

1276

For the record, I am Cindy Schreiber-Beck and serve the citizens of District 25 which is in the SE corner of the North Dakota.

The original proposed legislation (that was amended by repealing the section in the House) is the result of reviewing code. It appeared the following section was outdated – which was correct since it was written in 1967.

54-10-20. Special state auditor. The governor, at such time as the governor may consider it for the best interests of the state, may appoint a special state auditor to examine any of the state institutions, state industries, state departments, or public offices. Such special state auditor shall have all the powers and authority that are granted to the state auditor in making such audits and also shall examine into and report upon such other matters connected with the state institutions and public offices as the governor may direct. The special state auditor shall receive as compensation for such services the sum of forty dollars per day for the time actually employed upon such examinations and must be paid traveling expenses at the same rate as is paid other state employees which compensation and expenses are to be paid upon vouchers approved by the governor, in the same manner as state officers' salaries are now paid.

A pay rate of \$40 per day and state travel rates may have been reflective of that era but it is doubtful that one could obtain audit services at that rate today. In fact, the required 2-year audit of the Wahpeton Airport Authority, an extremely simple audit, completed in 2020, was at a cost of \$8450.

The ability to employ an outside auditor or consultant occurs in 54-10-01 Powers and duties of state auditor; 54-1-14 Political subdivisions (alternative audits and reports); 54-10-29 Audits of computer systems and 54-10-30 State board of higher education audits. – these sections of code read:

- When conducting work required by the federal government, the auditor can contract services w/ approval of the legislative audit and review committee
- With prior approval the state auditor can hire a consultant for performance audits
- For any audits and reviews the state auditor is authorized to perform or provide for, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional
- A political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than the state auditor
- The state auditor may procure the services of a specialist in information security systems or contractors deemed necessary in conducting a review under audits of computer systems
- Section 54-10-30, state board of higher education audits, does not prohibit the state board of higher education from employing internal audit staff or contracting for internal audit services

The original legislation was simply to update antiquated code, but the amended version removed the ability for the governor to hire an outside auditor – and for multiple reason I believe the governor should have the option, not for power but for the people.

Thus, I am bringing forth two amendments for your review and consideration. Either option would provide the governor with the ability to hire an outside or special auditor.

Thank you for your time.

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1276

Introduced by

Representative Schreiber-Beck

1 A BILL for an Act to create and enact section 54-10-15.1 of the North Dakota Century Code,
2 relating to the appointment of a special auditor; and to repeal section 54-10-20 of the North
3 Dakota Century Code, relating to a special state auditor.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. REPEAL.** Section 54-10-20 of the North Dakota Century Code is repealed.

6 **SECTION 2.** Section 54-10-15.1 of the North Dakota Century Code is created and enacted
7 as follows:

8 **54-10-15.1. Audit of a state institution, industry, or department by order of the**
9 **governor or the legislative audit and fiscal review committee.**

10 1. If a special audit is determined to be in the best interest of the state, the governor or
11 the legislative audit and fiscal review committee may appoint a special auditor to
12 examine any state institution, state industry, state department, or public office.

13 2. An appointed special auditor must be a certified public accountant in good standing
14 with the board of accountancy. The special auditor has all the powers and authority
15 granted to the state auditor in making audits and shall examine and report upon other
16 matters connected with a state institution, state industry, or state department as the
17 governor or the legislative audit and fiscal review committee may direct. The special
18 auditor must be compensated for services, including travel expenses. Compensation
19 and expenses are to be approved by the appointing authority and paid in the same
20 manner as state officers' salaries are now paid.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1276

Page 1, line 1, after "Act" insert "to create and enact section 54-10-15.1 of the North Dakota Century Code, relating to the appointment of a special auditor; and"

Page 1, after line 4, insert:

"SECTION 2. Section 54-10-15.1 of the North Dakota Century Code is created and enacted as follows:

54-10-15.1. Audit of a state institution, industry, or department by order of the governor or the legislative audit and fiscal review committee.

1. If a special audit is determined to be in the best interest of the state, the governor or the legislative audit and fiscal review committee may appoint a special auditor to examine any state institution, state industry, state department, or public office.
2. An appointed special auditor must be a certified public accountant in good standing with the board of accountancy. The special auditor has all the powers and authority that are granted to the state auditor in making audits and shall examine and report upon other matters connected with a state institution, state industry, or state department as the governor or the legislative audit and fiscal review committee may direct. The special auditor must be compensated for services, including travel expenses. Compensation and expenses are to be approved by the appointing authority and paid in the same manner as state officers' salaries are now paid."

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1276

Introduced by

Representative Schreiber-Beck

1 A BILL for an Act to amend and reenact section 54-10-15 of the North Dakota Century Code,
2 relating to audits by order of the governor or the legislative audit and fiscal review committee;
3 and to repeal section 54-10-20 of the North Dakota Century Code, relating to a special state
4 auditor.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 54-10-15 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-10-15. Audits ~~of political subdivisions~~ by order of governor or the legislative audit**
9 **and fiscal review committee, upon petition, or upon request of the state court**
10 **administrator.**

11 1. If a special audit is determined to be in the best interest of the state, the governor or
12 the legislative audit and fiscal review committee may appoint a special auditor to
13 examine any state institution, state industry, state department, or public office. An
14 appointed special auditor must be a certified public accountant in good standing with
15 the board of accountancy. The appointed auditor has all the powers and authority
16 granted to the state auditor in making audits and shall examine and report upon other
17 matters connected with the state institution, state industry, or state department as the
18 governor or the legislative audit and fiscal review committee may direct. The appointed
19 auditor must be compensated for services, including travel expenses. Compensation
20 and expenses are to be approved by the appointing authority and paid in the same
21 manner as state officers' salaries are paid.

22 2. The state auditor, by duly appointed deputy auditors or other authorized agents, shall
23 audit or review the books, records, and financial accounts of any political subdivision
24 when ordered by the governor or the legislative audit and fiscal review committee,

1 requested by the governing board, or upon petition of at least thirty-five percent of the
2 qualified electors of any political subdivision enumerated in section 54-10-14 voting for
3 the office of governor at the preceding general election or, in the case of school
4 districts, upon petition of at least thirty-five percent of the qualified electors voting at
5 the preceding school board election, or upon the request of the state court
6 administrator with respect to clerk of district court services provided by a county in
7 accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with
8 the provisions of section 54-10-14.

9 **2.3.** If an audit is ordered due to financial irregularities or allegations of embezzlement, the
10 governor may suspend an elected or appointed school board member from the
11 individual's duties if the governor determines suspension is in the best interest of the
12 state pending the results of the audit. If the governor suspends an elected or
13 appointed school board member, the governor immediately shall provide notice to the
14 school board with which the suspended member serves. Within five days of receiving
15 notice, the school board shall appoint an individual to replace the suspended member
16 to serve during the pendency of the audit. The governor shall consult with the
17 superintendent of public instruction in determining whether suspension of a member of
18 a school board is in the best interest of the state.

19 **SECTION 2. REPEAL.** Section 54-10-20 of the North Dakota Century Code is repealed.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1276

Page 1, line 1, after the first "to" insert "amend and reenact section 54-10-15 of the North Dakota Century Code, relating to audits by order of the governor or the legislative audit and fiscal review committee; and to"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

54-10-15. Audits of political subdivisions by order of governor or the legislative audit and fiscal review committee, upon petition, or upon request of the state court administrator.

1. If a special audit is determined to be in the best interest of the state, the governor or the legislative audit and fiscal review committee may appoint a special auditor to examine any state institution, state industry, state department, or public office. An appointed special auditor must be a certified public accountant in good standing with the board of accountancy. The appointed auditor has all the powers and authority granted to the state auditor in making audits and shall examine and report upon other matters connected with the state institution, state industry, or state department as the governor or the legislative audit and fiscal review committee may direct. The appointed auditor must be compensated for services, including travel expenses. Compensation and expenses are to be approved by the appointing authority and paid in the same manner as state officers' salaries are paid.
2. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the governor or the legislative audit and fiscal review committee, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election or, in the case of school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.
- ~~2-3.~~ If an audit is ordered due to financial irregularities or allegations of embezzlement, the governor may suspend an elected or appointed school board member from the individual's duties if the governor determines suspension is in the best interest of the state pending the results of the audit. If the governor suspends an elected or appointed school board member, the governor immediately shall provide notice to the school board with which the suspended member serves. Within five days of receiving notice, the school board shall appoint an individual to replace the

suspended member to serve during the pendency of the audit. The governor shall consult with the superintendent of public instruction in determining whether suspension of a member of a school board is in the best interest of the state."

Renumber accordingly