

SENATE BILL NO. 2004

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state auditor; to
2 amend and reenact sections 54-10-10 and 54-12-08 of the North Dakota Century Code, relating
3 to the salary of the state auditor and assistant and special assistant attorneys general; and to
4 declare an emergency.

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

6 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
7 as may be necessary, are appropriated out of any moneys in the general fund in the state
8 treasury, not otherwise appropriated, and from special funds derived from federal funds and
9 other income, to the state auditor for the purpose of defraying the expenses of the state auditor,
10 for the biennium beginning July 1, 2023, and ending June 30, 2025, as follows:

	<u>Governor's</u>		
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
Salaries and wages	\$13,123,559	\$16,418,567	\$13,123,559
Operating expenses	1,371,703	1,894,071	1,371,703
Capital assets	0	70,550	0
Information technology consultants	450,000	450,000	450,000
Total all funds	\$14,945,262	\$18,833,188	\$14,945,262
Less estimated income	5,826,152	8,266,687	5,826,152
Total general fund	\$9,119,110	\$10,566,501	\$9,119,110
Full-time equivalent positions	61.00	68.00	61.00
	<u>Adjustments or</u>		
	<u>Base Level</u>	<u>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

1	Capital assets	0	70,550	70,550
2	Information technology consultants	450,000	0	450,000
3	Total all funds	\$14,945,262	\$4,152,556	\$19,097,818
4	Less estimated income	5,826,152	2,335,579	8,161,731
5	Total general fund	\$9,119,110	\$1,816,977	\$10,936,087
6	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>
12	Local government audit office furniture	\$0	\$21,000
13	Inflationary increases for travel and professional development	0	81,000
14	Audit software setup and migration	0	45,550
15	Capital equipment replacement	0	25,000
16	Total all funds	\$0	\$172,550
17	Less estimated income	0	37,000
18	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 state auditor operating account 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:

1 **54-10-10. Salary of state auditor.**

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

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

7 **54-12-08. Assistant and special assistant attorneys general - Appointment -**
8 **Revocation - Compensation.**

9 1. After consultation with the head of the state department or institution or with the state
10 board, commission, committee, or agency affected, the attorney general may appoint
11 assistant or special assistant attorneys general to represent the state board,
12 commission, committee, or agency. A state officer, head of any state department,
13 whether elected or appointed, or state department, board, commission, committee, or
14 agency may not employ legal counsel, and no person may act as legal counsel in any
15 matter, action, or proceeding in which the state or any state department, board,
16 commission, committee, or agency is interested or is a party, except upon written
17 appointment by the attorney general. Workforce safety and insurance, the department
18 of transportation, the state tax commissioner, the public service commission, the
19 insurance commissioner, the agriculture commissioner, ~~and~~ the securities
20 commissioner, and the state auditor may employ attorneys to represent them. These
21 entities shall pay the salaries and expenses of the attorneys they employ within the
22 limits of legislative appropriations. The attorneys that represent these entities must be
23 special assistant attorneys general appointed by the attorney general pursuant to this
24 section. Absent good cause, the attorney general shall appoint as special assistant
25 attorneys general licensed attorneys selected by these entities. The attorney general
26 may revoke the appointment only for good cause or upon the request of the entity.
27 Good cause means an inadequate level of experience, competence, or ethical
28 standards.

29 2. The powers conferred upon special assistant attorneys general are the same as are
30 exercised by the regular assistant attorneys general, unless the powers are limited
31 specifically by the terms of the appointment. Except as otherwise provided by this

1 section, an appointment is revocable at the pleasure of the attorney general. The
2 appointment may be made with or without compensation, and when compensation is
3 allowed by the attorney general for services performed, the compensation must be
4 paid out of the funds appropriated therefor.

- 5 3. The attorney general may require payment for legal services rendered by any
6 assistant or special assistant attorney general to any state official, board, department,
7 agency, or commission and those entities shall make the required payment to the
8 attorney general. Moneys received by the attorney general in payment for legal
9 services rendered must be deposited into the attorney general's operating fund.
10 General fund moneys may not be utilized for the payment of legal services provided by
11 the attorneys employed by the attorney general, except for those payments required of
12 the department of health and human services, department of environmental quality,
13 and the state hospital.
- 14 4. An assistant or special assistant attorney general appointed to represent the state
15 board of higher education or an institution under the control of the state board of
16 higher education may access and examine any record under the control of the state
17 board of higher education. For purposes of reviewing records under the Family
18 Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal
19 privacy law, the assistant or special assistant attorney general is considered a state
20 educational official authorized to access student records.

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