

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2329

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2329

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2329

Senate Government and Veterans Affairs

☐ Conference Committee

Hearing Date February 4, 2005

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-----------|
| 1 | x | | 1573-6220 |
| | | x | 0-2156 |
| Committee Clerk Signature <i>Diane Davis</i> | | | |

Chairman Krebsbach opens hearing on SB2329

Relating to licensure of accredited business accountants

(meter #1573)

Senator Klein - Sponsor of this bill-submitted set of amendments

Senator Nelson - Asked if we are talking about the amendments or the bill.

Senator Klein - Replied there were others here who could answer that.

Jerry Spaedy - Executive Director of the ND Society of Accountants- See written testimony.

(meter #2690)

Senator Krebsbach - Asked him to review his amendments and he did.

Senator Lee - Asked what would happen to someone who has completed the education but has not passed the exam.

Spaedy- You can do bookkeeping or tax service but you can not call yourself an accountant.

Senator Lee - Asked if there is any circumstances which someone who has not take the CPA exam can be connected to a CPA who then holds responsibility for his work.

Spaedy - Stated under present law that person can work for a CPA firm and they would have responsibility for anything that they do. But they can not legally call themselves an accountant.

Senator Syverson - Questioned the educational requirements. Asked if there was a minimum number of hours of accounting and individual must take. Or is this 15 hours each of accounting, finance and taxation.

Spaedy - Replied its a total of the 3 for 15 hours.

Senator Syverson - Asked if he was comfortable with those educational hours.

Senator Syverson - Said he has a problem with the limited number of hours.

Spaedy - Said that could be raised. They have raised it from a 2 year degree to a 4 year.

(meter #3310)

Albert Krueger - In favor of creating a new class of accountants. He is licensed by the IRS and have to renew his license every 3 years and also take continuing education to renew it. Having two tiers of accountants would allow consumers a choice.

Senator Syverson - Can you describe your education.

Krueger - He said he took the basic courses in accounting. He does not have a degree in accounting.

Senator Syverson - Asked him to describe his continuing education content.

Krueger - Said he is normally required to take 72 hours but takes about that much every year. He also takes 2 CPA hours in ethics and 45 hours every year in taxation and that includes some accounting.

Senator Lee - Asked who he is responsible to reporting his continuing education and who determines what classes are required.

Krueger - To the ND Society of Accountants there is a number hours and to the IRS on his hours to get licensed.

Senator Lee - Each of the categories that you work has requirements for your certification but there is no board or state board.

Krueger - Replied just the ND Society of Accounts, he has to take 40 hours to stay an active member.

Senator Nelson - Asked where does he take these credits.

Krueger - Replied most from seminars he attends.

Senator Syverson - Asked if he maintains a bonding requirement.

Krueger - Said no, he just has his own.

(meter #4060)

Tom Ribb - ND Society of CPAS - See written testimony.

(meter #5453)

Senator Lee - Asked to clarify if there is anything in the state law that stops people from doing accounting for someone. People are not prevented from doing accounting if their not a CPA.

Ribb - Replied they can do anything except attach a report to a financial statement. The current law restricts the use of the term accountant, accountancy, auditor and those in public practice.

In the original bill in 1975, the provisions on the term accounting was put in there to reduce the confusion to the public.

Senator Syverson - Asked him to explain the requirements for a person who works for a large preparation tax service.

Ribb - He said they have talked about this, there is a regulation to the extent the prepare has to sign a return. It would be difficult to do.

(end of tape 1, side A, meter #6220)

(side B)

Ribb - continues

Senator Brown - Asked if LPA's served a function.

Ribb - He said he has not given that much thought. He said there is plenty of licensees' that certainly fills the bill. He said if there isn't a need why adjust the line.

Senator Brown - Asked if there is a place for licensed public accountant.

Ribb - Said he believes CPAS fill the need.

Senator Lee - Asked if he was concerned that these peers at a different level are not monitored. And what about their caliber of work.

Ribb - Says that their work will weed them out.

Senator Lee - Is there any concern of the level of good. Is there not some public good that might be accomplished by the board of accountants having some standards to do what their doing.

Ribb - Yes, there is the lack of regulation that does allow people to do less than standard. But he does not know how you would regulate that. It might be better to regulate under a different department, such as the tax dept.

Senator Krebsbach - Asked if we had a second tier would that incorporate everyone that may be doing things that are not up to standard.

Ribb - Replied no. What this bill does is allows them to use the term accountancy in their title.

Senator Syverson - Asked if he would expand on the continuing education requirements for CPAS.

Ribb - Under current requirements they are required to get 40 hours a year. He said its a moving average.

Senator Nelson - Asked if there are any CPAS that are actuaries.

Ribb - Said he didn't know.

Senator Lee - Asked if they have separate exams for cost accounting.

Ribb - Replied no, only test is a CPA exam.

(meter #1259)

Close hearing on 2329

Discussion on SB2329

Senator Syverson - Said he has a problem of the low level of education.

Senator Lee - Said she was told that because of the excellent computer programs its very hard to regulate. Its up to the business that has hired them to be unhappy with them.

Senator Krebsbach - Says it comes down to one word "accountant". They do not want that word used in any way.

Senator Brown - Agrees with Senator Syverson and would like to kill this bill and have them come back next session and to increase the number of courses they take.

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Senate Government and Veterans Affairs

Bill/Resolution Number **SB 2329**

Hearing Date February 4, 2005

Senator Syverson - Unfortunately there is a fiscal note attached to this. Maybe it could have been worked out for both of them.

Senator Krebsbach - Said they need to come to a meeting of the minds.

Senator Lee - There is much more needed than education. Its a big deal to ask one board to take over another board even if there is something similar about it.

Senator Brown - Said they need to work within the system

Senator Lee - motioned for do not pass

Senator Nelson - seconded

Senator Krebsbach will carry.

(end meter #2156, side B)

FISCAL NOTE

Requested by Legislative Council
01/20/2005

Bill/Resolution No.: SB 2329

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | \$6,550 | | \$9,300 | | \$10,200 |
| Expenditures | | \$9,390 | | \$450 | | \$450 |
| Appropriations | | \$0 | | \$0 | | \$0 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The measure calls for a new accounting license, which will require the creation of application forms, instructions, web forms, database revisions, etc.

Legal review of the legislation can be expected, to determine how various aspects are to be enacted.

The Board of Accountancy does not receive any direct state funds; the effects of this bill would be borne by the Board and licensees.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

\$6550 initially (50 applications and 30 firm permits).

\$9300 in the 2005-2007 biennium.

\$10200 in the 2007-2009 biennium.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Initial costs would involve the creation of related forms, instructions, website and database changes (\$2940), regulations (\$3200), legal analysis of the legislation (\$2500), and the initial review of applications (\$750).

Ongoing costs would relate to periodic review of applications for the new credential (\$450 per biennium).

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

No appropriation would be applicable.

| | | | |
|----------------------|--------------|-----------------------|---------------------------------|
| Name: | Jim Abbott | Agency: | N.D. State Board of Accountancy |
| Phone Number: | 800-532-5904 | Date Prepared: | 01/20/2005 |

PROPOSED AMENDMENTS TO SENATE BILL NO. 2329

Page 1, line 2, replace "accredited business accountants" with "registered accountant practitioners"

Page 1, line 8, replace "accredited business accountants" with "registered accountant practitioners"

Page 2, line 15, remove "Accredited business accountant" means an individual licensed by the board who"

Page 2, remove lines 16 and 17

Page 2, line 18, remove "2."

Page 2, line 25, replace "3." with "2."

Page 2, line 26, replace "4." with "3."

Page 2, line 30, replace "5." with "4."

Page 3, line 1, replace "6." with "5."

Page 3, line 6, replace "7." with "6."

Page 3, line 8, replace "8." with "7."

Page 3, line 10, replace "9." with "8."

Page 3, line 13, replace "10." with "9."

Page 3, line 21, replace "11." with "10."

Page 3, line 25, replace "12." with "11."

Page 3, after line 26, insert:

"12. "Registered accounting practitioner" means an individual licensed by the board who does not hold a certificate as a certified public accountant or license as a licensed public accountant under this chapter."

Page 5, line 30, replace "accredited business accountant", "ABA" with "registered accounting practitioner", "RAP"

Page 6, line 8, replace "Accredited business accountants" with "Registered accounting practitioners"

Page 6, line 9, replace "accredited business accountant" with "registered accounting practitioner"

Page 6, line 13, replace "successfully pass" with "achieve a minimum score of seventy percent on each section of"

Page 6, line 18, replace "and" with ", taxation, and business law. The examination"

Page 6, line 20, remove "all or any part of"

Page 6, line 21, replace "and may" with an underscored period

Page 6, remove lines 22 and 23

Page 7, after line 2, insert:

"e. The applicant shall comply with the examination process and pay any fees required to take the examination."

Page 7, line 7, replace "an accredited business accountant" with "a registered accounting practitioner"

Page 7, line 26, replace "may" with "must" and replace "accredited business accountant" with "registered accounting practitioner"

Page 7, line 27, replace "2003" with "2008"

Page 8, line 3, replace "accredited business accountant" with "registered accounting practitioner"

Page 8, line 10, replace "**Accredited business accountant**" with "**Registered accounting practitioner**" and replace the bold underscored colon with a bold underscored period

Page 8, line 11, replace "An accredited business accountant" with "A registered accounting practitioner"

Page 8, line 21, replace "An accredited business accountant" with "A registered accounting practitioner"

Page 8, line 26, remove "ABAs," and replace "ABA firm" with "RPAs"

Page 8, line 27, after the comma insert "RPA firm,"

Page 9, line 2, replace "accredited business" with "registered accounting practitioners."

Page 9, line 3, remove "accountants."

Page 9, line 29, replace "An accredited business" with "A registered accounting practitioner"

Page 9, line 30, remove "accountant", after "use" insert "the following", and replace "as presented in the Uniform" with ":

I have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is

limited to preparing in the form of financial statements information that is the representation of management (owners).

I have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."

Page 9, remove line 31

Page 11, line 4, replace "accredited business" with "registered accounting practitioner"

Page 11, line 5, remove "accountant" and replace "ABA" with "RAP"

Page 11, line 6, replace "an" with "a registered accounting practitioner"

Page 11, line 7, remove "accredited business account and"

Page 11, line 10, replace "accredited business accountant" with "registered accounting practitioner" and replace "ABA" with "RAP"

Page 11, line 12, replace "licensed business accountant" with "registered accounting practitioner"

Page 11, line 18, replace "accredited business" with "registered accounting practitioner"

Page 11, line 19, remove "accountant"

Page 11, line 21, replace "ABA" with "RAP"

Page 11, after line 31, insert:

"10. This section does not prohibit an individual from using any designation offered by the accreditation council for accountancy and taxation or other nationally recognized credentialing organization if the individual holds such designation in good standing with the issuing organization."

Page 12, line 1, replace "10." with "11."

Page 12, line 4, replace "11." with "12."

Renumber accordingly

Date: 2/4
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2329

Senate Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do not Pass

Motion Made By Senator Lee Seconded By Senator Nelson

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|----------------|-----|----|
| Karen K. Krebsbach, Chairman | X | | Carolyn Nelson | X | |
| Richard L. Brown, Vice Chairman | X | | | | |
| Judy Lee | X | | | | |
| John O. Syverson | | X | | | |
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Total (Yes) 4 No 1

Absent 0

Floor Assignment Senator Krebsbach

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

REPORT OF STANDING COMMITTEE (410)
February 4, 2005 12:04 p.m.

Module No: SR-23-1881
Carrier: Krebsbach
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2329: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **DO NOT PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).
SB 2329 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

SB 2329

2329

**TESTIMONY
BY
JERRY SPAEDY
TO
THE SENATE GOVERNMENT & VETERANS AFFAIRS COMMITTEE
NORTH DAKOTA LEGISLATIVE ASSEMBLY**

**RE: SENATE BILL NO. 2329
FEBRUARY 4, 2005**

Madame Chairman, Committee Members:

I am Jerry Spaedy. I am the Executive Director of the North Dakota Society of Accountants. I am here on my own behalf and on behalf of the North Dakota Society of Accountants to speak in favor of Senate Bill No. 2329, an act which creates a new class of licensed accountants called "Registered Accounting Practitioners"

Currently, North Dakota law recognizes two classes of accountants: Certified Public Accountants and Licensed Public Accountants. North Dakota Century Code Chapter 43-02.2, North Dakota's Accountants law, sets the requirements for becoming a Certified Public Accountant. That same Chapter provides that those individuals who held the designation of Licensed Public Accountant as of the effective date of the Chapter are allowed to continue to practice accounting as a Licensed Public Accountant. The Chapter, however, prohibits any person who was not so licensed as of the effective date of the Chapter from becoming a Licensed Public Accountant. Accordingly, as the law exists now, the number of Licensed Public Accountants in the State of North Dakota is dwindling. In the near future,

unless North Dakota law is changed, only individuals who have completed five years of college and who have fully passed all parts of the Certified Public Accountant exam will be allowed to provide certain accounting services under North Dakota Century Code Chapter 43-02.2.

Under current law, it is illegal for any person who is not a Certified Public Accountant or a Licensed Public Accountant to practice public accountancy and/or to issue a report on financial statements of any other person, firm, organization, or governmental unit.

For several years the North Dakota Society of Accountants has believed that North Dakota should join the many other states who have recognized that it is in the best interest of accounting professionals and of consumers of accounting services to allow certain accounting functions to be performed by licensed, regulated, non-CPA accounting professionals. Because the North Dakota Society of Accountants feels strongly about this issue, it has, for the last four years, advocated for the creation of a new class of accounting professionals to eventually replace Licensed Public Accountants in North Dakota.

Four years ago, during the 2001 Legislative Session, the North Dakota Society of Accountants helped introduce legislation to add a new class of accountant. At that time, not surprisingly, the North Dakota Society of Certified Public Accountants opposed the proposed changes. The CPAs main opposition to the bill was based on the proposed two- year degree or two years of experience requirement. The CPAs

argued that the education requirements should be greater. Based on the opposition of the CPAs and because the bill was introduced late in the process, the bill was defeated. This body, however, urged the CPAs, the State Board of Accountancy, and the North Dakota Society of Accountants to meet and work toward a compromise.

After the 2001 legislative session, members of the North Dakota Society of Accountants met several times with representatives of the CPAs. The Society believed the parties were making progress. For instance, the CPAs requested the title "accredited public accountant" be changed to avoid confusion. In the spirit of compromise, we agreed to change the title, first to "Accredited Business Accountant" and most recently to "Registered Accounting Practitioner."

Similarly, we agreed to bolster the experience and education requirements. At the last meeting between the Society and the CPAs prior to the 2003 legislative session, the CPAs indicated they would not support any legislation which would allow anyone other than a Certified Public Accountant use the title "Accountant."

After the discussions between our Society and the CPAs broke down, the State Board of Accountancy hosted several meetings to discuss the proposed legislation. Although the Board of Accountancy initially indicated it would take no position concerning the legislation, in the end, the Board of Accountancy's CPA members voted to oppose the legislation. It is important to note that the Board of Accountancy has no consumer representatives and four of the five members are Certified Public Accountants. Based on the opposition of the Board and the CPAs,

the North Dakota Society of Accountant's proposed changes to North Dakota's Accountants Act were defeated by the 2003 Legislative Assembly. The Legislative Assembly, however, did indicate that the proposal should be studied during the interim.

After the 2003 legislative session, the North Dakota Society of Accountants again made changes in its bill draft to accommodate the concerns of the CPAs and the State Board of Accountancy. In response to concerns over the education requirements, the proposed legislation was modified to require Registered Accounting Practitioner applicants to have successfully completed a four year degree with a concentration in accounting. Furthermore, the North Dakota Society of Accountants has continued to meet with representatives of the CPAs and the State Board of Accounting to address concerns in the proposed legislation. In that regard, several members of the North Dakota Society of Accountants recently participated by telephone in the State Board of Accountancy's recent meeting to discuss Senate Bill No. 2329. The results of that discussion, however, have not been positive. Both the State Board of Accountancy and the CPAs oppose the changes represented by Senate Bill No. 2329. After working on this proposal for the last four years, I am convinced that the CPAs and the Board, which is controlled by CPAs, will never agree to add a new class of non-CPA accountants. I believe this is a prime example of fence building. The North Dakota Society of Accountant's response to the Board of Accountancy's concerns over Senate Bill No. 2329 is attached. I am prepared to

respond to the Board of Accountancy's concerns if the Committee believes a further response is warranted.

Senate Bill No. 2329 changes North Dakota law by creating a new class of licensed accountant called "Registered Accounting Practitioner." A "Registered Accounting Practitioner" would be authorized to offer the following accounting services:

- a. Record financial transactions in books of record;
- b. Make adjustments of financial transactions in books of record;
- c. Make trial balances from books of record;
- d. Prepare an internal verification and analysis of books or accounts of original entry;
- e. Prepare financial statements, schedules, or reports; and
- f. Devise and install systems or methods of bookkeeping, internal controls of financial data, or the recording of financial data.

These are all services which are performed by Licensed Public Accountants on a daily basis. Unlike Licensed Public Accountants under the current law, however, Registered Accounting Practitioners would be prohibited from giving an opinion attesting to the reliability of any representation embracing financial information.

The North Dakota Society believes that proposed bill properly balances duties which can be performed by Registered Accounting Practitioners and those services

which eventually will only be legally performed by Certified Public Accountants.

Before becoming a Registered Accounting Practitioner, an applicant would have to satisfy the following qualifications:

- a) Be of good moral character;
- b) Successfully complete four years of higher education that includes a minimum of fifteen semester hours of accounting, finance, and taxation;
- c) Complete one year of verified experience as defined under current law; and,
- d) Successfully pass the Accreditation Council for Accountancy and Taxation Examination which will test the applicant's knowledge of accounting, taxation and business law.

As proposed, the bill will allow, until July 1, 2008, individuals with three years of verifiable experience to become a Registered Accounting Practitioner if the applicant takes and passes the qualifying examination.

As proposed, the bill would require Registered Accounting Practitioners to complete continuing professional education classes, as determined by the North Dakota Board of Accountancy, to maintain their licenses.

Several other State legislatures have adopted accounting licensing systems similar to the one proposed in Senate Bill No. 2329. For instance, Iowa recognizes Licensed Public Accountants. Delaware recognizes Public Accountants. Maine recognizes Public Accountants and Minnesota recognizes Registered Accounting

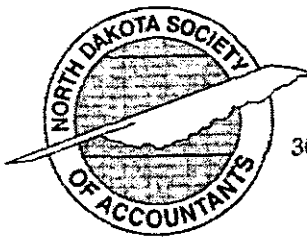
Practitioners. Each of these states also uses the Accreditation Council for Accountancy and Taxation Examination.

The North Dakota Society of Accountants believes having two classes of accountants is beneficial to North Dakota consumers. Without changes to North Dakota law, however, soon only Certified Public Accountants will be authorized to offer certain accounting services in North Dakota. We believe that North Dakota businesses do not need to hire CPA's for all of their accounting services and that consumers benefit when there is competition. One size does not fit all.

Further, the North Dakota Society of Accountants believes that having two classes of accountants is beneficial to North Dakota Accounting professionals. Not every accounting student is willing or able to complete five years of college and successfully pass the CPA exam. Some of these young accounting professionals, however, are qualified to offer accounting services to the public. They should be given the opportunity to practice accounting, even in a more limited way than CPAs.

North Dakota has allowed Licensed Public Accountants to practice accounting since they were grandfathered under the existing law. Some of these individuals have less education and training than what is proposed in Senate Bill 2329. None are CPAs. Despite these seeming limitations, Licensed Public Accountants provide valuable professional services every day. This bill simply recognizes this fact and seeks to perpetuate a two class system.

Thank you for allowing me to appear before you today. I would be happy to answer any questions you may have.



North Dakota Society of Accountants

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February 3, 2005

Dr. Harold H. Wilde
President
North Dakota Board of Accountancy
2701 S. Columbia Road
Grand Forks, ND 58201

Via Fax 701-775-7430

Dear Dr. Wilde:

I am writing on behalf of the North Dakota Society of Accountants in response to your February 3, 2005, letter to me, and to request that the North Dakota Board of Accountancy reconsider its recent decision to recommend a "do not pass" vote on Senate Bill No. 2329, which amends the North Dakota Century Code to allow for the licensing of "Registered Accounting Practitioners."

In your letter, you imply that the North Dakota Society of Accountants has rushed to introduce Senate Bill No. 2329 in less than an orderly, methodical manner, without diligence or public exposure. Your charges are not supported by the process we have used to try and get North Dakota's accountants statute modified. As you are aware, four years ago the North Dakota Society of Accountants first proposed adding a new class of licensed accountants. At that time, the North Dakota Society of Certified Public Accountants opposed the proposed change. The CPAs main opposition to the bill was based on the two year degree or two years of experience requirement in the proposed bill. The CPAs argued that the education requirements should be greater.

The bill was defeated. The Legislative Assembly, however, urged the CPAs, the State Board of Accountancy and the North Dakota Society of Accountants to meet and work toward a compromise.

After the 2001 legislative session, members of the North Dakota Society of Accountants met several times with the CPAs to reach a compromise. The North Dakota Society of Accountants believed that the parties were making progress. For instance, the CPAs argued the title "accredited public accountant" would be confusing to the public. In the spirit of compromise, the North Dakota Society of Accountants agreed to change the title to "accredited business accountants." Similarly, in response to the CPAs concern over the education requirements in the proposed bill, the Society of Accountants agreed to increase the education requirements to ensure that only competent professionals would be licensed as accredited business accountants. At the last meeting between the Society and the CPAs, prior to the 2003 legislative session, the CPAs indicated they would not support any legislation which would allow anyone other than a Certified Public Accountant use the title "accountant."

After the discussions broke down, the State Board hosted several meetings to discuss the legislation. Although the Board initially indicated it would take no position concerning the legislation, in the end, the Board's CPA members voted to oppose the legislation. As you are aware, the Board has no consumer representatives and four of the five members are Certified Public Accountants. Again the bill was defeated.

After the 2003 legislative session, the Society of Accountants again made changes in its bill draft to accommodate the concerns of the CPAs and the State Board. In response to concerns over the education requirements, the proposed legislation was modified to require accredited business accountant candidates to have successfully completed a four year degree. Furthermore, the North Dakota Society of Accountants has continued to meet with representatives of the CPAs and the State Board to address concerns in the proposed legislation. In that regard, several members of the North Dakota Society of Accountants recently participated by telephone in the State Board's recent meeting to discuss Senate Bill No. 2329.

During the Board's meeting, the Board raised four concerns over the proposed legislation.

First, the Board indicated that it was concerned that the proposed bill does not require a four-year degree. The proposed bill, however, does require that an applicant successfully complete four years of higher education:

I. An applicant must have successfully completed four years of higher education that includes a minimum of fifteen semester hours of accounting, finance, and taxation and have one year of verified experience as defined under current law.

In your February 3, 2005, letter, you repeat the Board's position that an applicant have a minimum of a Bachelor's degree from an acceptable college or university and that an applicant have ample and specific accounting education. We agree and believe that the bill draft currently under consideration meets the Board's requirements. Furthermore, the bill draft under consideration delegates to the Board the power to "adopt rules establishing experience and education requirements." Taken as a whole, we believe the bill draft addresses your education concerns.

Second, the Board indicated it was uncomfortable with the testing requirements contained in the proposed bill. The proposed bill provides that the Board must use the Accreditation Council for Accountancy and Taxation Examination. That exam does not test auditing. Based on the comments at the recent meeting and your letter, it is my understanding the that Board is opposed to the Legislative Assembly mandating that the Board use a particular test and that at some members of the Board believe that the exam should also test auditing.

Based on our experience with the ACAT exam and based on the fact that other states (Iowa, Delaware, Maine and Minnesota) use the ACAT exam for certifying non-CPA accountants, our Society believes the ACAT exam is the appropriate examination. Additionally, since an accredited business accountant is prohibited by law from offering auditing services, our Society believes that auditing should not be part of the examination. Nonetheless, the Society would not oppose an amendment to the proposed bill to give the State Board discretion to select the examination used and the topics tested, based on the scope of duties which may be lawfully completed by a Registered Accounting Practitioner.

As part of its discussion of the testing requirements, the Board expressed concern over the way the ACAT exam is graded. Specifically, the Board expressed reservations about giving applicants credit for work experience and whether such credit improperly would allow some applicants with low test scores to "pass" the exam. The proposed bill, however, gives the Board the authority to grade the ACAT exam to determine whether an applicant's

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performance on the examination is a passing or failing grade:

The board may adopt rules regarding methods of application, methods of conducting the examination, and methods of grading examinations; however, the rules must attempt to ensure that grading requirements of the examination are uniform with grading requirements of other states.

Because the Board has authority to grade the examination, we do not believe that an applicant's experience will unduly overshadow the applicant's performance on the exam.

Finally, the Board expressed concern over the fact that the unlawful acts section of the bill refers only to persons and not to persons and organizations. This change was inserted into the bill draft by the Legislative Counsel. Under North Dakota law, the term "person" is defined to include entities.

These are the only concerns which were discussed at your recent meeting. As you are aware, I have requested from the Board a written list of the Board's concerns and, to date, the Board has refused to provide me with one except for your letter which contains concerns not discussed during the public meeting I attended by telephone.

The North Dakota Society of Accountants believes that North Dakota should follow the other states, including Minnesota and Iowa and create a class of non-CPA accountants. We believe such a step will be beneficial to accounting professionals and to North Dakota consumers. We believe the concerns expressed by the Board, as outlined above, are adequately addressed by the current bill draft, or may be easily addressed through amendments. Accordingly, on behalf of the North Dakota Society of Accountants, I respectfully request that the North Dakota Board reconsider its "do not pass" recommendation on Senate Bill No. 2329.

Sincerely yours,



Testimony for SB 2329
Senate Government and Veteran's Affairs Committee
February 4, 2005

Madam Chair and members of the Senate Government and Veteran's Affairs Committee: Good morning. My name is Tom Ribb. I am a CPA in public practice in Dickinson and am a past president of the North Dakota Society of Certified Public Accountants, or NDSCPA. I currently chair our Legislative Committee and it is in that capacity that I appear before you this morning. Like all of our committee members, committee chairs, board members and officers I am a volunteer. In my official capacity I am representing our 1400 members, which includes approximately 75 percent of all licensed CPAs in the state.

We appreciate the opportunity to provide testimony as you consider Senate Bill 2329.

SB 2329 proposes to add an additional class or credential of license to the current accountancy licensing statute. This bill is similar to bills introduced in each of the past two Legislative sessions; our society opposed the previous bills and I appear before this committee today on behalf of our society to request a Do Not Pass recommendation on SB 2329.

My testimony will address our three major areas of concern:

1. Is there a compelling need to change the current law?
2. Is it appropriate to lower the current standards for a public accounting license at this time?
3. What will be the result of some of the provisions in this bill?

First, there is a matter of need. The proponents of this bill have consistently claimed that there is a shortage of accountants, particularly in rural areas, yet impetus for this legislation is not coming from the general public, any governmental entity, any civic group, or any group that is a major user of the services of public accountants demanding more access to accountants or accounting services .

Two years ago when we visited with our members we got the sense their opposition to the bill would soften if a real need could be demonstrated. With

that in mind we commissioned a study to be done by a professional and independent marketing company. They surveyed the major users of financial statements to get their view on any possible need or shortage.

The survey was fashioned after a survey done in 1994 at the behest of the Licensed Public Accountants. The results were strikingly similar. When asked if the present accounting services were meeting their needs, 93 percent of the respondents replied "yes." It is interesting to note that over half the respondents were from communities with a population of 4,000 or less. A copy of the Executive Summary from the survey is part of the material provided you. If you wish we will arrange to provide you with a complete copy of the survey.

We also had a map of North Dakota fashioned to show how well licensees are dispersed around the state. As you can see, there are very few areas in this state that are not within 30 to 45 minutes of a full-time office of a public accountant.

Finally, in response to a claim that the number of licensed accountants in the state is declining we looked back over the past 10 years to see what had happened to the number of licensed accountants in North Dakota. You will note that the number of licensees in the state has actually increased from about 1,200 to over 1,500 since 1993.

If it ever becomes clear that public accounting services in North Dakota are diminished to the point where a clear need for another form of license is necessary, the Board of Directors of the NDSCPA is committed to working with the legislature and other interest groups to see that the appropriate legislation is passed.

Then there is the matter of accounting standards.

This bill would result in reduced and significantly different standards for practicing public accounting. The core of the law under which all current licensees practice has been in place since 1976 and if you look at where the profession is today, some 29 years later, that law has served the state of North Dakota well. Diluting accounting standards at this point should not be justified under any reasonable test. Additionally, there is a national trend toward tighter, stronger standards for all public accountants. Even though much of the legislative activity in this regard has been at the national level, there may well be significant effects on practitioners in North Dakota as a result of Congressional legislation. We do not believe it is in the best of interest of our citizens or the profession to lower standards at the same time higher standards are being imposed across the country.

Today, to become a licensee requires a college degree with a major in accounting and passage of the CPA exam. A major in accounting requires 30

college credits in accounting and 24 college credits in other business courses. Under this bill a license could be obtained after "successfully completing four years of higher education." It is not clear what this means in terms of a college degree. In addition the requirement for accounting and general business courses is reduced. The bill only requires a total of 15 college credits in accounting, finance and tax. In addition, the bill has a three-year window where applicants can obtain a license with no college education. The result of this last provision is the ability to qualify for this license well into the future without meeting any education requirement. The bill requires that the new class of licensee be allowed to qualify by taking the exam offered by the Accreditation Council of Accountancy and Taxation, an organization with headquarters in Virginia.

All current licensees deal directly with the North Dakota State Board of Public Accountancy or NDSBPA. This board, through law and regulation, sets the rules for obtaining and retaining a license. The NDSBPA sets all the rules under which our licenses are granted, not a national organization. Under this bill a license would be granted to applicants who deal with an organization outside North Dakota. That organization would set the rules for obtaining a credential without any oversight from the NDSBPA. That organization would control who and how many applicants qualify for this new license.

If you look at the full basket of services that public accounting firms provide, you will find that with the exception of the attest function there is significant competition with many people in many fields and professions for every other service we provide. Among those are individual tax preparation, business tax preparation, estate and trust tax preparation, tax planning for both individuals and businesses, estate planning for individuals, business valuation services, computer software consulting, bookkeeping, payroll serves, and on and on.

The attest function is a very limited area of practice. Basically it consists of issuing financial statements with a report that assures a level of reliance along with the presumption that the accountant has certain skills and knowledge. Anyone can prepare and issue financial statements, but only a licensee can attach a report. In fact, a licensee cannot issue financial statements without a report. A non-licensee can issue the same financial statements as licensees but is not permitted to include a report. In the survey mentioned above, 97 percent of the respondents said they accept financial statements from customers without a report.

We believe this is a strong argument not to reduce the standards for those individuals qualified to hold a license.

And last, we are concerned with some provisions of the bill. Outside of changes to the law meant to add the new credential, there are many changes that are troubling.

Here are several examples.

In the current bill a client is defined as "a person or entity." SB 2329 changes that definition so it only applies to a person or individual. Many of my clients and those of other practitioners are not a person or an individual. They are corporations, partnerships, not-for-profit organizations and even governmental entities. The consequences of this change are not clear.

The only mention of services in the current bill relates to the restriction on issuing financial statements. SB 2329 authorizes this new class of licensee to perform specific services that are now in the public domain. This language does not appear to serve any useful purpose.

The bill in one place limits issuing a report to current licensees. Then in the section that authorizes this new class to perform specific services, those services include the preparation of financial statements, schedules and reports. We are not comfortable with this apparent contradiction.

Finally, the intent of this bill appears to add one designation. In the original bill it was Accredited Business Advisor. In the amendment that is changed to Registered Accounting Practitioner. However, there is a provision that states, "Nothing in this section shall prohibit any individual from using any designation offered by the Accreditation Council for Accountancy and Taxation or other nationally recognized credentialing organization provided that the individual holds such a designation in good standing with the issuing organization." Again, it is not clear to us what the consequence of this would be if the bill were passed.

Madam Chair and members of the Senate Government and Veteran's Affairs Committee, SB 2329 creates a significantly reduced and different standard for holding oneself out to the public as a provider of accounting services. SB 2329 will not create additional services and it won't make services any more accessible than they are now. This legislation would only regulate those who choose to be regulated and creates a duplication of such regulation. SB 2329 raises serious concerns and the CPA Society respectfully asks the committee to give this bill a "DO NOT PASS" recommendation.

I thank you for your time today and appreciate your consideration of my testimony. I will certainly do my best to answer any questions the Committee may have.

Executive Summary

Question #1:

The completed surveys represent a cross section of banks located in various sized communities throughout North Dakota. About half of returned surveys came from banks located in communities with less than 2,000 residents (48.9%). The remaining 51.1% come from communities with 2000-9,999 residents (25.6%) and communities with over 10,000 residents (25.5%).

Question #2:

When asked if their community is presently being provided with accounting services, 88.37% (38) of respondents replied "yes." This finding is consistent with the results from the 1994 survey in which 88.89% (32) of the respondents replied "yes" to this question.

Question #3:

When respondents were asked if they understand the difference between CPAs and LPAs, 90.7% (39) replied "yes." In the 1994 survey, 52.78% (19) of the respondents replied "yes" to this question. This finding represents a statistically significant difference between the two surveys. Respondents in 2002 are much more aware of the difference between CPAs and LPAs compared to respondents from the 1994 survey.

Question #4:

When asked who provides them with accounting services, 93.02% (40) respondents from the 2002 survey replied "CPA's," compared to 88.89% (32) of the respondents identifying "CPAs" in the 1994 survey. The findings don't reflect a statistically significant difference in utilization of CPA services since the 1994 survey.

Question #5:

When asked if "present accounting services are meeting their needs," 93.02% (40) respondents from the 2002 survey replied "yes", compared to 100% (36) of the respondents from the 1994 survey replying "yes." Due to the margin of error (+ or - 5%), the change from 1994 to 2002 does not appear to represent a statistically significant change in satisfaction levels.

Question #6:

When asked "if their bank presently accepts financial statements from its customers without an accountant's report, 97.7% of the respondents replied "yes." A similar question was asked on the 1994 survey, however, the language was too dissimilar to make any valid comparisons between the two surveys.

Question #7:

In the final questions, respondents were given an opportunity to offer additional comments regarding the need for accounting services on behalf of their bank and community. Only a handful of respondents offered additional comments. The comments centered around the fact that several banks use accounting firms from larger communities in their area (e.g. Bismarck, Grand Forks and Fargo.). The comments didn't state whether this was a positive or a negative factor.