

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED 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>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
11			
12			
13	Salaries and wages	\$13,123,559	\$3,559,638
14	Operating expenses	1,371,703	522,368
15	Capital assets	0	70,550
16	Information technology consultants	<u>450,000</u>	<u>0</u>
17	Total all funds	\$14,945,262	\$4,152,556
18	Less estimated income	<u>5,826,152</u>	<u>2,335,579</u>
19	Total general fund	\$9,119,110	\$1,816,977
20	Full-time equivalent positions	61.00	9.00
			70.00

21 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
22 **SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
23 items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the
24 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>
1			
2	Local government audit office furniture	\$0	\$21,000
3	Inflationary increases for travel and professional development	0	81,000
4	Audit software setup and migration	0	45,550
5	Capital equipment replacement	<u>0</u>	<u>25,000</u>
6	Total all funds	\$0	\$172,550
7	Less estimated income	<u>0</u>	<u>37,000</u>
8	Total general fund	\$0	\$135,550

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

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

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

21 **54-10-10. Salary of state auditor.**

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

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

27 **54-12-08. Assistant and special assistant attorneys general - Appointment -**
28 **Revocation - Compensation.**

29 1. After consultation with the head of the state department or institution or with the state
30 board, commission, committee, or agency affected, the attorney general may appoint
31 assistant or special assistant attorneys general to represent the state board,

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

- 18 2. The powers conferred upon special assistant attorneys general are the same as are
19 exercised by the regular assistant attorneys general, unless the powers are limited
20 specifically by the terms of the appointment. Except as otherwise provided by this
21 section, an appointment is revocable at the pleasure of the attorney general. The
22 appointment may be made with or without compensation, and when compensation is
23 allowed by the attorney general for services performed, the compensation must be
24 paid out of the funds appropriated therefor.
- 25 3. The attorney general may require payment for legal services rendered by any
26 assistant or special assistant attorney general to any state official, board, department,
27 agency, or commission and those entities shall make the required payment to the
28 attorney general. Moneys received by the attorney general in payment for legal
29 services rendered must be deposited into the attorney general's operating fund.
30 General fund moneys may not be utilized for the payment of legal services provided by
31 the attorneys employed by the attorney general, except for those payments required of

1 the department of health and human services, department of environmental quality,
2 and the state hospital.

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

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