

Introduced by

Representatives O'Brien, Lefor, Nathe, Sanford, Schreiber-Beck

Senators Kreun, Meyer

1 A BILL for an Act to amend and reenact section 54-10-01 of the North Dakota Century Code,
2 relating to duties of the state auditor.

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

4 **SECTION 1. AMENDMENT.** Section 54-10-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-10-01. Powers and duties of state auditor.**

7 1. The state auditor shall:

8 a. Be vested with the duties, powers, and responsibilities involved in performing the
9 postaudit of all financial transactions of state government, detecting and reporting
10 any defaults, and determining that expenditures have been made in accordance
11 with law and appropriation acts.

12 b. Perform or provide for the audit of the general purpose financial statements and a
13 review of the material included in the comprehensive annual financial report of
14 the state in accordance with government auditing standards.

15 c. Perform or provide for audits of state agencies in accordance with government
16 auditing standards and legislative audit and fiscal review committee guidelines
17 developed under section 54-35-02.10. Except for the annual audit of the North
18 Dakota lottery required by section 53-12.1-03, the state auditor shall audit each
19 state agency once every two years. Audits may be conducted at more frequent
20 intervals if requested by the governor or the legislative audit and fiscal review
21 committee. The state auditor shall charge an amount equal to the cost of the
22 audit and other services rendered by the state auditor to all agencies that receive
23 and expend moneys from other than the general fund. This charge may be
24 reduced for an agency that receives and expends both general fund and

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

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

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

21 e. Report quarterly to the legislative audit and fiscal review committee regarding:

22 (1) Communication processes with audited entities and any changes to the
23 processes;

24 (2) Billing practices and procedures, including the use of cost estimates for
25 audits, an itemized invoicing methodology, and a defined change order
26 process for audits that exceed the original estimate;

27 (3) Information on audits completed, including:

28 (a) Name of the audited organization;

29 (b) Organization type;

30 (c) Audit type;

31 (d) Audit period;

- 1 (e) Estimated and actual hours and costs; and
2 (f) Total audit cost and the total cost as a percentage of the audited
3 organization's operating budget; and
4 (4) Audit schedules, including audits performed by private firms and audits
5 performed by the auditor's office.

6 f. Report on the functions of the state auditor's office to the governor and the
7 secretary of state in accordance with section 54-06-04 or more often as
8 circumstances may require.

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

11 g-h. Perform all other duties as prescribed by law.

12 2. The state auditor may:

- 13 a. Conduct any work required by the federal government.
14 b. Within the resources available to the state auditor, perform or provide for
15 performance audits of state agencies as determined necessary by the state
16 auditor.
17 c. Audit the International Peace Garden at the request of the board of directors of
18 the International Peace Garden.
19 d. Contract with a private certified public accountant or other qualified professional
20 to conduct or assist with an audit, review, or other work the state auditor is
21 authorized to perform or provide for under this section. Before entering any
22 contract, the state auditor shall present information to the legislative audit and
23 fiscal review committee on the need for the contract and its estimated cost and
24 duration. Except for performance audits conducted under subdivision d of
25 subsection 1 or subdivision b of this subsection and except for audits of
26 occupational or professional boards, the state auditor shall execute the contract
27 and any executive branch agency, including higher education institutions, shall
28 pay the fees of the contractor. For performance audits conducted under
29 subdivision d of subsection 1 or subdivision b of this subsection, the state auditor
30 may charge a state agency for the cost of a contract relating to an audit, subject
31 to approval by the legislative assembly or the legislative audit and fiscal review

1 committee if the legislative assembly is not in session. When considering a
2 request, the legislative audit and fiscal review committee shall consider the effect
3 of the audit cost on the agency being audited, the necessity of the contract, and
4 the potential benefit to the state resulting from the contract. The state auditor
5 shall notify the affected agency of the potential cost before requesting approval
6 from the legislative assembly or the legislative audit and fiscal review committee.

7 ~~3. All audits performed by the state auditor must be reviewed and approved by a certified~~
8 ~~public accountant.~~