

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2054

2007 SENATE POLITICAL SUBDIVISIONS

SB 2054

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2054

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 4, 2007

Recorder Job Number: 612

Committee Clerk Signature



Minutes:

Chairman Cook called the Senate Political Subdivision committee to order.

Roll call was taken with all members (5) present.

Chairman Cook opened the hearing on SB 2054 relating to powers of the state auditor.

Ed Nagel, Director of State Auditors Office, testified in support of SB 2054. (See attachment #1 and example)

Senator Olafson asked that if currently you receive a tip that there is fraud or illegal activity on a state agency computer system, you defer taking any action on that until the next audit of that agency. Why do you not have as a policy that you relay that information to the appropriated law enforcement agency?

Ed Nagel answered that it was correct. Currently they do not receive a lot of calls and if we do they are not of the nature that is so significant that we would take that action. If there was a call that was urgent, we would contact the Attorney Generals office, the DPI or State Attorneys office.

Chairman Cook, asked why they would call the auditors office with an allegation like that, why wouldn't they call the department head?

Ed Nagel said it may be possible they contacted the agency and the agency was misusing the computer or they did not get the response that they were looking for.

No further testimony in support or opposed or neutral to SB 2054.

Chairman Cook closed the hearing on SB 2054.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2054**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 5, 2007

Recorder Job Number: 660

Committee Clerk Signature

Shirley Borg

Minutes:

Chairman Cook called the Political Subdivisions Committee to order. All members present.

Chairman Cook asked for action of SB 2054.

Discussion:

Senator Warner had objections to the bill on two grounds. First being that he thought it circumvents the powers of the attorney general. Also thinks it circumvents the powers of the governor, it creates a dysfunction in the hierarchy that the governor's agency heads are responsible to the governor not to the auditor. I think it would be disrespectful both to the governor and attorney general to pass this.

Senator Warner made a motion for a Do Not Pass.

Senator Olafson seconded the motion.

Vote: Yes 5 No 0 Absent 0

Carrier: **Senator Hacker**

REPORT OF STANDING COMMITTEE (410)
January 5, 2007 1:07 p.m.

Module No: SR-03-0265
Carrier: Hacker
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2054: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2054 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SB 2054

STATE AUDITOR
ROBERT R. PETERSON



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**TESTIMONY BEFORE THE SENATE
POLITICAL SUBDIVISIONS COMMITTEE**
January 4, 2007

Senate Bill No. 2054

Testimony - Presented by Ed Nagel
Director

Chairman Cook, members of the committee, I am here to testify in support of Senate Bill No. 2054.

This bill will add another subsection to Section 54-10-01 of the North Dakota Century Code, which contains the powers and duties of the State Auditor. This new subsection will allow our office to act in a timely and more focused manner on allegations of inappropriate activity at any of the agencies or political subdivisions that we are authorized to audit.

Currently, our office has the specific authority to conduct "audits", which usually cover one or two fiscal years, encompass the entire agency being audited, and are done on a cyclical basis. Currently, when we receive allegations that an agency is not complying with federal or state laws, we will make a point to investigate the allegations during the next audit of the agency, which may not be for a year or more.

If this bill is passed, we would be able to investigate credible allegations on a timely basis, without conducting an audit of the agency. It is our intent that the results of these investigations would be reported to the Legislative Audit and Fiscal Review Committee.

I have attached an example of another state's management letter that was issued as a result of one of their investigations. Our reporting would probably be similar to this example.

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

Thank you.

attachment #1

example



Leslie W. Merritt, Jr., CPA, CFP
State Auditor

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Office of the State Auditor

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September 6, 2006

Dr. James L. Oblinger, Chancellor
North Carolina State University
Campus Box 7001
Raleigh, North Carolina 27695

Dear Dr. Oblinger:

We received allegations through the State Auditor's Hotline concerning the misuse of computers in North Carolina State University's Dining Department. The following findings and recommendations are based on our investigation of these allegations.

Examination of Computers

Our investigation determined that four software applications for on-line gaming had been installed on a computer in the Dining Department. Further analysis indicated an employee participated in on-line poker games using this computer.

Use of University Computer for Gambling

During an interview with the employee, he admitted using his University computer to participate in on-line poker games after work hours. Computer activity logs indicated the gambling activity occurred primarily in the early evening. Our analysis of the employee's computer also indicated the games were played for "real money." A representative of the gaming website confirmed the games involve real money.

In response to the concern about the exchange of money, the employee said the funds in his account came from the gaming website. The employee said he had been playing on a free poker website before entering a tournament. When he won the tournament, the employee said the gaming website credited his account with approximately \$90. The employee said he used the \$90 to enter other tournaments that required an initiation fee of \$15 to \$20, and eventually increased his account value to about \$200.

The employee's computer history indicated that his available funds ranged from \$662 to \$5,262. The employee said these amounts were chip counts and not actual dollars. Our review of the computer history revealed that chip counts and dollar amounts appear interchangeably throughout the gaming logs. The employee said his account balance is now zero after participating in several tournaments and losing everything.

Dr. James L. Oblinger, Chancellor
September 6, 2006
Page 2

Violation of University Policy and State Law

The University's *Computer Use Regulation* policy permits personal use of computer resources with specific restrictions.

Section II – Regulatory Limitations

2.2 *Use of University computing systems and networks must comply with federal and state law.*

Section III – Personal Use

3.2 *The use does not result in commercial gain or private profit, (other than allowable under University intellectual property policies).*

North Carolina General Statute 14-292 prohibits gambling in North Carolina with specific exceptions.

§ 14-292. Gambling.

Except as provided in Chapter 18C of the General Statutes or in Part 2 of this Article, any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor. This section shall not apply to a person who plays at or bets on any lottery game being lawfully conducted in any state. (1891, c. 29; Rev., s. 3715; C.S., s. 4430; 1979, c. 893, s. 1; 1983, c. 896, s. 1; 1993, c. 539, s. 204; 1994, Ex. Sess., c. 24, s. 14(c); 2005-344, s. 3(e).)

Thus, the employee's use of a University computer to participate in on-line gambling appears to have violated the University's *Computer Use Regulation* policy as well as state law.

Recommendations

University management should take appropriate disciplinary action in accordance with the University's *Computer Use Regulation* policy. University management should ensure that all employees, faculty members and students are familiar with the University's *Computer Use Regulation* policy and the consequences of noncompliance.

Please provide your written response to these findings and recommendations, including corrective actions taken or planned, by September 20, 2006. In accordance with General Statute § 147-64.6(c)(12), the Governor, the Attorney General, and other appropriate officials, will receive a copy of this management letter. If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation received from the employees of North Carolina State University during our review.

Sincerely,



Leslie W. Merritt Jr., CPA, CFP
State Auditor

Management letters and responses receive the same distribution as audit reports.