

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 HOUSE BILL 2878

By: Wallace of the House

5 and

6 **Thompson** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to state government; amending 74 O.S.
11 2011, Section 212, as last amended by Section 1,
12 Chapter 187, O.S.L. 2014 (74 O.S. Supp. 2020, Section
13 212), which relates to audits of the subdivisions of
14 the state; expanding the definition of audit; and
15 providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 74 O.S. 2011, Section 212, as last
18 amended by Section 1, Chapter 187, O.S.L. 2014 (74 O.S. Supp. 2020,
19 Section 212), is amended to read as follows:

20 Section 212. A. STATE TREASURER AND OKLAHOMA TAX COMMISSION

21 1. The State Treasurer and the Oklahoma Tax Commission shall
22 prepare annual financial statements in accordance with the reporting
23 requirements set forth by the Governmental Accounting Standards
24 Board (GASB). The State Treasurer and the Tax Commission shall

1 prescribe and implement sound internal control, accounting and
2 recordkeeping practices consistent with and to facilitate compliance
3 with all reporting requirements as set forth by law.

4 2. The annual financial statements of the State Treasurer and
5 the Tax Commission shall be delivered by the State Treasurer and the
6 Tax Commission to the State Auditor and Inspector within ninety (90)
7 calendar days after the close of the state fiscal year.

8 3. The State Auditor and Inspector shall perform an audit of
9 the annual financial statements of the State Treasurer and the Tax
10 Commission for each state fiscal year. Such audits shall be
11 conducted in accordance with auditing standards generally accepted
12 in the United States and the standards applicable to financial
13 audits contained in Government Auditing Standards, latest revised
14 edition, issued by the Comptroller General of the United States.
15 The State Auditor and Inspector shall complete the audits not later
16 than ninety (90) calendar days after the financial statements are
17 delivered to the State Auditor and Inspector. The annual audit
18 reports and related financial statements shall be delivered by the
19 State Auditor and Inspector to the Governor, President Pro Tempore
20 of the Senate, and Speaker of the House of Representatives. The
21 annual audit report and related financial statements of the State
22 Treasurer shall also be delivered to the Attorney General and the
23 members of the Cash Management and Investment Oversight Commission
24 created by Section 71.1 of Title 62 of the Oklahoma Statutes. The

1 annual audit report and related financial statements of the Tax
2 Commission shall also be delivered to the Director of the Office of
3 Management and Enterprise Services and the Legislative Service
4 Bureau. The State Auditor and Inspector shall conduct unannounced
5 cash audits of the State Treasury at least once each quarter.

6 4. The audit of the Tax Commission shall be continuous in
7 nature. The Tax Commission shall furnish the necessary office space
8 for the employees of the State Auditor and Inspector making the
9 audit and, to the extent of the amount included in the Tax
10 Commission's appropriation therefor, the Tax Commission shall pay
11 the expenses of the audits, including personal services, equipment
12 and supplies, from the appropriation.

13 B. STATE AGENCIES

14 1. Except as otherwise provided by law, the State Auditor and
15 Inspector shall audit at least once every two (2) fiscal years the
16 books and accounts of all state agencies whose duty it is to
17 collect, disburse or manage funds of the state. The State Auditor
18 and Inspector shall audit a state agency each fiscal year if that
19 state agency is required to be audited on an annual basis pursuant
20 to the federal Single Audit Act of 1984, as amended, 31 U.S.C.,
21 Section 7501 et seq. If the state agency is audited only once every
22 two (2) fiscal years, the audit shall cover both fiscal years.

23 2. Except as otherwise provided by law, the scope of audits
24 performed by the State Auditor and Inspector shall include all funds

1 collected, disbursed, or managed by a state agency including, but
2 not limited to, all special, revolving, depository, canteen, or
3 other nonstate funds.

4 3. As used in this section, "state agency" means every agency,
5 board, or commission included in the primary government of the State
6 of Oklahoma. For purposes of this paragraph, the primary government
7 of the State of Oklahoma includes all agencies, boards, and
8 commissions included in the primary government in the State of
9 Oklahoma Comprehensive Annual Financial Report. The agencies,
10 boards, and commissions included in the primary government of the
11 State of Oklahoma shall be determined using criteria set by the
12 Governmental Accounting Standards Board.

13 4. As used in this subsection, "audit" means any of the
14 following:

15 a. "financial audit", which means an audit of financial
16 statements in order to express an opinion on the
17 fairness with which they are presented in conformity
18 with generally accepted accounting principles or any
19 other comprehensive basis of accounting, as defined by
20 the American Institute of Certified Public
21 Accountants' Professional Standards, latest revised
22 edition. Financial audits must be conducted in
23 accordance with auditing standards generally accepted
24 in the United States and the standards applicable to

1 financial audits contained in Government Auditing
2 Standards, latest revised edition, issued by the
3 Comptroller General of the United States,

4 b. "operational audit", which means an audit conducted in
5 accordance with applicable Government Auditing
6 Standards, the purpose of which is to evaluate
7 management's performance in administering assigned
8 responsibilities in accordance with applicable laws,
9 administrative rules, and other policies and
10 guidelines and to determine the extent to which the
11 internal control, as designed and placed in operation,
12 promotes and encourages the achievement of
13 management's control objectives in the categories of
14 compliance, reliability of financial records and
15 reports, and safeguarding of assets,

16 c. "performance audit", which means an audit of a
17 program, activity, or function of a state agency
18 conducted in accordance with applicable Government
19 Auditing Standards. The term includes, but is not
20 limited to, an audit to assess program, activity, or
21 function effectiveness, economy and efficiency,
22 internal control, or compliance,

23 d. "special or investigative audit", which means an audit
24 with respect to a particular situation which may be,

1 but is not required to be, conducted in accordance
2 with applicable Government Auditing Standards, ~~and~~
3 e. any other type of engagement conducted in accordance
4 with Government Auditing Standards, and
5 f. engagements not conducted in accordance with
6 Government Auditing Standards, when engagements
7 involve state agencies who collect less than Three
8 Million Dollars (\$3,000,000.00) annually.

9 C. GUBERNATORIAL REQUEST

10 Whenever called upon to do so by the Governor, it shall be the
11 duty of the State Auditor and Inspector to examine the books and
12 accounts of any officer of the state or any of the officer's
13 predecessors. The cost of the audit shall be borne by the entity to
14 be audited.

15 D. COUNTY TREASURER

16 The State Auditor and Inspector shall examine without notice all
17 books and accounts of each county treasurer of the state twice each
18 year.

19 E. DISTRICT ATTORNEYS

20 1. The State Auditor and Inspector shall annually audit the
21 books and accounts of the several offices of the district attorneys
22 of this state. The audits shall be reported in separate reports for
23 each entity. The audit may include, but shall not be limited to,
24 the audit of the financial records, performance measures, and

1 compliance with state or federal statutes and rules, and compliance
2 with any regulations of state or federal programs. The expense of
3 the audits shall be paid by the entity audited.

4 2. The State Auditor and Inspector shall examine and file a
5 report of the accounts established within the office of each
6 district attorney for bogus check programs, drug task force
7 programs, child support collection programs, and any other programs
8 receiving any nonstate funds. The reports shall be filed with the
9 President Pro Tempore of the Senate, the Speaker of the House of
10 Representatives, and the Executive Coordinator of the District
11 Attorneys Council.

12 F. DEPARTMENT OF CORRECTIONS

13 The State Auditor and Inspector shall perform an annual audit,
14 as defined in paragraph 4 of subsection B of this section, of the
15 books and accounts of the Department of Corrections. The scope of
16 the audit shall be determined by the State Auditor and Inspector
17 using a risk-based approach. The audit may include, but shall not
18 be limited to, the audit of the financial records, performance
19 measures, and compliance with any state or federal statutes and
20 rules, and compliance with any regulations of state or federal
21 programs. The expense of the audits shall be paid by the Department
22 of Corrections.

23 G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD
24

1 The State Auditor and Inspector shall cause to be audited the
2 books and accounts of the office of the Oklahoma Employees Insurance
3 and Benefits Board. The audit may include, but shall not be limited
4 to, the audit of the financial records, performance measures,
5 compliance with any state or federal statutes and rules, and
6 compliance with any regulations of state programs. The audit shall
7 be contracted out to private audit firms. The cost of the audit
8 shall be borne by the Oklahoma Employees Insurance and Benefits
9 Board.

10 H. DISTRICT ATTORNEY REQUEST

11 Whenever called upon to do so by any of the several district
12 attorneys of the state, it shall be the duty of the State Auditor
13 and Inspector to examine the books and accounts of any officer of
14 any public entity. The cost of the audit shall be borne by the
15 entity audited.

16 I. COUNTY OFFICERS BY REQUEST

17 Upon request of the county commissioners of any county or the
18 Governor, the State Auditor and Inspector shall examine the books
19 and accounts of all or any of the officers or custodians of the
20 various funds of the county; and payment for such examination shall
21 be made by the county so examined.

22 J. AUDITORS

23 The State Auditor and Inspector shall have power to employ
24 auditors. No auditor shall examine the books or records of the

1 county of the auditor's residence in counties of under two hundred
2 thousand (200,000) population according to the most recent Federal
3 Decennial Census. The State Auditor and Inspector may employ on an
4 as-needed basis only, legal counsel to carry out the statutory
5 duties of the Office of the State Auditor and Inspector.

6 K. EXAMINATION OF LEVIES

7 It shall be the duty of the State Auditor and Inspector to
8 examine all levies to raise public revenue to see that they are made
9 according to law and constitutional provisions. The State Auditor
10 and Inspector shall have the power to order all excessive or
11 erroneous lines (levies) to be corrected by the proper officers, and
12 shall report any irregularities to the Governor, the Speaker of the
13 House of Representatives and the President Pro Tempore of the
14 Senate.

15 L. PETITION AUDITS

16 1. The State Auditor and Inspector shall audit the books and
17 records of any subdivision of the State of Oklahoma upon petition
18 signed by the requisite number of voters registered in the
19 subdivision and meeting the requirements set out in this subsection.

20 2. The petition must contain the number of signatures
21 equivalent to ten percent (10%) of the registered voters of the
22 subdivision as determined by the county election board or, if the
23 county election board determines that the number of registered
24 voters in the subdivision cannot be determined due to boundary lines

1 not conforming to precinct lines, the required number of petitioners
2 shall be twenty-five percent (25%) of the total number of persons
3 voting in the last general election. If the subdivision is a public
4 trust, the required number of petitioners shall be the same as those
5 required for an audit of its beneficiary. The appropriate county
6 election board shall provide the number of signatures so required
7 upon request.

8 3. The petition shall be in the form of an affidavit wherein
9 the signatory shall declare upon oath or affirmation that the
10 information given is true and correct and that he or she is a
11 citizen of the entity to be audited. The petition shall clearly
12 state that falsely signing shall constitute perjury. It shall
13 include the signature of the individual, the name of the signatory
14 in printed form, the individual's residential address, the date of
15 signing, the public entity to be audited and the anticipated range
16 of the cost of the audit provided by the State Auditor and
17 Inspector.

18 4. Any person desiring to petition for an audit shall list the
19 areas, items or concerns they want to be audited, and request from
20 the State Auditor and Inspector the anticipated range of cost of the
21 audit. Within thirty (30) days from the receipt of the request, the
22 State Auditor and Inspector shall mail a petition form to the person
23 requesting the information which shall state the anticipated range
24 of the cost and the items or concerns to be audited. The

1 circulators of the petition shall have thirty (30) days from the
2 date the petition is mailed by the State Auditor and Inspector to
3 obtain the requisite number of signatures and return it to the State
4 Auditor and Inspector.

5 5. Upon collection of the required number of signatures, the
6 person desiring the audit shall present the signed petitions to the
7 State Auditor and Inspector. Within thirty (30) days of receipt of
8 the petitions, the State Auditor and Inspector shall present the
9 petitions to the county election board located in the county in
10 which the subdivision is located.

11 6. The county election board shall determine whether the
12 signers of the petition are registered voters of the county in which
13 the subdivision to be audited is located and whether the petition
14 has the requisite number of signatures of such registered voters.
15 The county election board shall certify the petition as having the
16 required number of signatures or as failing to have the required
17 number of signatures and return it to the State Auditor and
18 Inspector.

19 7. The cost of the audit shall be borne by the public entity
20 audited. Upon notification by the State Auditor and Inspector of
21 receipt of the petition, certified by the county election board as
22 having the required number of signatures, the public entity shall
23 encumber funds in an amount specified by the State Auditor and
24 Inspector, which shall be within the range of anticipated cost

1 stated on the petition from any funds not otherwise specifically
2 appropriated or allocated. Payment for the audit from such
3 encumbered funds shall be made as work progresses, and final payment
4 shall be made on or before its publication.

5 8. The names of the signers of any petition shall be
6 confidential and neither the State Auditor and Inspector, the county
7 election board nor the county treasurer may release them to any
8 other person or entity except upon an order from a court of
9 competent jurisdiction.

10 M. PENALTIES FOR NONPAYMENT

11 Except as otherwise provided by law, the cost of any services
12 provided by the State Auditor and Inspector or as specified in an
13 audit contract shall be borne by the entity or fund audited and
14 shall be due and payable upon receipt of progress billing during the
15 course of an audit. Any such costs not paid within ninety (90) days
16 of the date of receipt of billing shall incur a penalty of Ten
17 Dollars (\$10.00) per day for each day from the date of receipt of
18 billing.

19 SECTION 2. This act shall become effective November 1, 2021.

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21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
22 02/25/2021 - DO PASS, As Coauthored.

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