

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2069

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2069

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2069

Senate Government and Veterans Affairs

☐ Conference Committee

Hearing Date January 7, 2005

Tape Number	Side A	Side B	Meter #
1	x		0-1550
1	x		2264-2654
Committee Clerk Signature <i>Siame Davis</i>			

Chairman Krebsbach opens hearing.

Hearing on SB2069

Paul Welk - Audit Manager - attached written testimony- in support of

SENATOR NELSON- Can you get into tax records?

Welk- Currently there is a law in place that we must keep that information confidential.

The only time we are allowed to examine any tax records are when we are doing an audit of the tax department. If we doing an audit of the Dept. Of Human Services we can not access tax payer information.

SENATOR NELSON -If you were investigating Human Services and you wanted to check or verify for possible fraud can you do it?

Welk - No we can not.

SENATOR LEE - If the Dept of Human Services is determining eligibility on Medicaid, for example, do they have access on the tax returns? To verify the information to determine that eligibility?

Welk - Currently Dept. Of Human Services I believe has software programs that cross-checks earnings data with job service, the tax dept and I think the IRS, I am not certain. I don't believe they are going in looking at tax information, they are just getting information on earnings.

SENATOR NELSON - When you add the words "and records" can you define what "records" are?

Welk - The reason we added that word is simply that some of the verbage in the old legislation seemed a little out dated. We are talking any record the agency may have, manuel or electronic.

SENATOR KREBSBACH- Has there been a problem when for example you sited the case when you did the audit of the State Treasure's Office. Did you have difficulty obtaining information

from DOT to complete that audit.

Welk - No we did not, but there is some question to whether we were entitled to that information.

SENATOR KREBSBACH- Where does your main focus for this bill lie, what records have you not been able to access?

Welk - We've always been able to access any records we needed at the time of auditing that particular agency. We've been told while auditing one agency I can not get records from another agency even though those same records could be examined if I were auditing that agency.

SENATOR KREBSBACH- The question of Medicaid has come up here, is there another way you can obtain that information in fact by soliciting the information from the person themselves. Have them provide the tax information to you.

Welk - The individual may bring a pay stub in but they are not required to bring in a tax return. How do we ensure those individuals are really qualified to be receiving those benefits. One method we would like to use but currently can't, would be to look at their earnings. Currently there is no way for us to verify the income they declared is accurate.

SENATOR LEE - Medicaid should be user friendly so people are getting assistance as quickly as they are able to. There has been, a remarkably low rate of fraud in ND compared to other states.

SENATOR KREBSBACH- Is there a way Human Services could incorporate that request if needed in their requirements.

SENATOR LEE - We've shortened the forms, there not as complicated as they used to be, its all information that is provided and for Medicaid they have to redeclare every month.

SENATOR SYVERSON- What is the disposition of financial data on individuals that you may receive in the course of your audit? Do you use that as a basis for your information or do you keep it for potential legal activity?

Welk - No, the information we receive is kept confidential. Only used to determine whether the agency is complying with laws and regulations.

SENATOR SYVERSON - How would you folks handle a situation, is that turned over to the Attorney General's Office.

Welk - Certain information we have, such as fraud, would have to be turned over.

Tape # 920

Sandy Tabor- Deputy Attorney General -The question is, what does the lack of the word "the" means. We are looking at everything, for the purpose of seeing if this bill is neccessary.

We are not taking a position at this time.

SENATOR KREBSBACH - We will hold this bill till next week, we will not close the hearing.

SENATOR NELSON -Where is this word "the" that we are looking for?

Sandy Tabor - Its where its not. Line 17.

Denita Wald, Attorney with the Tax Dept. - We are still concerned about whether the language is intened to give them access to inididual tax returns.

SENATOR LEE - Can we ask Mr. Mullen our Hipa expert if he sees any conflict in access to any of this information we've been talking about.

Mr. Mullen - In my view there is no issue regarding Hipa or Hipa privacy information.

The Auditor's Office still has to keep that information confidential.

SENATOR KREBSBACH

Recess bill 2069

Tape 2264

Discussion on bill 2069

Tape 2654

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2069

Senate Government and Veterans Affairs

☐ Conference Committee

Hearing Date January 20, 2005

Tape Number	Side A	Side B	Meter #
1		x	3055-6231
2	x		0-636
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach reconvenes on SB2069

Sandi Tabor - Deputy Attorney General - Review does not support auditors concern with language. Explained that it is too broad and would allow them to files they are not comfortable letting them have access to. They have discussed with the auditor's office. There are some general issues they would like to avoid. Concern is fraud and how do you check on fraud. Thought of maybe a fraud review board with AG's office and the Auditors. They believe this may be a policy issue.

Donnita Wald - Tax Dept. - confidentiality in the tax dept. Is most important. There are exceptions such as child support. Tax Dept. thinks it is a policy issue. We are more comfortable with mandates.

Senator Lee - Asked if you can't report the fraud you find, what would you do with it.

Wald - Stated they would not do anything, there job is not to do Medicaid or Medicare fraud.

What the auditor's office would do, is it would help them find better ways to stop the fraud at the front end.

Senator Lee - If an audit is being done and fraud is found but you can't report it, what good is it.

Senator Krebsbach - If they do find something fraudulent in a program being audited, can Human Services reveal that to the claimant and either stop payment or request repayment?

Tabor - They would have to do there own internal review. They can not use the tax dept.(unless there are exceptions, like child support).

Senator Lee - Asked if the audit can be used to review recipients payments.

Senator Brown - Asked if some one is in court and asks for tax data is it still sacred.

Wald - Tax returns are sacred no matter what. Sometimes on a form 500 gives permission at the tax payers request

(meter #4734)

Paul Welk- Audit Manager, Office of the State Auditor - They have always felt they had access to all records allowed to them by law. In 2003 they found out they didn't have access to some records. They are trying to clean up the language. They are not asking access to any records that they currently don't have. They are asking the timing be changed. This is not an issue to get tax payers records but insure they do have access to records at depts. not only while we audit that dept. but when they are auditing another agency.

Senator Lee - Wanted to know if an amendment was drafted that would exclude the tax dept would that work.

Welk - Said he wouldn't oppose that. But it might not address everyone's concerns in that the Attorney General's office has concerns about the information they have also.

Senator Lee would like to know exactly what they would like.

Senator Krebsbach - Asked if he could be more specific.

Welk - Social Security numbers would be one example.

Senator Syverson - Could you as a group resolve the situation.

Welk - Believes the bigger issue is whether you want there office to detect fraud. And is that more important than the confidentiality standpoint.

Senator Syverson - States it is our duty to protect the citizen from fraud. Feels there has to be a resolution to this for the benefit of all.

Welk - Says that auditor's office is prohibited from divulging any secret information.

Senator Syverson - Asked if the tax dept. feels the information can be cleaned up to be used by the auditor's office or is there a way they can provide you with information to investigate.

Wald - It is not fraudulent tax returns, its Medicaid fraud.

(end tape 1, side B meter #6231)

Senator Brown - Confidentiality should be kept in tact and he would like to see this bill withdrawn and brought back in '07.

Senator Lee - States that it is important for us to remember it isn't just the tax dept, She has no problem with giving social security numbers of people who have died. She would like to make it easier for the auditor's office to get their information.

Senator Syverson - Would like the groups to get together and resolve this for an amendment.

Closed the hearing on 2069.

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number **SB 2069**

Hearing Date January 20, 2005

Senator Krebsbach - Wanted to clarify that they have been getting some information and now its being questioned whether your allowed to or not.

Senator Syverson - Would like to see the auditor's office be able to inform another agency about illegal activities.

Senator Brown - Is concerned about social security numbers being given out.

Tabor - Social security numbers on driver license is being fazed out.

(meter #636)

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2069

Senate Government and Veterans Affairs

☐ Conference Committee

Hearing Date 27, 2005

Tape Number	Side A	Side B	Meter #
1	x		2,993-3247
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach opens committee work on 2069

(meter #2993)

Senator Krebsbach - Said that appears the information does not agree with what the tax department or the AG's office wishes to have done.

Senator Lee - Asked if we could be more specific what they are looking for.

Senator Krebsbach - Said she would check with the auditor's office to see if they could amend to do this.

Senator Syverson - Had understood they were going to be communicating between the departments to try resolve this.

(meter #3247)

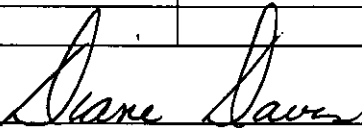
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2069

Senate Government and Veterans Affairs

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
1		x	2880-3210
Committee Clerk Signature 			

Chairman Krebsbach opens hearing on 2069

Relating to state auditor's access to records

Senator Krebsbach - Amendments have been prepared. This would keep tax records private.

Said she would have someone come down to talk about the issue if the committee wanted.

(meter #2785, side B, tape 1)

Gordy Smith - Auditor's office - Came to say auditors office is okay with amendments.

Senator Nelson - Pointed out that the number is wrong on the amendments.

Senator Krebsbach - Asked Dirk Wilke, intern, to correct that.

Senator Brown - Motioned do pass on amendment

Senator Lee - Seconded

Page 2

Senate Government and Veterans Affairs

Bill/Resolution Number **SB 2069**

Hearing Date February 10, 2005

Senator Brown - Moved do pass on amended bill

Senator Lee - seconded

Senator Lee will carry

(meter #3210)

Date: 2/10/05
Roll Call Vote #: /

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2069

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass on the amendment

Motion Made By Senator Brown Seconded By Senator Lee

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	<input checked="" type="checkbox"/>		Carolyn Nelson	<input checked="" type="checkbox"/>	
Richard L. Brown, Vice Chairman	<input checked="" type="checkbox"/>				
Judy Lee	<input checked="" type="checkbox"/>				
John O. Syverson	<input checked="" type="checkbox"/>				

Total (Yes) 5 No _____

Absent _____

Floor Assignment _____

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

Done

Date: 2/10/05

Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2069

Senate Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Senator Brown Seconded By Senator Lee

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				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Lee

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

REPORT OF STANDING COMMITTEE

SB 2069: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2069 was placed on the Sixth order on the calendar.

Page 1, line 6, overstrike "The" and insert immediately thereafter "Except for active investigatory work product of the attorney general as defined in section 44-04-19.1, the"

Page 1, line 8, replace "Access" with "Except for active investigatory work product of the attorney general as defined in section 44-04-19.1 and tax records as described in section 54-10-24, access"

Page 1, line 17, after "audit" insert "except active investigatory work product of the attorney general as defined in section 44-04-19.1" and replace "The" with "Except for active investigatory work product of the attorney general as defined in section 44-04-19.1 and tax records as described in section 54-10-24, the"

Renumber accordingly

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2069

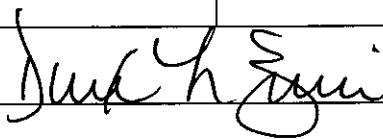
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2069

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/3/05

Tape Number	Side A	Side B	Meter #
1	x		3.9-7.5
Committee Clerk Signature 			

Minutes: SB Relating to the state auditor's access to records.

Chairman Haas: We will open the hearing on SB 2069 and ask the clerk to read the title, please.

Thank you, you may begin when you are ready.

Paul Welk-Audit Manager with the State Auditors Office-For-Testimony Attached

Chairman Haas: Thank you Paul, are there questions for Paul?

Rep. Kasper: About how many auditors do you employee in your office at any one time?

Paul: There are 50 FTE and of those we have about 45 auditors, but that would be throughout are entire department, which includes political subdivision auditors, mineral management auditors, auditors of the state agency.

Rep. Kasper: What is your turn over in your auditing department?

Paul: Current biennium, 35 to 40 percent.

Rep. Kasper: Have you been able to identify any reason for that?

Paul: Yes, Rep. Kasper, it is certainly a salary issue in our office. We start are auditors out at 4 to 500 dollars less a month then CPA firms. We lose auditors to other state agencies and they can go to another accounting position with no experience for that type of position, they are experienced auditors, but they might go and be a budget analysis or something and they can easily get 500 dollars more per month. We have tracked the individuals who have left our office and what would they be making if they had stayed in our office. Five years out, eight years out, and then we looked at what they are being paid at there current job, we saw that spread to be between 500 to 1000 dollars per month. It has been very difficult for us to retain our employees.

Rep. Kasper: I just want to be clear, most employees coming in and leaving on there own accord.

Paul: Yes, that is correct.

Chairman Haas: Are there additional questions that are relevant to the bill? Any other questions? Thank you. Is there additional testimony in favor of SB 2069? Is there any opposition testimony to SB 2069. If not we will close the hearing on SB 2069.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2069

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3/3/05

Tape Number	Side A	Side B	Meter #
1	x		12.8-13.1
Committee Clerk Signature <i>[Signature]</i>			

Minutes: SB Relating to the state auditor's access to records.

Chairman Haas: Let us proceed to SB 2069, this is the access to records by the state auditors office. What are your wishes on this bill.

Rep. Potter: The question, Chairman Haas, about the proposed amendment that are behind it, is that what they did on the Senate side?

Chairman Haas: Yes, that is background information. I asked Dixie to put original bills in if there was an engrossed version and the original amendments so you could see what took place prior to the bill getting here. What are your wishes on this bill. Rep. Grande moves a DO PASS, seconded by Rep. Potter, is there any discussion. Is there any discussion, if not we will have the clerk take the roll on a DO PASS motion on SB 2069.

VOTE: YES 13 NO 0 ABSENT 1 DO PASS ON SB 2069

REP. POTTER WILL CARRY THE BILL.

Date: 3/3/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2069

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep. Gokande Seconded By Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	AB				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Potter

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

REPORT OF STANDING COMMITTEE (410)
March 3, 2005 8:49 a.m.

Module No: HR-39-4034
Carrier: Potter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2069: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2069
was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2069



STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 117
BISMARCK, ND 58505

**TESTIMONY BEFORE THE SENATE
GOVERNMENT & VETERANS AFFAIRS COMMITTEE**
January 7, 2005

Senate Bill No. 2069

Testimony - Presented by Paul Welk, Audit Manager

Chairman Krebsbach, members of the committee, my name is Paul Welk. I am here to testify in support of Senate Bill No. 2069.

This bill amends two sections of Chapter 54-10 of the North Dakota Century Code, relating to the State Auditor's access to information of state agencies. The two changes made by this bill will ensure the Auditor's Office access to information in the possession of any state agency when it is deemed relevant to an ongoing audit.

In previous discussions with the Office of Attorney General, it was suggested that we may not have access to information from a state agency, other than the one we are currently auditing.

When testing an agency's compliance with state or federal laws, it may be necessary to obtain information from another agency. State Auditors throughout the country use the method of cross-matching data between agencies to detect fraud and abuse. On a continuing basis, various state agencies in cross-match data to ensure that only eligible individuals receive benefits. We feel that certainly the Office of the State Auditor should be afforded that same access to ensure compliance with state and federal regulations.

This bill would not change the type of information that can be examined, but only when it may be examined. This bill does not remove the confidentiality restriction that is currently in place. North Dakota Century Code already requires the State Auditor to guard the secrecy of information confidential by law. Confidential information that we examine will continue to remain confidential.

Our recent discussions with the Office of Attorney General indicate there may be some confusion as to whether current legislation already gives us the access that we need. We respectfully request that no action be taken on this bill until we have completed our discussions with the Office of Attorney General. Thank you for your consideration of this bill. I will answer any questions you have at this time.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2069

Page 1, line 6, overstrike "The" and insert immediately thereafter "Except for active
investigatory work product of the attorney general as defined in section 44-04-19.1, the"

Page 1, line 8, replace "Access" with "Except for active investigatory work product of the
attorney general as defined in section 44-04-19.1 and tax records as defined in section
54-10-24, access"

Page 1, line 17, after "audit" insert "except for active investigatory work product of the attorney
general as defined in section 44-40-19.1" and replace "The" with "Except for active
investigatory work product of the attorney general as defined in section 44-40-19.1 and
tax records as defined in section 54-10-24, the"

Renumber accordingly

change



STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 117
BISMARCK, ND 58505

**TESTIMONY BEFORE THE HOUSE
GOVERNMENT & VETERANS AFFAIRS COMMITTEE**
March 3, 2005

Engrossed Senate Bill No. 2069

Testimony - Presented by Paul Welk, Audit Manager

Chairman Haas, members of the committee, my name is Paul Welk. I am here to testify in support of Engrossed Senate Bill No. 2069.

This bill amends two sections of Chapter 54-10 of the North Dakota Century Code, relating to the State Auditor's access to information of state agencies. The two changes made by this bill will ensure the Auditor's Office access to information in the possession of any state agency when it is deemed relevant to an ongoing audit.

In previous discussions with the Office of Attorney General, it was suggested that we may not have access to information from a state agency, other than the one we are currently auditing.

When testing an agency's compliance with state or federal laws, it may be necessary to obtain information from another agency. State Auditors throughout the country use the method of cross-matching data between agencies to detect fraud and abuse. On a continuing basis, various state agencies in cross-match data to ensure that only eligible individuals receive benefits. We feel that certainly the Office of the State Auditor should be afforded that same access to ensure compliance with state and federal regulations.

This bill would not change the type of information that can be examined, but only when it may be examined. This bill does not remove the confidentiality restriction that is currently in place. North Dakota Century Code already requires the State Auditor to guard the secrecy of information confidential by law. Confidential information that we examine will continue to remain confidential.

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