

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>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
13 Salaries and wages	\$13,123,559	\$3,559,638	\$16,683,197
14 <u>Salaries and wages</u>	<u>\$13,123,559</u>	<u>\$3,294,346</u>	<u>\$16,417,905</u>
15 Operating expenses	1,371,703	522,368	1,894,071
16 Capital assets	0	70,550	70,550
17 Information technology consultants	<u>450,000</u>	<u>0</u>	<u>450,000</u>
18 Total all funds	\$14,945,262	\$4,152,556	\$19,097,818
19 <u>Total all funds</u>	<u>\$14,945,262</u>	<u>\$3,887,264</u>	<u>\$18,832,526</u>
20 Less estimated income	<u>5,826,152</u>	<u>2,335,579</u>	<u>8,161,731</u>
21 Total general fund	\$9,119,110	\$1,816,977	\$10,936,087
22 <u>Total general fund</u>	<u>\$9,119,110</u>	<u>\$1,551,685</u>	<u>\$10,670,795</u>
23 Full-time equivalent positions	61.00	9.00	70.00
24 <u>Full-time equivalent positions</u>	<u>61.00</u>	<u>8.00</u>	<u>69.00</u>

1 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

2 **SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
3 items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the
4 2023-25 biennium one-time funding items included in the appropriation in section 1 of this Act:

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

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

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

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

25 **54-10-10. Salary of state auditor.**

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

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

~~1 — **54-12-08. Assistant and special assistant attorneys general – Appointment –**
2 **Revocation – Compensation.**~~

~~3 — 1. — After consultation with the head of the state department or institution or with the state
4 board, commission, committee, or agency affected, the attorney general may appoint
5 assistant or special assistant attorneys general to represent the state board,
6 commission, committee, or agency. A state officer, head of any state department,
7 whether elected or appointed, or state department, board, commission, committee, or
8 agency may not employ legal counsel, and no person may act as legal counsel in any
9 matter, action, or proceeding in which the state or any state department, board,
10 commission, committee, or agency is interested or is a party, except upon written
11 appointment by the attorney general. Workforce safety and insurance, the department
12 of transportation, the state tax commissioner, the public service commission, the
13 insurance commissioner, the agriculture commissioner, and the securities
14 commissioner, and the state auditor may employ attorneys to represent them. These
15 entities shall pay the salaries and expenses of the attorneys they employ within the
16 limits of legislative appropriations. The attorneys that represent these entities must be
17 special assistant attorneys general appointed by the attorney general pursuant to this
18 section. Absent good cause, the attorney general shall appoint as special assistant
19 attorneys general licensed attorneys selected by these entities. The attorney general
20 may revoke the appointment only for good cause or upon the request of the entity.
21 Good cause means an inadequate level of experience, competence, or ethical
22 standards.~~

~~23 — 2. — The powers conferred upon special assistant attorneys general are the same as are
24 exercised by the regular assistant attorneys general, unless the powers are limited
25 specifically by the terms of the appointment. Except as otherwise provided by this
26 section, an appointment is revocable at the pleasure of the attorney general. The
27 appointment may be made with or without compensation, and when compensation is
28 allowed by the attorney general for services performed, the compensation must be
29 paid out of the funds appropriated therefor.~~

~~30 — 3. — The attorney general may require payment for legal services rendered by any
31 assistant or special assistant attorney general to any state official, board, department,~~

1 ~~agency, or commission and those entities shall make the required payment to the~~
2 ~~attorney general. Moneys received by the attorney general in payment for legal~~
3 ~~services rendered must be deposited into the attorney general's operating fund.~~
4 ~~General fund moneys may not be utilized for the payment of legal services provided by~~
5 ~~the attorneys employed by the attorney general, except for those payments required of~~
6 ~~the department of health and human services, department of environmental quality,~~
7 ~~and the state hospital.~~

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

15 **SECTION 5. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure.