Office of the
State Auditor

Century Code Clean Up Bill Testimony

2023-2025 Legislative Session

Senate Industry and Business
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Good morning, Chairman Larsen, members of the committee, my name is Dan Cox, and I am the Quality Assurance Manager at the North Dakota State Auditor's Office. I'm here today to discuss how the changes in SB2180 will allow the Auditor's Office to better serve our state with existing resources, while continuing to ensure accountability and save local governments quite a bit of money.

As you are aware, the State Auditor's Office is a constitutional state office. Our job is to provide truthful, objective and independent information to you and the citizens of North Dakota.

This bill primarily effects three teams in the Auditor's Office: the State Agency audit team, the Local Government audit team, and the Quality Assurance team. A little background might be helpful to give context to this bill.

The State Agency team is responsible for auditing all state agencies, including higher education, once every two years, with a handful of exceptions. At each agency, we conduct our primary objective which is made up of five major parts we must look at:

1. Emergency Commission requests,
2. Any overspending of appropriations,
3. New laws and regulations from the previous session,
4. Procurement laws, and
5. Special fund restrictions, if applicable.

When time allows, at some of the higher risk agencies, we like to look at operational areas and we'll add a secondary objective to accomplish this. These would be areas like programs and processes, delivery of services, distribution of funds, etc.

This team also conducts the Annual Comprehensive Financial Report, which is the audit of the state's annual financial statements. This report is critical to our state's bond rating. This audit is done every year and is about a 11,000-hour audit that takes all 30 auditors to complete.

The Federal Single Audit is the final major project this division completes, and it is done once every two years. Most states must do it every single year, but because North Dakota legislative session happens biennially, we've been given an exemption by the Federal Government to conduct it every other year. We are one of two states with that exemption. That audit is a 16,000-hour audit and we do bill the Federal Government for that audit. That audit also takes the entire Agency Division to complete.

The other two teams that will be most affected by this bill are our Local Government and Quality Assurance teams.

The Local Government Division is made up of two audit teams, one in Bismarck and one in Fargo, that conduct financial statement audits on political subdivisions that have above $300,000 in annual receipts. This threshold was increased last legislative session to $750,000, and that takes effect 2022. This is typically counties, school districts and cities but can sometimes include water districts, park districts, and fire districts, depending on their annual revenue.

Our Quality Assurance team consists of myself, two specialists who review performance and financial statement audits that pass through our office, and our newest team member conducts extended reviews. If local governments are under that audit threshold, in lieu of an audit, they can submit an annual financial report to our Quality Assurance team for review.

This review allows for some oversight and accountability by:

1. making sure the financial statements tie together,
2. that they agree with the bank statements,
3. that transfers between funds balance,
4. and making sure the different funds are used correctly.

All of this, without the price of an audit. When its warranted, the team may conduct an extended review on a local government, which is almost like a mini audit. An extended review covers all that a regular review would look at, plus:

1. a review of expenditures and supporting documentation,
2. reviewing the budget process,
3. payroll taxes were filed properly,
4. bidding requirements, and
5. meeting minutes.

The extended review allows us to look into any raised concerns if need be. A few reasons that might warrant an extended review include:

- numbers don’t balance and are off by a significant amount
- excessive transfers between funds
- incorrect usage of funds
- suspicious looking expenditures or too many miscellaneous expenditures
- entities that used to get an audit under the old thresholds

This bill has a lot to it, so I thought the easiest thing would be to walk you through the bill and talk through the effects of each of these changes. If at anytime you have questions, feel free to stop me.

1. **Changing CAFR to ACFR (line 13, p.1)**

In 2021, the Government Accounting Standards Board changed the name of the state's comprehensive annual financial report (CAFR) to the annual comprehensive financial report (ACFR). This is to align with the change at the national level and has no effect on our work.

2. **Changing some low-risk state agency audits from every two years to four years (line 19, p.1)**

If someone asked me what red tape is in N.D.C.C. 54-10, it would be the requirement to audit every single state agency once every two years. That's what prompted this change. When you think about the Department of Transportation and then you think about the Arts Council, you know you can't compare the two. One manages complex programs, serves every citizen in this state, has a budget of $1.5 billion, and has 982 staff. Compared to the Arts Council, which is a staffed by 5, has a budget of $3.4 million dollars, and serves as a pass-through agency.

If we had more leeway, we could evaluate all the agencies based on risk: total funds, regulatory areas, grant programs, special funds, number of divisions, substantial revenue, legislative interest, and FTE to determine which agencies pose the greatest risk for potential fraud, waste or abuse. This would allow us to schedule auditors to be in the agencies with higher risk for a longer period and give them the opportunity to look into more areas. This would effect approximately 10% of state agencies.

Does this mean we wouldn't look at all four years? Absolutely not. We would still include all four years in our scope when we conduct an audit and all transactions could potentially still be looked at during the audit, even at four-year increments. Another benefit of adding this wording change, if at any time something came to our attention that warranted an audit, we could decide to come back in two years rather than the four.

This change would allow us to have more of an estimated 2,000 more hours at agencies that are higher risk. As of January 1st, our agency division was one away from fully staffed. Right now, we don't have enough general funded auditors to look into operational areas at all those state agencies that do have significant areas of risk. This biennium, we were only able to look into operational areas on 15% of our audits this biennium. This flexibility allows our office to focus our resources on agencies and programs that present the greatest risk to taxpayers instead of having to work with the red tape that is "every two years".

3. **Conducting extended reviews rather than one-time audits (line 31, p.3)**

The best way to explain this change is through an example. Let's say you have a fire district who consistently has annual receipts of less than $750,000. Then one year, they decide to buy a fire truck through a bank loan. Now their annual receipts are over $750,000 for that one year, and that has now triggered the threshold to require an audit, rather than the review of the annual financial report, which is all they've known or had to pay for in the past. They're now going to need a one-time audit for that one year because of one purchase made that year. This can also happen when a park board gets a federal grant to purchase new playground equipment, or an ambulance district receives a large donation.

When this happens, and a one-time audit is required, this is not a lucrative audit for any private firm. A lot of work goes into a first-year audit because of beginning balance testing that must be done. As you can imagine, getting to know a new client is slow, it takes work to learn their processes, it takes extra staff time, and these private firms, not unlike us, get faster as the years go on with a familiar client. Taking on a one-time audit is not a lucrative business decision for these firms or us. This leaves a lot of these audits untouched and in need of an auditor.

This change would allow our Quality Assurance team to conduct an extended review rather than a full-blown audit when these one-time audit thresholds are triggered. We would still be able to provide a comfortable level of accountability and transparency with the extended review, without jumping through all the hoops that the auditing standards require. We would set a narrow scope on just those areas of high risk that need to be looked at. So going back to our example on the fire district, we would ensure the loan money for the fire truck was properly spent and recorded correctly with a plan in place to meet the payment requirements.

This change would result in a significant savings for small governments, while still ensuring accountability to the governing body and citizens.

We know of 38 local governments in this situation needing a total of 60 audits & whereas an audit would cost $17,500 on the average, an extended review could be done for an average cost of $1,500, if they had no other issues. This results in a total savings in excess of $960,000 for these smaller districts that oftentimes don't have a lot of cash reserves (these amounts were used on the fiscal note).

4. Audit threshold from $750K to $2M (line 1, p.4)

Speaking of that $750,000 threshold, we changed it last biennium and we're here today to increase that to $2 million. Changing the audit threshold last session was the right thing to do, but what we have learned over the past two years was it didn't go far enough to provide enough real relief.

The concern we had last session was still being able to provide a comfortable level of accountability & transparency but now we can do that with our extended reviews or mini audits. In case anyone is concerned that this change to the threshold is too much and wouldn't provide enough actual audit coverage, moving the threshold to $2 million would still ensure that 95% of all monies received by the local governments are still being audited.

There would be no effect to the counties, as all counties receive in excess of $2M in annual revenue, but since all tax levies run through the counties, we feel it's important the counties still receive audits.

This change would provide a significant savings to the smaller local governments, including:

- 55 cities would no longer be required to get an audit which would result in an ongoing savings of just over $1 million per biennium (these amounts were used on the fiscal note)
- 17 school districts would no longer be required to get an audit which would result in an ongoing savings of almost $500,000 per biennium (these amounts were used on the fiscal note)

5. **Structural change to add a,b,c (lines 6-13, p.4)**

This was a suggested edit by Legislative Council for increased readability.

6. **Charge for services (line 8, p.4)**

This change looks like a formatting change, but it does have some impact. Striking the words "When a report is not filed" allows us to charge "fair value" for extended reviews not just when they are delinquent. Fees should be based on services rendered, not whether the report being reviewed is delinquent.

7. **$86/hour to $90/hour (line 12, p.4) (line 28, p.4) (line 25, p.6)**

The way its written in code, we're allowed to charge "fair value" for the cost of our local government audits and up to "$86 per hour" to review the annual financial reports or working papers of an audit.

Prior to last session, it had been over a decade since our fees had been raised.

We had asked for an increase in the rate last session up to $90 and it was raised to $86 and we were told to come back next session to get to $90.

This change reflects the rising cost of personnel, but the total cost to the local governments would only be about $8,000 annually.

This change in fee is mentioned in three separate areas within N.D.C.C. 54-10, and this bill changes it in all three areas.

8. **Annual registration for IPAs (line 16, p.4)**

The State Auditor's Office has the statutory responsibility to audit all state agencies and local governments in North Dakota. Some state agency audits are done by private CPA firms. If a local government chooses to, they can hire a private CPA firm to conduct their audit on behalf of the Auditor's Office. But that final responsibility of the audit ultimately lies with the Auditor's Office, and we take that responsibility seriously.

This change will allow better oversight of the firms doing work on behalf of the Auditor's Office. What we're finding is that firms from neighboring states can and are doing audits in our state without any oversight by the ND Board of Accountancy or our office being aware of it. With change in working environments due to COVID, and the number of private firms in North Dakota doing government audits dwindling, these audits can be done from anywhere in the country now. If that happens, we have no idea if these audit shops are in good standing with their State or National Board of Accountancy, have valid licenses to do government audits, or are up to date on their continuing education that is required to conduct government audits.

This concept is modeled after the language in the Attorney General's section of code related to hiring outside Special Assistant Attorney General's, because they have similar level of oversight of private attorneys working on behalf of the AG's Office and that is what we're trying to achieve with this change.

This change would have each private firm conducting audits on behalf of our office register annually by providing some information to our office. There would be no fee. This registration process concept is similar to what other Auditor's Offices do to have some additional oversight of firms.

9. Shall to may for some petition audits (lines 18-21, p.5)

This does not change the power of LAFRC to order an audit.

This change gives us the ability to review the specific concerns leading to the petition & determine whether there are sufficient risks to justify having to conduct a petition audit. What we've found over the years is some of these petitioner's concerns end up not being valid, and while yes, we always do find areas of concern in these petition audits, we could sometimes conduct an extended review in its place and save our office a tremendous amount of time and the client a lot of money. We've also experienced a tit for tat scenario where citizens are using the petition audit to get back at each other.

These petition audits can be time consuming and expensive. This would allow our auditors to use their discretion before moving forward with a petition audit. Right now, we have to do it.

The last thing I'd like to bring up is SB2184.

That concludes my testimony and I'd be happy to answer any additional questions you may have.