

2011 HOUSE POLITICAL SUBDIVISIONS

HB 1061

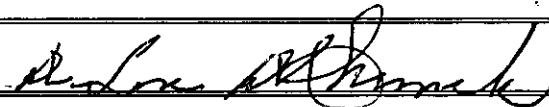
2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1061
January 7, 2011
Job #12661

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the powers and duties of the state auditor.

Minutes:

Testimony #1, 2

Chairman Johnson: Opened the hearing on HB 1061.

Jennifer Clark, Legislative Council: I was on the workforce interim that was chaired by Tony Grenberg and Chairman Johnson was a member of that committee as well. The bill comes out from a chairman directive to the committee to study the state auditor performance audit report of the Dept. of Commerce. There is housekeeping on Page 1, 2 and lines 10-13 on page 2. We are dealing with the duties of the State Auditor specifically on how they deal with performance audits of agencies. An issue arose with the Dept. of Commerce because it stretched out over a long period of time. They said it stretched their resources since some of it was also over the last session. As accepted as otherwise provided because with the State Job Service their audit needs to be conducted 12 months after receipt of their request. It is not my intent to give them additional time so that is why it is stated subject to otherwise provided in statute.

Rep. Shirley Meyer: When you state 90 days is that 90 working days or just 90 days.

Jennifer Clark: 90 days.

Rep. Devlin: How did they settle on 90 days?

Jennifer Clark: This is the average amount of time it takes.

Rep. Klemin: What if it can't be done in 90 days. Is there any leeway there to extend it?

Jennifer Clark: We have not addressed this. We could provide additional clarification.

Rep. Kilichowski: You referred to Job Service and 12 months. Would you rephrase that?

Jennifer Clark: If you look on line 10, Page 2 that new lead in language we are putting in there. We have a performance statute on Job Service ND that provides that a performance

audit needs to be conducted within 12 months after receipt of the request. So they have to have it completed within 12 months. If the State Auditor would wait 11 months to begin their audit the intent of this is to get it done within 14 months. We do not want to conflict with any existing law and give them a different obligation so that is why that is there. Is that more clearly.

Rep. Kilichowski: Is Job Service the only one or does the auditor have 12 months on all agencies?

Jennifer Clark: We do not address a time limit in statutes the same so I looked though the code I noticed time may play a role in the one so I wanted to make sure this change wasn't conflicting with other timeframes.

Rep. Zaiser: What if there are several requests for performance audits overlap and occur at the same time maybe there needs to be a need for a contingency?

Jennifer Clark: The drafting says 90 days from the start date of the audit. One response to it is don't start the audit until you have the resources to complete it. The reality is there may be times when they have several things going on.

Rep. Zaiser: If one request would come in on the 7th month of the calendar year and then one the 9th month of the year and then maybe the 11th month. What would you do?

Rep. Maragos: This is something that happened in the interim and one of the department directors had a complaint about the audit interfering with his work. I do not understand the bill because by shortening the time; would that not put more stress on him trying to get a performance audit done.

Jennifer Clark: I understand the question, but I can't speak to that.

Chairman Johnson: The individual in strong support of this measure is not able to be here and has asked that we carry the bill over. I have allowed work committee time at 2PM on Thursday so Rep. Grinberg can speak.

Opposition:

Robert Peterson, State Auditor: (See testimony #1).

Rep. Klemin: Tell us what a performance audit is and how it would differ from another audit.

Robert Peterson: Mr. Smith will be speaking and giving you more details of the performance audit.

Rep. Koppelman: Why is this bill here; what caused it to be brought forward.

Robert Peterson: We did appear before the workforce committee. We talked at length about the process and the audit. The chairman made a final remark about what would you

say to 90 days as a performance audit? I said that was too short, but he said don't be surprised that this bill would be produced.

Rep. Koppelman: Who audits the auditor?

Robert Peterson: The Legislative Council hires the auditor to audit our financials every two years just like every other state agency. I also belong to the National Association of State Auditors and we have what is called a peer review and every three years I get a peer review which is where auditors come to the state and review our operation and judge us based upon the government auditing standards that are currently in use. I also send auditors to other states; this is the only way we can accomplish this. Once you have been to a state you can't go back so you can only visit that state once.

Rep. Koppelman: My question is that implies that there is sort of a peer review and people who are auditors are best able to judge another offices work. However, you are charged with looking at agencies of the government and rendering opinion and reports on how they are performing their duties. We don't ask the Dept. of Corrections from another state to look at our Dept. of Corrections. Is there anyone that really does a performance audit on you other than auditors from other states or from this association within the state government of ND?

Robert Peterson: No there is not.

Rep. Hatlestad: Was this the result of complaints from multiple agencies about length of audit or a single agency.

Robert Peterson: This came from Dept. of Commerce. DOCR should have complained because we had an OIC audit too so they had three audits.

Rep. Maragos: Does the Legislative and Fiscal Review Committee have the right to hire a private firm to conduct a performance audit on your agency if they so chose?

Robert Peterson: I believe the Legislative Assembly or the LAFRC has that right to do so.

Rep. Beadle: I understand your concerns about the 90 days might not be sufficient and I understand the concerns an agency might have if they might have a problem getting them done. Would there be any way to set this up so you can go back and request an extension if necessary when a problem arises; maybe 30 days before hand so there is notice given. Is there any way to ease your concerns about leaving 90 days in but saying 15-30 days prior to the end of those 90 days you can go to the agency that has requested the audit and request an extension of X number of days to satisfy those things?

Robert Peterson: Usually an agency doesn't request a performance audit. Usually it is the LAFRC, the Legislative Assembly or I decide to do it.

Rep. Beadle: You brought up the concern with previous conflicts doing audits then an agency could request an extension on that.

Robert Peterson: Let me first say performance audits start out as an idea. We list the number of candidates that we are interested in auditing. Just because we determine we can audit a candidate we don't know what is involved. 90 days is arbitrary. Usually we talk about an average of six months. We don't know because we will start doing surveys; questionnaires, research before we begin the audit. That is why it is so difficult. We cannot give you a timeframe. Making the scope smaller means that we are coming back and I don't want to say that because that means more work if we did not get it completed properly. The standards require we go through a lot of work planning and communicating to the client. We have entrances and exist and so there are a lot of things and we document everything including hours for our budget. We always try and work with the agency. We have never held an agency's feet to the fire. 90 days is not enough and I would feel uncomfortable doing it. What if Rep. Koppelman said he has a family emergency; or if he becomes sick. There are all sorts of things come up. We don't just set and wait for this audit; we work on other ones along the way.

Chairman Johnson: Do you enter into contracts with the agency when you decide to do an audit or you go in and do the survey and decide what you want to do or are the agency part of making that decision. At that time is it appropriate to set a timeframe?

Robert Peterson: Yes we set and visit the agency, but we don't enter into a contract. It is our performance audit and by limiting the scope and now we are more focused on time than on quality of work. We want to have something that is manful to that agency.

Rep. Klemin: I think the language provided in the bill saying except as otherwise provided by statute or by the legislative audit and fiscal review committee so perhaps at the end of 90 days that could be changed. Can't you just discuss that timeframe at the time you meet them initially?

Robert Peterson: There is no restriction. We can just request a performance audit and it can go for two years. These 90 days is a concern that I am not sure I could meet.

Rep. Klemin: When you decide to do a performance audit isn't it possible under this language that I can't do that in 90 days, I am going to need 180 days except as otherwise provided by the legislative audit and fiscal review committee.

Robert Peterson: There is no restriction on the LAFRC or the legislative assembly. You can just request a performance audit and you go for two years. The only restriction is when I decide to do a performance audit. That is restricting me to 90 days. If the LAFRC or the legislative assembly decides to ask for a performance audit there is no 90 day restriction. This is just restricting me; nobody else.

Rep. Klemin: Why is that language in there except as otherwise provided by statute?

Robert Peterson: It is only restricting me.

Rep. Klemin: Can't you go to LAFRC and ask for more time?

Robert Peterson: I don't know if I can do that. If I started an audit and then am running out of time; then you are saying go to LAFRC and what if they say no and I am at a point where I am going to abandon part of the audit or the whole audit just because I hit a wall. There is being a lot of emergencies that can come up.

Rep. Heilman: I have a question on the process. Is there in the beginning of the audit is there a process where you discuss with the agency about how long you expect it to take after you had studied it and what you want to review. Are they aware going into it this might take 6 months so they can make preparations before hand to be prepared?

Robert Peterson: We set up a budget after we have gone to see them. This is the expected amount of time that we think we are going to spend on this audit, but like a lot of things. Financial audit s is easier to tell, but a performance audit is fluid and you don't know what you are going to find until you go in.

Rep. Zaiser: When you get into a performance audit do you run into a situation that you never expected to be there and second question how you might characterize your relationship with other departments of the state. Do you see yourself as a villain or a watchdog or a copy or how do you see yourself and what is your relationship with other departments?

Robert Peterson: We work with the other agencies and this is something we do to make you better. I would characterize I think these have been well received by all the agencies. We did struggle with commerce but every once in a while you will have this happen as far as individual recommendations. Most departments are resigned to submitting their recommendations and you hope they have a positive outcome. We have an issue with timeliness. We don't want a performance audit to go on too long. The longer you stretch it out the less timely it is for the stakeholders. Whether it is the legislative assembly or the citizens or the agency. That is why we use the six months timeframe for an average.

Gordy Smith, CPA: (See testimony #2) Went over testimony and discussed areas to illustrate them. Discussed how the audits can save agencies money and sometimes we are not on site for six months. Discussed also the conflicts that can arise and slow the auditing process up. I think we do a good job trying to get agency buy in. Are they all happy to see us; of course not. I am not going to be happy if I get audited by the IRS either. The standards say we have to have a peer review every three years. I can tell you I have been on several of those. That is an extremely thorough audit and beneficial to go on for everybody. The last three we have had where they looked at our performance audit there was not a single formal recommendation and that covered 9 years worth of work and that is something we are very proud of. I think it demonstrates we are following all the standards. I think it also demonstrates we are putting out a quality product. I respectfully request the bill be given a do not pass.

Rep. Klemin: What is a performance audit?

Gordy Smith: Discussed what a financial audit and how it works. In a performance audit we are looking at trying to make things more efficient, effective and they are accomplishing what the law makers intended for the program. Discussed how it worked with the Center of

Excellence and the problems we found with them. We don't include financial statements in a performance audit.

Rep. Klemin: The existing law says on page 2 line 5 a performance audit must be done in accordance with generally accepted auditing standards applicable to performance audits. Can you provide us with a copy?

Gordy Smith: What we follow is addressed as the yellow book. The feds at the national level put specific standards. I will bring that down to the committee and there will be various chapters in there and I will flag those. Some talk about standards for financial reporting where we want standards for performance auditing.

Rep. Beadle: Thirty percent is a very high turnover rate for any agency. What do you attribute that high turnover rate to? Do you have any other analysis of how that compares to other auditing agencies.

Gordy Smith: Our 30% turnover is related to: the staff can make more money elsewhere. Anywhere from 25-30% we lose to other agencies so it is frustrating to us that we train them and then can go and become a budget analysis or budget specialist. MDU hires a lot of our staff. We have asked in our budget bill for more equity there. I have talked to other accounting firms. Their turnover rate is not as high as ours, but I will tell you this, they are having the same difficulty in finding candidates as we are. In the last 5 years in order to set for the CPA exam it is now a 5 year degree instead of a 4 year degree. Some people just aren't cut out to be auditors because of the job itself. Sometimes it is hard for someone to walk in to the place and be the villain and try to work with the clients. I think if they stick around long enough that would work out. Some people have told me they just don't like the work.

Rep. Beadle: I was asking specifically relating to the State Auditor of ND turnover versus other states. Why would you be hired here?

Gordy Smith: I was thinking more of comparing to private sector. Other states are experiencing similar problems maintaining their people. Some of the younger people coming in are interested in how fast I can advance.

Rep. Koppelman: When you do performance audits of other agencies this issue you brought up of state employees being paid a certain amount of money and the private sector is something we always deal with. Are you finding as you audit agencies of government do you look at this issue at all. Do you look at the turnover rate and say to these agencies you need to pay your people more in order to attract good people. Is that part of what you do?

Gordy Smith: When we did DOCR we took a look at their turnover and their guards and we did recommend they seek additional funding to try to reduce; they felt there was some safety issues so we would.

Rep. Koppelman: Will be look at the flip side of that and the state are actually attracting people and we are above the market; does that come into play at all performance or financial audits.

Gordy Smith: We haven't looked at that. We could do that.

Rep. Koppelman: Are we referring a food fight here since the bill is before us?

Gordy Smith: I would like to think we are not. I try hard not to try and assume what people's motives are or anything else. I thought with upper management with Commerce we had some struggles. The people in the trenches that we talked to were extremely cooperative and open to our suggestions etc. We have done some hard performance audits that are very public and controversial. There are very few cases where when we are done we have a good working relationship with them and visit with them often. I think this is not good policy. All the performance audits when we go back to see if they have implemented directions; well over 90% of the recommendations that we have made have either been completely implemented or are on their way. I am proud of this because if we were making them out of the blue they couldn't be so I would like to think Commerce feels comfortable calling us if they run into an issue.

Rep. Hatelstad: Observations, there are too many variables that you run into to set a specific deadline such as 90 days and flexibility is absolutely critical to the quality of your performance.

Gordy Smith: Certainly there are just so many things we run into and we can't control. If I have to get down to 50 days and I have five issues; which three do I do my work on and typically I would say if it is important enough then we should have it in the report and we should let the public know about it and legislators know about it. We don't want to upset the client.

Rep. Beadle: Do you have an idea of the average amount of time you spend on an audit; recognizing some might go two years and some might go two months.

Gordy Smith: I would tell you 2000 to 2200 man hours; some have taken 3000 hours; some may have taken 1400. I think 2000 to 2200 would probably be close.

Chairman Johnson: Adjourned the hearing and continue it on Thursday, January 13 at 2PM.

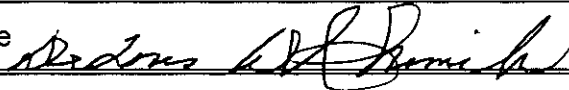
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Minutes:

(Handout #1)

Chairman Johnson: Reopened the hearing on HB 1061. This hearing was adjourned to allow Senator Grindberg to come in and address the committee.

Senator Grindberg: I chaired the interim workforce committee and about half way through the interim I had requested that legislative council chairman to add the scope of work assignment to the interim committee which was approved. It was expanded to include the study of the recommendations of the State Auditor's performance audit where the Department of Commerce dated August 11, 2009. The study may include consideration of the role of the ND Economic Development Foundation consideration whether steps could be taken to improve the department technology based economic development programs in board review of the recommendations related to the Center of Excellence program. Our interest there was centered on the whole process of the audit that was performed. The work product was not at question. The problem that came out of the discussions was the process never ended. I know last week you heard from the auditor's office and they have very sound reasons with general accepted rules of accounting and how they performed and the reasons why having a limitation on time would be further restriction. We felt we should have some debate on the length of these performance audits and that is why this bill is before you. It was 1991 that the Legislature set up performance audits. If you look at the Century Code, Chapter 54-10. It is fairly straight forward. Subsection 4 says the State Auditor's powers and duties shall perform or provide for performance audits of state agencies as determined necessary by the State Auditor or the Legislative Audit and Fiscal Review Committee. This bill draft only sets forth if the State Auditor chooses to begin a performance audit process they have 90 days, which does not impact the Legislative Audit and Fiscal Review Committee request and audit there is no time limit. When the Auditor chooses to do a special performance audit that should be limited and prepared in advance so they can go in; do their work and get out. In reference to the Commerce Department, it was an incredible amount of time and energy by the staff that was dedicated to that ongoing expanded scope of the work that they couldn't perform duties that otherwise as rules of the Commerce Department. A performance audit must be done in accordance with the generally accepted auditing standards applicable. The State Auditor may not hire a consultant to assist with conducting a performance audit with a state agency without the prior approval of the Legislative Audit and Fiscal Review Committee. The State Auditor

shall inform the agency of the need of a consultant before requesting approval. The agency that is audited shall pay for the cost of any consultant approved. (Handout #1). Went over some items on the handout. Yesterday I heard the State Auditor's budget and was more interesting to me was the response from the State Auditor on a question I raised and it became known to myself yesterday actually in the morning that the University System was notified recently that the auditor has decided to do a special performance audit of the university system beginning the Legislative Session. Anyone that has been close to the process of the last two years in higher education knows that the State Auditor did a wonderful job in clearing the air, if you will of issues that went on with NDSU. They annual provide audits of the universities across the state and the interim higher education committee produced mounds of paper. At the conclusion of the Education process interim committee we didn't really have a lot of substance to our recommendations for changes in higher education. Now we start the second week of the session and they are notified of a special performance audit. To me it didn't make allot of sense that that issue should be raised when everybody busy this time of year. When I asked the auditor he said will I have to keep my guys busy. To me that is not a good enough reason to start a performance audit. I am sure there is more and give the nature and rational; on the surface I think the whole rational of these performance audits need to be reviewed.

Rep. Heilman: How did the discussion come to a 90 day as the limit?

Senator Grindberg: A committee idea.

Rep. Heilman: How long did the Commerce Audit take?

Senator Grindberg: It was close to six months.

Rep. Klemin: The handout you have here on generally accepted audit standards. I actually asked about this at the hearing on this and this definition of performance audit is not in our statue now. Is that something you think should be in our statue as to what a performance audit is?

Sen. Grindberg: I guess that would not be a wise move because they change. The industry will change standards and I don't know if having it in the statue should accomplish anything. As licensing practicing CPA's they have abide by principals and guidelines as well as statues.

Rep. Klemin: I am not saying we should put the standards in but there is not definition of performance standards in that statue now. It requires the auditor to conduct performance audits but doesn't say what those are. You think this is sufficient to look at these general auditing standards and definitions.

Sen. Grindberg: Practicing CPA's have to abide by those guidelines whenever they changing or they risk losing their license, I believe, if it proven they haven't followed it.

Rep. Hatelstad: If I took my car in for an oil change and once they got it up on the hoist they found out a major transmission issue; now they told me it would be ready in two hours,

it is not going to be ready in two hours. This bill doesn't give any flexibility if you run into a problem or a bigger scope of work, what do we do?

Sen. Grindberg: Maybe Legislative Audit and Fiscal Review should extend the deadline then.

Rep. Zaiser: We often did audits in my agency in the past and I welcomed them as a tool to achieve and end. I see basically a performance audit is a problem solver. Would you agree with that assessment or not?

Sen. Grindberg: Yes

Rep. Zaiser: If it is a problem solver it is pretty hard to put a finite timeframe on it makes it pretty difficult.

Chairman Johnson: Requested the State Auditor come back up.

Rep. Beadle: In the discussion we had last week I understand where you guys were saying about the 90 days being too restrictive. I would like to know the difference on LAFRC would require versus the ones you guys take on yourselves. Does your office feel you could go to LAFRC to request some sort of extension?

Robert Peterson: LAFRC only meets usually 3-4 times a year. If the time works out I can see where we came to a point in between LAFRC meetings and we are done and we run out of time. Yes it is possible.

Rep. Beadle: You mentioned the turnover rate of about 30% and I had questioned you and Mr. Smith and what the reasons on that? Mr. Smith said; not everyone is qualified to be an auditor and people get to it and they don't like being the bad guy and I completely understand that but at the same time I had questioned what is the turnover rate at State Auditor's agencies in other states compared to the state of ND. He indicated you guys were a little bit higher and I wondered if you found any reason as to why that might be.

Robert Peterson: That is a good question. One auditing and auditors are in demand and we are lagging behind the industry as far as state auditors versus industry auditors and we know that. At one time I had six former auditors up at MDU. The problem with the performance section is I only have four auditors and when one leaves I have lost 25% of my workforce. Discussed the supervision and training that is done with new auditors. Some people once they tried it don't like the performance auditing versus the financial auditing.

Rep. Maragos: What criteria, if any, that you use when you make a decision on your own as in your criteria as state auditor to do a performance audit?

Robert Peterson: I am going to have Mr. Smith answer that process because as my manager he does most of the leg work. There are occasions where I do decide just to do an audit, but that is very rare. I did that once just because the entity didn't want to pay for

other services that we had RFD out. They said we don't want to pay for them so we said fine we would just do an audit.

Gordy Smith, Audit Manager, State Auditor's office: We consider several different things to do audits. We consider the amount of dollars involved; we brain storm together and come up a master list and then try trimming it down. One of the suggestions we got was cell phones, black berries and electronic devices that agencies purchase and are using to look at that. There are kinds of things. Sometimes we contact other states to see what they have done and go to their web sites and see the performance audits that they perform. We thought there might be some bigger fish to fry. In other states they found things like private minutes were paid for by public monies. People bought plans for cell phones plus other things on the plan that the state was paying for. We did not feel there was enough money to justify spending a lot of time with this when there were other issues. We visit with our other financial auditors when they are out there and maybe they come across a topic that wasn't pertinent to the financial audit but maybe that they thought would be a good topic.

I think performance audits can help put out a fire. If an agency is having trouble in a specific area and it is public information, we maybe would take a look at that. The audit Sen. Grindberg discussed; one it is not a special performance audit. It is just a performance audit like we have done on every other one. There are things like local funds are not specifically appropriated; it is a continuing appropriation. There really hasn't been an extensive look at those. When we visited with the Chancellor he used the phrase; there is a lot of gray area that pertains to local monies; even the definition he said to us of what Dickinson State might regard as local monies is different than maybe what UND does so those things made us think we should take a look at it. I asked the Chancellor what are you found out the amount of revenue you bring in for your dorms was double what the cost was. His immediate reaction was that we should be making money off the students. What if you found out it was half of what the costs actually were. Then there maybe legislatures and the public wondering if the general fund dollars subsidizing those; was that made clear to them. We try to use different methods of deciding and it does vary.

Rep. Koppelman: I am not sure I mind an audit during the session. I would like to have it though before the session is done.

Gordy Smith: We have done this since 1991 in every session we have been involved in a performance audit during the session. This one is no special one. In the 2009 we were doing the Commerce audit but we were out at the Center of Excellence.

Rep. Koppelman: Performance measures are something the legislature has tried to get a handle on for several sessions now unsuccessfully. How we can get there and if we had them wouldn't that help you better perform a performance audit because the agencies involved would have a standard that they were expected to live up to and they would have objectives they were expecting to accomplish.

Gordy Smith: I think having those performance measures would help everybody. The hard task is if you take a simply agency; not one that is complex like DHS or higher ed to come up with what is the measure you want usually takes a lot of coordination and legislatures should be involved in that. They could come up with a list of things that they think is important and it doesn't even address the intent of what legislatures would have liked to

have been measured. One of the challenges of a performance audit is finding that criteria that is in that definition. If you are in a financial audit you can go right to that accounting standards and you have it so there is not a lot of arguing or subjectivity in that. In performance audits we try to get the buy in the entities like if they belong to a national organization; maybe they have some standards we can measure them by. We try to get them to decide if the 10 day turnaround time frame is enough to turn this process around.

Rep. Koppelman: What is the definition of a performance audit? Who licenses CPA in ND?

Gordy Smith: The State Board of Accountancy is the one that actually grants the license and can remove it. The state society of CPA is all the membership. GAO sets the standards and that is who sets them out in the yellow book. Performance audits have to be done in accordance with 54-10 and that refers you to the yellow book.

Rep. Koppelman: So you are saying that is a general reference in GAO standard and I know there is a great reluctance among ND legislatures to referencing somebody else and some other authority and apparently that section does. Is that a problem or do you think it would make more sense even if you had something more general, as Rep. Klemin indicated to define what a performance audit is in statutes?

Gordy Smith: I thought Sen. Grindberg did a good job of addressing that. The problem is just how often that changes. The yellow book version we are on now is 2007. They are in the process of updating it and so another one will be issues in 6-10 months. Any time it is updated, if it was in statutes, we would have to come back and update it in 54-10.

Rep. Koppelman: I realize it is more work to come back with a cleanup bill but at least it would give the policy makers of the state then an opportunity to look at that and look at the changes that are being proposed etc. I think it is important to carry out what the people of ND want you to do.

Gordy Smith: The fact that we follow those standards, when there is an audit done; basically it is the state of ND's financial statement and those standards have to be issued and conducting data on it so that when that opinion is reached; they send that into a center and you get a certificate that all affects your bond rating and everything else. That is the point of having this centralized rule of accounting so that everyone is doing it the same.

Rep. Hatelstad: Senator Grindberg was concerned that you were going to disrupt higher Ed during the legislative session. Can you lay out a timeline so that we would have an idea of what it would take potentially to get the job done?

Gordy Smith: I can try. The primary survey part of that, where I describe meeting and we are just gathering a lot of information. Something as big as this; we ask higher Ed for their opinion. We gave them three options; we could tackle all the universities as one and look at all their local monies; we could tackle UND and NDSU because they are the primary focus of it, do UND by itself and NDSU by itself and then do the others. They wanted us to tackle the whole project as one. We are concerned that it would drag on so long because it is such a big piece of the pie so we compromised and we would tackle NDSU and UND. I

am going to guess it will take 6-8 weeks. Then we set down with the client and tell them what scope we decided we would do our field work on. Our field work could go anywhere from 2-4 months. If we found a ton of problems it is going to take 4 months. We would meet with them when our field work is over and then we would come up with recommendations and then we are in to the report writing. That is probably a month. We would give them a minimum of 2 weeks so for the whole process it might be 6-8 months. I promise we will try to be as considerate of the entities that we are auditing as we possibly can. We thought we would start with NDSU so if there is flooding they don't want us down there.

Rep. Hatelstad: How much disruption on a campus would that create?

Gordy Smith: Very little in the first 6-8 weeks. Will you send us your policy manual that allows local funds; can you tell us what your definition of local funds is. What numbered funds on the accounting system are local funds? We look at all the laws that involve local money. The point where it is most difficult on the client is that field work stage where we are out testing. We do work around their schedules. It is imposing on the client.

Rep. Klemin: The yellow book that we are referring to; I had asked if there is something in the yellow book that could conflict with this 90 day deadline. I looked thorough what you highlighted there and I did not see where that question was. Is 90 days an unreasonable restriction? If so what is a reasonable restriction.

Gordy Smith: Other states do not seem to have one. As I said last week I think 90 days is unreasonable because it is really 50 days when you take out weekends and vacation, sick leave and holidays. I just don't see how we are going to work with that.

Rep. Beadle: Looking at Century Code Section 54-10-1 Sub. 4 say a performance audit must be done in according with generally accepted auditing standards applicable to performance audits. Is there any difference between general performance audits that are done in the private sector versus governmental standards when comes to performance audits. Is there any reason why we might need to put government auditing standards in that definition?

Gordy Smith: GAGUS is the other one or GAS. Those standards are for what you would have in a private sector. I do not know of those GAS statements have a segment for performance audits. Several sessions ago there was a request Job Service get a performance audit. We issued the RFP for that. We required the CPA firm to follow the yellow book standards.

Rep. Beadle: Would you have any complaints if we did decide to amend subsection 4 so it said governmental auditing standards as opposed to just general auditing standards.

Gordy Smith: GAGUS is what it should say. That is the yellow book. That is the federal government book.

Rep. Koppelman: I recognize you would have a problem if a time frame was put into law. You are creating hurtles for agencies when you audit them. Recently we shortened the

time frame for making administrative rules because it was cumbersome and it was too long and dragged out. It helped agency work together better and the hearing were more timely. I think if we would come up with a timeline couldn't you adjust the beginning in of your audits so you would know when LAFRC is meeting or maybe if you have one that is a month away from being completed but you think you might need an extension isn't that a durable thing?

Gordy Smith: If the set deadline was a lot farther so I had a pretty good chance to meet it I think we could work with one.

Rep. Klemin: What is that time limit?

Gordy Smith: If that time deadline was set at 210 days or seven month; however we wanted to define it and then there was a requirement that if we could go farther than that we could go then to the LAFRC that is a way more workable one. I worry about the 90 days since so much of it is out of our control no matter how hard we work.

Rep. Klemin: If we put in 210 days and then have LAFRC could provide an extension that would work with you.

Gordy Smith: Yes that would be better than 90.

Rep. Hatelstad: It would seem that if we have an audit such as the higher Ed system and if we had put restrictions on you; you probably would go to LAFRC and say will you request this and that pulls the time lines up?

Gordy Smith: If we thought of a topic that was going to be pretty big and we knew it was going to involve a lot of things and take a lot of time the best way would for us to go up front. When we got into Commerce we had no idea it would go as long as it did.

Rep. Maragos: I think we are trying to make a decision on way too little information and too little data. My own preference is to have this studied on the interim where we could bring in experts to tell us. Each audit I am sure is totally different from the other one. I want more information.

Rep. Zaiser: You talked about whose is going to get an audit? How do you do that? Could you break that down a little more clearly?

Gordy Smith: We set down as an audit team and somebody will be assigned to go on and look up on the NSAA website so we go to other states and look for topics they have. Some would be assigned to go and visit with all the financial auditors we have and the higher Ed auditors in Fargo. Some are just brain storming as to what are current hot topics. We consider things like the size of the program, how new it is, if we are going to need a consultant. The legislature has passed appropriation bills that have required a performance audit. Sometimes the LAFRC will tell us what they think we should do.

Rep. Zaiser: How could you provide all the yellow book changes to all the agencies so they would know what they were? Do you have any suggestions?

Gordy Smith: I think the majority of those agencies don't know what those audit standards are. They know what the accounting standards are, but they wouldn't really know what any other audit standards are. We could make copies of the yellow book and provide them those copies. I would rather just give them the book and have them follow it.

Rep. Zaiser: Wouldn't a simple email work? There seems to be a lot of communication problems.

Gordy Smith: I agree communications can always be improved. We recently meet with the new Commerce chairman.

Rep. Heilman: What is LAFRC and who sets on it?

Gordy Smith: It is 17 individuals; some are Senators and Representatives. The Chair is Senator Christmann, Rep. Hatelstad, Rep. Skarphol and Rep. Delzer.

Rep. Zaiser: Do you think if you went to them with a request for an extension saying we don't think we could finish in this time, could you please give us more time etc. Do you think it would be easy to do that?

Gordy Smith: I think we have a good relationship with them and I think it is a learning curve for everybody that is new on it. We had a vote a few months ago on one we recommended that we do and they voted 9-8 against having us do it.

Rep. Heilman: My question is if we are going to go up to 210 days and there is no problem requesting an extension, why are we having this discussion?

Rep. Beadle: Would you office provide us information for the average length of time the performance audits take?

Gordy Smith: The best way to do that is to take the last 10 or 12 we have done and we certainly can provide that.

Rep. Devlin: Other than the 90 day section is the rest of the language all right?

Robert Peterson: Mr. Smith may agree to 210 days. When you look into the future, we have a wonderful LAFRC committee right now. I have to speak for future State Auditors. I cannot impose upon them this particular process. I would request this bill does not pass.

Discussion:

Rep. Shirley Meyer: We had an audit on the racing commission and that took an unbelievable amount of time and I don't think anyone thought it was going to take that long and yet they did a good job and we approved it. Without the performance audit that would not happen. If this is a bad idea we don't have to pass it out.

Chairman Johnson: We have hearings in the morning and if someone wants to come with an amendment at that time please be ready.

Hearing closed.

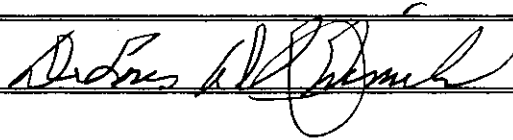
2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1061
January 27, 2011
Job #13555

☐ Conference Committee

Committee Clerk Signature



Minutes:

Handout #1

Chairman Johnson: Reopened the hearing on HB 1061.

Do Not Pass Motion Made By Rep. Hatelstad: Seconded By Rep. Kretschmar:

Rep. Beadle: I do have some amendments to add to this bill. (Handout #1). Went over the amendment. There is a difference between "governmental" audits. That is what they should be going by. Also limiting time of audit. One of the biggest reasons why he is against it is because of the weekend and vacation days and holidays you get down to about 57 days so I wanted to insert business days so it would be about 123 days on average. It would give plenty of time to go to LAFRAC or wherever to make sure they could get an extension if they feel it was necessary.

Motion withdrawn.

Chairman Johnson: Any questions about the amendments. Explained to the new representatives that we want to make the bill in the best form we can even though we kill it. In case it does prevail on the floor you want it on the best format you can make it.

Rep. Mock Made a Motion to approve the amendment; Seconded by Rep. Zaiser:

Discussion: Rep. Heilman: It seems so arbitrary to me to have 90 business days even though it is more like 120. When we mentioned 270 as an arbitrary number because when they get into it you never know what is going to come up and how long the process will take and what issues they find. I would have a hard time putting any kind of restriction on the audit department. I am for the amendment unless we wanted to talk about extending it even further.

Voice Vote Carried.

Do Not Pass As Amended by Rep. Hatelstad: Seconded by Rep. Zaiser:

Discussion:

Rep. Beadle: I think we need to have the integrity of the audits maintained. An example of an audit going long is when they were doing the audit for Human Services and then the board of higher education asked them to do it. I don't think the wording would diminish the interiority of an audit. I think it is more a measure to say there is a problem 's that are going on with the auditor's office when you have a 30% turnover rate, which is higher than any other governmental agency; not to mention higher than any other auditor's office in any other state who are dealing with the same stuff. We are keeping an eye on you is what this should send making sure you are behaving.

Vote: Yes 11 No 2 Absent 1 Carrier: Rep. Hatelstad

Hearing closed.

January 27, 2011

VK
1/28/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1061

Page 2, line 5, after "accepted" insert "governmental"

Page 2, line 12, after "ninety" insert "business"

Renumber accordingly

Date: 1-27-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1061

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider _____

Motion Made By Rep Hatelstad Seconded By Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

withdrawn

Date: 1-2-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1061

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Mock Seconded By Rep. Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
carried*

Date: 1-27-11
Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1061

House Political Subdivisions

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Hatelstad Seconded By Rep. Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson		<input checked="" type="checkbox"/>	Rep. Kilichowski	<input checked="" type="checkbox"/>	
Vice Chairman Hatelstad	<input checked="" type="checkbox"/>		Rep. Shirley Meyer	<input checked="" type="checkbox"/>	
Rep. Beadle		<input checked="" type="checkbox"/>	Rep. Mock	<input checked="" type="checkbox"/>	
Rep. Devlin	<input checked="" type="checkbox"/>		Rep. Zaiser	<input checked="" type="checkbox"/>	
Rep. Heilman	<input checked="" type="checkbox"/>				
Rep. Klemin	<input checked="" type="checkbox"/>				
Rep. Koppelman					
Rep. Kretschmar	<input checked="" type="checkbox"/>				
Rep. Maragos	<input checked="" type="checkbox"/>				
Rep. Pietsch	<input checked="" type="checkbox"/>				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Hatelstad

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

REPORT OF STANDING COMMITTEE

HB 1061: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1061 was placed on the Sixth order on the calendar.

Page 2, line 5, after "accepted" insert "governmental"

Page 2, line 12, after "ninety" insert "business"

Renumber accordingly

2011 TESTIMONY

HB 1061

STATE AUDITOR
ROBERT R. PETERSON



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TESTIMONY BEFORE THE HOUSE POLITICAL SUBDIVISION COMMITTEE

House Bill No. 1061

Presented by Robert R. Peterson, State Auditor

Madam Chair and members of the Political Subdivisions committee, for the record, my name is Bob Peterson and I am the State Auditor. I'm here to testify in opposition to House Bill No. 1061.

The auditor's office has been conducting performance audits since the legislature passed the necessary legislation in 1991. These audits have been well received by the public and the legislature. Currently, the performance audit staff consists of 4 auditors and an audit manager.

This bill would limit the state auditor's office to 90 days to complete a performance audit. This deadline would only apply to the state auditor and not to the LAFRC or the legislative assembly requesting a performance audit.

While completing audits in a timely manner is important, the most important factor should be providing a high quality audit which leads to improved programs, operations, performance and accountability. The quality of the audit would be diminished in a situation where time is given a higher priority than meeting the objectives of the audit. In fact, governmental audit standards consider external pressure that could limit or modify the scope of an audit as impairment to auditor independence.

Allow me to give a few examples of my concerns with this legislation.

During the past year the Board of Higher Education asked me to undertake a performance audit of the president's housing at NDSU and UND. At the time, we were doing a performance audit on the Department of Human Services. My decision was to delay the audit on DHS and complete an audit on university construction projects. If this bill had been in statue, I wouldn't have had the latitude to make that decision. I would have been forced to complete the DHS audit before I moved on to the BHE requested audit.

Another concern is agency cooperation. With this section of law an agency can drag its collective feet in providing us with timely information to the point where we might be forced to abandon part of or the entire audit.

#1

Let me use the performance audit from Department of Corrections and Rehabilitation as an example of why audits take time to complete.

This performance audit had over 100 pages with 51 formal recommendations. Since the implementation of those recommendations, the general fund savings to the State of North Dakota has been \$900,000 dollars annually.

This audit was started April 23, 2004 and was issued January 7, 2005. During this audit, the audit team spent 2,661 hours on the audit and I hired a consultant to work with them on four areas of the audit: treatment programs; medical costs and contracted medical services; overcrowding at DOCR facilities; and management and administration.

During the audit period, which was almost 3 times the proposed time in this bill, the audit team spent the first two months doing research and surveys and after the draft was issued to DOCR; we gave them 25 days to respond to the 51 formal recommendations.

Madam chair this ends my testimony and I would be willing to answer questions from the committee.



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TESTIMONY BEFORE THE HOUSE POLITICAL SUBDIVISION COMMITTEE

HB 1061

Presented by Gordy L. Smith, CPA

Good morning Madam Chair and members of the Political Subdivision committee. I'm here to oppose HB 1061 because of the negative impact it would have on the performance audits conducted by our office.

The objections I will discuss in my presentation include: a) the negative impact it would have on the quality of our performance audit work; b) the difficulty our office would have in complying with the legislation; and c) the adverse impact it would have on our relationship with clients.

Adverse Effect on the Quality of Our Work.

Perhaps the most significant negative impact of this arbitrary 90 day deadline is that it will adversely affect the quality of our work. HB1061 imposes an unreasonable deadline and represents a scope limitation. Scope limitations are circumstances or conditions that adversely affect the ability of the audit team to thoroughly and/or independently conduct its work. Governmental auditing standards specifically list this type of arbitrary deadline as an "external impairment". This is because it would restrict our work and would interfere with our ability to form independent and objective findings and conclusions.

The performance audit team will not have sufficient time to address significant issues encountered during a typical audit. In addition the initial audit scope (areas audited) will have to be extremely limited in order to ensure meeting this arbitrary 90 day deadline.

We take a great deal of pride in the accuracy of the information presented in our performance audit reports. One of the reasons our office has an exemplary record of including accurate, reliable information in our audit reports is that we spend a significant amount of time and effort ensuring that the information in the report is supported by client records and other information gathered through testing and research. The stakeholders of performance audits have always been able to rely on the accuracy of information presented in our performance audit reports.

With a statutory deadline in place the audit team will have less time to spend corroborating information gathered from client interviews, client records, testing, and analysis. The audit team would have less flexibility to provide the client the opportunity to gather and provide potentially mitigating information and to provide their perspective on test results and potential recommendations. This will contribute to a higher risk that information presented in the performance audit report is inaccurate and unreliable.

HB1061 Compliance Concerns

Complying with this arbitrary time limit would be close to impossible for the performance audit team. If one examines the practicality of this 90 day time limit it becomes obvious it is unreasonable and unworkable. If we subtract weekends (26 days), as well as prorated holidays (2 days) vacation and sick leave time (4 days), and days spent in training (1), the actual time limit becomes 57 days. When one considers we would only be able to provide the client 7 days to respond to the recommendations (currently we provide the client a minimum of two weeks) the time limit in reality is 50 days. This calculation doesn't even take into account further reduction of the audit time available if travel is required as part of the performance audit. Examples of some of the specific tasks the performance audit team would have to complete in the time frame include:

- Review all client laws, rules and regulations;
- Review client policy and procedures manuals;
- Survey client staff and management (presently we allow two weeks to respond to our survey. This would no longer be possible if this legislation passes);
- Review organizational structure and relevant job descriptions;
- Interview client staff and management;
- Research similar state entities in other states as well as national organizations and review any other audits or consulting studies done on the client;
- Develop the audit scope as well as the corresponding audit programs;
- Conduct analysis of the internal controls surrounding the applicable areas to be audited;
- Conduct testing;
- Analyze results of testing and other evidence gathered and formulate potential recommendations;
- Conduct various meetings with the client including an entrance conference, scope conference, meeting to discuss recommendations and the exit conference;
- Draft the audit report and provide it to client;
- Address client questions and concerns (throughout the audit);
- Finalize the audit report to include client responses and any other report changes.

In addition there are other factors beyond the control of the performance audit team that significantly affect the time required to complete a performance audit. HB1061 ignores these factors. Examples include:

- Our office has a high turnover rate. As a result there are many occasions where the performance audit team has less than its typical 4 members. Obviously if the team has less than its full number of auditors it will require more calendar days to complete the same amount of work;
- Like all state employees, client personnel take vacations, are on sick leave due to illness and attend training sessions each year. These are just a few examples of instances where client personnel are not available to the audit team. Having this arbitrary deadline in place will virtually eliminate the flexibility we have in dealing with these situations;
- The frequency with which the audit team encounters potential problems significantly affects the amount of time required to complete the audit. For example, the Department of Commerce performance audit included 50 formal recommendations and over 30 informal recommendations. If the performance audit had encountered fewer areas of concern that required additional work, the performance audit would have required fewer hours and fewer calendar days to complete.

As I stated, these factors are out of the control of the performance audit team and represent one of the hurdles our office would face to comply with the legislation.

Negative Impact on Client Relationships

Overall I believe our office has a positive and professional relationship with our clients. This bill originated in the interim Workforce Committee as a result of a concern expressed by a single state entity. The former Commissioner of the Department of Commerce indicated to the committee his concern that the performance audit took place during the prior legislative session and required significant agency staff time.

The State Auditor's Office has consistently conducted performance audits since 1992. While we are aware of the increased workload for agencies during legislative sessions, it is neither practical nor reasonable to expect the performance audit team to cease conducting performance audits during the session. I cannot recall one instance of an agency complaining that we did not work with them to accommodate their extra workload during the legislative session. In fact we specifically responded to the Department of Commerce's concerns by scheduling our initial field work to include work on the Centers of Excellence which meant we would be at the state's colleges and universities conducting much of our work rather than at the Department of Commerce during the legislative session. While that portion of the performance audit work did include participation by the Department of Commerce staff, it certainly required significantly less work on their part because of the way we scheduled our work.

We employ various procedures to work cooperatively with our audit clients. However I believe that passage of this legislation will actually result in a deterioration of our relationship with our clients. We will not be able to provide the clients with the same opportunities to gather and present potential mitigating information. In addition we will not be able to allow our clients a minimum of two weeks to respond to recommendations included in the performance audit report. Passage of HB1061 will remove our flexibility in dealing with the clients relating to any time-sensitive issues.

Conclusion

HB1061 is an example of a solution looking for a problem. This legislation will negatively impact the quality of performance audits, present significant problems for our office to comply with this arbitrary deadline and damage the relationship with our clients.

Our office has several individuals (including myself) who have served on Quality Control Reviews (QCR's) in other states and we have not observed a single state that has imposed an arbitrary deadline on an audit's length of time. Our office has also been the subject of QCR's for several years conducted by representatives of other state audit organizations. I'm proud to say that the performance audit division has not had a single formal finding associated with the last 3 QCR's covering the past 9 years. This is evidence that the performance audits conducted by our office are conducted in accordance with the national standards and represent quality work by the audit team. HB1061 will negatively impact our record of distinguished performance.

I respectfully request that you give this bill a "do not pass" recommendation. Thank you for your time and attention. This concludes my testimony and I would gladly answer any questions you might have.

1. North Dakota Century Code (NDCC) Pertaining Performance Audits

North Dakota Century Code Section 54-10-01, Subsection 4

"Perform or provide for performance audits of state agencies as determined necessary by the state auditor or the legislative audit and fiscal review committee. A performance audit must be done in accordance with generally accepted auditing standards applicable to performance audits. The state auditor may not hire a consultant to assist with conducting a performance audit of a state agency without the prior approval of the legislative audit and fiscal review committee. The state auditor shall notify an agency of the need for a consultant before requesting approval by the legislative audit and fiscal review committee. The agency that is audited shall pay for the cost of any consultant approved."

2. Generally Accepted Auditing Standards Pertaining to Performance Audits

- a) Generally accepted auditing standards pertaining to governmental performance auditing are included in the document "Governmental Auditing Standards" issued by the Comptroller General of the United States. This document is commonly referred to as the "Yellow Book".
- b) Performance Auditing
Definition: "Performance audits are defined as engagements that provide assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria, such as specific requirements, measures, or defined business practices. Performance audits provide objective analysis so that management and those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability." (*Government Auditing Standards*, 2007 Revision)
- c) "Performance audit objectives may vary widely and include assessments of program effectiveness, economy, and efficiency, internal control, compliance and prospective analyses. These overall objectives are not mutually exclusive. Thus a performance audit may have more than one overall objective. For example, a performance audit with an initial objective of program effectiveness may also involve an underlying objective of evaluating internal controls to determine the reasons for a program's lack of effectiveness or how effectiveness can be improved." (*Government Auditing Standards*, 2007 Revision)
- d) The Yellow Book (*Government Auditing Standards*, 2007 Revision) provides examples of audit objectives in the categories of program effectiveness and results or economy and efficiency. These include:
 - "assessing the extent to which legislative, regulatory, or organizational goals and objectives are being met
 - "determining the current status or condition of program objectives or progress in implementing legislative requirements;
 - "assessing the reliability, validity, or relevance of performance measures concerning program effectiveness and results, or economy and efficiency"
 - "assessing the reliability, validity, or relevance of financial information related to the performance of a program;
 - "evaluating whether the audited entity is following sound procurement practices".
- e) The Yellow Book goes on to state "Examples of audit objectives related to internal control include an assessment of the extent to which internal control provides reasonable assurance about whether:
 - organizational missions, goals, and objectives are achieved effectively and efficiently;
 - management information, such as performance measures, and public reports are complete, accurate and consistent to support performance and decision making;
 - the integrity of information from computerized systems is achieved".

**CHAPTER 54-10
STATE AUDITOR**

~~54-10-01~~ Powers and duties of state auditor. The state auditor shall:

1. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and non-general fund moneys. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.
3. Be vested with the authority to determine whether to audit the international peace garden at the request of the board of directors of the international peace garden.
- ④ 4. Perform or provide for performance audits of state agencies as determined necessary by the state auditor or the legislative audit and fiscal review committee. A performance audit must be done in accordance with generally accepted auditing standards applicable to performance audits. The state auditor may not hire a consultant to assist with conducting a performance audit of a state agency without the prior approval of the legislative audit and fiscal review committee. The state auditor shall notify an agency of the need for a consultant before requesting approval by the legislative audit and fiscal review committee. The agency that is audited shall pay for the cost of any consultant approved.
5. For the audits and reviews the state auditor is authorized to perform or provide for under this section, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional. If the state auditor determines that the audit or review will be done pursuant to contract, the state auditor, except for occupational or professional boards, shall execute the contract, and any executive branch agency, including higher education institutions, shall pay the fees of the contractor.
6. Be responsible for the above functions and report thereon to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
7. Perform all other duties as prescribed by law.

54-10-01.1. State auditor to audit emergency commission action. The state auditor's office, in the course of its audits of state agencies, departments, and institutions, shall review the expenditure of funds transferred or made available by the emergency commission to such state agencies, departments, and institutions, and shall have incorporated in the financial statements of such governmental units expenditures arising from emergency commission action.

Grindberg, Tony S.

From: Tony Grindberg [tony@ndsresearchpark.com]
Sent: Wednesday, January 12, 2011 1:59 PM
To: Grindberg, Tony S.
Subject: Local funds performance audit

From: owner-busoff@LISTSERV.NODAK.EDU [mailto:owner-busoff@LISTSERV.NODAK.EDU] **On Behalf Of** Glatt, Laura
Sent: Tuesday, January 11, 2011 6:25 PM
To: Business Officers listserv (busoff@listserv.nodak.edu)
Subject: local funds performance audit

We were recently notified by the SAO that they will be starting a special performance audit of campus local funds. The definition of local funds, scope of the audit, timeline and process has not yet been defined by the SAO, including whether only select or all campuses will be involved. At a minimum, UND and NDSU would be audited, and perhaps 3-4 others or all other nine campuses. This performance audit came at the direction of the State Auditor, not the legislative audit and fiscal review committee.

I understand they intend to begin their background work shortly, which will include interviews with select campus individuals, in helping to define their audit scope. You may want to give this some thought if there are particular areas that you want them to specifically examine.

I will keep you up-to-date as I know more. Laura