

Introduced by

Political Subdivisions Committee

(At the request of the State Auditor)

1 A BILL for an Act to amend and reenact section 54-10-29 of the North Dakota Century Code,
2 relating to audits of computer systems performed by the state auditor.

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

4 **SECTION 1. AMENDMENT.** Section 54-10-29 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-10-29. Audits of computer systems - Penalty.**

7 1. The state auditor may:

8 a. Pursuant to the powers and duties outlined in this chapter, conduct a review
9 and assessment of computer systems and related security systems.

10 Computer systems subject to this section include the computer systems of a
11 state agency or political subdivision that is subject to audit by the state
12 auditor. Tests conducted in connection with this review and assessment may
13 include an assessment of system vulnerability, network penetration, potential
14 security breach, and susceptibility to cyber attack or cyber fraud.

15 b. Disclose any findings to the chief information officer of the state or to any
16 state official or legislative committee. Working papers and preliminary drafts
17 of reports created in connection with the review of computer systems and the
18 security of the systems are exempt from section 44-04-18. Those parts of
19 findings and working papers that identify the methods of the state auditor or
20 that may cause or perpetuate vulnerability of the computer system reviewed
21 are exempt from section 44-04-18 and protected from disclosure until the
22 state auditor directs otherwise.

23 c. Procure the services of a specialist in information security systems or other
24 contractors deemed necessary in conducting a review under this section.

1 The procurement of these services is exempt from the requirements of
2 chapter 54-44.4.

3 2. An outside contractor hired to provide services in the review of the security of a
4 computer system is subject to the confidentiality provisions of this section and
5 section 44-04-27. Any individual who knowingly discloses confidential information
6 is subject to the provisions of section 12.1-13-01.

7 3. The state auditor shall notify the executive officer of any state agency ~~or the~~
8 ~~governing body of any political subdivision~~ of the date, time, and location of any
9 test conducted in connection with a review and assessment of computer systems
10 or related security systems. The executive officer or ~~a deputy executive officer or~~
11 ~~a member of the governing body of a political subdivision shall~~ the officer's
12 designee may attend and observe any test during which confidential information
13 may be accessed or controlled. ~~An executive officer, a deputy executive officer, or~~
14 ~~a member of the governing body of a political subdivision receiving notice of any~~
15 ~~test conducted under this section may not inform any other individual of the~~
16 ~~scheduling and conduct of the test.~~

17 4. The state auditor shall notify the attorney general of the date, time, and location of
18 any test conducted in connection with a review and assessment of computer
19 systems or related security systems. The attorney general may designate an
20 individual to participate in the test. The designee of the attorney general may
21 order the test to be terminated if the individual believes a sensitive system is being
22 breached, a sensitive system may be breached, or sensitive information may be
23 revealed.

24 5. Notwithstanding any provision in chapter 32-12.2 to the contrary, if the attorney
25 general and the director of the office of management and budget determine it is in
26 the best interest of the state, the state auditor may agree to limit the liability of a
27 contractor performing a review and assessment under this section. The liability
28 limitation must be approved by the attorney general and director of the office of
29 management and budget in writing. For any uninsured losses, the director of the
30 office of management and budget may approve the risk management fund to
31 assume all or part of the contractor's liability to the state in excess of the limitation.

1 6. A state agency receiving federal tax information under section 6103 of the Internal
2 Revenue Code, as amended [26 U.S.C. 6103], in conjunction with the state
3 auditor, may enter a contract with the vendor selected by the state auditor under
4 subdivision c of subsection 1 to conduct a review and assessment of the state
5 agency's computer systems and related security systems, including an
6 assessment of system vulnerability, network penetration, potential security breach,
7 and susceptibility to cyber attack or cyber fraud.