

**SENATE BILL NO. 2141**

Introduced by

Judiciary Committee

(At the request of the State Auditor)

1 A BILL for an Act to amend and reenact sections 54-10-01, 54-10-22.1, and 54-10-24 of the  
2 North Dakota Century Code, relating to investigations by the state auditor.

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

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

6 **54-10-01. Powers and duties of state auditor.** The state auditor shall:

- 7 1. Be vested with the duties, powers, and responsibilities involved in performing the  
8 postaudit of all financial transactions of the state government, detecting and  
9 reporting any defaults, and determining that expenditures have been made in  
10 accordance with law and appropriation acts.
- 11 2. Perform or provide for the audit of the general purpose financial statements and a  
12 review of the material included in the comprehensive annual financial report of the  
13 state and perform or provide for the audits and reviews of state agencies. The  
14 state auditor shall audit or review each state agency once every two years. The  
15 state auditor shall determine the contents of the audits and reviews of state  
16 agencies. The state auditor may conduct any work required by the federal  
17 government. The state auditor shall charge an amount equal to the cost of the  
18 audit and other services rendered by the state auditor to all agencies that receive  
19 and expend moneys from other than the general fund. This charge may be  
20 reduced for any agency that receives and expends both general fund and  
21 non-general fund moneys. Audits and reviews may be conducted at more frequent  
22 intervals if requested by the governor or legislative audit and fiscal review  
23 committee.

- 1           3.   Be vested with the authority to determine whether to audit the international peace
- 2               garden at the request of the board of directors of the international peace garden.
- 3           4.   Perform or provide for performance audits of state agencies as determined
- 4               necessary by the state auditor or the legislative audit and fiscal review committee.
- 5               A performance audit must be done in accordance with generally accepted auditing
- 6               standards applicable to performance audits.
- 7           5.   For the audits and reviews the state auditor is authorized to perform or provide for
- 8               under this section, the audit or review may be provided for by contract with a
- 9               private certified or licensed public accountant or other qualified professional. If the
- 10              state auditor determines that the audit or review will be done pursuant to contract,
- 11              the state auditor, except for occupational or professional boards, shall execute the
- 12              contract, and any executive branch agency, including higher education institutions,
- 13              shall pay the fees of the contractor.
- 14           6.   Be vested with the authority to investigate alleged acts of impropriety,
- 15               malfeasance, or nonfeasance in the obligation, expenditure, receipt, or use of state
- 16               or federal funds and investigate specified financial transactions or practices that
- 17               may involve such impropriety, malfeasance, or nonfeasance at any state agency,
- 18               department, or institution or political subdivision subject to audit by the state
- 19               auditor. The state auditor shall determine the timing, work to be performed, and
- 20               reporting of such investigations.
- 21           7.   Be responsible for the above functions and report thereon to the governor and the
- 22               secretary of state in accordance with section 54-06-04 or more often as
- 23               circumstances may require.
- 24       ~~7.~~ 8.   Perform all other duties as prescribed by law.

25           **SECTION 2. AMENDMENT.** Section 54-10-22.1 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **54-10-22.1. State auditor's access to information relating to operations of**  
28 **governmental entities subject to audit.** Notwithstanding any other specific sections of law,  
29 the state auditor and persons employed by the state auditor, when necessary in conducting an  
30 audit or investigation, shall have access to all information relating to operations of all  
31 governmental units subject to audit. The state auditor and persons employed by the state

auditor examining any information, which is confidential by law, shall guard the secrecy of such information except when otherwise directed by judicial order or as is otherwise provided by law.

**SECTION 3. AMENDMENT.** Section 54-10-24 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-24. The state auditor shall have access to tax returns and other records filed with the tax commissioner.** The state auditor and persons employed by the state auditor, when necessary in conducting an audit ~~and examination of the books and records of the tax commissioner or investigation~~ as authorized by law, may examine any return, report, or other information filed with the tax commissioner, ~~and confirm the authenticity of such return, report, or other information with the taxpayer who filed it for the purpose of conducting such~~ audit or investigation.

The audit report of the state auditor may not identify any return, report, or other document examined whose secrecy is guarded by law and which is examined pursuant to this chapter by the state auditor or the auditor's representatives, but the state auditor or the auditor's representatives shall make a listing of each return, report, or other document examined whose secrecy is guarded by law, which listing must include the name and address of the taxpayer or other person who filed the return, report, or other document or to whom it relates, and the tax department file identification number for it; such listing must also identify all summaries and schedules examined which are compiled and kept by the tax commissioner and which identify taxpayers and taxpayer information to which the secrecy requirements apply; the listing must also show the name or names of the individuals representing the state auditor who examined each such return, report, summary, schedule, or other document. A copy of the listing must be filed by the state auditor with the tax commissioner. Such listing and all copies thereof are subject to the same secrecy or confidentiality requirements that apply to the information described in the listing.