

PROPOSED AMENDMENTS TO SENATE BILL NO. 2004

Page 1, line 1, after "auditor" insert "; to amend and reenact sections 54-10-10 and 54-12-08 of the North Dakota Century Code, relating to the salary of the state auditor and assistant and special assistant attorneys general; and to declare an emergency"

Page 1, replace lines 8 through 17 with:

"	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$13,123,559	\$3,559,638	\$16,683,197
Operating expenses	1,371,703	522,368	1,894,071
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	\$4,152,556	\$19,097,818
Less estimated income	<u>5,826,152</u>	<u>2,335,579</u>	<u>8,161,731</u>
Total general fund	\$9,119,110	\$1,816,977	\$10,936,087
Full-time equivalent positions	61.00	9.00	70.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the 2023-25 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
Local government audit office furniture	\$0	\$21,000
Inflationary increases for travel and professional development	0	81,000
Audit software setup and migration	0	45,550
Capital equipment replacement	<u>0</u>	<u>25,000</u>
Total all funds	\$0	\$172,550
Less estimated income	<u>0</u>	<u>37,000</u>
Total general fund	\$0	\$135,550

The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget for the 2025-27 biennium. The state auditor shall report to the appropriations committees of the sixty-ninth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 3. APPROPRIATION - 2021-23 BIENNIUM - REFUND OF AUDIT FEES. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$24,358, or so much of the sum as may be necessary, to the state auditor for the purpose of providing refunds to local governments whose audit fees exceeded one percent of their revenues, for the period beginning with the effective date of this section, and ending June 30, 2023.

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

54-10-10. Salary of state auditor.

The annual salary of the state auditor is one hundred ~~twelve thousand two hundred forty one~~ thirty thousand dollars through June 30, ~~2022~~2024, and one hundred ~~fourteen thousand four hundred eighty six~~ thirty-five thousand two hundred dollars thereafter.

SECTION 5. AMENDMENT. Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

54-12-08. Assistant and special assistant attorneys general - Appointment - Revocation - Compensation.

1. After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. Workforce safety and insurance, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, the agriculture commissioner, ~~and the securities commissioner,~~ and the state auditor may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards.
2. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, the compensation must be paid out of the funds appropriated therefor.
3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of

the department of health and human services, department of environmental quality, and the state hospital.

4. An assistant or special assistant attorney general appointed to represent the state board of higher education or an institution under the control of the state board of higher education may access and examine any record under the control of the state board of higher education. For purposes of reviewing records under the Family Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal privacy law, the assistant or special assistant attorney general is considered a state educational official authorized to access student records.

SECTION 6. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2004 - State Auditor - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$13,123,559	\$3,559,638	\$16,683,197
Operating expenses	1,371,703	522,368	1,894,071
Capital assets		70,550	70,550
Information technology consultants	450,000		450,000
Total all funds	\$14,945,262	\$4,152,556	\$19,097,818
Less estimated income	5,826,152	2,335,579	8,161,731
General fund	\$9,119,110	\$1,816,977	\$10,936,087
FTE	61.00	9.00	70.00

Department 117 - State Auditor - Detail of Senate Changes

	Adjusts Funding for Cost to Continue Salaries ¹	Adjusts Base Budget Funding ²	Adds Funding for Salary and Benefit Increases ³	Adds Salary Equity Funding for Elected Officials ⁴	Adds Local Government Division Audit Positions ⁵	Adds 1 FTE Attorney Position ⁶
Salaries and wages	\$86,660	\$17,593	\$1,016,889	\$26,748	\$1,427,784	\$265,292
Operating expenses		(17,593)			126,500	
Capital assets						
Information technology consultants						
Total all funds	\$86,660	\$0	\$1,016,889	\$26,748	\$1,554,284	\$265,292
Less estimated income	23,627	0	402,836	0	1,554,284	0
General fund	\$63,033	\$0	\$614,053	\$26,748	\$0	\$265,292
FTE	0.00	0.00	0.00	0.00	7.00	1.00

	Adds 1 FTE Education Coordinator Position⁷	Increases Funding for Temporary Salaries⁸	Increases Funding for Audit Software Upgrades⁹	Increases Funding for Information Technology¹⁰	Adds Funding for Capitol Space Rent Model¹¹	Adds One- Time Funding for Local Government Auditors¹²
Salaries and wages	\$218,672	\$500,000				
Operating expenses			\$115,564	\$17,669	\$178,228	\$21,000
Capital assets						
Information technology consultants						
Total all funds	\$218,672	\$500,000	\$115,564	\$17,669	\$178,228	\$21,000
Less estimated income	0	250,000	61,266	6,566	0	0
General fund	\$218,672	\$250,000	\$54,298	\$11,103	\$178,228	\$21,000
FTE	1.00	0.00	0.00	0.00	0.00	0.00

	Adds One- Time Funding for Operating Expense Inflation¹³	Adds One- Time Funding for Audit Software Upgrades¹⁴	Adds One- Time Funding for Equipment¹⁵	Total Senate Changes
Salaries and wages				\$3,559,638
Operating expenses	\$81,000			522,368
Capital assets		\$45,550	\$25,000	70,550
Information technology consultants				
Total all funds	\$81,000	\$45,550	\$25,000	\$4,152,556
Less estimated income	37,000	0	0	2,335,579
General fund	\$44,000	\$45,550	\$25,000	\$1,816,977
FTE	0.00	0.00	0.00	9.00

¹ Funding is added for cost to continue salary increases.

² Base budget funding is adjusted to transfer \$17,593 from operating expenses to salaries and wages.

³ The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance premiums from \$1,429 to \$1,648 per month:

	General Fund	Other Funds	Total
Salary increase	\$432,963	\$318,639	\$751,602
Health insurance increase	181,090	84,197	265,287
Total	\$614,053	\$402,836	\$1,016,889

⁴ Funding is added for providing a salary equity increase for the State Auditor. The State Auditor's annual salary is increased from the current level of \$114,486 to \$130,000 (13.6 percent) effective July 1, 2023. This funding is in addition to the funding added for the general 4 percent annual salary increases for state employees.

⁵ Funding is added from special funds in the agency's operating fund for local government audit positions and related ongoing operating expenses as follows:

- 1 FTE local government audit manager position (\$308,364);
- 2 FTE local government auditor II positions (\$415,480);
- 4 FTE local government auditor I positions (\$703,940); and
- Ongoing operating expenses of \$126,500 related to additional local government auditors.

⁶ Funding is added for 1 FTE attorney position.

⁷ Funding is added for 1 FTE education coordinator position.

⁸ Funding is added, including funding from special funds in the agency's operating fund, for temporary salaries for internships.

⁹ Funding is increased, including funding from federal and special funds, for operating costs related to audit software upgrades.

¹⁰ Funding is added, including funding from special funds in the agency's operating fund, for operating expenses related to Information Technology Department rate increases.

¹¹ Funding is added for operating expenses related to a new Capitol space rent model.

¹² One-time funding is added for operating expenses related to local government auditor positions.

¹³ One-time funding, including funding from federal and special funds, is added for operating expenses related to travel and professional development inflationary increases.

¹⁴ One-time funding is added for costs related to audit software upgrades.

¹⁵ One-time funding is added for capital costs related to the replacement of equipment over \$5,000.

This amendment also:

- Adds a section to provide a deficiency appropriation of \$24,358 to the State Auditor to refund audit fees to local governments whose audit costs exceeded 1 percent of their revenues during the biennium ended June 30, 2023;
- Adds a section to provide the statutory changes necessary to increase the State Auditor's annual salary to \$130,000 (13.6 percent) effective July 1, 2023, and to \$135,200 (4 percent) effective July 1, 2024;
- Adds a section to amend Section 54-12-08 relating to assistant and special assistant attorneys general to allow the State Auditor to employ an attorney; and
- Adds a section to declare the deficiency appropriation to be an emergency measure.