

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representative Keiser

1 A BILL for an Act to create and enact two new sections to chapter 54-10 of the North Dakota  
2 Century Code, relating to requiring an independent performance audit of the state auditor and  
3 auditor ethical requirements; and to provide a penalty.

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

5 **SECTION 1.** A new section to chapter 54-10 of the North Dakota Century Code is  
6 created and enacted as follows:

7 **Independent performance audit of state auditor.** Beginning in 2009, and each  
8 biennium thereafter, the state auditor shall request the legislative council to select an  
9 independent certified public accounting firm that does not have an office or a place of business  
10 within this state to complete a performance audit of the functions and operations of the state  
11 auditor during the previous biennium. The certified public accounting firm must have extensive  
12 experience in governmental financial and performance auditing and generally accepted  
13 accounting principles. The biennial performance audit must be evaluate the office of the state  
14 auditor to determine whether the office is providing quality service in an effecient and  
15 cost-effective manner and in accordance with generally accepted accounting principles. The  
16 audit must include input and an evaluation of the performance of the office from a sampling of  
17 entities that were subject to performance audits, financial audits, reveiws, or evaluations  
18 conducted by the office during the previous biennium. Any information provided by the agency  
19 subject to audit must be submitted to the legislative council and is an exempt record. The firm  
20 conducting the audit shall provide a report of the audit which contains recommendations for  
21 improvement or an explanation of why no recommendations have been made. The state  
22 auditor and a representative of the firm conducting the audit shall present the audit report and  
23 any actions taken in response to the recommendations to the legislative council. The state  
24 auditor shall provide a copy of the performance audit report to each entity that was audited

1 during the period covered by the audit. The state auditor shall report quarterly to the legislative  
2 council on the implementation status on the recommendations of the audit. The firm conducting  
3 the audit shall provide reports to the legislative council regarding the implementation status of  
4 the recommendations within the audit upon request of the legislative council.

5       1. Notwithstanding any other provision of law, the firm conducting the audit must have  
6 access to all information relating to the performance audit within the office of the  
7 state auditor, except active and domesticatory work product of the attorney general  
8 as defined in section 44-04-19.1.

9       2. An employee of the state auditor who refuses or neglects to provide information  
10 requested by the firm conducting the performance audit or who obstructs or  
11 misleads the firm in the execution of the audit or hinders the process of the audit is  
12 guilt of a class C felony.

13       **SECTION 2.** A new section to chapter 54-10 of the North Dakota Century Code is  
14 created and enacted as follows:

15       **State auditor - Ethical requirements - Penalty.**

16       1. The state auditor shall disclose to the executive officer or head of an entity being  
17 audited by the state auditor, before the commencement of any audit, evaluation, or  
18 review conducted by the state auditor, any relationship between the family or  
19 household member of an employee or contractor of the state auditor and any  
20 employee of the entity subject to the audit, evaluation, or review. As used in this  
21 section, "family or household member" means a spouse, family member, former  
22 spouse, parent, child, persons related by blood or marriage, persons who are in a  
23 dating relationship, persons who are presently residing together or who have  
24 resided together in the past, and persons who have a child regardless of whether  
25 they are or have been married or have lived together at any time. A violation of  
26 this subsection is a class A misdemeanor.

27       2. The state auditor or an employee of the state auditor may not knowingly mislead,  
28 manipulate, or provide false information in the execution of the duties of the office.  
29 A violation of this subsection is a class C felony.

30       3. To ensure objectivity and fairness in the conduct of the audit, evaluation, or review  
31 conducted or provided by the state auditor, the state auditor and any employee or

- 1                    contractor of the state auditor may not issue a public comment regarding the audit,
- 2                    evaluation or review until the final report of the audit, evaluation, or review has
- 3                    been issued. A violation of this section is a class A misdemeanor.