

Introduced by

Education Committee

(At the request of the State Auditor)

1 A BILL for an Act to create and enact section 54-10-24.1 of the North Dakota Century Code,
2 relating to records of local school districts; to amend and reenact section 54-10-01, subsections
3 3 and 4 of section 54-10-14, and sections 54-10-19 and 54-10-27 of the North Dakota Century
4 Code, relating to the definition of state agency, the threshold for requiring annual reports, the
5 ability to follow state funding, and fees for audit reviews; and to repeal section 54-10-30 of the
6 North Dakota Century Code, relating to audits of the state board of higher education.

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

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

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

11 1. The state auditor shall:

12 4. a. Be vested with the duties, powers, and responsibilities involved in performing the
13 postaudit of all financial transactions of the state government, detecting and
14 reporting any defaults, and determining that expenditures have been made in
15 accordance with law and appropriation acts.

16 2. b. Perform or provide for the audit of the general purpose financial statements and a
17 review of the material included in the comprehensive annual financial report of
18 the state and perform or provide for the audits and reviews of state agencies.
19 Except for the annual audit of the North Dakota lottery required by section
20 53-12.1-03, the state auditor shall audit or review each state agency once every
21 two years. The state auditor shall determine the contents of the audits and
22 reviews of state agencies. The state auditor may conduct any work required by
23 the federal government. The state auditor may not contract for work required by
24 the federal government without the prior approval of the legislative audit and

1 fiscal review committee. The state auditor shall charge an amount equal to the
2 cost of the audit and other services rendered by the state auditor to all agencies
3 that receive and expend moneys from other than the general fund. This charge
4 may be reduced for any agency that receives and expends both general fund and
5 nongeneral fund moneys. State agencies must use nongeneral fund moneys to
6 pay for audits performed by the state auditor. If nongeneral fund moneys are not
7 available, the agency may, upon approval of the legislative assembly, or the
8 budget section if the legislative assembly is not in session, use general fund
9 moneys to pay for audits performed by the state auditor. The budget section
10 reviews and approvals must comply with section 54-35-02.9. Audits and reviews
11 may be conducted at more frequent intervals if requested by the governor or
12 legislative audit and fiscal review committee.

- 13 ~~3.~~ c. Be vested with the authority to determine whether to audit the International
14 Peace Garden at the request of the board of directors of the International Peace
15 Garden.
- 16 ~~4.~~ d. Perform or provide for performance audits of state agencies, or the agencies'
17 blended component units or discreetly presented component units, as
18 determined necessary by the legislative assembly; the legislative audit and fiscal
19 review committee; or the state auditor, subject to approval by the legislative audit
20 and fiscal review committee. A performance audit must be done in accordance
21 with generally accepted auditing standards applicable to performance audits. The
22 state auditor may not hire a consultant to assist with conducting a performance
23 audit of a state agency without the prior approval of the legislative audit and fiscal
24 review committee. The state auditor shall notify an agency of the need for a
25 consultant before requesting approval by the legislative audit and fiscal review
26 committee. The agency that is audited shall pay for the cost of any consultant
27 approved.
- 28 ~~5.~~ e. For the audits and reviews the state auditor is authorized to perform or provide
29 for under this section, the audit or review may be provided for by contract with a
30 private certified or licensed public accountant or other qualified professional. If
31 the state auditor determines that the audit or review will be done pursuant to

1 contract, the state auditor, except for occupational or professional boards, shall
2 execute the contract, and any executive branch agency, including higher
3 education institutions, shall pay the fees of the contractor.

4 6. f. Be responsible for the above functions and report thereon to the governor and
5 the secretary of state in accordance with section 54-06-04 or more often as
6 circumstances may require.

7 7. g. Perform all other duties as prescribed by law.

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

10 2. For purposes of this section, "state agency" means all statutorily authorized or
11 appropriated state entities, including the state board of higher education and each
12 institution under the supervision and control of the state board of higher education.
13 The term does not include any occupational or professional board, except as
14 otherwise specified within this chapter.

15 **SECTION 2. AMENDMENT.** Subsections 3 and 4 of section 54-10-14 of the North Dakota
16 Century Code are amended and reenacted as follows:

17 3. In lieu of conducting an audit every two years, the state auditor may require annual
18 reports from school districts ~~with less than one hundred enrolled students;~~ cities ~~with~~
19 ~~less than five hundred population;~~ and other political subdivisions subject to this
20 section, or otherwise provided by law, with less than ~~threeseven~~ thirtyseven hundred fifty
21 thousand dollars of annual receipts, excluding any federal funds passed through the
22 political subdivision to another entity. If any federal agency performs or requires an
23 audit of a political subdivision that receives federal funds to pass through to another
24 entity, the political subdivision shall provide a copy to the state auditor upon request by
25 the state auditor. The reports must contain the financial information required by the
26 state auditor. The state auditor also may make any additional examination or audit
27 determined necessary in addition to the annual report. When a report is not filed, the
28 state auditor may charge the political subdivision an amount equal to the fair value of
29 the additional examination or audit and any other services rendered. The state auditor
30 may charge a political subdivision a fee not to exceed ~~eightynine~~ eightynine dollars an hour for
31 the costs of reviewing the annual report.

1 4. A political subdivision, at the option of its governing body, may be audited by a certified
2 public accountant or licensed public accountant rather than by the state auditor. The
3 public accountant shall comply with generally accepted government auditing standards
4 for audits of political subdivisions. The report must be in the form and content required
5 by the state auditor. The number of copies of the audit report requested by the state
6 auditor must be filed with the state auditor when the public accountant delivers the
7 audit report to the political subdivision. The state auditor shall review the audit report
8 to determine if the report is in the required form and has the required content, and if
9 the audit meets generally accepted government auditing standards. The state auditor
10 also may periodically review the public accountant's workpapers to determine if the
11 audit meets generally accepted government auditing standards. If the report is in the
12 required form and has the required content, and the report and workpapers comply
13 with generally accepted government auditing standards, the state auditor shall accept
14 the audit report. The state auditor may charge the political subdivision a fee of up to
15 ~~eighty~~ninety dollars an hour, but not to exceed ~~five hundred~~one thousand dollars per
16 review, for the related costs of reviewing the audit report and workpapers.

17 **SECTION 3. AMENDMENT.** Section 54-10-19 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-10-19. Supervision of public institutions and private institutions with which state**
20 **has dealings.**

21 The state auditor may examine the books and accounts of all public and private institutions
22 with which the state has any dealings so far only as the same relate to such dealings. If any
23 public officer having control of any such office or institutions fails or refuses to comply with the
24 directions of the state auditor, the auditor shall report the facts to the governor and to the
25 manager of the state bonding fund, and such refusal constitutes grounds for removal from office
26 and cancellation of the bond of such officer.

27 **SECTION 4.** Section 54-10-24.1 of the North Dakota Century Code is created and enacted
28 as follows:

29 **54-10-24.1. Access to local school district records.**

30 If necessary when conducting an audit and examination of the distribution of state funding
31 to local school districts by the department of public instruction, the state auditor and persons

1 employed by the state auditor may examine records or other information of a local school
2 district. The state auditor may contact and request records or other information directly from the
3 local school district.

4 **SECTION 5. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-10-27. Occupational and professional boards - Audits and reports.**

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

22 **SECTION 6. REPEAL.** Section 54-10-30 of the North Dakota Century Code is repealed.