

**FIRST ENGROSSMENT
with Conference Committee Amendments**

ENGROSSED HOUSE BILL NO. 1074

Introduced by

Appropriations Committee

(At the request of the State Auditor)

1 A BILL for an Act to create and enact a new section to chapter 54-10 of the North Dakota
2 Century Code, relating to audits of computer systems by the state auditor; and to provide a
3 penalty.

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

5 **SECTION 1.** A new section to chapter 54-10 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Audits of computer systems - Penalty.**

- 8 1. The state auditor may:
- 9 a. Pursuant to the powers and duties outlined in this chapter, conduct a review
10 and assessment of computer systems and related security systems.
11 Computer systems subject to this section include the computer systems of a
12 state agency or political subdivision that is subject to audit by the state
13 auditor. Tests conducted in connection with this review and assessment may
14 include an assessment of system vulnerability, network penetration, potential
15 security breach, and susceptibility to cyber attack or cyber fraud.
 - 16 b. Disclose any findings to the chief information officer of the state or to any
17 state official or legislative committee. Working papers and preliminary drafts
18 of reports created in connection with the review of computer systems and the
19 security of the systems are exempt from section 44-04-18. Those parts of
20 findings and working papers that identify the methods of the state auditor or
21 that may cause or perpetuate vulnerability of the computer system reviewed
22 are exempt from section 44-04-18 and protected from disclosure until the
23 state auditor directs otherwise.

- 1 c. Procure the services of a specialist in information security systems or other
2 contractors deemed necessary in conducting a review under this section.
3 The procurement of these services is exempt from the requirements of
4 chapter 54-44.4.
- 5 2. An outside contractor hired to provide services in the review of the security of a
6 computer system is subject to the confidentiality provisions of this section and
7 section 44-04-27. Any individual who knowingly discloses confidential information
8 is subject to the provisions of section 12.1-13-01.
- 9 3. The state auditor shall notify the executive officer of any state agency or the
10 governing body of any political subdivision of the date, time, and location of any
11 test conducted in connection with a review and assessment of computer systems
12 or related security systems. The executive officer or a deputy executive officer or
13 a member of the governing body of a political subdivision shall attend and observe
14 any test during which confidential information may be accessed or controlled. An
15 executive officer, a deputy executive officer, or a member of the governing body of
16 a political subdivision receiving notice of any test conducted under this section may
17 not inform any other individual of the scheduling and conduct of the test.
- 18 4. The state auditor shall notify the attorney general of the date, time, and location of
19 any test conducted in connection with a review and assessment of computer
20 systems or related security systems. The attorney general may designate an
21 individual to participate in the test. The designee of the attorney general may
22 order the test to be terminated if the individual believes a sensitive system is being
23 breached, a sensitive system may be breached, or sensitive information may be
24 revealed.
- 25 5. Notwithstanding any provision in chapter 32-12.2 to the contrary, if the attorney
26 general and the director of the office of management and budget determine it is in
27 the best interest of the state, the state auditor may agree to limit the liability of a
28 contractor performing a review and assessment under this section. The liability
29 limitation must be approved by the attorney general and director of the office of
30 management and budget in writing. For any uninsured losses, the director of the

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- 1 office of management and budget may approve the risk management fund to
- 2 assume all or part of the contractor's liability to the state in excess of the limitation.