

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1318

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1318

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1318

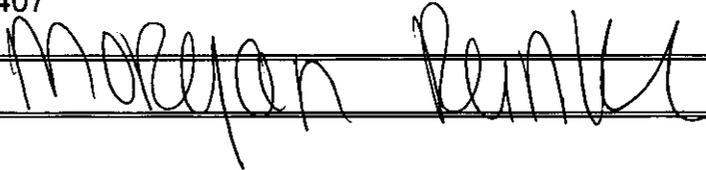
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number: 1407

Committee Clerk Signature



Minutes:

**Rep. Wrangham:** *I am here to testify in support of HB 1318. Section 54-10-28 was passed in the 2003 Legislative Session and is part of HB 1505. In discussions with the legislature and OMB, the auditor's office indicated that two additional information system auditors would be needed to effectively carry out the new duties of 54-10-28. They were assured that their office would get those two additional positions, but that never happened. In the 2007-2009 budget request the state auditor's office requested those two additional positions to carry out the duties of 54-10-28, but the governor's recommendation did not include those new positions. Based on existing resources, the auditors office has introduced 1318 which will change these responsibilities to mandatory to permissive (from shall to may). The change will allow the auditors office to be involved but will not force them to be involved with those duties. I urge your favorable consideration to this bill.*

**Rep. Grande:** Can we have your testimony in writing?

**Ed Nagel:** *I am here in support of this bill. I don't have testimony other than what has been given to you by Rep. Wrangham. However, I would be able to answer questions you may have on this bill.*

**Rep. Amerman:** Did the governor's budget fail to include these at one time?

**Ed Nagel:** That is correct. The bill was passed in the 2005 Legislative session. During that session we needed additional people. They were in the budget, when the desk cleared they were out of the budget. We asked to put them in the budget for the '07-'09 budget but we did not get them.

**Rep. Kasper:** If you don't do this, who will?

**Ed Nagel:** No one

**Rep. Kasper:** Then we would have an agency funded partially by government but no oversight?

**Ed Nagel:** When you're talking about an agency that has no audit, are you talking about the Information and Technology department?

**Rep. Kasper:** Yes, right here in the bill.

**Ed Nagel:** These additional duties would not be performed by our office or an ITE department either. Our office does over ITE and their compliance with the state and federal laws.

**Rep. Kasper:** So why don't you explain what you don't want to do or can't do, compared to what you would do.

**Ed Nagel:** Back in July 2003, we sent a letter to the chairman to the Information Technology Committee knowing that we did not have those two additional people. We said that we would do items 1, 3, 5 only at the request of the IT committee. They did not make any of those requests so we did not do any of those things. In regards to Item 3, we do have an individual from our office that sits in on all of the meetings of the IT meetings.

**Rep. Weiler:** When was the last time that the audit was conducted?

**Ed Nagel:** An audit is conducted in ITE itself every two years. We did conduct another audit that would finalize it in 2006.

**Rep. Haas:** Were those fiscal audits or performance audits?

**Ed Nagel:** Those were fiscal audits.

**Rep. Weiler:** Is the problem that the auditor's office needs additional employees or is it specific employees for the ITE department.

**Ed Nagel:** We need specific IT auditors and positional officers in order to carry on the specific ITE responsibilities.

**Rep. Schneider:** How were you able to carry out these allegations without finance?

**Ed Nagel:** We carried them out on a limited basis. We were also requested by the IT committee to do a review of the IT data.

**Rep. Haas:** IS there additional questions? Is there additional testimony in favor, opposing, or in a neutral form? We will close hearing on HB 1318.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1318

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 19, 2007

Recorder Job Number: 1448

Committee Clerk Signature

*Morgan Penick*

Minutes:

**Rep. Weiler:** As I recall the auditor's office is wishing to not have to do an audit, may instead of shall, because they do not have specific employees in their department right now. In order to do this audit they would have to hire two more special employees. How did they get that audit done last year? If they have to have employees that they don't have?

**Rep. Haas:** As I recall in their testimony they didn't really do an audit. They didn't have time nor did they have the extra help. This is an audit of IT. It is my understanding that it takes a highly specialized person with auditing backgrounds in order to do it.

**Rep. Grande:** I served on the IT committee during the interim and I'm somewhat familiar with it. One of the things that Mr. Nagel had noted was that they are doing numbers to and for. One of the major parts of the auditing process is important under IT. It was number four, the monitoring of the matrix project. It is important that we focus on those and that is what Mr. Nagel also brought up. The IT committee requested from the auditor's office that they follow through with those issues. The biggest portion of the IT is monitoring the technology in schools. The auditor said that they are doing it. That was one of the key things. Auditing is a whole ITE agency. They would have to figure out how to do it. I think when auditor's office starts moving it to may they know they have the ability to get the audits they want. My concern

is that they are willing to enable to keep funding it and the monitoring.

**Rep. Amerman:** According to the testimony this was passed in 2005 and that is when it failed to meet the funding for those two employees and then they had no funding this time. Is this the bill that was passed in 2005 and all we are changing is those two words? I'm thinking this was the bill that was passed in 2005 and they didn't get the money for the two FTE's and now they are bringing it back to change it from shall to may.

**Rep. Weiler:** They requested money for two additional FTE's specifically for the ability to audit ITE correctly. Am I correct? My problem with that is that you go out and get these two special people for an audit that lasts maybe a month? Now what do we have, two more FTE's. We've grown government again. Does the auditors office to have the ability to help source someone?

**Rep. Haas:** Yes, your comments go hand in hand. If the review committee would say to the state auditor that they wanted an audit of IT, they would more than likely contract that out with people who are highly qualified.

**Rep. Grande:** I would think so. Mr. Nagel already said they do audits every two years.

**Rep. Amerman:** That is good information and I had never thought of that. I don't know what it costs but it might not be cheap to get those two individuals. Is that something that would need to be in their budget?

**Rep. Weiler:** I believe they find it within their district.

**Rep. Haas:** 54-10-28 was originally passed in 2003. there was a 2005 amendment at the section.

**Rep. Potter:** I'm still not sure with the discussion that we've had, that changing shall to may, will change, if an outsource will audit. How do we accomplish the difference between we shall and may.

**Rep. Haas:** That to me is an internal decision by the state auditor's office. The may would probably be implemented only if there was a detailed request from the office that audits it. Then they would have to find a way to do it. I think what Rep. Grande said about this ongoing monitoring obligation is currently being done. They are doing it with the staff that they have now. There is sort of a common sense thing here that if the legislator gives an agency a responsibility and doesn't give them the staff to do it, that is dumb. So changing shall to may in this situation is a very common sense move.

**Rep. Froseth:** I move a do pass.

**Rep. Dahl:** I second that.

**Rep. Weiler:** My concern about changing shall to may means that they may do it, they may not. They don't have to do it. I believe that they should do it. I'm going to oppose the motion.

**Rep. Haas:** Is there any discussion? If not I'm going to take a roll call vote on a do pass motion for HB 1318. The do pass motion passes with a vote of 7-5-1. Is there a volunteer to carry this bill?

**Rep. Grande:** I will.

Date: 1-19-07  
Roll Call Vote #: 7

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1318

Action Taken DO PASS

Motion Made By Froseth Seconded By Dahl

| Representatives        | Yes | No | Representatives       | Yes | No |
|------------------------|-----|----|-----------------------|-----|----|
| Rep. C.B Haas Chairman | X   |    | Rep. Bill Amerman     | X   |    |
| Rep. Bette Grande V.P  | X   |    | Rep. Louise Potter    |     | X  |
| Rep. Randy Boehning    | X   |    | Rep. Jasper Schneider |     | X  |
| Rep. Stacey Dahl       | X   |    | Rep. Lisa Wolf        |     | X  |
| Rep. Glen Froseth      | X   |    |                       |     |    |
| Rep. Karen Karls       | X   |    |                       |     |    |
| Rep. Jim Kasper        |     |    |                       |     |    |
| Rep. Lisa Meier        |     | X  |                       |     |    |
| Rep. Dave Weiler       |     | X  |                       |     |    |
|                        |     |    |                       |     |    |
|                        |     |    |                       |     |    |
|                        |     |    |                       |     |    |
|                        |     |    |                       |     |    |

Total (Yes) 7 No 5

Absent 1

Floor Assignment Rep. Grande

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

0

**REPORT OF STANDING COMMITTEE**

**HB 1318: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **DO PASS** (7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1318  
was placed on the Eleventh order on the calendar.

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1318

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1318

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/22/07

Recorder Job Number: 3665

Committee Clerk Signature

*Veronica Spaulding*

Minutes:

Roll was taken and all members were present.

Sen. Dever, Chairman, opened the hearing on HB 1318.

Dwight Wrangham, Representative from District 8, introduced the bill. See attachment #1.

Senator Nelson asked if the kind of latitude asked for in this bill is given to any other division.

Dwight said it was an exception rather than the norm. He deferred to the Auditor's office to address that question. Dwight mentioned that he conferred with the sponsors of the original bill and they concurred with the change.

Senator Nelson asked who the sponsors were in 2003.

Dwight responded that the people who had the interest in it were Senator Larry Robinson, and Representative Bob Skarphol and another representative that he couldn't bring to mind.

Senator Nelson said it is the same sponsors basically that are sponsoring HB 1318.

Dwight said they signed onto the bill so it would be clear that the intent of 1505 is being carried out.

Senator Dever asked if Dwight was aware of any other legislation that affects this procedure.

Dwight said he is not aware of any.

Gordy Smith, Audit Manager from the State Auditor's Office, spoke in support of HB 1318. He addressed the five duties listed in the bill. He stated that both the Auditor's Office and ITD feel they are important duties. The problem lies with ITD being charged with those duties back in 2003. ITD, not wanting to take on auditing responsibilities, asked the Auditor's Office to do it instead. The Auditor's Office, seeing how important the duties are agreed to take it on but said they would need two more auditors to get it accomplished. After 2003 session, the duties stayed but the money and the positions left. See attachment # 2. They have tried to work as well as they can with the resources they have. He enumerated each of the five IT responsibilities listed in the bill and told how his department has covered each of them to varying degrees. In addition they have made sure state websites have been accessible to the handicapped. Another reason ITD doesn't want to monitor it is that ITD issues the standards. It doesn't seem good for them to issue the standards and to monitor them. ITD would rather have someone else make sure they are being followed. The auditor's Office and IT work well together and will do what they can. The Auditor's Office just doesn't feel they can do everything the bill has listed with the resources available to them and would feel more comfortable if the bill said "may" rather than "shall." He assured the committee that whether this bill passes or not, they will still be auditing ITD.

Senator Horne asked whether there is anyone overseeing the whole system to make sure all parts are compatible.

Gordy said ITD is checking the high security systems at the present time. The Auditor's Office is checking the compliance with the IT plan on a few systems. There is no one agency that really has tabs on it as a whole. ITD is doing what they can and the Auditor's Office is doing what they can but even at that of the 250 high risk systems, only 7 or 8 of them have been audited.

Senator Oehlke asked if Gordy would explain handicapped accessible as far as IT is concerned.

Gordy said it is just making sure that people with handicaps can have the same access to websites as anyone else. Some websites were not in compliance but now they are. Agencies now have to file a quarterly report.

Senator Dever asked if the efforts of the Auditor's Office in this area are reactive rather than proactive at this time.

Gordy said that is a fair assessment in most cases. He did mention that a security system on a new system does take priority for them.

Senator Lee asked if the Appropriations Committee in the House had the Auditor's budget.

Gordy said the Senate had the Auditor's budget.

Senator Lee asked if there was any discussion at that time about putting these positions in for these two auditors because it seems like an important request.

Gordy said they brought it to their attention that they had asked and the Governor had turned them down. They met with OMB after the Governor's budget and asked them why they turned it down. OMB was of the opinion that ITD does those duties. Gordy told OMB that was not accurate information.

There was some discussion about the amount that had been budgeted for it. Gordy said some would have been for salaries and some for computers.

Senator Dever asked if the Auditor's Office and ITD together could perform some of these duties.

Gordy said they do work well together. The Auditor's Office is not opposed to doing the audits and agrees with ITD that it is better not to have the same entity set the standard and make sure the standard is followed.

Senator Dever asked if the two additional auditors were hired, would it take care of the problem.

Gordy said it would. They could then go through all the systems and all the agencies and make sure they were doing as they should.

Senator Dever asked if the bill would still be appropriate if the additional two auditors were hired.

Gordy answered affirmatively.

Support: -

Opposition: -

Neutral: -

Chairman Dever closed the hearing on <sup>H</sup>SB 1318.

The committee will act on this bill after they see what action the House takes tomorrow morning.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1318

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/23/07

Recorder Job Number: 3772

Committee Clerk Signature

*Virginia Spadling*

Minutes:

All members of the committee were present.

Chairman Dever opened discussion on HB 1318.

Senator Horne mentioned he had visited with Senator Robinson regarding HB 1318. Senator

Robinson was in agreement with the amendment that changed the word from shall to may.

Senator Dever asked whether changing the word from "shall" to "may" would have a negative impact on the Auditor's Office getting two more auditors.

Senator Horne said Senator Robinson did not think it would have a negative impact.

A do pass motion was made by Senator Horne.

The motion was seconded by Senator Marcellais.

Roll Call Vote: Yes 6 No 0 Absent 0

Carrier: Horne

Date : 2-23-07  
Roll Call Vote # : 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1318

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do pass.

Motion Made By Horne Seconded By Marcellais

| Senators                      | Yes | No | Senators                   | Yes | No |
|-------------------------------|-----|----|----------------------------|-----|----|
| Senator Dick Dever - Chairman | ✓   |    | Senator Robert Horne       | ✓   |    |
|                               |     |    |                            |     |    |
| Senator Dave Oehke - VC       | ✓   |    | Senator Richard Marcellais | ✓   |    |
|                               |     |    |                            |     |    |
| Senator Judy Lee              | ✓   |    | Senator Carolyn Nelson     | ✓   |    |
|                               |     |    |                            |     |    |
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|                               |     |    |                            |     |    |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Horne

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

**REPORT OF STANDING COMMITTEE (410)**  
February 23, 2007 11:45 a.m.

**Module No: SR-35-3747**  
**Carrier: Horne**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1318: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1318  
was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1318

**TESTIMONY BEFORE THE HOUSE  
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**

January 18, 2007

*EVA*

House Bill No. 1318

Testimony - Presented by  
Representative Dwight Wrangham

Chairman Haas and members of the committee, I am here to testify in support of House Bill No. 1318.

Section 54-10-28 was passed by the 2003 Legislative Session as part of HB No. 1505. In discussions with ~~legislators and OMB~~ about this part of HB 1505, the State Auditor's Office indicated that two additional information systems auditors would be needed to effectively carry out the new duties of Section 54-10-28. They were assured that their office would get those two additional positions, but that never happened.

In their 2007-2009 budget request the State Auditor's Office request two additional positions to carry out the duties of NDCC § 54-10-28, but the Governor's Executive Recommendation did not include those new positions.

Based on existing resources of the Auditor's Office, we have introduced HB No. 1318 which will change these information technology responsibilities from mandatory to permissive, i.e., from "shall" to "may". This change will allow the Auditor's Office to be involved, but will not force them to be involved in the duties of NDCC section 54-10-28.

I urge your favorable consideration of this bill and I will answer any questions you may have.

Thank you.

Thursday - 1/18; 2:30 p.m. Fort Union Room

*Attachment # 1*

**TESTIMONY BEFORE THE SENATE  
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE  
February 22, 2007**

House Bill No. 1318

Testimony - Presented by  
Representative Dwight Wrangham

Chairman Dever and members of the committee, I am here to testify in support of House Bill No. 1318.

Section 54-10-28 was passed by the 2003 Legislative Session as part of HB No. 1505. In discussions with legislators and OMB about this part of HB 1505, the State Auditor's Office indicated that two additional information systems auditors would be needed to effectively carry out the new duties of Section 54-10-28. They were assured that their office would get those two additional positions, but that never happened.

In their 2007-2009 budget request the State Auditor's Office requested two additional positions to carry out the duties of NDCC § 54-10-28, but the Governor's Executive Recommendation did not include those new positions.

Based on existing resources of the Auditor's Office, HB No. 1318 was introduced which will change these information technology responsibilities from mandatory to permissive, i.e., from "shall" to "may". This change will allow the Auditor's Office to be involved, but will not force them to be involved in the duties of NDCC section 54-10-28 .

I urge your favorable consideration of this bill and I will answer any questions you may have.

Thank you.

STATE AUDITOR  
ROBERT R. PETERSON



*Attach # 2*

PHONE  
(701) 328-2241  
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STATE OF NORTH DAKOTA  
**OFFICE OF THE STATE AUDITOR**  
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**TESTIMONY BEFORE THE SENATE  
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**  
February 22, 2007

House Bill No. 1318

Testimony - Presented by Gordy Smith  
Audit Manager

Chairman Dever and members of the committee, I am here to testify in support of House Bill No. 1318.

HB 1318 was introduced by the State Auditor's Office. This bill has nothing to do with the auditing of the Information Technology Department. Whether this bill passes or does not pass, the Auditor's Office will continue to audit the Information Technology Department.

Section 54-10-28 was passed by the 2003 Legislative Session as part of HB No. 1505. In discussions with legislators and OMB about this part of HB 1505, we indicated that two additional information systems auditors would be needed to effectively carry out the new duties of Section 54-10-28. We were assured that our office would get those two additional positions, and the related funding but that never happened.

In our 2007-2009 budget request we asked for two additional positions to carry out the duties of NDCC § 54-10-28, but the Governor's Executive Recommendation did not include those new positions.

Based on our existing resources we have introduced HB No. 1318 which will change these information technology responsibilities from mandatory to permissive, i.e., from "shall" to "may". This change will allow our office to be involved, but will not force us to be involved in the duties of NDCC section 54-10-28.

I urge your favorable consideration of this bill and I will answer any questions you may have.

Thank you.