

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2004

Page 1, line 1, after the semicolon insert "to create and enact section 54-10-31 and a new section to chapter 54-10 of the North Dakota Century Code, relating to audits of the department of financial institutions and an audit report review period;"

Page 1, line 2, after "sections" insert "54-10-01 and"

Page 1, line 2, after "to" insert "the powers and duties of the state auditor and"

Page 2, after line 18, insert:

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

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

1. The state auditor shall:

- a. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
- b. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state in accordance with government auditing standards.
- c. ~~Perform~~Except for the audit of the department of financial institutions as outlined in section 54-10-31, perform or provide for audits of state agencies in accordance with government auditing standards and legislative audit and fiscal review committee guidelines developed under section 54-35-02.10. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit each state agency once every two years. Audits may be conducted at more frequent intervals if requested by the governor or the legislative audit and fiscal review committee. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for an agency that receives and expends both general fund and nongeneral fund moneys. State agencies shall use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not available, the agency may, upon approval of the legislative assembly, or the budget section if the legislative assembly is not in session, use general fund moneys to pay for the audit. Any budget section action under this subdivision must comply with section 54-35-02.9.

- d. ~~Perform~~ Except for the audit of the department of financial institutions as outlined in section 54-10-31, perform or provide for performance audits of state agencies, or the agencies' blended component units or discreetly presented component units, as determined necessary by the legislative assembly, or the legislative audit and fiscal review committee if the legislative assembly is not in session. When determining the necessity of a performance audit, the legislative audit and fiscal review committee shall consider:
- (1) The potential cost-savings or efficiencies that may be gained as a result of the performance audit;
  - (2) The staff resources of the state auditor's office and of the state agency being audited which will be required to conduct the audit;
  - (3) The potential for discovery of noncompliance with state law or legislative intent regarding the program or agency; and
  - (4) The potential for the performance audit to identify opportunities for program improvements.
- e. Report on the functions of the state auditor's office to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
- f. Perform work on mineral royalties for the federal government in accordance with section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
- g. Perform all other duties as prescribed by law.
2. The state auditor may:
- a. Conduct any work required by the federal government.
  - ~~b. Within the resources available to the state auditor, perform or provide for performance audits of state agencies as determined necessary by the state auditor.~~
  - e.b. Audit the International Peace Garden at the request of the board of directors of the International Peace Garden.
  - ~~d.c.~~ Contract with a private certified public accountant or other qualified professional to conduct or assist with an audit, review, or other work the state auditor is authorized to perform or provide for under this section. Before entering any contract, the state auditor shall present information to the legislative audit and fiscal review committee on the need for the contract and its estimated cost and duration. Except for performance audits conducted under subdivision d of subsection 1 or subdivision b of this subsection and except for audits of occupational or professional boards, the state auditor shall execute the contract and any executive branch agency, including higher education institutions, shall pay the fees of the contractor. For performance audits conducted under subdivision d of subsection 1 or subdivision b of this subsection, the state auditor may charge a state agency for the cost of a contract relating to an audit, subject to approval by the

legislative assembly or the legislative audit and fiscal review committee if the legislative assembly is not in session. When considering a request, the legislative audit and fiscal review committee shall consider the effect of the audit cost on the agency being audited, the necessity of the contract, and the potential benefit to the state resulting from the contract. The state auditor shall notify the affected agency of the potential cost before requesting approval from the legislative assembly or the legislative audit and fiscal review committee."

Page 2, after line 24, insert:

"**SECTION 6.** Section 54-10-31 of the North Dakota Century Code is created and enacted as follows:

**54-10-31. Department of financial institutions - Audit and reports.**

Once every two years, the state banking board shall provide for an audit of the department of financial institutions by a certified public accountant. The state banking board may request the state auditor to conduct the audit. If the state auditor agrees to conduct the audit, the state auditor shall deposit any fees assessed for completion of the audit to the state auditor operating account.

**SECTION 7.** A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

**Audit report - Review period.**

The state auditor shall provide the preliminary audit report, including all findings and recommendations, entity responses to the findings and recommendations, and any auditor responses, to the audited state entity, political subdivision, or occupational or professional board at least thirty days before the state auditor publishes the final audit report."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

The amendment makes the following changes:

- Removes the Department of Financial Institutions from audits and performance audits to be performed by the State Auditor's office.
- Adds a section to provide for the State Banking Board to select an accounting firm to conduct the Department of Financial Institution's audit.
- Removes authority of the State Auditor to select performance audits to conduct. The State Auditor would perform performance audits as determined by the Legislative Assembly or the Legislative Audit and Fiscal Review Committee.
- Requires a 30-day review period before audit reports may be published.

