

**2025 SENATE STATE AND LOCAL GOVERNMENT**

**SB 2251**

# 2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee  
Room JW216, State Capitol

SB 2251  
1/30/2025

Relating to audits conducted by the state auditor, charges for audits, and subpoenas issued by the state auditor.
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10:02 a.m. Chair Roers called the hearing to order.

Members Present: Chairman Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

## Discussion Topics:

- Formalizing the process
- Subpoena authority
- Accountability of funds

10:02 a.m. Senator Sean Cleary, District 35, testified in favor and submitted testimony #32937.

10:18 a.m. Dan Cox, Director of Audit Services, ND State Auditor's Office, testified in favor.

10:42 a.m. Joshua Gallion, State Auditor, testified in favor and submitted testimony #32625.

10:47 a.m. Parnell Grossman, Assistant Attorney General, testified in favor.

10:48 a.m. Jon Godfread, ND Insurance Commissioner, testified in favor and submitted testimony #33286.

10:53 a.m. Matthew Fern, Bismarck Film Maker, testified in favor and submitted testimony #32855.

10:55 a.m. Chair Roers closed the hearing.

*Susan Helbling, Committee Clerk*



Office of the  
State Auditor

# SB2251 Testimony

**2025-2027 Legislative Session – Senate State and Local**

**January 30, 2025**

This bill is a clean-up bill for N.D.C.C. 54-10 which is the section of code for the Office of the State Auditor. The proposed changes in this bill will bring more consistency to how the State Auditor operates, better reflect current practices and add a new provision for obtaining audit evidence.

## **Section 1 (pg. 1, lines 24 – pg. 2, lines 14)**

Currently, state law only allows agencies to be billed based on a percentage of their special funds. For example, the Agriculture Department paid \$6,035, while the Treasurer's Office paid \$0.

Last session, the law (N.D.C.C. 54-10) was updated to exempt the University System from these charges, allowing them to keep more money for their operations. As a result, total revenue from state agency audits, which is deposited directly into the general fund, dropped to about \$340,000 for the 2023-25 biennium, with \$68,000 (20%) coming from the State Mill & Elevator.

This proposed change extends the same benefit to all state agencies, including commodities, currently being billed, allowing them to better use their funds for their operations.

## **(pg. 3, lines 27-29)**

This addition is to codify existing billing practices for federal work.

The Federal Single Audit, required under the 1984 Single Audit Act, is conducted every two years on behalf of the federal government. Federal programs allow audit costs to be paid with federal funds, so it's appropriate for the federal government to cover these expenses.

With the changes in Section 1, we felt we should formally establish this practice in law. The total amount collected is approximately \$1,250,000 per biennium, which is deposited into the general fund.

## **Section 2 (pg. 5, line 5)**

Currently, local governments must withhold a portion of their final audit payment until the State Auditor's Office approves the audit report. This change, requested by private sector partners, reflects that the audit is essentially complete, and final approval is just a formality.

The adjustment does not impact the State Auditor's Office and simply lowers the retention percentage to make the process more reasonable.

**Section 3 (pg. 5, lines 12-14).**

This change grants the State Auditor's Office the authority to subpoena audit records from non-government entities when they have dealings with government entities. While N.D.C.C. 54-10-19 already allows the Auditor's Office to examine the records of private institutions working with the state, there is currently no way to compel these entities to provide records if they refuse.

Under this section, the State Auditor's Office would collaborate with the Attorney General's Office to issue subpoenas when necessary.

With the increase in public/private partnerships, this authority is critical for ensuring transparency and accountability in how public funds are spent, as highlighted by challenges encountered in obtaining records during the PBM audit.

Thirty-seven other auditors' offices already have this authority, making it a widely common practice.

**Section 5 (pg. 5, line 30)**

This update also has to do with applying N.D.C.C. 54-10 consistently. During the 2023-25 session, the audit threshold for all local governments was raised to \$2,000,000, meaning entities below this threshold are not required to undergo an audit. However, it was an oversight that this specific section of the code wasn't updated to reflect the new threshold.

Raising the threshold in this section would provide significant cost savings for boards that chose to submit an annual financial report instead of undergoing an audit. It is important to note, any entity below the \$2,000,000 threshold would still have the option to have an audit if they choose—it simply wouldn't be required by the State Auditor's Office.



Matt Fern  
PO Box 958  
Bismarck, ND 58502  
matt@thecreativetreatment.com

## TESTIMONY IN SUPPORT OF SENATE BILL NO. 2251

Chair and Members of the Committee,

My name is Matt Fern, and I am a filmmaker from Bismarck, North Dakota. I produce commercials, documentaries, and video podcasts throughout our state, and I am here today to express my strong support for Senate Bill 2251.

I support this bill because I have witnessed firsthand the lack of transparency from the North Dakota Department of Commerce regarding their allocation of public grant funds. In 2021 and 2023, ND Commerce awarded all available film grants, a total of \$700,000, to the same media production company to produce three completely different feature length films, shutting out several other well-qualified applicants. These “Motion Picture Production & Recruitment” grants sparked many questions about transparency and accountability.

The “Transparency” section of ND Commerce’s website, where grant data for Commerce programs is supposed to be publicly reported, has not listed any reports from the tourism division which allocated the 2021 and 2023 grants, since I began checking the website in 2023. The media production company that received these grants has never publicly shared how the funds were spent or even publicly acknowledged receiving money from ND Commerce. This leaves North Dakota filmmakers and taxpayers in the dark about how these funds, intended to help grow our state’s media industry, were spent.

The best agency to provide oversight is the North Dakota Auditor’s Office. Unfortunately, their ability to investigate and audit a large grant recipient is limited. Senate Bill 2251 provides essential tools for the Auditor’s Office, including expanded subpoena powers and clearer guidelines for auditing financial transactions across state agencies. This bill ensures that taxpayer dollars are spent as intended and that state agencies remain accountable to the public.

When questions arise about large sums of taxpayer money, North Dakotans deserve clear answers. By supporting SB 2251, you help ensure that taxpayer dollars are monitored effectively and that any misuse or misallocation is identified and corrected. This oversight is essential not only for the integrity of our government agencies but also for the many creative and hardworking media professionals who call North Dakota home.

Thank you for considering my testimony. I respectfully urge you to support Senate Bill 2251 to strengthen our state’s commitment to accountability, transparency, and fairness. If you have any questions, I am happy to provide further information.

**To:** Chair Roers and Members of the Senate Committee on SLG  
**From:** Senator Sean Cleary, District 35 — Bismarck, Bill Sponsor  
**Date:** January 30, 2025  
**Subject:** Testimony in Support of SB 2251: Updates to the State Auditor's Office

**Dear Chair Roers and Members of the Committee,**

Thank you for the opportunity to present SB 2251, which updates the State Auditor's Office operations, billing practices, and audit thresholds to improve efficiency, reduce costs, and ensure accountability for North Dakota taxpayers. I have worked with the State Auditor's Office on this legislation, and they will be providing additional testimony on the following provisions. Here is a list of the changes in the bill:

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**Section 1: Reduce Billing for Audits - 1 (pg. 1, lines 24 – pg. 2, lines 14)**

- Currently, state law allows agencies that are special funded to be billed based on a percentage of their special funds. This proposed change eliminates this billing, similar to what we did for NDUS last session.
- This change removes a low-revenue, high-administration process and allows state agencies to better use their funds.

**Section 2: Codify Billing for Federal Single Audits (pg. 3, lines 27-29)**

- Codifies the existing practice of charging federal programs for Federal Single Audits.
- Formalizing this ensures continued reimbursement of \$1.25 million per biennium for audits required by federal law, clarifying the practice moving forward.

**Section 3: Reduce Local Government Retainage Percentage (pg. 5, line 5)**

- Reduces the retainage percentage for local government audits from 20% to 5%.
- This adjustment, requested by private CPA firms, assists with cash flow issues for private firms as the wait for the audit to be accepted by the auditor's office.

**Section 4: Expand Subpoena Authority for Authorized Audits (pg. 5, lines 12-14)**

- Grants the State Auditor's Office authority to subpoena records from non-government entities using public funds.
- As public/private partnerships grow, this ensures transparency and accountability in how taxpayer dollars are spent. Subpoenas would be issued in collaboration with the Attorney General's Office.

**Section 5: Raise Audit Threshold for Occupational and Professional Boards (pg. 5, line 30)**

- Increases the audit threshold for these boards from \$200,000 to \$2 million, allowing smaller boards to submit financial reports instead of full audits while maintaining the option to audit.
  - This aligns with other state audit thresholds, reducing unnecessary costs for smaller boards while ensuring financial oversight.
- 

### **Anticipated Impact**

SB 2251 modernizes the State Auditor's Office by reducing inefficiencies, updating processes, and strengthening transparency. These changes lower costs for state agencies, boards, and local governments while safeguarding public funds and maintaining oversight.

### **Conclusion**

I respectfully ask the committee to support SB 2251 and recommend a "Do-Pass." I am happy to answer any questions or provide further information.

**Sincerely,**

Sean

Sean Cleary  
State Senator  
District 35 — Bismarck  
C: (701) 426-4618





## TESTIMONY

*Jon Godfread, Insurance Commissioner*  
Senate State and Local Government  
January 30, 2025

Good Morning, Chair Roers, and members of the Senate State and Local Government Committee. For the record, my name is Jon Godfread, Insurance Commissioner for the State of North Dakota. Thank you for the opportunity to provide a testify in support of SB 2251, specifically section 1 of the bill related to audit fees.

I think it's important to discuss the distinction between General Fund Agencies and Special Fund Agencies and highlight the importance of this bill. Traditionally, special funded agencies and general funded agencies have operated under distinct financial frameworks. Special funded agencies, like ours, are primarily supported by dedicated revenue sources, such as fees and specific taxes, and are intended to operate with a degree of financial independence from the state's General Fund. In contrast, general funded agencies rely directly on allocations from the General Fund, which is sourced from broad-based state revenues like income and sales taxes.

However, over time, the distinction between these two types of agencies has significantly eroded. Today, we find ourselves increasingly treated like a general funded agency, facing similar financial constraints and expectations, yet still required to pay substantial fees to other state agencies as though we remain fully independent. This dual burden undermines the very purpose of being a special funded agency, forcing us into a financial cycle that limits our ability to effectively serve the people of North Dakota.

The current system requiring our agency to pay other state agencies for services while maintaining a cap on the Insurance Regulatory Trust Fund is not only duplicative but also financially inefficient. It effectively treats our agency as a reserve for the state, despite our significant contributions to the General Fund through Premium Taxes, which are a major revenue source for North Dakota.

As a special-funded agency, we pay substantial fees to various state entities that are already funded by the General Fund. Specifically as related to SB 2251 for Audit fees:

- **Auditor's Office:**
- Agency Audit Fees: paid \$8,635 in 2019
- Agency Audit Fees: paid \$21,250 in 2022
- Agency Audit Fees: paid \$14,563.59 in 2023
- Agency Audit Fees: paid \$11,574.88 in 2024.
- Total \$56,023.47 since 2019

At the end of my testimony, I provide some examples of other fees we pay as a special funded agency. These payments are effectively redundant. The funds we pay into these state agencies ultimately cycle back to the General Fund, which these agencies rely on for their operations. This creates a scenario where our agency is contributing to the General Fund both directly through Premium Taxes and indirectly through these operational payments.

Furthermore, any funds exceeding one million dollars in the Insurance Regulatory Trust Fund at the end of each fiscal year are also transferred to the General Fund, meaning we contribute yet again.



This system places a financial burden on our agency and creates inefficiencies that undermine our operations. The cap of one million dollars on the Insurance Regulatory Trust Fund is particularly problematic, as it exacerbates cash flow issues, especially given our significant and recurring expenses, such as salaries, operating costs, NDFA payments, and forensic medical exam fees. A cap that does not account for these critical expenditures risks operational disruptions and financial instability.

SB 2251 is a step in the right direction to removing these duplicative fees and we would urge a Do Pass recommendation on this bill.

Other fees paid as a special funded agency:

- **Information Technology Department:** Total Biennium (\$324,096)
- Data Processing Technology Fee: \$2,800 per month (\$67,200 per biennium)
- Application Support (0.5 FTE dedicated): \$6,000 per month (\$144,000 per biennium)
- Desktop Support Service: \$4,600 per month (\$110,400 per biennium)
- Records Management: \$104 per month (\$2,496 per biennium)
- **Office of Management and Budget (OMB):**
- Rent for our 5th Floor Office and vaults: \$109,755.40 per year (\$219,510.80 per biennium)
- Rent includes \$16.21 per square foot for 6,740 square feet of office space
- Vaults rent at \$1.61 per square foot for 308 square feet
- Central Duplicating (Printing services): Various charges for printed and bound materials.
- Risk Management:
- Workers Compensation Premiums: Various charges.
- **Attorney General's Office:**
- Legal Fees: Various charges for legal services provided.
- Reimbursement of forensic examination fees.
- **Department of Transportation (DOT):**
- Fleet Costs: Charges related to vehicle usage and maintenance.
- **Legislative Council**
- Fees associated with the cost-benefit analysis conducted for bills that include a health insurance benefit mandate.
- NCOIL membership fees for legislators.

# 2025 SENATE STANDING COMMITTEE MINUTES

## State and Local Government Committee Room JW216, State Capitol

SB 2251  
1/31/2025

Relating to audits conducted by the state auditor, charges for audits, and subpoenas issued by the state auditor.

9:25 a.m. Chair Roers opened the hearing.

Members Present: Chairman Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

### Discussion Topics:

- Private/public partnerships
- Audit reports

9:25 a.m. Committee Discussion

9:32 a.m. Senator Walen moved a Do Pass.

9:32 a.m. Vice Chairman Castaneda seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jose L. Castaneda	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 6-0-0

Senator Barta will carry the bill.

9:33 a.m. Chair Roers closed the hearing.

*Susan Helbling, Committee Clerk*

**REPORT OF STANDING COMMITTEE**  
**SB 2251 ([25.0851.01000](#))**

**State and Local Government Committee (Sen. Roers, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2251 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

**2025 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2251**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

SB 2251  
3/6/2025

Relating to audits conducted by the state auditor and charges for audits.
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4:28 p.m. Chairman Schauer opened the hearing.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff  
Members absent: Representatives Bahl, Brown

### Discussion Topics:

- Open record requests

4:30 p.m. Dan Cox, Director of Audit Services of the Office of the North Dakota State Auditor, testified in favor and submitted testimony, #39261, #39260.

4:45 p.m. Josh Gallion, State Auditor, testified in favor.

4:48 p.m. Senator Cleary, District 35, testified in favor and submitted testimony, #38504.

4:49 p.m. Jon Godfread, North Dakota Insurance Commissioner, testified in favor and submitted testimony, #39590.

4:53 p.m. Josh Gallion, State Auditor, testified and answered questions.

4:56 p.m. Chairman Schauer closed the hearing.

*Jackson Toman, Committee Clerk*

**To:** Chair Schauer and Members of the House Committee on GVA  
**From:** Senator Sean Cleary, District 35 — Bismarck, Bill Sponsor  
**Date:** February 28, 2025  
**Subject:** Testimony in Support of SB 2251: Updates to the State Auditor's Office

**Dear Chair Roers and Members of the Committee,**

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### **Section 1 Cont: Codify Billing for Federal Single Audits (pg. 3)**

- Codifies the existing practice of charging federal programs for Federal Single Audits.
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### **Section 5: Raise Audit Threshold for Occupational and Professional Boards (pg. 5)**

- Increases the audit threshold for these boards from \$200,000 to \$2 million, allowing smaller boards to submit financial reports instead of full audits while maintaining the option to audit.
  - This aligns with other state audit thresholds, reducing unnecessary costs for smaller boards while ensuring financial oversight.
- 

SB 2251 modernizes the State Auditor's Office by reducing inefficiencies, updating processes, and strengthening transparency. These changes lower costs for state agencies, boards, and local governments while safeguarding public funds and maintaining oversight.

## **Conclusion**

I respectfully ask the committee to support SB 2251 and recommend a “Do-Pass.” I am happy to answer any questions or provide further information.

**Sincerely,**

Sean

Sean Cleary  
State Senator  
District 35 — Bismarck  
C: (701) 426-4618



25.0851.02000draft

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENT TO  
ENGROSSED SENATE BILL NO. 2251**

**FIRST ENGROSSMENT**

Introduced by

Senators Cleary, Weston, Castaneda, Paulson

Representatives M. Ruby, Rohr

1 A BILL for an Act to amend and reenact section 54-10-01, subsection 5 of section 54-10-14, and  
2 section 54-10-27 of the North Dakota Century Code, relating to audits conducted by the state  
3 auditor and charges for audits.

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

5 **SECTION 1. AMENDMENT.** Section 54-10-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-10-01. Powers and duties of state auditor - Report. (Retroactive application - See**  
8 **note)**

9 1. The state auditor shall:

- 10 a. Be vested with the duties, powers, and responsibilities involved in performing the  
11 postaudit of all financial transactions of state government, detecting and reporting  
12 any defaults, and determining that expenditures have been made in accordance  
13 with law and appropriation acts.
- 14 b. Perform or provide for the audit of the general purpose financial statements and a  
15 review of the material included in the comprehensive annual financial report of  
16 the state in accordance with government auditing standards.
- 17 c. Except for the audit of the department of financial institutions as outlined in  
18 section 54-10-31, perform or provide for audits of state agencies in accordance  
19 with government auditing standards and legislative audit and fiscal review  
20 committee guidelines developed under section 54-35-02.10. Except for the  
21 annual audit of the North Dakota lottery required by section 53-12.1-03, the state  
22 auditor shall audit each state agency once every two to four years. Audits may be

1 conducted at more frequent intervals if requested by the governor or the  
2 legislative audit and fiscal review committee. ~~The state auditor shall charge an~~  
3 ~~amount equal to the cost of the audit and other services rendered by the state~~  
4 ~~auditor to all agencies that receive and expend moneys from other than the~~  
5 ~~general fund. This charge may be reduced for an agency that receives and~~  
6 ~~expends both general fund and nongeneral fund moneys. The charge for an audit~~  
7 ~~of an agricultural commodity group listed in section 4.1-44-04 must be six~~  
8 ~~thousand dollars for an annual financial statement audit or four thousand dollars~~  
9 ~~for a two-year single page financial statement audit performed during the~~  
10 ~~biennium ending June 30, 2025, and may be increased by five percent on July~~  
11 ~~first of each odd-numbered year thereafter. State agencies shall use nongeneral~~  
12 ~~fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not~~  
13 ~~available, the agency may, upon approval of the legislative assembly, or the~~  
14 ~~budget section if the legislative assembly is not in session, use general fund~~  
15 ~~moneys to pay for the audit. Any budget section action under this subdivision~~  
16 ~~must comply with section 54-35-02-9.~~

17 d. Except for the audit of the department of financial institutions as outlined in  
18 section 54-10-31, perform or provide for performance audits of state agencies, or  
19 the agencies' blended component units or discreetly presented component units,  
20 as determined necessary by the legislative assembly, or the legislative audit and  
21 fiscal review committee if the legislative assembly is not in session. When  
22 determining the necessity of a performance audit, the legislative audit and fiscal  
23 review committee shall consider:

- 24 (1) The potential cost-savings or efficiencies that may be gained as a result of  
25 the performance audit;
- 26 (2) The staff resources of the state auditor's office and of the state agency  
27 being audited which will be required to conduct the audit;
- 28 (3) The potential for discovery of noncompliance with state law or legislative  
29 intent regarding the program or agency; and
- 30 (4) The potential for the performance audit to identify opportunities for program  
31 improvements.

32 e. Report quarterly to the legislative audit and fiscal review committee regarding:

- 1 (1) Communication processes with audited entities and any changes to the
- 2 processes;
- 3 (2) Billing practices and procedures, including the use of cost estimates for
- 4 audits, an itemized invoicing methodology, and a defined change order
- 5 process for audits that exceed the original estimate;
- 6 (3) Information on audits completed, including:
- 7 (a) Name of the audited organization;
- 8 (b) Organization type;
- 9 (c) Audit type;
- 10 (d) Audit period;
- 11 (e) Estimated and actual hours and costs; and
- 12 (f) Total audit cost and the total cost as a percentage of the audited
- 13 organization's operating budget; and
- 14 (4) Audit schedules, including audits performed by private firms and audits
- 15 performed by the state auditor's office.
- 16 f. Report on the functions of the state auditor's office to the governor and the
- 17 secretary of state in accordance with section 54-06-04 or more often as
- 18 circumstances may require.
- 19 g. Perform work on mineral royalties for the federal government in accordance with
- 20 section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
- 21 h. Report to the legislative audit and fiscal review committee regarding final report
- 22 distribution policies and practices and any final audit reports released to the
- 23 public prior to distribution of the final audit report to all individuals charged with
- 24 the governance of the audit client.
- 25 i. Perform all other duties as prescribed by law.
- 26 2. The state auditor may:
- 27 a. Conduct any work required by the federal government and charge an amount
- 28 equal to the cost of the audit to be paid by the audited federal funds of the
- 29 appropriate government agency and deposited into the general fund.
- 30 b. Within the resources available to the state auditor, perform or provide for
- 31 performance audits of state agencies as determined necessary by the state
- 32 auditor.

- 1           c.    Audit the International Peace Garden at the request of the board of directors of  
2               the International Peace Garden.
- 3           d.    Contract with a private certified public accountant or other qualified professional  
4               to conduct or assist with an audit, review, or other work the state auditor is  
5               authorized to perform or provide for under this section. Before entering any  
6               contract, the state auditor shall present information to the legislative audit and  
7               fiscal review committee on the need for the contract and its estimated cost and  
8               duration. Except for performance audits conducted under subdivision d of  
9               subsection 1 or subdivision b of this subsection and except for audits of  
10              occupational or professional boards, the state auditor shall execute the contract  
11              and any executive branch agency, including higher education institutions, shall  
12              pay the fees of the contractor. For performance audits conducted under  
13              subdivision d of subsection 1 or subdivision b of this subsection, the state auditor  
14              may charge a state agency for the cost of a contract relating to an audit, subject  
15              to approval by the legislative assembly or the legislative audit and fiscal review  
16              committee if the legislative assembly is not in session. When considering a  
17              request, the legislative audit and fiscal review committee shall consider the effect  
18              of the audit cost on the agency being audited, the necessity of the contract, and  
19              the potential benefit to the state resulting from the contract. The state auditor  
20              shall notify the affected agency of the potential cost before requesting approval  
21              from the legislative assembly or the legislative audit and fiscal review committee.
- 22        3.    Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the  
23              state auditor may not charge audit fees to an institution of higher education, agency, or  
24              office under the control of the state board of higher education, including passthrough  
25              grants, except for a proportional share of audit fees on federal programs or grants to  
26              the extent those audited federal programs or grants provide for allowable cost  
27              recovery. Institutions without an approved indirect cost recovery fund may not be  
28              assessed audit fees on closed federal programs.

29        **SECTION 2. AMENDMENT.** Subsection 5 of section 54-10-14 of the North Dakota Century  
30        Code is amended and reenacted as follows:

- 31        5.    A political subdivision may not pay a public accountant for an audit until the state  
32              auditor has accepted the audit. However, a political subdivision may make progress

payments to the public accountant. A political subdivision shall retain ~~twenty~~five  
percent of any progress payment until the audit report is accepted by the state auditor.

**SECTION 3 AMENDMENT.** Section 54-10-22 of the North Dakota Century Code is  
amended and reenacted as follows:

**54-10-22. Public officers to aid state auditor - Auditor's authority on investigation.**

The officers and employees of all departments, institutions, boards, commissions, and  
political subdivisions, subject to examination by the state auditor, shall afford all reasonable  
facilities for the investigation provided for in this title and shall make returns and exhibits to the  
auditor under oath in such form and in such manner as the auditor may prescribe. The auditor  
shall refer a request for access to or inspection of information provided, pursuant to this section,  
to that department, institution, board, commission or political subdivision. This referral satisfies  
any responsibility of the auditor to provide that information under open records requirements.

The auditor shall have full power and authority to audit any books, papers, accounts, bills,  
vouchers, and other documents or property of any and all departments, boards, commissions,  
political subdivisions, and financial institutions subject to the auditor's audit. The auditor shall  
have authority to audit under oath any or all trustees, managers, officers, employees, or agents  
of any such departments, boards, commissions, or political subdivisions. When necessary, the  
auditor shall employ stenographers or clerical help, the expense incurred to be collected by the  
auditor from the respective department, institution, board, commission, or political subdivision.

**SECTION ~~34~~. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is  
amended and reenacted as follows:

**54-10-27. Occupational and professional boards - Audits and reports.**

The governing board of any occupational or professional board shall provide for an audit  
once every two years by a certified public accountant or licensed public accountant. The  
accountant conducting the audit shall submit the audit report to the state auditor's office. If the  
report is in the form and style prescribed by the state auditor, the state auditor may not audit  
that board. An occupational or professional board may request the state auditor to conduct its  
audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees  
charged to the occupational or professional board into the state auditor operating account.  
Instead of providing for an audit every two years, an occupational or professional board that has  
less than ~~two hundred thousand~~two million dollars of annual receipts may submit an annual  
report to the state auditor. The report must contain the information required by the state auditor.

1 The state auditor also may make any additional examination or audit determined necessary in  
2 addition to the annual report. When a report is not filed, the state auditor may charge the  
3 occupational or professional board an amount equal to the fair value of the additional  
4 examination or audit and any other services rendered. The state auditor may charge an  
5 occupational or professional board a fee not to exceed ninety dollars an hour for the costs of  
6 reviewing the annual report.



Office of the  
State Auditor

# SB2251 Testimony

**2025-2027 Legislative Session – House Government and Veterans Affairs**

**March 6, 2025**

This bill is a clean-up bill for N.D.C.C. 54-10 which is the section of code for the Office of the State Auditor. The proposed changes in this bill will bring more consistency to how the State Auditor operates, better reflect current practices and add a new provision for obtaining audit evidence.

## **Section 1 (pg. 1, lines 24 – pg. 2, lines 14)**

Currently, state law only allows agencies to be billed based on a percentage of their special funds. For example, the Agriculture Department paid \$6,035, while the Treasurer's Office paid \$0.

Last session, the law (N.D.C.C. 54-10) was updated to exempt the University System from these charges, allowing them to keep more money for their operations. As a result, total revenue from state agency audits, which is deposited directly into the general fund, dropped to about \$340,000 for the 2023-25 biennium, with \$68,000 (20%) coming from the State Mill & Elevator.

This proposed change extends the same benefit to all state agencies, including commodities, currently being billed, allowing them to better use their funds for their operations.

## **(pg. 3, lines 27-29)**

This addition is to codify existing billing practices for federal work.

The Federal Single Audit, required under the 1984 Single Audit Act, is conducted every two years on behalf of the federal government. Federal programs allow audit costs to be paid with federal funds, so it's appropriate for the federal government to cover these expenses.

With the changes in Section 1, we felt we should formally establish this practice in law. The total amount collected is approximately \$1,250,000 per biennium, which is deposited into the general fund.

## **Section 2 (pg. 5, line 5)**

Currently, local governments must withhold a portion of their final audit payment until the State Auditor's Office approves the audit report. This change, requested by private sector partners, reflects that the audit is essentially complete, and final approval is just a formality.

The adjustment does not impact the State Auditor's Office and simply lowers the retention percentage to make the process more reasonable.



**Proposed Amendment Section 3 (p. 5, lines 5-19)**

This amendment is new since the initial presentation to the Senate State and Local Committee. It aligns with similar language in NDIT's Century Code and pertains to records requests. The amendment clarifies that individuals seeking open records must obtain them directly from the relevant government agency rather than through the Auditor's Office. This ensures the Auditor's Office is not acting as an intermediary between requesters and other government entities.

**Section 4 (pg. 5, line 31)**

This update also has to do with applying N.D.C.C. 54-10 consistently. During the 2023-25 session, the audit threshold for all local governments was raised to \$2,000,000, meaning entities below this threshold are not required to undergo an audit. However, it was an oversight that this specific section of the code wasn't updated to reflect the new threshold.

Raising the threshold in this section would provide significant cost savings for boards that chose to submit an annual financial report instead of undergoing an audit. It is important to note, any entity below the \$2,000,000 threshold would still have the option to have an audit if they choose—it simply wouldn't be required by the State Auditor's Office.



## TESTIMONY

*Jon Godfread, Insurance Commissioner*  
Senate State and Local Government  
March 6th, 2025

Good afternoon, Chairman Schauer, and members of the House Government and Veterans Affairs Committee. For the record, my name is Jon Godfread, Insurance Commissioner for the State of North Dakota. Thank you for the opportunity to provide a testify in support of SB 2251, specifically section 1 of the bill related to audit fees.

I think it's important to discuss the distinction between General Fund Agencies and Special Fund Agencies and highlight the importance of this bill. Traditionally, special funded agencies and general funded agencies have operated under distinct financial frameworks. Special funded agencies, like ours, are primarily supported by dedicated revenue sources, such as fees and specific taxes, and are intended to operate with a degree of financial independence from the state's General Fund. In contrast, general funded agencies rely directly on allocations from the General Fund, which is sourced from broad-based state revenues like income and sales taxes.

However, over time, the distinction between these two types of agencies has significantly eroded. Today, we find ourselves increasingly treated like a general funded agency, facing similar financial constraints and expectations, yet still required to pay substantial fees to other state agencies as though we remain fully independent. This dual burden undermines the very purpose of being a special funded agency, forcing us into a financial cycle that limits our ability to effectively serve the people of North Dakota.

The current system requiring our agency to pay other state agencies for services while maintaining a cap on the Insurance Regulatory Trust Fund is not only duplicative but also financially inefficient. It effectively treats our agency as a reserve for the state, despite our significant contributions to the General Fund through Premium Taxes, which are a major revenue source for North Dakota.

As a special-funded agency, we pay substantial fees to various state entities that are already funded by the General Fund. Specifically, as related to SB 2251 for Audit fees:

- **Auditor's Office:**
- Agency Audit Fees: paid \$8,635 in 2019
- Agency Audit Fees: paid \$21,250 in 2022
- Agency Audit Fees: paid \$14,563.59 in 2023
- Agency Audit Fees: paid \$11,574.88 in 2024.
- Total \$56,023.47 since 2019

At the end of my testimony, I provide some examples of other fees we pay as a special funded agency. These payments are effectively redundant. The funds we pay into these state agencies ultimately cycle back to the General Fund, which these agencies rely on for their operations. This creates a scenario where our agency is contributing to the General Fund both directly through Premium Taxes and indirectly through these operational payments.

Furthermore, any funds exceeding one million dollars in the Insurance Regulatory Trust Fund at the end of each fiscal year are also transferred to the General Fund, meaning we contribute yet again.

This system places a financial burden on our agency and creates inefficiencies that undermine our operations. The cap of one million dollars on the Insurance Regulatory Trust Fund is particularly problematic, as it exacerbates cash flow issues, especially given our significant and recurring expenses, such as salaries, operating costs, NDFA payments, and forensic medical exam fees. A cap that does not account for these critical expenditures risks operational disruptions and financial instability.

SB 2251 is a step in the right direction to removing these duplicative fees and we would urge a Do Pass recommendation on this bill.

Other fees paid as a special funded agency:

- **Information Technology Department:** Total Biennium (\$324,096)
  - Data Processing Technology Fee: \$2,800 per month (\$67,200 per biennium)
  - Application Support (0.5 FTE dedicated): \$6,000 per month (\$144,000 per biennium)
  - Desktop Support Service: \$4,600 per month (\$110,400 per biennium)
- Records Management: \$104 per month (\$2,496 per biennium)
- **Office of Management and Budget (OMB):**
  - Rent for our 5th Floor Office and vaults: \$109,755.40 per year (\$219,510.80 per biennium)
    - Rent includes \$16.21 per square foot for 6,740 square feet of office space
    - Vaults rent at \$1.61 per square foot for 308 square feet
  - Central Duplicating (Printing services): Various charges for printed and bound materials.
  - Risk Management:
    - Workers Compensation Premiums: Various charges.
- **Attorney General's Office:**
  - Legal Fees: Various charges for legal services provided.
  - Reimbursement of forensic examination fees.
- **Department of Transportation (DOT):**
  - Fleet Costs: Charges related to vehicle usage and maintenance.
- **Legislative Council**
  - Fees associated with the cost-benefit analysis conducted for bills that include a health insurance benefit mandate.
  - NCOIL membership fees for legislators.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

SB 2251  
3/7/2025

Relating to audits conducted by the state auditor and charges for audits.
---

10:54 a.m. Chairman Schauer opened the hearing.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff  
Members absent: Representatives Bahl, Brown

### **Discussion Topics:**

- Possible Amendment

10:54 a.m. Chairman Schauer Finds out amendment will be done in time of next meeting.

10:54 a.m. Chairman Schauer closed the hearing.

*Jackson Toman, Committee Clerk by Risa Berube*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

SB 2251  
3/20/2025

Relating to audits conducted by the state auditor and charges for audits.
---

Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Representatives Bahl, Brown, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Vice Chairman Satrom

### Discussion Topics:

- Custodial records
- Committee action

8:50 a.m. Senator Cleary, District 35, explained proposed amendments relating to custodial records, LC 25.0851.02001 (Testimony #45367)

8:53 a.m. Josh Gallion, State Auditor, answered questions about concerns with the amendment.

8:55 a.m. Representative VanWinkle moved to amend the bill reverting it back to its original wording.

8:55 a.m. Representative McLeod seconded the motion.

8:57 a.m. Josh Gallion, State Auditor, answered questions about section three of the amendment 25.0851.02001 (Testimony #45367).

9:01 a.m. Voice vote passed.

9:01 a.m. Representative Vetter moved a Do Pass as amended and rerefer to appropriations.

9:02 a.m. Representative VanWinkle seconded the motion.

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	AB
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Timothy Brown	Y
Representative Karen Grindberg	Y
Representative Karen Karls	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	Y

Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y
Representative Christina Wolff	Y

9:02 a.m. Motion passed 13-0-1.

Representative VanWinkle will carry the bill.

9:02 a.m. Chairman Schauer closed the meeting.

*Jackson Toman, Committee Clerk by Risa Berube*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
FIRST ENGROSSMENT**

**ENGROSSED SENATE BILL NO. 2251**

Introduced by

Senators Cleary, Weston, Castaneda, Paulson

Representatives M. Ruby, Rohr

1 A BILL for an Act to amend and reenact section 54-10-01, subsection 5 of section 54-10-14, and  
2 ~~section~~ sections 54-10-22 and 54-10-27 of the North Dakota Century Code, relating to audits  
3 conducted by the state auditor and charges for audits.

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

5 **SECTION 1. AMENDMENT.** Section 54-10-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-10-01. Powers and duties of state auditor - Report. (Retroactive application - See**  
8 **note)**

9 1. The state auditor shall:

- 10 a. Be vested with the duties, powers, and responsibilities involved in performing the  
11 postaudit of all financial transactions of state government, detecting and reporting  
12 any defaults, and determining that expenditures have been made in accordance  
13 with law and appropriation acts.
- 14 b. Perform or provide for the audit of the general purpose financial statements and a  
15 review of the material included in the comprehensive annual financial report of  
16 the state in accordance with government auditing standards.
- 17 c. Except for the audit of the department of financial institutions as outlined in  
18 section 54-10-31, perform or provide for audits of state agencies in accordance  
19 with government auditing standards and legislative audit and fiscal review  
20 committee guidelines developed under section 54-35-02.10. Except for the



1 annual audit of the North Dakota lottery required by section 53-12.1-03, the state  
2 auditor shall audit each state agency once every two to four years. Audits may be  
3 conducted at more frequent intervals if requested by the governor or the  
4 legislative audit and fiscal review committee. ~~The state auditor shall charge an~~  
5 ~~amount equal to the cost of the audit and other services rendered by the state~~  
6 ~~auditor to all agencies that receive and expend moneys from other than the~~  
7 ~~general fund. This charge may be reduced for an agency that receives and~~  
8 ~~expends both general fund and nongeneral fund moneys. The charge for an audit~~  
9 ~~of an agricultural commodity group listed in section 4.1-44-04 must be six~~  
10 ~~thousand dollars for an annual financial statement audit or four thousand dollars~~  
11 ~~for a two-year single-page financial statement audit performed during the~~  
12 ~~biennium ending June 30, 2025, and may be increased by five percent on July~~  
13 ~~first of each odd-numbered year thereafter. State agencies shall use nongeneral~~  
14 ~~fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not~~  
15 ~~available, the agency may, upon approval of the legislative assembly, or the~~  
16 ~~budget section if the legislative assembly is not in session, use general fund~~  
17 ~~moneys to pay for the audit. Any budget section action under this subdivision~~  
18 ~~must comply with section 54-35-02.9.~~

19 d. Except for the audit of the department of financial institutions as outlined in  
20 section 54-10-31, perform or provide for performance audits of state agencies, or  
21 the agencies' blended component units or discreetly presented component units,  
22 as determined necessary by the legislative assembly, or the legislative audit and  
23 fiscal review committee if the legislative assembly is not in session. When  
24 determining the necessity of a performance audit, the legislative audit and fiscal  
25 review committee shall consider:

- 26 (1) The potential cost-savings or efficiencies that may be gained as a result of  
27 the performance audit;
- 28 (2) The staff resources of the state auditor's office and of the state agency  
29 being audited which will be required to conduct the audit;
- 30 (3) The potential for discovery of noncompliance with state law or legislative  
31 intent regarding the program or agency; and

- 1 (4) The potential for the performance audit to identify opportunities for program  
2 improvements.
- 3 e. Report quarterly to the legislative audit and fiscal review committee regarding:
  - 4 (1) Communication processes with audited entities and any changes to the  
5 processes;
  - 6 (2) Billing practices and procedures, including the use of cost estimates for  
7 audits, an itemized invoicing methodology, and a defined change order  
8 process for audits that exceed the original estimate;
  - 9 (3) Information on audits completed, including:
    - 10 (a) Name of the audited organization;
    - 11 (b) Organization type;
    - 12 (c) Audit type;
    - 13 (d) Audit period;
    - 14 (e) Estimated and actual hours and costs; and
    - 15 (f) Total audit cost and the total cost as a percentage of the audited  
16 organization's operating budget; and
  - 17 (4) Audit schedules, including audits performed by private firms and audits  
18 performed by the state auditor's office.
- 19 f. Report on the functions of the state auditor's office to the governor and the  
20 secretary of state in accordance with section 54-06-04 or more often as  
21 circumstances may require.
- 22 g. Perform work on mineral royalties for the federal government in accordance with  
23 section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
- 24 h. Report to the legislative audit and fiscal review committee regarding final report  
25 distribution policies and practices and any final audit reports released to the  
26 public prior to distribution of the final audit report to all individuals charged with  
27 the governance of the audit client.
- 28 i. Perform all other duties as prescribed by law.
- 29 2. The state auditor may:

- 1 a. Conduct any work required by the federal government and charge an amount  
2 equal to the cost of the audit to be paid by the audited federal funds of the  
3 appropriate government agency and deposited into the general fund.
- 4 b. Within the resources available to the state auditor, perform or provide for  
5 performance audits of state agencies as determined necessary by the state  
6 auditor.
- 7 c. Audit the International Peace Garden at the request of the board of directors of  
8 the International Peace Garden.
- 9 d. Contract with a private certified public accountant or other qualified professional  
10 to conduct or assist with an audit, review, or other work the state auditor is  
11 authorized to perform or provide for under this section. Before entering any  
12 contract, the state auditor shall present information to the legislative audit and  
13 fiscal review committee on the need for the contract and its estimated cost and  
14 duration. Except for performance audits conducted under subdivision d of  
15 subsection 1 or subdivision b of this subsection and except for audits of  
16 occupational or professional boards, the state auditor shall execute the contract  
17 and any executive branch agency, including higher education institutions, shall  
18 pay the fees of the contractor. For performance audits conducted under  
19 subdivision d of subsection 1 or subdivision b of this subsection, the state auditor  
20 may charge a state agency for the cost of a contract relating to an audit, subject  
21 to approval by the legislative assembly or the legislative audit and fiscal review  
22 committee if the legislative assembly is not in session. When considering a  
23 request, the legislative audit and fiscal review committee shall consider the effect  
24 of the audit cost on the agency being audited, the necessity of the contract, and  
25 the potential benefit to the state resulting from the contract. The state auditor  
26 shall notify the affected agency of the potential cost before requesting approval  
27 from the legislative assembly or the legislative audit and fiscal review committee.
- 28 3. Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the  
29 state auditor may not charge audit fees to an institution of higher education, agency, or  
30 office under the control of the state board of higher education, including passthrough  
31 grants, except for a proportional share of audit fees on federal programs or grants to



the extent those audited federal programs or grants provide for allowable cost recovery. Institutions without an approved indirect cost recovery fund may not be assessed audit fees on closed federal programs.

**SECTION 2. AMENDMENT.** Subsection 5 of section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

5. A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twentyfive percent of any progress payment until the audit report is accepted by the state auditor.

**SECTION 3. AMENDMENT.** Section 54-10-22 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-22. Public officers to aid state auditor - Auditor's authority on investigation - Referral of open records request.**

1. The officers and employees of all departments, institutions, boards, commissions, and political subdivisions, subject to examination by the state auditor, shall afford all reasonable facilities for the investigation provided for in this title and shall make returns and exhibits to the auditor under oath in such form and ~~in such~~ manner as the auditor may prescribe.-
2. The auditor shall have full power and authority to audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, and financial institutions subject to the auditor's audit. The auditor shall have authority to audit under oath any or all trustees, managers, officers, employees, or agents of any such departments, boards, commissions, or political subdivisions. When necessary, the auditor shall employ stenographers or clerical help, the expense incurred to be collected by the auditor from the respective department, institution, board, commission, or political subdivision.
3. If the auditor receives a request for access to or inspection of information submitted to the auditor by a department, institution, board, commission, or political subdivision, the auditor shall refer the request to the submitting department, institution, board, commission, or political subdivision for response. The referral of a request under this

subsection satisfies the responsibility of the auditor to respond to a request for public records under chapter 44-04.

**SECTION 4. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-27. Occupational and professional boards - Audits and reports.**

The governing board of any occupational or professional board shall provide for an audit once every two years by a certified public accountant or licensed public accountant. The accountant conducting the audit shall submit the audit report to the state auditor's office. If the report is in the form and style prescribed by the state auditor, the state auditor may not audit that board. An occupational or professional board may request the state auditor to conduct its audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees charged to the occupational or professional board into the state auditor operating account. Instead of providing for an audit every two years, an occupational or professional board that has less than ~~two hundred thousand~~ two million dollars of annual receipts may submit an annual report to the state auditor. The report must contain the information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the occupational or professional board an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge an occupational or professional board a fee not to exceed ninety dollars an hour for the costs of reviewing the annual report.

**REPORT OF STANDING COMMITTEE  
ENGROSSED SB 2251**

**Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **AMENDMENTS** ([25.0851.02002](#)) and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). Engrossed SB 2251 was placed on the Sixth order on the calendar.



25.0851.02001  
Title.

Prepared by the Legislative Council  
staff for Representative Schauer  
March 12, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

### ENGROSSED SENATE BILL NO. 2251

Introduced by

Senators Cleary, Weston, Castaneda, Paulson

Representatives M. Ruby, Rohr

1 A BILL for an Act to amend and reenact section 54-10-01, subsection 5 of section 54-10-14, and  
2 section sections 54-10-22 and 54-10-27 of the North Dakota Century Code, relating to audits  
3 conducted by the state auditor and charges for audits.

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8 **note)**

9 1. The state auditor shall:

- 10 a. Be vested with the duties, powers, and responsibilities involved in performing the  
11 postaudit of all financial transactions of state government, detecting and reporting  
12 any defaults, and determining that expenditures have been made in accordance  
13 with law and appropriation acts.
- 14 b. Perform or provide for the audit of the general purpose financial statements and a  
15 review of the material included in the comprehensive annual financial report of  
16 the state in accordance with government auditing standards.
- 17 c. Except for the audit of the department of financial institutions as outlined in  
18 section 54-10-31, perform or provide for audits of state agencies in accordance  
19 with government auditing standards and legislative audit and fiscal review  
20 committee guidelines developed under section 54-35-02.10. Except for the



1           annual audit of the North Dakota lottery required by section 53-12.1-03, the state  
2           auditor shall audit each state agency once every two to four years. Audits may be  
3           conducted at more frequent intervals if requested by the governor or the  
4           legislative audit and fiscal review committee. ~~The state auditor shall charge an~~  
5           ~~amount equal to the cost of the audit and other services rendered by the state~~  
6           ~~auditor to all agencies that receive and expend moneys from other than the~~  
7           ~~general fund. This charge may be reduced for an agency that receives and~~  
8           ~~expends both general fund and nongeneral fund moneys. The charge for an audit~~  
9           ~~of an agricultural commodity group listed in section 4.1-44-04 must be six~~  
10          ~~thousand dollars for an annual financial statement audit or four thousand dollars~~  
11          ~~for a two-year single-page financial statement audit performed during the~~  
12          ~~biennium ending June 30, 2025, and may be increased by five percent on July~~  
13          ~~first of each odd-numbered year thereafter. State agencies shall use nongeneral~~  
14          ~~fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not~~  
15          ~~available, the agency may, upon approval of the legislative assembly, or the~~  
16          ~~budget section if the legislative assembly is not in session, use general fund~~  
17          ~~moneys to pay for the audit. Any budget section action under this subdivision~~  
18          ~~must comply with section 54-35-02.9.~~

19          d. Except for the audit of the department of financial institutions as outlined in  
20          section 54-10-31, perform or provide for performance audits of state agencies, or  
21          the agencies' blended component units or discreetly presented component units,  
22          as determined necessary by the legislative assembly, or the legislative audit and  
23          fiscal review committee if the legislative assembly is not in session. When  
24          determining the necessity of a performance audit, the legislative audit and fiscal  
25          review committee shall consider:

- 26          (1) The potential cost-savings or efficiencies that may be gained as a result of  
27               the performance audit;
- 28          (2) The staff resources of the state auditor's office and of the state agency  
29               being audited which will be required to conduct the audit;
- 30          (3) The potential for discovery of noncompliance with state law or legislative  
31               intent regarding the program or agency; and

- 1                   (4) The potential for the performance audit to identify opportunities for program
- 2                   improvements.
- 3           e. Report quarterly to the legislative audit and fiscal review committee regarding:
- 4                   (1) Communication processes with audited entities and any changes to the
- 5                   processes;
- 6                   (2) Billing practices and procedures, including the use of cost estimates for
- 7                   audits, an itemized invoicing methodology, and a defined change order
- 8                   process for audits that exceed the original estimate;
- 9                   (3) Information on audits completed, including:
- 10                   (a) Name of the audited organization;
- 11                   (b) Organization type;
- 12                   (c) Audit type;
- 13                   (d) Audit period;
- 14                   (e) Estimated and actual hours and costs; and
- 15                   (f) Total audit cost and the total cost as a percentage of the audited
- 16                   organization's operating budget; and
- 17                   (4) Audit schedules, including audits performed by private firms and audits
- 18                   performed by the state auditor's office.
- 19           f. Report on the functions of the state auditor's office to the governor and the
- 20                   secretary of state in accordance with section 54-06-04 or more often as
- 21                   circumstances may require.
- 22           g. Perform work on mineral royalties for the federal government in accordance with
- 23                   section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
- 24           h. Report to the legislative audit and fiscal review committee regarding final report
- 25                   distribution policies and practices and any final audit reports released to the
- 26                   public prior to distribution of the final audit report to all individuals charged with
- 27                   the governance of the audit client.
- 28           i. Perform all other duties as prescribed by law.
- 29    2. The state auditor may:

- 1           a.    Conduct any work required by the federal government and charge an amount  
2                   equal to the cost of the audit to be paid by the audited federal funds of the  
3                   appropriate government agency and deposited into the general fund.
- 4           b.    Within the resources available to the state auditor, perform or provide for  
5                   performance audits of state agencies as determined necessary by the state  
6                   auditor.
- 7           c.    Audit the International Peace Garden at the request of the board of directors of  
8                   the International Peace Garden.
- 9           d.    Contract with a private certified public accountant or other qualified professional  
10                   to conduct or assist with an audit, review, or other work the state auditor is  
11                   authorized to perform or provide for under this section. Before entering any  
12                   contract, the state auditor shall present information to the legislative audit and  
13                   fiscal review committee on the need for the contract and its estimated cost and  
14                   duration. Except for performance audits conducted under subdivision d of  
15                   subsection 1 or subdivision b of this subsection and except for audits of  
16                   occupational or professional boards, the state auditor shall execute the contract  
17                   and any executive branch agency, including higher education institutions, shall  
18                   pay the fees of the contractor. For performance audits conducted under  
19                   subdivision d of subsection 1 or subdivision b of this subsection, the state auditor  
20                   may charge a state agency for the cost of a contract relating to an audit, subject  
21                   to approval by the legislative assembly or the legislative audit and fiscal review  
22                   committee if the legislative assembly is not in session. When considering a  
23                   request, the legislative audit and fiscal review committee shall consider the effect  
24                   of the audit cost on the agency being audited, the necessity of the contract, and  
25                   the potential benefit to the state resulting from the contract. The state auditor  
26                   shall notify the affected agency of the potential cost before requesting approval  
27                   from the legislative assembly or the legislative audit and fiscal review committee.
- 28        3.    Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the  
29                   state auditor may not charge audit fees to an institution of higher education, agency, or  
30                   office under the control of the state board of higher education, including passthrough  
31                   grants, except for a proportional share of audit fees on federal programs or grants to



1 the extent those audited federal programs or grants provide for allowable cost  
2 recovery. Institutions without an approved indirect cost recovery fund may not be  
3 assessed audit fees on closed federal programs.

4 **SECTION 2. AMENDMENT.** Subsection 5 of section 54-10-14 of the North Dakota Century  
5 Code is amended and reenacted as follows:

- 6 5. A political subdivision may not pay a public accountant for an audit until the state  
7 auditor has accepted the audit. However, a political subdivision may make progress  
8 payments to the public accountant. A political subdivision shall retain ~~twentyfive~~  
9 percent of any progress payment until the audit report is accepted by the state auditor.

10 **SECTION 3. AMENDMENT.** Section 54-10-22 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **54-10-22. Public officers to aid state auditor - Auditor's authority on investigation -**  
13 **Referral of open records request.**

- 14 1. The officers and employees of all departments, institutions, boards, commissions, and  
15 political subdivisions, subject to examination by the state auditor, shall afford all  
16 reasonable facilities for the investigation provided for in this title and shall make  
17 returns and exhibits to the auditor under oath in ~~such a~~ form and ~~in such~~ manner as the  
18 auditor may prescribe.

- 19 2. The auditor ~~shall have full power and authority to~~ may audit any books, papers,  
20 accounts, bills, vouchers, and other documents or property of any and all departments,  
21 boards, commissions, political subdivisions, and financial institutions subject to the  
22 auditor's audit. The auditor ~~shall have authority to~~ may audit under oath any or all  
23 trustees, managers, officers, employees, or agents of any such departments, boards,  
24 commissions, or political subdivisions. When necessary, the auditor shall employ  
25 stenographers or clerical help, the expense incurred to be collected by the auditor  
26 from the respective department, institution, board, commission, or political subdivision.

- 27 3. If the auditor receives a request for access to or inspection of information submitted to  
28 the auditor by a department, institution, board, commission, or political subdivision, the  
29 auditor shall refer the request to the submitting department, institution, board,  
30 commission, or political subdivision for response. The referral of a request under this

subsection satisfies the responsibility of the auditor to respond to a request for public records under chapter 44-04.

**SECTION 4. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-27. Occupational and professional boards - Audits and reports.**

The governing board of any occupational or professional board shall provide for an audit once every two years by a certified public accountant or licensed public accountant. The accountant conducting the audit shall submit the audit report to the state auditor's office. If the report is in the form and style prescribed by the state auditor, the state auditor may not audit that board. An occupational or professional board may request the state auditor to conduct its audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees charged to the occupational or professional board into the state auditor operating account. Instead of providing for an audit every two years, an occupational or professional board that has less than ~~two hundred thousand~~ two million dollars of annual receipts may submit an annual report to the state auditor. The report must contain the information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the occupational or professional board an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge an occupational or professional board a fee not to exceed ninety dollars an hour for the costs of reviewing the annual report.

**2025 HOUSE APPROPRIATIONS**

**SB 2251**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

SB 2251  
3/31/2025

A BILL for an Act to amend and reenact section 54-10-01, subsection 5 of section 54-10-14, and section 54-10-27 of the North Dakota Century Code, relating to audits conducted by the state auditor and charges for audits.

9:03 a.m. Chairman Vigesaa called the meeting to order.

Members present: Chairman Vigesaa, Representatives Anderson, Berg, Brandenburg, Fisher, Hanson, Louser, Martinson, Meier, Mitskog, Monson, Murphy, Nathe, Nelson, Pyle, Richter, Sanford, Stemen, Swiontek, Wagner

Members absent: Vice Chairman Kempenich, Representatives: Bosch, O'Brien

### Discussion Topics:

- Committee Action

9:05 a.m. Representative Schauer introduced SB 2251 with testimony #44442.

9:08 a.m. Dan Cox, Director of Audit Services, ND State Auditor Office, answered questions.

9:10 a.m. Representative Monson moved Do Pass.

9:11 a.m. Representative Brandenburg seconded the motion.

9:11 a.m. Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	AB
Representative Bert Anderson	Y
Representative Mike Berg	Y
Representative Glenn Bosch	AB
Representative Mike Brandenburg	Y
Representative Jay Fisher	Y
Representative Karla Rose Hanson	Y
Representative Scott Louser	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y

Representative Emily O'Brien	AB
Representative Brandy L. Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Gregory Stemen	Y
Representative Steve Swiontek	Y
Representative Scott Wagner	Y

9:10 a.m. Motion passed 20-0-3.

9:10 a.m. Representative Van Winkle will carry the bill.

9:12 a.m. Chairman Vigesaa closed the meeting.

*Krystal Eberle, Committee Clerk*



**REPORT OF STANDING COMMITTEE  
ENGROSSED AND AMENDED SB 2251 ([25.0851.03000](#))**

**Appropriations Committee (Rep. Vigesaa, Chairman)** recommends **DO PASS** (20 YEAS, 0 NAYS, 3 ABSENT OR EXCUSED AND NOT VOTING). Engrossed SB 2251, as amended, was placed on the Fourteenth order on the calendar.

Good morning, Mr. Chairman and members of the House Appropriations Committee.

My name is Austen Schauer, District 13, West Fargo.

**SB 2251**, the 3000 Version, removes the requirement of the State Auditor's Office to bill state agencies for their audits.

Currently, state law only allows agencies to be billed on a percentage of their special funds.

Last session, the law was updated to exempt the University System from these charges, allowing them to keep more money for their operations.

As a result, total revenue from state agency audits, which is deposited directly into the general fund, dropped to about \$340 thousand for the 23-25 biennium, with \$68 thousand coming from the State Mill & Elevator.

**SB 2251** extends the same benefits to all state agencies including commodities, allowing them to use their funds for operations.

These changes can be found in the deletion of **lines 2-16**, on **page 2**.

Other changes include codifying existing billing practices for federal work on **page 3, lines 28-30**.

The Federal Single Audit is conducted every two years with the federal government picking up the cost of \$1.25 million dollars which is deposited into the general fund.

Two other changes can be found on **page 5, line 5**.

This is a reduction from **20 percent to 5 percent** in what local governments can **retain** while waiting for the final approval of an audit by the State Auditor's office.

This adjustment was requested by private CPA firms to assist them with their cash flow.

One other change comes on **page 6, line 10**. It increases the audit threshold for occupational and professional boards from **200 thousand to two million dollars**.

This allows smaller boards to submit financial reports instead of a full audit while maintaining the option for an audit.

This aligns with other state audit thresholds reducing unnecessary costs for smaller boards.

Special Fund Agencies such as the Insurance Department were in full support of **SB 2251**.

Mr. Chairman, committee members, we now ask for your support of **SB 2251**.

The State Auditor is here to address any questions you may have.

Thank you!