

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 of the North Dakota Century Code, relating to audits of the
 3 department of financial institutions; to amend and reenact sections 54-10-01 and 54-10-10 of
 4 the North Dakota Century Code, relating to the powers and duties of the state auditor and the
 5 salary of the state auditor; to provide for a legislative management study; to provide for a
 6 legislative management report; and to declare an emergency.

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

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 9 as may be necessary, are appropriated out of any moneys in the general fund in the state
 10 treasury, not otherwise appropriated, and from special funds derived from federal funds and
 11 other income, to the state auditor for the purpose of defraying the expenses of the state auditor,
 12 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>
15 Salaries and wages	\$13,123,559	\$3,294,346	\$16,417,905
16 Operating expenses	1,371,703	522,368	1,894,071
17 Capital assets	0	70,550	70,550
18 Information technology consultants	450,000	0	450,000
19 Total all funds	\$14,945,262	\$3,887,264	\$18,832,526
20 Less estimated income	5,826,152	2,335,579	8,161,731
21 Total general fund	\$9,119,110	\$1,551,685	\$10,670,795
22 Full-time equivalent positions	61.00	8.00	69.00
23 <u>Salaries and wages</u>	<u>\$13,123,559</u>	<u>\$945,944</u>	<u>\$14,069,503</u>
24 <u>Operating expenses</u>	<u>1,371,703</u>	<u>416,068</u>	<u>1,787,771</u>

1	Capital assets	0	70,550	70,550
2	Information technology consultants	450,000	0	450,000
3	Total all funds	\$14,945,262	\$1,432,562	\$16,377,824
4	Less estimated income	5,826,152	518,000	6,344,152
5	Total general fund	\$9,119,110	\$914,562	\$10,033,672
6	Full-time equivalent positions	61.00	4.00	65.00

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:

11	<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
19	Local government audit office furniture	\$0	\$9,000
20	Inflationary increases for travel and professional development	0	59,000
21	Audit software setup and migration	0	45,550
22	Capital equipment replacement	0	25,000
23	Total all funds	\$0	\$138,550
24	Less estimated income	0	37,000
25	Total general fund	\$0	\$101,550

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~~ general fund in the

1 state treasury, not otherwise appropriated, the sum of ~~\$24,358~~\$11,000, or so much of the sum
2 as may be necessary, to the state auditor for the purpose of ~~providing refunds to local~~
3 ~~governments whose audit fees exceeded one percent of their revenues~~refunding audit fees to a
4 certain political subdivision, for the period beginning with the effective date of this section, and
5 ending June 30, 2023. To be eligible for a refund, the political subdivision must have been
6 required to submit an audit report to the state auditor because the entity's revenue exceeded
7 the audit threshold for a single year, pursuant to section 54-10-14 prior to the enactment of
8 Senate Bill No. 2180, as approved by the sixty-eighth legislative assembly, due to one-time
9 funding and contracted with the state auditor for an audit.

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

12 **54-10-01. Powers and duties of state auditor - Report.**

13 1. The state auditor shall:

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

1 expends both general fund and nongeneral fund moneys. State agencies shall
2 use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund
3 moneys are not available, the agency may, upon approval of the legislative
4 assembly, or the budget section if the legislative assembly is not in session, use
5 general fund moneys to pay for the audit. Any budget section action under this
6 subdivision must comply with section 54-35-02.9.

7 d. ~~Perform~~ Except for the audit of the department of financial institutions as outlined
8 in section 54-10-31, perform or provide for performance audits of state agencies,
9 or the agencies' blended component units or discreetly presented component
10 units, as determined necessary by the legislative assembly, or the legislative
11 audit and fiscal review committee if the legislative assembly is not in session.
12 When determining the necessity of a performance audit, the legislative audit and
13 fiscal review committee shall consider:

- 14 (1) The potential cost-savings or efficiencies that may be gained as a result of
15 the performance audit;
- 16 (2) The staff resources of the state auditor's office and of the state agency
17 being audited which will be required to conduct the audit;
- 18 (3) The potential for discovery of noncompliance with state law or legislative
19 intent regarding the program or agency; and
- 20 (4) The potential for the performance audit to identify opportunities for program
21 improvements.

22 e. Report on the functions of the state auditor's office to the governor and the
23 secretary of state in accordance with section 54-06-04 or more often as
24 circumstances may require.

25 f. Perform work on mineral royalties for the federal government in accordance with
26 section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].

27 g. Report to the legislative audit and fiscal review committee regarding final report
28 distribution policies and practices and any final audit reports released to the
29 public prior to distribution of the final audit report to all individuals charged with
30 the governance of the audit client.

31 h. Perform all other duties as prescribed by law.

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

27 3. Notwithstanding subdivision c of subsection 1 and subdivision d of subsection 2, the

28 state auditor may not charge audit fees to an institution of higher education, agency, or

29 office under the control of the state board of higher education, including passthrough

30 grants, except for a proportional share of audit fees on federal programs or grants to

31 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~~ 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. 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 8. EMERGENCY. Section 3 of this Act is declared to be an emergency measure.