

**HOUSE BILL NO. 1191**

Introduced by

Representatives Kempenich, Nathe

Senator Klein

1 A BILL for an Act to create and enact a new section to chapter 54-10 and a new section to  
2 chapter 54-44.1 of the North Dakota Century Code, relating to the duty of the state auditor to  
3 report consecutive audit findings and the reduction of agency appropriations by the office of  
4 management and budget; and to amend and reenact section 54-35-02.2 of the North Dakota  
5 Century Code, relating to the powers and duties of the legislative audit and fiscal review  
6 committee.

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

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

10 **Consecutive audit findings - Report.**

11 ~~Within ninety days of the completion of a state agency audit, the~~ The state auditor shall  
12 notify the legislative audit and fiscal review committee ~~and the director of the budget~~ of any  
13 significant audit findings that have been reported in two or more consecutive audits.

14 **SECTION 2. AMENDMENT.** Section 54-35-02.2 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **54-35-02.2. Powers and duties of the legislative audit and fiscal review committee.**

17 1. The legislative audit and fiscal review committee shall study and review audit reports  
18 as selected by the committee from those submitted by the state auditor, confer with  
19 the auditor and deputy auditors in regard to such reports, and when necessary, confer  
20 with representatives of the department, agency, or institution audited in order to obtain  
21 full and complete information in regard to any and all fiscal transactions and  
22 governmental operations of any department, agency, or institution of the state. Each  
23 department, agency, or institution shall furnish to the committee ~~such~~ aid, information,

1 and assistance in regard to fiscal transactions and governmental operations as it may  
2 from time to time request. ~~Whenever~~

3 2. If the committee ~~may determine~~ determines or ~~have~~ has reason to believe that there  
4 may have been a violation of law relating to the receipt, custody, or expenditure of  
5 public funds by any state officer or employee, the committee shall present ~~such~~ the  
6 evidence or information ~~as may be in its possession~~ to the attorney general. The  
7 attorney general shall receive and accept ~~such~~ the evidence or information and ~~shall~~  
8 immediately commence ~~such an~~ additional investigation as the attorney general  
9 determines necessary. Upon completion of the investigation, if the evidence supplied  
10 by the committee and through the investigation indicates the probability of a violation  
11 of law by any state official or employee, the attorney general immediately shall  
12 prosecute ~~such~~ the official or employee as provided by law. ~~Whenever~~

13 3. If the committee ~~may determine~~ determines that a state agency, department, or  
14 institution has failed to correct an audit finding within two bienniums which the  
15 committee determines critically important, ~~the~~:

16 a. The committee may recommend the legislative assembly reduce the state  
17 agency, department, or institution's appropriation as compared with the amount  
18 appropriated to the agency, department, or institution for the previous biennium;

19 b. The committee may direct the office of management and budget to reduce the  
20 state agency, department, or institution's current biennial appropriation, excluding  
21 federal funds, for salaries and wages and operating expenses as determined by  
22 the office of management and budget proportionally as follows:

23 (1) By one percent if the same finding is identified in three audit reports; or

24 (2) By two percent if the same finding is identified in four or more audit reports.

25 c. If the state agency, department, or institution takes action to address the audit  
26 findings, the committee may direct the office of management and budget to  
27 reinstate the agency, department, or institution's appropriation previously reduced  
28 under subdivision b of this subsection.

29 d. Reductions to appropriations under subdivision b of this subsection do not affect  
30 the agency, department, or institution's base budget used for budget preparation  
31 purposes.

1 4. The legislative management, through its committee on legislative audit and fiscal  
2 review, or ~~such~~ persons as may be directed or employed by the legislative council, is  
3 authorized, within the limits of legislative appropriations, to make ~~such~~ audits,  
4 examinations, or studies of the fiscal transactions or governmental operations of  
5 departments, agencies, or institutions of the state as the legislative management may  
6 determine necessary.

7 **SECTION 3.** A new section to chapter 54-44.1 of the North Dakota Century Code is created  
8 and enacted as follows:

9 **Office of management and budget to reduce appropriations - Audit findings – Report**  
10 **to the legislative audit and fiscal review committee.**

11 ~~1. Within thirty days of notification from the state auditor that a state agency's audit report~~  
12 ~~has contained the same significant audit finding in at least two consecutive audit~~  
13 ~~reports, the office of management and budget shall reduce the agency's current~~  
14 ~~biennial appropriation, proportionally by line item, as follows:~~

15 ~~a. By one percent if the same finding is identified in three audit reports; or~~

16 ~~b. By two percent if the same finding is identified in four or more audit reports.~~

17 ~~2. The director of the budget shall report any appropriation reductions under this section to~~  
18 ~~the legislative audit and fiscal review committee. The office of management and budget shall~~  
19 ~~reduce or reinstate a state agency, department, or institution's current biennial appropriation for~~  
20 ~~salaries and wages and operating expenses, as determined by the office of management and~~  
21 ~~budget, proportionally within thirty days of notification from the legislative audit and fiscal review~~  
22 ~~committee, in accordance with the provisions of section 54-35-02.2.~~