

SECOND ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

REENGROSSED 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 create and enact section 54-10-31 and a new section to chapter 54-10 of the North Dakota
 3 Century Code, relating to audits of the department of financial institutions and an audit report
 4 review period; to amend and reenact sections 11-13-02, 54-10-01, and 54-10-10 of the North
 5 Dakota Century Code, relating to the duties of the county auditor, the powers and duties of the
 6 state auditor, and the salary of the state auditor; ~~and to declare an emergency~~ to provide for a
 7 legislative management study; and to provide for a legislative management report.

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

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

	Base Level	Adjustments or Enhancements	Appropriation
16 Salaries and wages	\$13,123,559	\$3,294,346	\$16,417,905
17 Operating expenses	1,371,703	522,368	1,894,071
18 Capital assets	0	70,550	70,550
19 Information technology consultants	450,000	0	450,000
20 Total all funds	\$14,945,262	\$3,887,264	\$18,832,526
21 Less estimated income	5,826,152	2,335,579	8,161,731
22 Total general fund	\$9,119,110	\$1,551,685	\$10,670,795
23 Full-time equivalent positions	61.00	8.00	69.00
24 <u>Salaries and wages</u>	<u>\$13,123,559</u>	<u>\$663,322</u>	<u>\$13,786,881</u>

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

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>
13	Local government audit office furniture	\$0	\$21,000
14	Inflationary increases for travel and professional development	0	81,000
15	Audit software setup and migration	0	45,550
16	Capital equipment replacement	0	25,000
17	Total all funds	\$0	\$172,550
18	Less estimated income	0	37,000
19	Total general fund	\$0	\$135,550
20	<u>Local government audit office furniture</u>	<u>\$0</u>	<u>\$9,000</u>
21	<u>Inflationary increases for travel and professional development</u>	<u>0</u>	<u>40,500</u>
22	<u>Audit software setup and migration</u>	<u>0</u>	<u>45,550</u>
23	<u>Capital equipment replacement</u>	<u>0</u>	<u>25,000</u>
24	<u>Total all funds</u>	<u>\$0</u>	<u>\$120,050</u>
25	<u>Less estimated income</u>	<u>0</u>	<u>18,500</u>
26	<u>Total general fund</u>	<u>\$0</u>	<u>\$101,550</u>

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 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.

- 1 10. On or before August first of each odd-numbered year, report to the insurance
2 commissioner the sound depreciated value of each county building or risk, and the
3 contents therein.
- 4 11. On going out of office, deliver to the successor in office all moneys, books, records,
5 documents, maps, papers, vouchers, and other property in the auditor's hands
6 belonging to the county, and in case of the death of the auditor, the auditor's personal
7 representatives shall deliver the same to the auditor's successor.
- 8 12. Notify political subdivisions within the county on an annual basis that the state auditor
9 may require political subdivisions to provide annual reports in lieu of an audit pursuant
10 to section 54-10-14.
- 11 13. Do and perform all acts not enumerated in this section which the auditor is required to
12 do by law.

13 **SECTION 4. AMENDMENT.** Section 54-10-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **54-10-01. Powers and duties of state auditor - Report.**

- 16 1. The state auditor shall:
 - 17 a. Be vested with the duties, powers, and responsibilities involved in performing the
18 postaudit of all financial transactions of state government, detecting and reporting
19 any defaults, and determining that expenditures have been made in accordance
20 with law and appropriation acts.
 - 21 b. Perform or provide for the audit of the general purpose financial statements and a
22 review of the material included in the comprehensive annual financial report of
23 the state in accordance with government auditing standards.
 - 24 c. ~~Perform~~ Except for the audit of the department of financial institutions as outlined
25 in section 54-10-31, perform or provide for audits of state agencies in accordance
26 with government auditing standards and legislative audit and fiscal review
27 committee guidelines developed under section 54-35-02.10. Except for the
28 annual audit of the North Dakota lottery required by section 53-12.1-03, the state
29 auditor shall audit each state agency once every two years. Audits may be
30 conducted at more frequent intervals if requested by the governor or the
31 legislative audit and fiscal review committee. The state auditor shall charge an

1 amount equal to the cost of the audit and other services rendered by the state
2 auditor to all agencies that receive and expend moneys from other than the
3 general fund. This charge may be reduced for an agency that receives and
4 expends both general fund and nongeneral fund moneys. State agencies shall
5 use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund
6 moneys are not available, the agency may, upon approval of the legislative
7 assembly, or the budget section if the legislative assembly is not in session, use
8 general fund moneys to pay for the audit. Any budget section action under this
9 subdivision must comply with section 54-35-02.9.

- 10 d. ~~Perform~~Except for the audit of the department of financial institutions as outlined
11 in section 54-10-31, perform or provide for performance audits of state agencies,
12 or the agencies' blended component units or discreetly presented component
13 units, as determined necessary by the legislative assembly, or the legislative
14 audit and fiscal review committee if the legislative assembly is not in session.
15 When determining the necessity of a performance audit, the legislative audit and
16 fiscal review committee shall consider:
- 17 (1) The potential cost-savings or efficiencies that may be gained as a result of
18 the performance audit;
 - 19 (2) The staff resources of the state auditor's office and of the state agency
20 being audited which will be required to conduct the audit;
 - 21 (3) The potential for discovery of noncompliance with state law or legislative
22 intent regarding the program or agency; and
 - 23 (4) The potential for the performance audit to identify opportunities for program
24 improvements.
- 25 e. Report on the functions of the state auditor's office to the governor and the
26 secretary of state in accordance with section 54-06-04 or more often as
27 circumstances may require.
- 28 f. Perform work on mineral royalties for the federal government in accordance with
29 section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
- 30 g. Provide quarterly reports to the legislative audit and fiscal review committee of all
31 audits performed and fees charged.

- 1 h. Perform all other duties as prescribed by law.
- 2 2. The state auditor may:
- 3 a. Conduct any work required by the federal government.
- 4 b. Within the resources available to the state auditor, perform or provide for
- 5 performance audits of state agencies as determined necessary by the state
- 6 auditor.
- 7 c. Audit the International Peace Garden at the request of the board of directors of
- 8 the International Peace Garden.
- 9 d. Contract with a private certified public accountant or other qualified professional
- 10 to conduct or assist with an audit, review, or other work the state auditor is
- 11 authorized to perform or provide for under this section. Before entering any
- 12 contract, the state auditor shall present information to the legislative audit and
- 13 fiscal review committee on the need for the contract and its estimated cost and
- 14 duration. Except for performance audits conducted under subdivision d of
- 15 subsection 1 or subdivision b of this subsection and except for audits of
- 16 occupational or professional boards, the state auditor shall execute the contract
- 17 and any executive branch agency, including higher education institutions, shall
- 18 pay the fees of the contractor. For performance audits conducted under
- 19 subdivision d of subsection 1 or subdivision b of this subsection, the state auditor
- 20 may charge a state agency for the cost of a contract relating to an audit, subject
- 21 to approval by the legislative assembly or the legislative audit and fiscal review
- 22 committee if the legislative assembly is not in session. When considering a
- 23 request, the legislative audit and fiscal review committee shall consider the effect
- 24 of the audit cost on the agency being audited, the necessity of the contract, and
- 25 the potential benefit to the state resulting from the contract. The state auditor
- 26 shall notify the affected agency of the potential cost before requesting approval
- 27 from the legislative assembly or the legislative audit and fiscal review committee.
- 28 3. Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the
- 29 state auditor may not charge audit fees to an institution of higher education, agency, or
- 30 office under the control of the state board of higher education, including passthrough
- 31 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.

SECTION 5. 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 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.

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