

**HOUSE BILL NO. 1508**

Introduced by

Representatives O'Brien, Lefor, Nathe, Sanford, Schreiber-Beck

Senators Kreun, Meyer

1 A BILL for an Act to amend and reenact ~~sections~~section 54-10-01, ~~54-10-14, and 54-10-27~~ of  
2 the North Dakota Century Code, relating to ~~audit fees of state institutions, political subdivisions,~~  
3 ~~and occupational and professional boards; and to provide for retroactive application~~duties of the  
4 state auditor.

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

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

8 **54-10-01. Powers and duties of state auditor** ~~Exception.~~

9 1. The state auditor shall:

- 10 a. Be vested with the duties, powers, and responsibilities involved in performing the  
11 postaudit of all financial transactions of state government, detecting and reporting  
12 any defaults, and determining that expenditures have been made in accordance  
13 with law and appropriation acts.
- 14 b. Perform or provide for the audit of the general purpose financial statements and a  
15 review of the material included in the comprehensive annual financial report of  
16 the state in accordance with government auditing standards.
- 17 c. Perform or provide for audits of state agencies in accordance with government  
18 auditing standards and legislative audit and fiscal review committee guidelines  
19 developed under section 54-35-02.10. Except for the annual audit of the North  
20 Dakota lottery required by section 53-12.1-03, the state auditor shall audit each  
21 state agency once every two years. Audits may be conducted at more frequent  
22 intervals if requested by the governor or the legislative audit and fiscal review  
23 committee. The state auditor shall charge an amount equal to the cost of the  
24 audit and other services rendered by the state auditor ~~one thousandth of one~~

1 | ~~percent of the agency's total biennial operating budget~~ to all agencies that  
2 receive and expend moneys from other than the general fund. This charge may  
3 be reduced for an agency that receives and expends both general fund and  
4 nongeneral fund moneys. State agencies shall use nongeneral fund moneys to  
5 pay for the cost of the audit. If nongeneral fund moneys are not available, the  
6 agency may, upon approval of the legislative assembly, or the budget section if  
7 the legislative assembly is not in session, use general fund moneys to pay for the  
8 audit. Any budget section action under this subdivision must comply with section  
9 54-35-02.9.

10 d. Perform or provide for performance audits of state agencies, or the agencies'  
11 blended component units or discreetly presented component units, as  
12 determined necessary by the legislative assembly, or the legislative audit and  
13 fiscal review committee if the legislative assembly is not in session. When  
14 determining the necessity of a performance audit, the legislative audit and fiscal  
15 review committee shall consider:

- 16 (1) The potential cost-savings or efficiencies that may be gained as a result of  
17 the performance audit;
- 18 (2) The staff resources of the state auditor's office and of the state agency  
19 being audited which will be required to conduct the audit;
- 20 (3) The potential for discovery of noncompliance with state law or legislative  
21 intent regarding the program or agency; and
- 22 (4) The potential for the performance audit to identify opportunities for program  
23 improvements.

24 e. Report on the functions of the state auditor's office to the governor and the  
25 secretary of state in accordance with section 54-06-04 or more often as  
26 circumstances may require.

27 f. Perform work on mineral royalties for the federal government in accordance with  
28 section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].

29 g. Perform all other duties as prescribed by law.

30 2. The state auditor may:

31 a. Conduct any work required by the federal government.

- 1           b. Within the resources available to the state auditor, perform or provide for  
2           performance audits of state agencies as determined necessary by the state  
3           auditor.
- 4           c. Audit the International Peace Garden at the request of the board of directors of  
5           the International Peace Garden.
- 6           d. Contract with a private certified public accountant or other qualified professional  
7           to conduct or assist with an audit, review, or other work the state auditor is  
8           authorized to perform or provide for under this section. Before entering any  
9           contract, the state auditor shall present information to the legislative audit and  
10          fiscal review committee on the need for the contract and its estimated cost and  
11          duration. Except for performance audits conducted under subdivision d of  
12          subsection 1 or subdivision b of this subsection and except for audits of  
13          occupational or professional boards, the state auditor shall execute the contract  
14          and any executive branch agency, including higher education institutions, shall  
15          pay the fees of the contractor. For performance audits conducted under  
16          subdivision d of subsection 1 or subdivision b of this subsection, the state auditor  
17          may charge a state agency for the cost of a contract relating to an audit, subject  
18          to approval by the legislative assembly or the legislative audit and fiscal review  
19          committee if the legislative assembly is not in session. When considering a  
20          request, the legislative audit and fiscal review committee shall consider the effect  
21          of the audit cost on the agency being audited, the necessity of the contract, and  
22          the potential benefit to the state resulting from the contract. The state auditor  
23          shall notify the affected agency of the potential cost before requesting approval  
24          from the legislative assembly or the legislative audit and fiscal review committee.

25          3. ~~Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the~~  
26          ~~state auditor may not charge audit fees to an institution of higher education under the~~  
27          ~~control of the state board of higher education.~~

28          ~~4.~~ All audits performed by the state auditor must be reviewed and approved by a certified  
29          public accountant.

30          ~~**SECTION 2. AMENDMENT.** Section 54-10-14 of the North Dakota Century Code is~~  
31          ~~amended and reenacted as follows:~~

1 ~~54-10-14. Political subdivisions – Audits – Fees – Alternative audits and reports.~~

2 ~~1. The state auditor shall audit the following political subdivisions once every two years,~~  
3 ~~except as provided in this section or otherwise by law:~~

4 ~~a. Counties.~~

5 ~~b. Cities, and when a city is audited, to include any political subdivision that was~~  
6 ~~created by the city and has bonding authority.~~

7 ~~c. Park districts.~~

8 ~~d. School districts.~~

9 ~~e. Firefighters relief associations.~~

10 ~~f. Airport authorities.~~

11 ~~g. Public libraries.~~

12 ~~h. Water resource districts.~~

13 ~~i. Garrison Diversion Conservancy District.~~

14 ~~j. Rural fire protection districts.~~

15 ~~k. Special education districts.~~

16 ~~l. Area career and technology centers.~~

17 ~~m. Correction centers.~~

18 ~~n. Recreation service districts.~~

19 ~~o. Weed boards.~~

20 ~~p. Irrigation districts.~~

21 ~~q. Rural ambulance service districts.~~

22 ~~r. Southwest water authority.~~

23 ~~s. Regional planning councils.~~

24 ~~t. Soil conservation districts.~~

25 ~~u. Western area water supply authority industrial water sales on an annual basis.~~

26 ~~2. The state auditor shall charge the political subdivision an amount equal to the fair~~  
27 ~~value of the audit and any other services rendered no more than one thousandth of~~  
28 ~~one percent of the political subdivision's total annual operating budget. The fees must~~  
29 ~~be deposited in the state auditor operating account. The state treasurer shall credit the~~  
30 ~~state auditor operating account with the amount of interest earnings attributable to the~~

1 deposits in that account. Expenses relating to political subdivision audits must be paid  
2 from the state auditor operating account, within the limits of legislative appropriation.

3 ~~3. In lieu of conducting an audit every two years, the state auditor may require annual~~  
4 ~~reports from political subdivisions subject to this section, or otherwise provided by law,~~  
5 ~~with less than seven hundred fifty thousand dollars of annual receipts, excluding any~~  
6 ~~federal funds passed through the political subdivision to another entity. If any federal~~  
7 ~~agency performs or requires an audit of a political subdivision that receives federal~~  
8 ~~funds to pass through to another entity, the political subdivision shall provide a copy to~~  
9 ~~the state auditor upon request by the state auditor. The reports must contain the~~  
10 ~~financial information required by the state auditor. The state auditor also may make~~  
11 ~~any additional examination or audit determined necessary in addition to the annual~~  
12 ~~report. When a report is not filed, the state auditor may charge the political subdivision~~  
13 ~~an amount equal to the fair value of the additional examination or audit and any other~~  
14 ~~services rendered one thousandth of one percent of the political subdivision's total~~  
15 ~~annual operating budget. The state auditor may charge a political subdivision a fee not~~  
16 ~~to exceed eighty-six dollars an hour for the costs of reviewing the annual report.~~

17 ~~4. A political subdivision, at the option of its governing body, may be audited by a certified~~  
18 ~~public accountant or licensed public accountant rather than by the state auditor. The~~  
19 ~~public accountant shall comply with generally accepted government auditing standards~~  
20 ~~for audits of political subdivisions. The report must be in the form and content required~~  
21 ~~by the state auditor. The number of copies of the audit report requested by the state~~  
22 ~~auditor must be filed with the state auditor when the public accountant delivers the~~  
23 ~~audit report to the political subdivision. The state auditor shall review the audit report~~  
24 ~~to determine if the report is in the required form and has the required content, and if~~  
25 ~~the audit meets generally accepted government auditing standards. The state auditor~~  
26 ~~also may periodically review the public accountant's workpapers to determine if the~~  
27 ~~audit meets generally accepted government auditing standards. If the report is in the~~  
28 ~~required form and has the required content, and the report and workpapers comply~~  
29 ~~with generally accepted government auditing standards, the state auditor shall accept~~  
30 ~~the audit report. The state auditor may charge the political subdivision a fee of up to~~

1           eighty-six dollars an hour, but not to exceed seven hundred fifty dollars per review, for  
2           the related costs of reviewing the audit report and workpapers.

3 ~~—5.—~~ A political subdivision may not pay a public accountant for an audit until the state  
4           auditor has accepted the audit. However, a political subdivision may make progress  
5           payments to the public accountant. A political subdivision shall retain twenty percent of  
6           any progress payment until the audit report is accepted by the state auditor.

7 ~~—6.—~~ The state auditor may require the correction of any irregularities, objectionable  
8           accounting procedures, or illegal actions on the part of the governing board, officers,  
9           or employees of the political subdivision disclosed by the audit report or workpapers,  
10          and failure to make the corrections must result in audits being resumed by the state  
11          auditor until the irregularities, objectionable accounting procedures, or illegal actions  
12          are corrected.

13 ~~—~~ **SECTION 3. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is  
14          amended and reenacted as follows:

15 ~~—~~ **54-10-27. Occupational and professional boards -- Audits and reports.**

16 ~~—~~ The governing board of any occupational or professional board shall provide for an audit  
17          once every two years by a certified public accountant or licensed public accountant. The  
18          accountant conducting the audit shall submit the audit report to the state auditor's office. If the  
19          report is in the form and style prescribed by the state auditor, the state auditor may not audit  
20          that board. An occupational or professional board may request the state auditor to conduct its  
21          audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees  
22          charged to the occupational or professional board into the state auditor operating account.  
23          Instead of providing for an audit every two years, an occupational or professional board that has  
24          less than two hundred thousand dollars of annual receipts may submit an annual report to the  
25          state auditor. The report must contain the information required by the state auditor. The state  
26          auditor also may make any additional examination or audit determined necessary in addition to  
27          the annual report. When a report is not filed, the state auditor may charge the occupational or  
28          professional board an amount equal to the fair value of the additional examination or audit and  
29          any other services rendered one thousandth of one percent of the occupational or professional  
30          board's total biennial operating budget. The state auditor may charge an occupational or

1 professional board a fee not to exceed eighty-six dollars an hour for the costs of reviewing the  
2 annual report.

3 ~~—SECTION 4. RETROACTIVE APPLICATION – AUDIT FEES.~~ Subsection 3 of section 1 of  
4 this Act applies retroactively to all audit fees assessed to North Dakota institutions of higher  
5 education after July 31, 2021. The state auditor shall reimburse all audit fees paid by each  
6 respective institution during the 2021-23 biennium.