

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2130

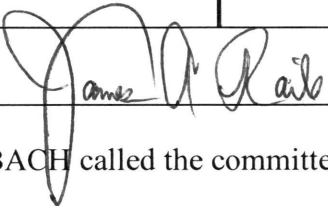
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2130

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 14, 1999

Tape Number	Side A	Side B	Meter #
1	X		2150-4679
Committee Clerk Signature 			

Minutes: SENATOR KREBSBACH called the committee to order and opened the hearing on SB 2130 which is a bill relating to THE DUTIES OF THE STATE AUDITOR and TO THE COLLECTION OF CLOTHING ACCOUNT AT THE SCHOOL FOR THE DEAF. Appearing before the committee to explain the proposed legislation was PAUL WELK, AUDIT MANAGER with the Office of the State Auditor. A copy of his written testimony is attached. Primarily his testimony gave an explanation section by section of proposed changes this legislation would make.

Following conclusion of his testimony, a question was offered by SENATOR DEMERS, concerning something which is taken away from the state auditor and you don't reassign it. She would assume from this that it isn't going to be done? She indicated that she was looking at Section 3 on auditing of records of rural ambulance services, for instance. There are other examples in here. Most often its reassigned to the office of management and budget.

Concerning Section 3, Mr. Welk explained the reason they were deleting that section was that currently a lot of the counties are audited by a private CPA firm so the auditors office is not doing it. As part of the county audit they audit the rural ambulance service district so we currently are not actually auditing a lot of the county ambulance service districts. Also if they are a real small district they are not required to have any type of audit under another section of the code. Some of the sections being redone are outdated code and are not currently being done by anybody. We thought we would go out and clean up every section and either assign it to those who are actually doing those duties and eliminate those sections where nothing is being done.

In section 9 SENATOR DEMERS was curious as to why the ND Stockman's Association would report to the Legislative Council rather than to either OMB or the State Auditor. Usually you'd have audits reported to an executive branch entity as opposed to the legislature.

MR. WELK indicated for that section, the reports are to be submitted, we ourselves submit our reports to the legislative council and they are heard by the legislative and fiscal audit review committee and currently all that is happening is they are sending us the reports and we just take them and walk them down to the legislative council. We do nothing with those reports.

SENATOR DEMERS-In section 10, would you have any objection to us amending that so our legislative pay and expenses are current, just any case you have any different hearings that we have to go through? MR. WELK indicated no, we would have no objections to that.

CHAIRMAN KREBSBACH indicated that she too had wanted to question the portion relating to the ambulance services. Is it feasible that there would be an ambulance service that would not come under audit through a county or some other jurisdiction? MR. WELK indicated it was his

understanding that smaller entities are not required to have an annual audit. They are simply required to file a report with the auditors office and then the office's political subdivision manager reviews those reports simply to see if they are in compliance with the century code and as such they don't have to go out and hire a CPA firm. I'm not sure if these would fall under that criteria of a small entity or not.

SENATOR DEMERS indicated that she was concerned that this might cause increased costs to these smaller districts. They are struggling as it is to do training and buying equipment and so forth. If the state auditor does this, is there a charge? If they have to go out and hire this privately is more expensive? I guess I'm interested in those kind of considerations. MR. WELK indicated that what they are proposing here would not change anything as far as whether they have to have additional audits. All it would do is I guess clean up the code in that we are not currently doing those audits and it says that we are required to do those audits. The current language is in conflict with other code.

SENATOR STENEHJEM and SENATOR WARDNER offered questions and comments concerning this proposed legislation. There were no further questions from the committee for MR. WELK.

SHEILA PETERSON representing the Fiscal Management Division of the OMB appeared to testify in support of the proposed changes in SB 2130. SENATOR KREBSBACH indicated that MS. PETERSON had heard the recommendations for amending this bill. Would these be favorable to her representative agency. She indicated that there would be no objections to such possibilities. There were no further questions. No additional testimony was offered in support, opposition to or neutral position on this bill. The hearing was closed on SB 2130. Chairman

Krebsbach indicated that the committee will have the legislative council look at possible amendments to this proposed legislation. Senators DeMers, Krebsbach, and W. Stenehjem briefly discussed the decoupling of agencies from the legislative pay portion of this bill. Senator W. Stenehjem and Senator DeMers indicated they believed that it would be appropriate to have legislative council look at this bill to get the appropriate wording for amendments proposed to this piece of legislation. Work on this bill will continue at a later date.

January 21, 1999, Tape 1, Side A, Meter # 4430-5147--COMMITTEE DISCUSSION

CHAIRMAN KREBSBACH indicated to the committee that SENATOR DEMERS had some questions regarding section 3 and section 10 of this bill. SENATOR DEMERS indicated she had questions on sections 3 and 9. She indicated that answers had been provided to her.

CHAIRMAN KREBSBACH indicated there were questions on section 13 and she believed it was SENATOR WARDNER who had a question on the bonding amount. He indicated that he has submitted a bill that repeals that section of law because it is in statute where the insurance department takes care of all the bonding and so that could be repealed in another bill.

CHAIRMAN KREBSBACH-Is it a fidelity bond and is there a difference? Because the word fidelity has been added in this language. SENATOR WARDNER indicated yes it was a fidelity bond. SENATOR STENEHJEM-Through the state bonding fund? SENATOR WARDNER-The Insurance Department takes care of the bonding for all state agencies. SENATOR STENEHJEM asked SENATOR WARDNER if his bill removes this requirement because it is all over the code. SENATOR WARDNER indicated it started out with about 5 offices and then legislative council came and said we've got about 30, should we add them so they are all the same and are taken care of by the Insurance Commission? So, they are in the bill and we will find out.

CHAIRMAN KREBSBACH-In view of that does this need to be repealed? Completely?

SENATOR WARDNER-I would say if the bill's passed this would be taken out. CHAIRMAN

KREBSBACH-So we don't need to do anything? CHAIRMAN KREBSBACH-Was there any

question on the per diem on page 5 section 10, or is that satisfactory? SENATOR DEMERS-No

we need to change that so that it coincides. CHAIRMAN KREBSBACH-The wording that is

now appropriate. SENATOR DEMERS-Whatever that is. A drafted amendment was presented

to the committee by the intern. After a brief discussion it was determined that this amendment

would not work. The intern was instructed to redraft making sure it was proper for this section.

It was decided the committee would hold action until later.

COMMITTEE ACTION--**January 22, 1999, Tape 1, Side B, Meter #'s 800-1900.** The

committee discussed a proposed amendment to SB 2130. Following the general discussion

SENATOR STENEHJEM moved that the committee adopt the proposed amendment to SB

2130, the motion was seconded by SENATOR DEMERS. ROLL CALL VOTE indicated 7

YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING. A motion for DO PASS AS AMENDED was

made by SENATOR W. STENEHJEM, seconded by SENATOR THANE. ROLL CALL VOTE

indicated 7 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING.

FISCAL NOTE

JAN 5 1999

(Return original and 10 copies)

Bill/Resolution No.: SB 2130 Amendment to: _____

Requested by Legislative Council Date of Request: 12-30-98

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The only effect this bill has will be for fund 246 to keep the interest earned on the cash balance in this fund.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	N/A	N/A	(\$6,800)	\$6,800	(\$6,800)	\$6,800
Expenditures:	N/A	N/A	N/A	N/A	N/A	N/A

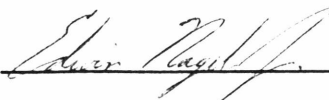
3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: None
- b. For the 1999-2001 biennium: None
- c. For the 2001-03 biennium: None

4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Edwin Nagel, Jr.

Date Prepared: 1/4/99

Department Office of the State Auditor

Phone Number 328-4782

Date: 1/22/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2130

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend

Motion Made By Sen. Stenehjem Seconded By Sen. DeMers

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1/22/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2130

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Sen W. Stenehjem Seconded By Sen. Thane

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Kilzer

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2130: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2130 was placed on the Sixth order on the calendar.

Page 5, line 13, overstrike "each shall" and insert immediately thereafter "are entitled to"

Page 5, line 14, remove "their", overstrike "regular per diem" and insert immediately thereafter "compensation and expense reimbursement as provided in section 54-03-20", and overstrike ", plus five dollars per day as reimbursement for"

Page 5, line 15, after "expenses" insert "as provided in section 54-06-09"

Renumber accordingly

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2130

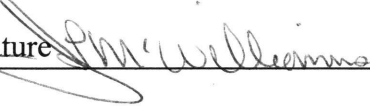
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2130

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2-26-1999

Tape Number	Side A	Side B	Meter #
1	X		0.7 - 5.6
1	X		50.1 - 54.2
Committee Clerk Signature 			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Klein, Chairman of the GVA Committee opened the hearing on February 26, 1999.

Summary of the Bill: Relating to the duties of the state auditor to the collection of clothing account at the school for the deaf.

Testimony in Favor:

Ed Nagel, State Auditors Office submitted written testimony to the committee which he read in it's entirety (**please refer to his testimony**). This is basically a house cleaning bill. The sections being amended deal with the duties and responsibilities of the State Auditors Office. We have contacted each state agency affected and they had no problem with what we are doing. The only

section not related to the State Auditors Office is section 14 (This is related to our auditors fund) providing services to other interests-townships etc.

Representative Thoreson, Section 13 is this bonding required?

Nagel, If the other bill that you took up in committee will take care of that then we don't need this section.

Representative Klein, That was a bill that was sponsored by the Secretary of States Office that updated bonding requirements for all state offices.

Nagel, We were unaware of that bill and had we been aware of it we probably wouldn't have had this section in this particular bill.

Representative Klemin, Which one do you prefer? The rule is that the law that is adopted last in the session is the one that is going to control. Either we need to amend this or remove it.

Representative Klein, If I remember right, Representative Thoreson checked on that it's a 100,000 dollars. There would be no conflict.

Nagel, If the other bill would take care of it, then I would like this section taken out so that we are consistent with everybody else.

Sheila Peterson, OMB Fiscal Management stated that 4 sections of this bill will change it from the auditors office to our office.

Testimony in Opposition: None.

Representative Klein, Closed the hearing on SB 2130.

Committee Action:

Representative Cleary, Made a motion for a Do Pass.

Representative Winrich, Seconded the motion.

Page 3

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2130

Hearing Date 2-26-1999

Representative Thoreson, I checked with the Bonding Office and they said they were bonded for a 100,000 dollars/the various offices. They suggested that it might be better if we take it out of there.

Representative Klemin, If we amend this it will have to go back over to the senate. If we leave it in, it won't hurt anything.

Motion Passes: Do Pass **14-0-1**.

Representative Fairfield, Is the carrier for the bill.

Date: 2-26-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2130

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By CLEARY Seconded By WINRICH

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN					
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment FAIRFIELD

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 26, 1999 10:44 a.m.

Module No: HR-35-3649
Carrier: Fairfield
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2130, as engrossed: Government and Veterans Affairs Committee (Rep. Klein, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2130 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2130



STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE
BISMARCK, NORTH DAKOTA 58505

**TESTIMONY BEFORE THE SENATE
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**
January 14, 1999

Senate Bill No. 2130

Testimony - Presented by Paul Welk
Audit Manager

Chairwoman Krebsbach, members of the committee, my name is Paul Welk. I'm here to testify in support of Senate Bill No. 2130.

This bill amends several sections and deletes one section of the North Dakota Century Code (NDCC). Substantially all the changes concern the duties or responsibilities of the State Auditor. Most of the sections being amended have not been changed for many years, and are simply outdated. As an example, Section 25-07-09, which we propose to delete, has not been amended since 1943.

A brief description of the amendments proposed by each section of the bill are as follows:

Section 1 will remove the State Auditor from the process of instituting suits against county treasurers. This section of the NDCC was last amended in 1943.

Section 2 would delete the requirement of having the State Auditor issue warrants for funds held by county auditors. This section of the NDCC was last amended in 1943.

Section 3 would eliminate the requirement of having the State Auditor examine the records of rural ambulance service districts. This section of the NDCC was last amended in 1977.

Section 4 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants to pay for expenses incurred for election contests. This section of the NDCC was last amended in 1981.

Section 5 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants for the benefit of fire departments and firefighters relief associations. This section of the NDCC was last amended in 1987.

Section 6 would eliminate the requirement of having the State Auditor examine the records of hospital districts. This section of the NDCC was last amended in 1975.

Section 7 would eliminate the requirement of having the State Treasurer send deposit receipts to the State Auditor for payments made to the bonding fund to obtain blanket bonds. This section of the NDCC was last amended in 1983.

Section 8 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants to indemnify owners of condemned animals. This section of the NDCC was last amended in 1993.

Section 9 would require the North Dakota Stockmen's Association to submit copies of their audit report to the Legislative Council, rather than to the State Auditor. This section of the NDCC was last amended in 1989.

Section 10 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants to pay for expenses incurred for an impeachment. This section of the NDCC was last amended in 1957.

Section 11 would eliminate the requirement of having the State Auditor issue warrants to pay for the cost of construction on public buildings. This section was last amended in 1975.

Section 12 would eliminate the requirement of having the State Auditor issue warrants to pay out moneys held by the department of transportation in an agency capacity. This section was last amended in 1981.

Section 13 would require the State Auditor to be bonded for at least \$20,000. Currently the blanket bond coverage is at \$100,000. This section was last amended in 1959.

Section 14 would allow the State Auditor's Office to keep the interest earned on its operating fund. The operating fund is used by our local government division which is self-supporting. This change would help cover costs incurred by the local government division which currently are not recovered through audit fees. The local government division provides services to local government entities and others for which we receive no compensation. Examples of these services include answering technical questions, preparing a manual for use by counties, and doing presentations for the League of Cities, Association of Counties, and other entities. The operating fund would earn about \$3,400 per year in interest.

Section 15 will remove responsibility of the State Auditor to:

- Exercise "**constant**" supervision over those public entities which he is authorized to examine;
- Prescribe and enforce a correct and uniform method of keeping financial accounts in public offices;
- Recommend a form for warrants of all local units of government except school districts;

We believe it is not practical or possible for the State Auditor to do these things. Currently most audited local governments are audited by CPA firms, and for state agencies, the Office of Management and Budget has prescribed how financial accounts are to kept. This section was last amended in 1967.

Sections 16 and 17 would remove the requirement for the State Auditor to file vouchers for expenditures paid by the State Engineer. These two sections were last amended in 1943.

Section 18 would repeal section 25-07-09 of the NDCC which currently requires the school for the deaf to send an account for clothing to county treasurers, and mail a copy of that account to the State Auditor. This section was originally enacted in 1890 and has remained unchanged since 1943.

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports.

The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:

1. Counties.
2. Cities.
3. Park districts.
4. School districts.
5. Firefighters relief associations.
6. Airport authorities.
7. Public libraries.
8. Water resource districts.
9. Garrison diversion conservancy district.
10. Rural fire protection districts.
11. Special education districts.
12. Area vocational and technology centers.
13. Correction centers.
14. Recreation service districts.
15. Weed boards.
16. Irrigation districts.
17. Rural ambulance service districts.
18. Southwest water authority.
19. Regional planning councils.
20. Soil conservation districts.

The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. The political subdivision audited shall pay to the state treasurer the fees for the audit performed by the state auditor. The state treasurer shall deposit the fees in the state auditor operating account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.

In lieu of conducting an audit every two years, the state auditor may require annual reports from school districts with less than one hundred enrolled students, cities with less than three hundred population, and other political subdivisions subject to this section, or otherwise provided by law, with less than one hundred thousand dollars of annual receipts. The reports must contain the financial information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political subdivision a fee not to exceed fifty dollars an hour for the costs of reviewing the annual report.

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. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit report to determine if the report is in the required form and has the required content, and if the audit meets generally accepted government auditing standards. The state auditor also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the report is in

the required form and has the required content, and the report and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to fifty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of reviewing the audit report and workpapers.

A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.

The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections shall result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

Source: S.L. 1967, ch. 376, § 5; 1971, ch. 493, § 3; 1973, ch. 419, § 1; 1975, ch. 470, § 4; 1977, ch. 484, § 2; 1983, ch. 554, § 1; 1985, ch. 235, § 94; 1985, ch. 561, § 2; 1987, ch. 623, § 3; 1989, ch. 639, § 1; 1991, ch. 576, § 1; 1991, ch. 577, § 1; 1993, ch. 62, § 16; 1993, ch. 514, § 1; 1997, ch. 444, § 2.

Effective Date: The 1997 amendment of this section by section 2 of chapter 444, S.L. 1997 became effective August 1, 1997.

The 1993 amendment of this section by section 1 of chapter 514, S.L. 1993, is effective for any issued audit report dated after August 1, 1993.

The 1991 amendment of this section by section 1 of chapter 576, S.L. 1991, became effective July 1, 1991, pursuant to N.D. Const., Art. IV, § 13.

The 1989 amendment of this section became effective on July 12, 1989, 90 days after filing, pursuant to N.D. Const., Art. IV, § 13.

The 1987 amendment of this section became effective December 15, 1986.

Note: Section 54-10-14 was amended twice by the 1993 Legislative Assembly. Pursuant to section 1-02-09.1, the section was printed to harmonize and give effect to the changes made in section 1 of chapter 514, S.L. 1993, and section 16 of chapter 62, S.L. 1993.

Section 54-10-14 was amended twice by the 1991 Legislative Assembly. Pursuant to section 1-02-09.1, the section was printed to harmonize and give effect to the changes made in section 1 of chapter 577, S.L. 1991, and section 1 of chapter 576, S.L. 1991.

Section 54-10-14 was amended twice by the 1985 Legislative Assembly. Section 94 of chapter 235, S.L. 1985, changed "elector" to "qualified elector". Section 2 of chapter 561, S.L. 1985, required the state auditor to perform audits at least once every two years. Pursuant to section 1-02-09.1, the section was printed to harmonize and give effect to the changes made in the two acts.

Fee Set by State Auditor.

This section is not an unconstitutional delegation of legislative authority under N.D. Const., Art. III, § 1, or N.D. Const., Art. XI, § 26; since the delegated power to ascertain facts for operation of a law is not unconstitutional if a reasonable guideline is given and since the legislated guideline of "related costs" protects against an arbitrary exercise of the power by the State Auditor in setting the fee for reviewing a public accountant's audit report. *Syverson v. Peterson*, 495 N.W.2d 79 (N.D. 1993).

Where the legislature has simply directed the State Auditor to determine the costs related to each audit review and to charge those costs to the public accountant, there was no unconstitutional delegation of legislative authority under N.D. Const., Art. III, § 1, N.D. Const., Art. XI, § 26. *Syverson v. Peterson*, 495

N.W.2d 79 (N.D. 1993).

Proposed Amendments to SB2130

Page 5, line 14, replace "their" with "as", overstrike "regular", overstrike "and mileage, plus five" and insert immediately thereafter "compensation one hundred eleven", after "dollars" insert "and fifty cents", overstrike "as reimbursement" and insert immediately thereafter "and must be reimbursed", and after "for" insert "their actual and necessary"

Page 5, line 15, after "expenses" insert "in the same manner as other state officials"

Page 7, line 16, overstrike "twenty", and insert immediately thereafter "_____"

Proposed Amendments to SB2130

Page 5, line 14 after "mileage" insert "as provided in section 54-03-20"

Renumber accordingly

Proposed Amendments to SB2130

Page 5, line 13 overstrike "each" *and "their"*

Page 5, line 14 overstrike "regular per diem" and insert immediately thereafter "compensation and expense reimbursement as provided in section 54-03-20", after mileage insert "as provided in section _____", and overstrike ", plus five dollars per day as reimbursement for"

Page 5, line 15 overstrike "expenses"

Renumber accordingly



STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE
BISMARCK, NORTH DAKOTA 58505

**TESTIMONY BEFORE THE HOUSE
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**
February 26, 1999

Engrossed Senate Bill No. 2130

Testimony - Presented by Ed Nagel, Jr.
Director

Chairman Klein, members of the committee, my name is Ed Nagel. I'm here to testify in support of Engrossed Senate Bill No. 2130.

This bill amends several sections and deletes one section of the North Dakota Century Code (NDCC). Substantially all the changes concern the duties or responsibilities of the State Auditor. Most of the sections being amended have not been changed for many years, and are simply outdated. As an example, Section 25-07-09, which we propose to delete, has not been amended since 1943.

A brief description of the amendments proposed by each section of the bill are as follows:

Section 1 will remove the State Auditor from the process of instituting suits against county treasurers. This section of the NDCC was last amended in 1943.

Section 2 would delete the requirement of having the State Auditor issue warrants for funds held by county auditors. This section of the NDCC was last amended in 1943.

Section 3 would eliminate the requirement of having the State Auditor examine the records of rural ambulance service districts. This section of the NDCC was last amended in 1977.

Section 4 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants to pay for expenses incurred for election contests. This section of the NDCC was last amended in 1981.

Section 5 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants for the benefit of fire departments and firefighters relief associations. This section of the NDCC was last amended in 1987.

Section 6 would eliminate the requirement of having the State Auditor examine the records of hospital districts. This section of the NDCC was last amended in 1975.

Section 7 would eliminate the requirement of having the State Treasurer send deposit receipts to the State Auditor for payments made to the bonding fund to obtain blanket bonds. This section of the NDCC was last amended in 1983.

Section 8 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants to indemnify owners of condemned animals. This section of the NDCC was last amended in 1993.


Section 9 would require the North Dakota Stockmen's Association to submit copies of their audit report to the Legislative Council, rather than to the State Auditor. This section of the NDCC was last amended in 1989.

Section 10 would require the Office of Management and Budget, rather than the State Auditor, to issue warrants to pay for expenses incurred for an impeachment. This section of the NDCC was last amended in 1957.

Section 11 would eliminate the requirement of having the State Auditor issue warrants to pay for the cost of construction on public buildings. This section was last amended in 1975.

Section 12 would eliminate the requirement of having the State Auditor issue warrants to pay out moneys held by the department of transportation in an agency capacity. This section was last amended in 1981.

Section 13 would require the State Auditor to be bonded for at least \$20,000. Currently the blanket bond coverage is at \$100,000. This section was last amended in 1959.

 *Section 14* would allow the State Auditor' Office to keep the interest earned on its operating fund. The operating fund is used by our local government division which is self-supporting. This change would help cover costs incurred by the local government division which currently are not recovered through audit fees. The local government division provides services to local government entities and others for which we receive no compensation. Examples of these services include answering technical questions, preparing a manual for use by counties, and doing presentations for the League of Cities, Association of Counties, and other entities. The operating fund would earn about \$3,400 per year in interest.

Section 15 will remove responsibility of the State Auditor to:

- Exercise "*constant*" supervision over those public entities which he is authorized to examine;
- Prescribe and enforce a correct and uniform method of keeping financial accounts in public offices;
- Recommend a form for warrants of all local units of government except school districts;

We believe it is not practical or possible for the State Auditor to do these things. Currently most audited local governments are audited by CPA firms, and for state agencies, the Office of Management and Budget has prescribed how financial accounts are to kept. This section was last amended in 1967.

Sections 16 and 17 would remove the requirement for the State Auditor to file vouchers for expenditures paid by the State Engineer. These two sections were last amended in 1943.

Section 18 would repeal section 25-07-09 of the NDCC which currently requires the school for the deaf to send an account for clothing to county treasurers, and mail a copy of that account to the State Auditor. This section was originally enacted in 1890 and has remained unchanged since 1943.