

**OPINION
70-309**

September 29, 1970 (OPINION)

Mr. Curtis Olson

State Auditor

RE: State - Audits - Nonresident CPA

This is in reply to your letter of September 22, 1970, with regard to out-of-state Certified Public Accountants, not certified in North Dakota, auditing counties, cities, and schools in North Dakota. You refer us to chapters 54-10 and 43-02 of the North Dakota Century Code.

Section 43-02-17 of the of the North Dakota Century Code makes it a misdemeanor to "Assume to practice as a certified public accountant without first having received a certificate as provided in this chapter." The certification provided for in that chapter is by the North Dakota State Board of Accountancy.

Section 54-10-13 of the 1969 Supplement to the North Dakota Century Code authorizes counties to obtain an annual audit by a certified public accountant in lieu of the State Auditor's examination. Section 54-10-14 of the 1969 Supplement to the North Dakota Century Code authorizes cities, park boards, villages, or school districts to provide for an audit annually by a certified public accountant in lieu of the State Auditor's examination. Any such audit in lieu of the State Auditor's examination would thus be practice as a certified public accountant which is a misdemeanor if done by any person other than an individual certified by the North Dakota State Board of Accountancy. These statutes cannot be construed so as to call for an illegal act, on which basis, the phrase "certified public accountant," as used therein must necessarily mean an individual certified as a Certified Public Accountant by the North Dakota State Board of Accountancy.

We trust the within and foregoing will be sufficient for your purposes.

HELGI JOHANNESON

Attorney General