

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3134

By: Kendrix

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5
6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.
8 2021, Section 212, which relates to audits of the
9 subdivisions of the state; expanding the definition
10 of audit; and providing an effective date.

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

13 SECTION 1. AMENDATORY 74 O.S. 2021, Section 212, is
14 amended to read as follows:

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

16 1. The State Treasurer shall prepare annual financial
17 statements in accordance with the reporting requirements set forth
18 by the Governmental Accounting Standards Board (GASB). The State
19 Treasurer shall prescribe and implement sound internal control,
20 accounting and recordkeeping practices consistent with and to
21 facilitate compliance with all reporting requirements as set forth
22 by law.

23 2. The annual financial statements of the State Treasurer shall
24 be delivered by the State Treasurer to the State Auditor and

1 Inspector within ninety (90) calendar days after the close of the
2 state fiscal year.

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

22 4. The audit of the Tax Commission shall be an operational
23 audit performed annually. To the extent of the amount included in
24 the Tax Commission's appropriation, the Tax Commission shall pay the

1 expenses of the audit including personal services, equipment and
2 supplies, from the appropriation.

3 B. STATE AGENCIES

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

13 2. Except as otherwise provided by law, the scope of audits
14 performed by the State Auditor and Inspector shall include all funds
15 collected, disbursed, or managed by a state agency including, but
16 not limited to, all special, revolving, depository, canteen, or
17 other nonstate funds.

18 3. As used in this section, "state agency" means every agency,
19 board, or commission included in the primary government of the State
20 of Oklahoma. For purposes of this paragraph, the primary government
21 of the State of Oklahoma includes all agencies, boards, and
22 commissions included in the primary government in the State of
23 Oklahoma Comprehensive Annual Financial Report. The agencies,
24 boards, and commissions included in the primary government of the

1 State of Oklahoma shall be determined using criteria set by the
2 Governmental Accounting Standards Board.

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

5 a. "financial audit", which means an audit of financial
6 statements in order to express an opinion on the
7 fairness with which they are presented in conformity
8 with generally accepted accounting principles or any
9 other comprehensive basis of accounting, as defined by
10 the American Institute of Certified Public
11 Accountants' Professional Standards, latest revised
12 edition. Financial audits must be conducted in
13 accordance with auditing standards generally accepted
14 in the United States and the standards applicable to
15 financial audits contained in Government Auditing
16 Standards, latest revised edition, issued by the
17 Comptroller General of the United States,

18 b. "operational audit", which means an audit conducted in
19 accordance with applicable Government Auditing
20 Standards, the purpose of which is to evaluate
21 management's performance in administering assigned
22 responsibilities in accordance with applicable laws,
23 administrative rules, and other policies and
24 guidelines and to determine the extent to which the

1 internal control, as designed and placed in operation,
2 promotes and encourages the achievement of
3 management's control objectives in the categories of
4 compliance, reliability of financial records and
5 reports, and safeguarding of assets,

6 c. "performance audit", which means an audit of a
7 program, activity, or function of a state agency
8 conducted in accordance with applicable Government
9 Auditing Standards. The term includes, but is not
10 limited to, an audit to assess program, activity, or
11 function effectiveness, economy and efficiency,
12 internal control, or compliance,

13 d. "special or investigative audit", which means an audit
14 with respect to a particular situation which may be,
15 but is not required to be, conducted in accordance
16 with applicable Government Auditing Standards, ~~and~~

17 e. any other type of engagement conducted in accordance
18 with Government Auditing Standards, and

19 f. engagements not conducted in accordance with
20 Government Auditing Standards, when engagements
21 involve state agencies that collect less than Three
22 Million Dollars (\$3,000,000.00) annually.

23 C. GUBERNATORIAL REQUEST
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1 Whenever called upon to do so by the Governor, it shall be the
2 duty of the State Auditor and Inspector to examine the books and
3 accounts of any officer of the state or any of the officer's
4 predecessors. The cost of the audit shall be borne by the entity to
5 be audited.

6 D. COUNTY TREASURER

7 The State Auditor and Inspector shall examine without notice all
8 books and accounts of each county treasurer of the state twice each
9 year.

10 E. DISTRICT ATTORNEYS

11 1. The State Auditor and Inspector shall annually audit the
12 books and accounts of the several offices of the district attorneys
13 of this state. The audits shall be reported in separate reports for
14 each entity. The audit may include, but shall not be limited to,
15 the audit of the financial records, performance measures, and
16 compliance with state or federal statutes and rules, and compliance
17 with any regulations of state or federal programs. The expense of
18 the audits shall be paid by the entity audited.

19 2. The State Auditor and Inspector shall examine and file a
20 report of the accounts established within the office of each
21 district attorney for bogus check programs, drug task force
22 programs, child support collection programs, and any other programs
23 receiving any nonstate funds. The reports shall be filed with the
24 President Pro Tempore of the Senate, the Speaker of the House of

1 Representatives, and the Executive Coordinator of the District
2 Attorneys Council.

3 F. DEPARTMENT OF CORRECTIONS

4 The State Auditor and Inspector shall perform an annual audit,
5 as defined in paragraph 4 of subsection B of this section, of the
6 books and accounts of the Department of Corrections. The scope of
7 the audit shall be determined by the State Auditor and Inspector
8 using a risk-based approach. The audit may include, but shall not
9 be limited to, the audit of the financial records, performance
10 measures, and compliance with any state or federal statutes and
11 rules, and compliance with any regulations of state or federal
12 programs. The expense of the audits shall be paid by the Department
13 of Corrections.

14 G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD

15 The State Auditor and Inspector shall cause to be audited the
16 books and accounts of the office of the Oklahoma Employees Insurance
17 and Benefits Board. The audit may include, but shall not be limited
18 to, the audit of the financial records, performance measures,
19 compliance with any state or federal statutes and rules, and
20 compliance with any regulations of state programs. The audit shall
21 be contracted out to private audit firms. The cost of the audit
22 shall be borne by the Oklahoma Employees Insurance and Benefits
23 Board.

24 H. DISTRICT ATTORNEY REQUEST

1 Whenever called upon to do so by any of the several district
2 attorneys of the state, it shall be the duty of the State Auditor
3 and Inspector to examine the books and accounts of any officer of
4 any public entity. The cost of the audit shall be borne by the
5 entity audited.

6 I. COUNTY OFFICERS BY REQUEST

7 Upon request of the county commissioners of any county or the
8 Governor, the State Auditor and Inspector shall examine the books
9 and accounts of all or any of the officers or custodians of the
10 various funds of the county; and payment for such examination shall
11 be made by the county so examined.

12 J. AUDITORS

13 The State Auditor and Inspector shall have power to employ
14 auditors. No auditor shall examine the books or records of the
15 county of the auditor's residence in counties of under two hundred
16 thousand (200,000) population according to the most recent Federal
17 Decennial Census. The State Auditor and Inspector may employ on an
18 as-needed basis only, legal counsel to carry out the statutory
19 duties of the Office of the State Auditor and Inspector.

20 K. EXAMINATION OF LEVIES

21 It shall be the duty of the State Auditor and Inspector to
22 examine all levies to raise public revenue to see that they are made
23 according to law and constitutional provisions. The State Auditor
24 and Inspector shall have the power to order all excessive or

1 erroneous lines (levies) to be corrected by the proper officers, and
2 shall report any irregularities to the Governor, the Speaker of the
3 House of Representatives and the President Pro Tempore of the
4 Senate.

5 L. PETITION AUDITS

6 1. The State Auditor and Inspector shall audit the books and
7 records of any subdivision of the State of Oklahoma upon petition
8 signed by the requisite number of voters registered in the
9 subdivision and meeting the requirements set out in this subsection.

10 2. The petition must contain the number of signatures
11 equivalent to ten percent (10%) of the registered voters of the
12 subdivision as determined by the county election board or, if the
13 county election board determines that the number of registered
14 voters in the subdivision cannot be determined due to boundary lines
15 not conforming to precinct lines, the required number of petitioners
16 shall be twenty-five percent (25%) of the total number of persons
17 voting in the last general election. If the subdivision is a public
18 trust, the required number of petitioners shall be the same as those
19 required for an audit of its beneficiary. The appropriate county
20 election board shall provide the number of signatures so required
21 upon request.

22 3. The petition shall be in the form of an affidavit wherein
23 the signatory shall declare upon oath or affirmation that the
24 information given is true and correct and that he or she is a

1 citizen of the entity to be audited. The petition shall clearly
2 state that falsely signing shall constitute perjury. It shall
3 include the signature of the individual, the name of the signatory
4 in printed form, the individual's residential address, the date of
5 signing, the public entity to be audited and the anticipated range
6 of the cost of the audit provided by the State Auditor and
7 Inspector.

8 4. Any person desiring to petition for an audit shall list the
9 areas, items or concerns they want to be audited, and request from
10 the State Auditor and Inspector the anticipated range of cost of the
11 audit. Within thirty (30) days from the receipt of the request, the
12 State Auditor and Inspector shall mail a petition form to the person
13 requesting the information which shall state the anticipated range
14 of the cost and the items or concerns to be audited. The
15 circulators of the petition shall have thirty (30) days from the
16 date the petition is mailed by the State Auditor and Inspector to
17 obtain the requisite number of signatures and return it to the State
18 Auditor and Inspector.

19 5. Upon collection of the required number of signatures, the
20 person desiring the audit shall present the signed petitions to the
21 State Auditor and Inspector. Within thirty (30) days of receipt of
22 the petitions, the State Auditor and Inspector shall present the
23 petitions to the county election board located in the county in
24 which the subdivision is located.

1 6. The county election board shall determine whether the
2 signers of the petition are registered voters of the county in which
3 the subdivision to be audited is located and whether the petition
4 has the requisite number of signatures of such registered voters.
5 The county election board shall certify the petition as having the
6 required number of signatures or as failing to have the required
7 number of signatures and return it to the State Auditor and
8 Inspector.

9 7. The cost of the audit shall be borne by the public entity
10 audited. Upon notification by the State Auditor and Inspector of
11 receipt of the petition, certified by the county election board as
12 having the required number of signatures, the public entity shall
13 encumber funds in an amount specified by the State Auditor and
14 Inspector, which shall be within the range of anticipated cost
15 stated on the petition from any funds not otherwise specifically
16 appropriated or allocated. Payment for the audit from such
17 encumbered funds shall be made as work progresses, and final payment
18 shall be made on or before its publication.

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

24 M. PENALTIES FOR NONPAYMENT

1 Except as otherwise provided by law, the cost of any services
2 provided by the State Auditor and Inspector or as specified in an
3 audit contract shall be borne by the entity or fund audited and
4 shall be due and payable upon receipt of progress billing during the
5 course of an audit. Any such costs not paid within ninety (90) days
6 of the date of receipt of billing shall incur a penalty of Ten
7 Dollars (\$10.00) per day for each day from the date of receipt of
8 billing.

9 SECTION 2. This act shall become effective November 1, 2022.

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11 58-2-9408 LRB 01/03/22

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