

**HOUSE BILL NO.**

Introduced by

Representative Keiser

1 A BILL for an Act to create and enact two new sections to chapter 54-10 of the North Dakota  
2 Century Code, relating to requiring an independent performance audit of the state auditor and  
3 auditor ethical requirements; and to provide a penalty.

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

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

7 **Independent performance audit of state auditor - Penalty.**

8 1. Beginning in 2009, and once every two years thereafter, the state auditor shall  
9 request the legislative council to select an independent certified public accounting  
10 firm that has not been under contract with the state auditor or any other state  
11 agency within the last five years to complete a performance audit of the functions  
12 and operations of the state auditor during the previous biennium. The certified  
13 public accounting firm must have extensive experience in governmental financial  
14 and performance auditing and generally accepted accounting principles. The  
15 biennial performance audit must evaluate the office of the state auditor to  
16 determine whether the office is providing quality service in an efficient and  
17 cost-effective manner and in accordance with generally accepted accounting  
18 principles. The performance audit must include comment on and an evaluation of  
19 the performance of the office from a sampling of entities that were subject to  
20 performance audits, financial audits, reviews, or evaluations provided or conducted  
21 by the office during the previous biennium. Any information provided by the  
22 agency subject to audit must be submitted to the legislative council and is an  
23 exempt record. The firm conducting the audit shall provide a report of the audit  
24 which contains recommendations for improvement or an explanation of why no

1           recommendations have been made. The state auditor and a representative of the  
2           firm conducting the audit shall present the audit report and any actions taken in  
3           response to the recommendations to the legislative council. The state auditor shall  
4           provide a copy of the performance audit report to each entity that was audited  
5           during the period covered by the performance audit. The state auditor shall report  
6           quarterly to the legislative council on the implementation status of the  
7           recommendations contained in each audit. The firm conducting the audit shall  
8           provide followup reports to the legislative council regarding the implementation  
9           status of the recommendations upon request of the legislative council.

10          2. Notwithstanding any other provision of law, the state auditor shall provide to the  
11          firm conducting the performance audit any information possessed by the state  
12          auditor relating to the performance audit, except active and investigatory work  
13          product of the attorney general as defined in section 44-04-19.1.

14          3. The state auditor or an employee of the state auditor who refuses or neglects to  
15          provide information requested by the firm conducting the performance audit,  
16          obstructs or misleads the firm in the execution of the audit, or hinders the process  
17          of the audit is guilty of a class C felony.

18          **SECTION 2.** A new section to chapter 54-10 of the North Dakota Century Code is  
19 created and enacted as follows:

20          **State auditor - Ethical requirements - Penalty.**

21          1. Before the commencement of any audit, evaluation, or review conducted by the  
22          state auditor, the state auditor shall disclose to the executive officer or head of the  
23          entity being audited, evaluated, or reviewed, the existence of any relationship  
24          between the family or household member of an employee or contractor of the state  
25          auditor and any officer or employee of the entity subject to the audit, evaluation, or  
26          review. As used in this subsection, "family or household member" means a  
27          spouse, family member, former spouse, parent, child, individuals related by blood  
28          or marriage, individuals who are in a dating relationship, individuals who are  
29          presently residing together or who have resided together in the past, and  
30          individuals who have a child together regardless of whether they are or have been

- 1           married or have lived together at any time. A violation of this subsection is a  
2           class A misdemeanor.
- 3           2. The state auditor or an employee of the state auditor may not knowingly mislead,  
4           manipulate, or provide false information in the execution of the duties of the office.  
5           A violation of this subsection is a class C felony.
- 6           3. To ensure objectivity and fairness in the conduct an the audit, evaluation, or review  
7           conducted or provided by the state auditor, the state auditor or an employee or  
8           contractor of the state auditor may not issue a public comment regarding the audit,  
9           evaluation, or review until the final report of the audit, evaluation, or review has  
10          been issued. A violation of this subsection is a class A misdemeanor.