

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 "11-13-02, 54-10-01, and"

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

Page 1, line 3, replace "and to declare an emergency" with "to provide for a legislative management study; and to provide for a legislative management report"

Page 1, replace lines 12 through 19 with:

"Salaries and wages	\$13,123,559	\$663,322	\$13,786,881
Operating expenses	1,371,703	397,568	1,769,271
Capital assets	0	70,550	70,550
Information technology consultants	<u>450,000</u>	<u>0</u>	<u>450,000</u>
Total all funds	\$14,945,262	\$1,131,440	\$16,076,702
Less estimated income	<u>5,826,152</u>	<u>399,500</u>	<u>6,225,652</u>
Total general fund	\$9,119,110	\$731,940	\$9,851,050
Full-time equivalent positions	61.00	3.00	64.00"

Page 2, replace lines 2 through 8 with:

"Local government audit office furniture	\$0	\$9,000
Inflationary increases for travel and professional development	0	40,500
Audit software setup and migration	0	45,550
Capital equipment replacement	<u>0</u>	<u>25,000</u>
Total all funds	\$0	\$120,050
Less estimated income	<u>0</u>	<u>18,500</u>
Total general fund	\$0	\$101,550"

Page 2, replace lines 13 through 18 with:

"SECTION 3. AMENDMENT. Section 11-13-02 of the North Dakota Century Code is amended and reenacted as follows:

11-13-02. Duties of county auditor.

The county auditor shall:

1. Act as clerk of the board of county commissioners and keep an accurate record of the official proceedings of the board.
2. Prepare a financial statement of the county annually unless otherwise ordered by the board of county commissioners.

3. Upon receipt of any document, bond, or other paper required to be filed in the auditor's office, number and index the same and make the proper entries in the reception book.
4. Carefully preserve all documents, books, records, maps, and other papers required to be deposited or kept in the auditor's office.
5. Have recorded in the office of the recorder all bonds not issued by the state bonding fund that are required to be deposited in the auditor's office.
6. Perform and transact all county business without extra compensation.
7. Keep all books required to be kept by the board of county commissioners.
8. File and preserve in the auditor's office all accounts, vouchers, and other papers pertaining to the settlement of any and all accounts to which the county is a party, and copies of such papers certified under the hand and seal of the auditor shall be admitted as evidence in all courts in this state.
9. Perform all acts required of the auditor relative to the making out and delivering of notices of general and special elections, making abstracts of and canvassing the votes cast at an election, issuing certificates of election, and forwarding the abstract of votes cast to the secretary of state.
10. On or before August first of each odd-numbered year, report to the insurance commissioner the sound depreciated value of each county building or risk, and the contents therein.
11. On going out of office, deliver to the successor in office all moneys, books, records, documents, maps, papers, vouchers, and other property in the auditor's hands belonging to the county, and in case of the death of the auditor, the auditor's personal representatives shall deliver the same to the auditor's successor.
12. Notify political subdivisions within the county on an annual basis that the state auditor may require political subdivisions to provide annual reports in lieu of an audit pursuant to section 54-10-14.
13. Do and perform all acts not enumerated in this section which the auditor is required to do by law.

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 - Report.

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. Provide quarterly reports to the legislative audit and fiscal review committee of all audits performed and fees charged.
 - h. 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.
 - c. Audit the International Peace Garden at the request of the board of directors of the International Peace Garden.
 - d. 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.
3. Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the state auditor may not charge audit fees to an institution of higher education, agency, or office under the control of the state board of higher education, including passthrough grants, except for a proportional share of audit fees on federal programs or grants to the extent those audited federal programs or grants provide for allowable cost recovery. Institutions without an approved indirect cost recovery fund may not be assessed audit fees on closed federal programs."

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.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - LOCAL GOVERNMENT AUDIT SERVICES. During the 2023-24 interim, the legislative management shall consider studying local government audit services and the challenges of political subdivisions to obtain auditing services. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly."

Page 2, remove line 25

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2004 - State Auditor - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$13,123,559	\$16,417,905	(\$2,631,024)	\$13,786,881
Operating expenses	1,371,703	1,894,071	(124,800)	1,769,271
Capital assets		70,550		70,550
Information technology consultants	450,000	450,000		450,000
	<hr/>	<hr/>		<hr/>
Total all funds	\$14,945,262	\$18,832,526	(\$2,755,824)	\$16,076,702
Less estimated income	5,826,152	8,161,731	(1,936,079)	6,225,652
General fund	<hr/> \$9,119,110	<hr/> \$10,670,795	<hr/> (\$819,745)	<hr/> \$9,851,050
FTE	61.00	69.00	(5.00)	64.00

Department 117 - State Auditor - Detail of House Changes

	Adds Funding for Salary and Benefit Increases ¹	Removes Salary Funding for Funding Pool ²	Removes Local Government Division Audit Positions ³	Removes 1 FTE Communications Position ⁴	Decreases Funding for Temporary Salaries ⁵	Decreases One-Time Funding for Local Government Auditors ⁶
Salaries and wages	\$171,097	(\$1,467,289)	(\$868,074)	(\$166,758)	(\$300,000)	
Operating expenses			(72,300)			(\$12,000)
Capital assets						
Information technology consultants						
Total all funds	\$171,097	(\$1,467,289)	(\$940,374)	(\$166,758)	(\$300,000)	(\$12,000)
Less estimated income	45,835	(873,040)	(940,374)	0	(150,000)	0
General fund	\$125,262	(\$594,249)	\$0	(\$166,758)	(\$150,000)	(\$12,000)
FTE	0.00	0.00	(4.00)	(1.00)	0.00	0.00

	Decreases One-Time Funding for Operating Expense Inflation ⁷	Total House Changes
Salaries and wages		(\$2,631,024)
Operating expenses	(\$40,500)	(124,800)
Capital assets		
Information technology consultants		
Total all funds	(\$40,500)	(\$2,755,824)
Less estimated income	(18,500)	(1,936,079)
General fund	(\$22,000)	(\$819,745)
FTE	0.00	(5.00)

¹ Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	General Fund	Other Funds	Total
Salary increase	\$134,477	\$47,728	\$182,205
Health insurance adjustment	(9,215)	(1,893)	(11,108)
Total	\$125,262	\$45,835	\$171,097

The House provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

² Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	General Fund	Other Funds	Total
New FTE positions	(\$218,672)	(\$596,631)	(\$815,303)
Vacant FTE positions	(375,577)	(276,409)	(651,986)
Total	(\$594,249)	(\$873,040)	(\$1,467,289)

³ Funding from special funds in the agency's operating fund is removed for local government audit positions and related ongoing operating expenses as follows:

- 1 FTE local government audit manager position (\$308,364);
- 1 FTE local government auditor II position (\$207,740);
- 2 FTE local government auditor I positions (\$351,970); and
- Ongoing operating expenses of \$72,300 related to additional local government auditors.

⁴ Funding is removed for 1 FTE communications position to repurpose the position to 1 FTE education coordinator

position added by the Senate.

⁵ Funding for temporary salaries for internships is reduced to provide a total of \$200,000, of which \$100,000 is from the general fund and \$100,000 is from special funds in the agency's operating fund.

⁶ One-time funding for operating expenses related to local government auditor positions is reduced to provide a total of \$9,000.

⁷ One-time funding, including funding from federal and special funds, is reduced for operating expenses related to travel and professional development inflationary increases, to provide a total of \$40,500.

In addition, this amendment:

- Removes the section related to the refund of local government audit fees;
- Adds a section to require county auditors to notify political subdivisions annually that the State Auditor may require the political subdivisions to provide annual reports in lieu of an audit;
- Adds a section to amend the powers and duties of the State Auditor to allow the Department of Financial Institutions to contract with a certified public accountant for an audit, require the State Auditor to provide quarterly reports to the Legislative Audit and Fiscal Review Committee, and exempt the institutions under the control of the State Board of Higher Education from certain audit fees;
- Adds a section to require the State Banking Board provide for an audit of the Department of Financial Institutions once every 2 years;
- Adds a section to require the State Auditor to provide a preliminary audit report to audit clients at least 30 days prior to publishing the report;
- Adds a section to provide for a Legislative Management study of local government audit services; and
- Removes the emergency clause related to the refund of local government audit fees.