing mechanisms to provide capital for new or expanding business in North Dakota, or relocating businesses to this state. The section of law providing for the establishment of North Dakota Development Fund, Inc., was modeled after repealed NDCC Chapter 10-30.3, relating to the North Dakota Future Fund.