

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2004

That the House recede from its amendments as printed on pages 1726-1732 of the Senate Journal and pages 2011-2017 of the House Journal and that Reengrossed Senate Bill No. 2004 be amended as follows:

Page 1, line 1, after the semicolon insert "to create and enact section 54-10-31 of the North Dakota Century Code, relating to audits of the department of financial institutions;"

Page 1, line 2, after "sections" insert "54-10-01 and"

Page 1, line 2, after "to" insert "the powers and duties of the state auditor and"

Page 1, line 3, after the semicolon insert "to provide for a legislative management study; to provide for a legislative management report;"

Page 1, replace lines 12 through 19 with:

"Salaries and wages	\$13,123,559	\$945,944	\$14,069,503
Operating expenses	1,371,703	416,068	1,787,771
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	\$1,432,562	\$16,377,824
Less estimated income	<u>5,826,152</u>	<u>518,000</u>	<u>6,344,152</u>
Total general fund	\$9,119,110	\$914,562	\$10,033,672
Full-time equivalent positions	61.00	4.00	65.00"

Page 2, replace lines 2 through 8 with:

"Local government audit office furniture	\$0	\$9,000
Inflationary increases for travel and professional development	0	59,000
Audit software setup and migration	0	45,550
Capital equipment replacement	<u>0</u>	<u>25,000</u>
Total all funds	\$0	\$138,550
Less estimated income	<u>0</u>	<u>37,000</u>
Total general fund	\$0	\$101,550"

Page 2, line 14, replace "state auditor operating account" with "general fund"

Page 2, line 15, replace "\$24,358" with "\$11,000"

Page 2, line 16, remove "providing refunds to local governments whose audit fees"

Page 2, line 17, replace "exceeded one percent of their revenues" with "refunding audit fees to a certain political subdivision"

Page 2, line 18, after the period insert "To be eligible for a refund, the political subdivision must have been required to submit an audit report to the state auditor because the entity's revenue exceeded the audit threshold for a single year, pursuant to section 54-10-14 prior to the enactment of Senate Bill No. 2180, as approved by the sixty-eighth legislative assembly, due to one-time funding and contracted with the state auditor for an audit.

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

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

1. The state auditor shall:
  - a. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
  - b. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state in accordance with government auditing standards.
  - c. ~~Perform~~Except for the audit of the department of financial institutions as outlined in section 54-10-31, perform or provide for audits of state agencies in accordance with government auditing standards and legislative audit and fiscal review committee guidelines developed under section 54-35-02.10. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit each state agency once every two years. Audits may be conducted at more frequent intervals if requested by the governor or the legislative audit and fiscal review committee. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for an agency that receives and expends both general fund and nongeneral fund moneys. State agencies shall use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not available, the agency may, upon approval of the legislative assembly, or the budget section if the legislative assembly is not in session, use general fund moneys to pay for the audit. Any budget section action under this subdivision must comply with section 54-35-02.9.
  - d. ~~Perform~~Except for the audit of the department of financial institutions as outlined in section 54-10-31, perform or provide for performance audits of state agencies, or the agencies' blended component units or discreetly presented component units, as determined necessary by the legislative assembly, or the legislative audit and fiscal review committee if the legislative assembly is not in session. When determining the necessity of a performance audit, the legislative audit and fiscal review committee shall consider:
    - (1) The potential cost-savings or efficiencies that may be gained as a result of the performance audit;
    - (2) The staff resources of the state auditor's office and of the state agency being audited which will be required to conduct the audit;

- (3) The potential for discovery of noncompliance with state law or legislative intent regarding the program or agency; and
    - (4) The potential for the performance audit to identify opportunities for program improvements.
  - e. Report on the functions of the state auditor's office to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
  - f. Perform work on mineral royalties for the federal government in accordance with section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
  - g. Report to the legislative audit and fiscal review committee regarding final report distribution policies and practices and any final audit reports released to the public prior to distribution of the final audit report to all individuals charged with the governance of the audit client.
  - h. Perform all other duties as prescribed by law.
2. The state auditor may:
- a. Conduct any work required by the federal government.
  - b. Within the resources available to the state auditor, perform or provide for performance audits of state agencies as determined necessary by the state auditor.
  - c. Audit the International Peace Garden at the request of the board of directors of the International Peace Garden.
  - d. Contract with a private certified public accountant or other qualified professional to conduct or assist with an audit, review, or other work the state auditor is authorized to perform or provide for under this section. Before entering any contract, the state auditor shall present information to the legislative audit and fiscal review committee on the need for the contract and its estimated cost and duration. Except for performance audits conducted under subdivision d of subsection 1 or subdivision b of this subsection and except for audits of occupational or professional boards, the state auditor shall execute the contract and any executive branch agency, including higher education institutions, shall pay the fees of the contractor. For performance audits conducted under subdivision d of subsection 1 or subdivision b of this subsection, the state auditor may charge a state agency for the cost of a contract relating to an audit, subject to approval by the legislative assembly or the legislative audit and fiscal review committee if the legislative assembly is not in session. When considering a request, the legislative audit and fiscal review committee shall consider the effect of the audit cost on the agency being audited, the necessity of the contract, and the potential benefit to the state resulting from the contract. The state auditor shall notify the affected agency of the potential cost before requesting approval from the legislative assembly or the legislative audit and fiscal review committee.

3. Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the state auditor may not charge audit fees to an institution of higher education, agency, or office under the control of the state board of higher education, including passthrough 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."

Page 2, after line 24, insert:

"**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. 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."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2004 - State Auditor - Conference Committee Action**

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$13,123,559	\$16,417,905	(\$2,348,402)	\$14,069,503	\$13,786,881	\$282,622
Operating expenses	1,371,703	1,894,071	(106,300)	1,787,771	1,769,271	18,500
Capital assets		70,550		70,550	70,550	
Information technology consultants	450,000	450,000		450,000	450,000	
<b>Total all funds</b>	<b>\$14,945,262</b>	<b>\$18,832,526</b>	<b>(\$2,454,702)</b>	<b>\$16,377,824</b>	<b>\$16,076,702</b>	<b>\$301,122</b>
Less estimated income	5,826,152	8,161,731	(1,817,579)	6,344,152	6,225,652	118,500
<b>General fund</b>	<b>\$9,119,110</b>	<b>\$10,670,795</b>	<b>(\$637,123)</b>	<b>\$10,033,672</b>	<b>\$9,851,050</b>	<b>\$182,622</b>
FTE	61.00	69.00	(4.00)	65.00	64.00	1.00

**Department 117 - State Auditor - Detail of Conference Committee Changes**

	Adds Funding for Salary and Benefit Increases <sup>1</sup>	Removes Salary Funding for Funding Pool <sup>2</sup>	Removes Local Government Division Audit Positions <sup>3</sup>	Decreases Funding for Temporary Salaries <sup>4</sup>	Decreases One-Time Funding for Local Government Auditors <sup>5</sup>	Decreases One-Time Funding for Operating Expense Inflation <sup>6</sup>
Salaries and wages	\$197,711	(\$1,610,418)	(\$735,695)	(\$200,000)		
Operating expenses			(72,300)		(\$12,000)	(\$22,000)
Capital assets						
Information technology consultants						
<b>Total all funds</b>	<b>\$197,711</b>	<b>(\$1,610,418)</b>	<b>(\$807,995)</b>	<b>(\$200,000)</b>	<b>(\$12,000)</b>	<b>(\$22,000)</b>
Less estimated income	56,585	(1,016,169)	(807,995)	(50,000)	0	0
<b>General fund</b>	<b>\$141,126</b>	<b>(\$594,249)</b>	<b>\$0</b>	<b>(\$150,000)</b>	<b>(\$12,000)</b>	<b>(\$22,000)</b>
FTE	0.00	0.00	(4.00)	0.00	0.00	0.00

	<b>Total Conference Committee Changes</b>
Salaries and wages	(\$2,348,402)
Operating expenses	(106,300)
Capital assets	
Information technology consultants	
<b>Total all funds</b>	<b>(\$2,454,702)</b>
Less estimated income	(1,817,579)
<b>General fund</b>	<b>(\$637,123)</b>
FTE	(4.00)

<sup>1</sup> Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
Salary increase	\$145,198	\$58,478	\$203,676
Health insurance adjustment	(4,072)	(1,893)	(5,965)
<b>Total</b>	<b>\$141,126</b>	<b>\$56,585</b>	<b>\$197,711</b>

The Senate provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

<sup>2</sup> Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below, the same as the House. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
New FTE positions	(\$218,672)	(\$739,760)	(\$958,432)
Vacant FTE positions	(375,577)	(276,409)	(651,986)
<b>Total</b>	<b>(\$594,249)</b>	<b>(\$1,016,169)</b>	<b>(\$1,610,418)</b>

<sup>3</sup> Funding from special funds in the agency's operating fund is removed for 4 FTE local government audit positions and related ongoing funding for operating expenses is reduced as follows:

- 1 FTE local government auditor II position (\$207,740);
- 3 FTE local government auditor I positions (\$527,955); and
- Ongoing operating expenses of \$72,300 related to additional local government auditors.

The Conference Committee provided 3 new FTE positions in the Local Government Audit Division, including 1 FTE local government audit manager position, 1 FTE local government auditor II position, and 1 FTE local government auditor I position.

The Senate provided 7 new FTE positions in the Local Government Audit Division, including 1 FTE local government audit manager position, 2 FTE local government auditor II positions, and 4 FTE local government auditor I positions.

The House provided 3 new FTE positions in the Local Government Audit Division, including 1 FTE local government auditor II position, and 2 FTE local government auditor I positions.

<sup>4</sup> Funding for temporary salaries for internships is reduced to provide a total of \$300,000, of which \$100,000 is from the general fund and \$200,000 is from special funds in the agency's operating fund. The Senate provided a total of \$500,000, of which \$250,000 is from the general fund and \$250,000 is from special funds in the agency's operating fund. The House reduced the funding to provide a total of \$200,000, of which \$100,000 is from the general fund and \$100,000 is from special funds in the agency's operating fund.

<sup>5</sup> One-time funding for operating expenses related to local government auditor positions is reduced to provide a total of \$9,000, the same as the House version. The Senate provided a total of \$21,000 for 7 new FTE positions.

<sup>6</sup> One-time funding is reduced for operating expenses related to travel and professional development inflationary increases, to provide a total of \$59,000, of which \$22,000 is from the general fund. The Senate provided a total of \$81,000, of which \$44,000 is from the general fund. The House provided a total of \$40,500, of which \$22,000 is from the general fund.

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In addition, this amendment:

- Retains a section added by the Senate but removed by the House to provide a deficiency appropriation for a refund of local government audit fees; however, the funding source is changed to the general fund and the amount is reduced;
- Adds a section to amend the powers and duties of the State Auditor to allow the Department of Financial Institutions to contract with a certified public accountant for an audit, require the State Auditor to provide reports to the Legislative Audit and Fiscal Review Committee, and exempt the institutions under the control of the State Board of Higher Education from certain audit fees, the same as the House version;
- Adds a section to require the State Banking Board provide for an audit of the Department of Financial Institutions once every 2 years, the same as the House version;
- Adds a section to provide for a Legislative Management study of local government audit services, the same as the House version; and
- Retains the emergency clause related to the refund of local government audit fees included in the Senate version but which the House removed.

The Conference Committee did not include:

- A section to require county auditors to notify political subdivisions annually that the State Auditor may require political subdivisions to provide annual reports in lieu of an audit, included in the House version; or
- A section to require the State Auditor to provide a preliminary audit report to audit clients at least 30 days prior to publishing the report, included by the House. However, a report to the Legislative Audit and Fiscal Review Committee, regarding instances where the State Auditor did not provide a final audit report to the client prior to public release, was added to North Dakota Century Code Section 54-10-01, related to the powers and duties of the State Auditor.