

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2180

Introduced by

Senators Klein, Magrum, Myrdal

Representatives Monson, Vigesaa, Weisz

1 A BILL for an Act to amend and reenact subsection 1 of section 54-10-01, sections 54-10-14,
2 54-10-15, and 54-10-27 of the North Dakota Century Code, relating to the annual
3 comprehensive financial report, audits of state agencies, reports, financial audits, and petitions;
4 and to provide for retroactive application.

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

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 54-10-01 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 1. The state auditor shall:

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

1 be reduced for an agency that receives and expends both general fund and
2 nongeneral fund moneys. State agencies shall use nongeneral fund moneys to
3 pay for the cost of the audit. If nongeneral fund moneys are not available, the
4 agency may, upon approval of the legislative assembly, or the budget section if
5 the legislative assembly is not in session, use general fund moneys to pay for the
6 audit. Any budget section action under this subdivision must comply with section
7 54-35-02.9.

8 d. Perform or provide for performance audits of state agencies, or the agencies'
9 blended component units or discreetly presented component units, as
10 determined necessary by the legislative assembly, or the legislative audit and
11 fiscal review committee if the legislative assembly is not in session. When
12 determining the necessity of a performance audit, the legislative audit and fiscal
13 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. Perform all other duties as prescribed by law.

28 **SECTION 2. AMENDMENT.** Section 54-10-14 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports.**

2 1. The state auditor shall audit the following political subdivisions once every two years,
3 except as provided in this section or otherwise by law:

4 a. Counties.

5 b. Cities, and when a city is audited, to include any political subdivision that was
6 created by the city and has bonding authority.

7 c. Park districts.

8 d. School districts.

9 e. Firefighters relief associations.

10 f. Airport authorities.

11 g. Public libraries.

12 h. Water resource districts.

13 i. Garrison Diversion Conservancy District.

14 j. Rural fire protection districts.

15 k. Special education districts.

16 l. Area career and technology centers.

17 m. Correction centers.

18 n. Recreation service districts.

19 o. Weed boards.

20 p. Irrigation districts.

21 q. Rural ambulance service districts.

22 r. Southwest water authority.

23 s. Regional planning councils.

24 t. Soil conservation districts.

25 u. Western area water supply authority industrial water sales on an annual basis.

26 2. The state auditor shall charge the political subdivision an amount equal to the fair
27 value of the audit and any other services rendered. The fees must be deposited in the
28 state auditor operating account. The state treasurer shall credit the state auditor
29 operating account with the amount of interest earnings attributable to the deposits in
30 that account. Expenses relating to political subdivision audits must be paid from the
31 state auditor operating account, within the limits of legislative appropriation.

- 1 3. In lieu of conducting an audit every two years, the state auditor may require annual
2 reports from political subdivisions subject to this section, or otherwise provided by law,
3 for any report delinquent as of June 30, 2023, or from political subdivisions with less
4 than ~~seven hundred fifty thousand~~ two million dollars of annual receipts, excluding any
5 federal funds passed through the political subdivision to another entity. If any federal
6 agency performs or requires an audit of a political subdivision that receives federal
7 funds to pass through to another entity, the political subdivision shall provide a copy to
8 the state auditor upon request by the state auditor. The reports must contain the
9 financial information required by the state auditor. The state auditor ~~also may make:~~
10 a. Make any additional examination or audit determined necessary in addition to the
11 annual report. ~~When a report is not filed, the state auditor may charge~~
12 b. Charge the political subdivision an amount equal to the fair value of the additional
13 examination or audit and any other services rendered. ~~The state auditor may~~
14 ~~charge~~
15 c. Charge a political subdivision a fee not to exceed ~~eighty-six~~ ninety dollars an hour
16 for the costs of reviewing the annual report.
- 17 4. A political subdivision, at the option of its governing body, may be audited by a certified
18 public accountant or licensed public accountant rather than by the state auditor. The
19 public accountant annually shall register with the state auditor and comply with
20 generally accepted government auditing standards for audits of political subdivisions.
21 The report must be in the form and content required by the state auditor. The number
22 of copies of the audit report requested by the state auditor must be filed with the state
23 auditor when the public accountant delivers the audit report to the political subdivision.
24 The state auditor shall review the audit report to determine if the report is in the
25 required form and has the required content, and if the audit meets generally accepted
26 government auditing standards. The state auditor also may periodically review the
27 public accountant's workpapers to determine if the audit meets generally accepted
28 government auditing standards. If the report is in the required form and has the
29 required content, and the report and workpapers comply with generally accepted
30 government auditing standards, the state auditor shall accept the audit report. The
31 state auditor may charge the political subdivision a fee of up to ~~eighty-six~~ ninety dollars

1 an hour, but not to exceed seven hundred fifty dollars per review, for the related costs
2 of reviewing the audit report and workpapers.

3 5. A political subdivision may not pay a public accountant for an audit until the state
4 auditor has accepted the audit. However, a political subdivision may make progress
5 payments to the public accountant. A political subdivision shall retain twenty percent of
6 any progress payment until the audit report is accepted by the state auditor.

7 6. The state auditor may require the correction of any irregularities, objectionable
8 accounting procedures, or illegal actions on the part of the governing board, officers,
9 or employees of the political subdivision disclosed by the audit report or workpapers,
10 and failure to make the corrections must result in audits being resumed by the state
11 auditor until the irregularities, objectionable accounting procedures, or illegal actions
12 are corrected.

13 **SECTION 3. AMENDMENT.** Section 54-10-15 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **54-10-15. Audits of political subdivisions by ~~order~~request of governor or order of the**
16 **legislative audit and fiscal review committee, upon petition, or upon request of the state**
17 **court administrator.**

18 1. The state auditor, by duly appointed deputy auditors or other authorized agents, shall
19 audit or review the books, records, and financial accounts of any political subdivision
20 when ordered by ~~the governor or the legislative audit and fiscal review committee,~~
21 The state auditor, by duly appointed auditors or other authorized agents, may audit or
22 review the books, records, and financial accounts of any political subdivisions when
23 requested by the governor, requested by the governing board, or upon petition of at
24 least thirty-five percent of the qualified electors of any political subdivision enumerated
25 in section 54-10-14 voting for the office of governor at the preceding general election
26 or, in the case of school districts, upon petition of at least thirty-five percent of the
27 qualified electors voting at the preceding school board election, or upon the request of
28 the state court administrator with respect to clerk of district court services provided by
29 a county in accordance with chapter 27-05.2. Fees for the audits must be paid in
30 accordance with the provisions of section 54-10-14.

1 2. If an audit is ordered due to financial irregularities or allegations of embezzlement, the
2 governor may suspend an elected or appointed school board member from the
3 individual's duties if the governor determines suspension is in the best interest of the
4 state pending the results of the audit. If the governor suspends an elected or
5 appointed school board member, the governor immediately shall provide notice to the
6 school board with which the suspended member serves. Within five days of receiving
7 notice, the school board shall appoint an individual to replace the suspended member
8 to serve during the pendency of the audit. The governor shall consult with the
9 superintendent of public instruction in determining whether suspension of a member of
10 a school board is in the best interest of the state.

11 **SECTION 4. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-10-27. Occupational and professional boards - Audits and reports.**

14 The governing board of any occupational or professional board shall provide for an audit
15 once every two years by a certified public accountant or licensed public accountant. The
16 accountant conducting the audit shall submit the audit report to the state auditor's office. If the
17 report is in the form and style prescribed by the state auditor, the state auditor may not audit
18 that board. An occupational or professional board may request the state auditor to conduct its
19 audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees
20 charged to the occupational or professional board into the state auditor operating account.
21 Instead of providing for an audit every two years, an occupational or professional board that has
22 less than two hundred thousand dollars of annual receipts may submit an annual report to the
23 state auditor. The report must contain the information required by the state auditor. The state
24 auditor also may make any additional examination or audit determined necessary in addition to
25 the annual report. When a report is not filed, the state auditor may charge the occupational or
26 professional board an amount equal to the fair value of the additional examination or audit and
27 any other services rendered. The state auditor may charge an occupational or professional
28 board a fee not to exceed ~~eighty-six~~ninety dollars an hour for the costs of reviewing the annual
29 report.

30 **SECTION 5. RETROACTIVE APPLICATION.** This Act applies retroactively to cases arising
31 after January 1, 2022.