



# SB2251 Testimony

2025-2027 Legislative Session – Senate State and Local

January 30, 2025

This bill is a clean-up bill for N.D.C.C. 54-10 which is the section of code for the Office of the State Auditor. The proposed changes in this bill will bring more consistency to how the State Auditor operates, better reflect current practices and add a new provision for obtaining audit evidence.

## **Section 1 (pg. 1, lines 24 – pg. 2, lines 14)**

Currently, state law only allows agencies to be billed based on a percentage of their special funds. For example, the Agriculture Department paid \$6,035, while the Treasurer's Office paid \$0.

Last session, the law (N.D.C.C. 54-10) was updated to exempt the University System from these charges, allowing them to keep more money for their operations. As a result, total revenue from state agency audits, which is deposited directly into the general fund, dropped to about \$340,000 for the 2023-25 biennium, with \$68,000 (20%) coming from the State Mill & Elevator.

This proposed change extends the same benefit to all state agencies, including commodities, currently being billed, allowing them to better use their funds for their operations.

## **(pg. 3, lines 27-29)**

This addition is to codify existing billing practices for federal work.

The Federal Single Audit, required under the 1984 Single Audit Act, is conducted every two years on behalf of the federal government. Federal programs allow audit costs to be paid with federal funds, so it's appropriate for the federal government to cover these expenses.

With the changes in Section 1, we felt we should formally establish this practice in law. The total amount collected is approximately \$1,250,000 per biennium, which is deposited into the general fund.

## **Section 2 (pg. 5, line 5)**

Currently, local governments must withhold a portion of their final audit payment until the State Auditor's Office approves the audit report. This change, requested by private sector partners, reflects that the audit is essentially complete, and final approval is just a formality.

The adjustment does not impact the State Auditor's Office and simply lowers the retention percentage to make the process more reasonable.

**Section 3 (pg. 5, lines 12-14).**

This change grants the State Auditor’s Office the authority to subpoena audit records from non-government entities when they have dealings with government entities. While N.D.C.C. 54-10-19 already allows the Auditor’s Office to examine the records of private institutions working with the state, there is currently no way to compel these entities to provide records if they refuse.

Under this section, the State Auditor’s Office would collaborate with the Attorney General's Office to issue subpoenas when necessary.

With the increase in public/private partnerships, this authority is critical for ensuring transparency and accountability in how public funds are spent, as highlighted by challenges encountered in obtaining records during the PBM audit.

Thirty-seven other auditors' offices already have this authority, making it a widely common practice.

**Section 5 (pg. 5, line 30)**

This update also has to do with applying N.D.C.C. 54-10 consistently. During the 2023-25 session, the audit threshold for all local governments was raised to \$2,000,000, meaning entities below this threshold are not required to undergo an audit. However, it was an oversight that this specific section of the code wasn’t updated to reflect the new threshold.

Raising the threshold in this section would provide significant cost savings for boards that chose to submit an annual financial report instead of undergoing an audit. It is important to note, any entity below the \$2,000,000 threshold would still have the option to have an audit if they choose—it simply wouldn’t be required by the State Auditor’s Office.