

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SUBCOMMITTEE
RECOMMENDATION

FOR

HOUSE BILL NO. 1425

By: Lepak

SUBCOMMITTEE RECOMMENDATION

An Act relating to state government finance; defining terms; specifying purpose; specifying powers and duties of Joint Committee on Accountability; allowing State Auditor and Inspector to enter into certain contracts; requiring certain cooperation with Joint Committee; requiring State Auditor and Inspector to conduct certain performance audits; specifying priority and requirements related thereto; requiring performance audits to make certain determinations; providing for distribution of audit reports; subjecting certain persons to duty of confidentiality and criminal penalties; providing procedures for certain investigations; amending 62 O.S. 2011, Section 34.96, as last amended by Section 3, Chapter 168, O.S.L. 2015 (62 O.S. Supp. 2016, Section 34.96), which relates to the Legislative Oversight Committee on State Budget Performance; changing name of Committee; modifying duties and membership; providing that expenditures be deemed open records; amending 74 O.S. 2011, Sections 213.2, as amended by Section 844, Chapter 304, O.S.L. 2012, 219A and 227.9, as amended by Section 845, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2016, Sections 213.2 and 227.9), which relate to the Office of the State Auditor and Inspector; requiring audits at direction of Joint Committee; modifying recipients and form of audit distribution; modifying funds from which audit cost may be borne; providing for deposit of certain funds; modifying amounts deposited to State Auditor and Inspector Revolving Fund; providing for codification; providing an effective date; and declaring an emergency.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 450.4 of Title 74, unless there
4 is created a duplication in numbering, reads as follows:

5 As used in Sections 1 through 5 of this act, "Committee" or
6 "Joint Committee" means the Joint Committee on Accountability
7 created in Section 34.96 of Title 62 of the Oklahoma Statutes.

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 450.5 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 The purpose of Sections 1 through 5 of this act is to require
12 the conducting of performance audits, the consideration of the
13 feasibility of privatizing of governmental assets and services and
14 the investigation and eradication of waste, fraud, abuse and
15 corruption in state government, to ensure that taxpayer funds are
16 being used efficiently and effectively and that state agencies are
17 using the best practices available.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 450.6 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Joint Committee on Accountability shall have the
22 following powers and duties:

23 1. Not later than March 1 of each year, to determine and
24 publish a list of state agencies or state programs for which a

1 performance audit will be conducted, subject to available funding.
2 Such list may include specific divisions of state agencies if
3 directed by the Committee. The Legislature, by concurrent
4 resolution or by statute, may add or delete state agencies or
5 divisions thereof, or state programs, to or from the list. Any
6 member of the Legislature may request a performance audit to be
7 conducted of any agency, division or state program by making a
8 written request to the Committee detailing the reasons for
9 requesting such audit, which shall be granted upon a majority vote
10 of a quorum of the Committee, subject to available funding;

11 2. As often as it is deemed necessary, to identify assets owned
12 or services provided by the State of Oklahoma or its political
13 subdivisions which could be converted to private ownership and to
14 evaluate the advisability and feasibility of such conversion. The
15 Legislature, by concurrent resolution or by statute, may identify
16 specific assets to be evaluated pursuant to the provisions of this
17 paragraph;

18 3. To collect any information from state agencies or other
19 persons or entities which relates or may relate to a performance
20 audit; and

21 4. To investigate allegations of waste, fraud, abuse and
22 corruption in state government and, upon a majority vote of a quorum
23 of the Joint Committee, to refer such allegations to the appropriate
24 authorities for prosecution or other action.

1 B. The State Auditor and Inspector may contract with
2 independent auditors and may work with any other entity of state
3 government as may be necessary to accomplish these audits.

4 C. Each state agency and other affected persons shall cooperate
5 with the Joint Committee in the providing of any information
6 requested. The Joint Committee shall have the power to issue
7 subpoenas and to compel the attendance of witnesses and the
8 production of information as provided in Section 773 of Title 74 of
9 the Oklahoma Statutes, upon a majority vote of a quorum of the
10 members of the Committee.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 450.7 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Under the direction of the Joint Committee on
15 Accountability, the State Auditor and Inspector shall conduct a
16 performance audit each year of those state agencies specified by law
17 or concurrent resolution of the Legislature or designated by the
18 Joint Committee on Accountability, subject to available funding. If
19 funding is insufficient to conduct every such performance audit,
20 those specified by law shall receive first priority and the Joint
21 Committee shall specify the priority of those specified by
22 concurrent resolution of the Legislature or designated by the Joint
23 Committee. These audits shall be conducted in accordance with
24 generally accepted governmental auditing standards. The resulting

1 written audit reports shall be issued as soon after the completion
2 of the audit as is practicable.

3 B. A performance audit shall determine:

4 1. Whether the audited agency, division or program is carrying
5 out only those activities or programs authorized by state law or is
6 engaging in activities or programs which go beyond its
7 authorization, as set forth in state law;

8 2. Whether the agency, division or program is efficiently and
9 effectively administered, including, but not limited to:

10 a. whether it is operated under the best practices of
11 this state or other comparable entities,

12 b. whether its functions are duplicative of, or could be
13 better provided by, other agencies of state government
14 or the private sector, and

15 c. whether it is operated in a manner which is accessible
16 and easily used by those to whom public services are
17 provided;

18 3. Whether a new agency, division or program is efficiently and
19 effectively implemented according to the intent of the Legislature
20 as expressed in state law; and

21 4. Whether any change or reorganization of the agency, division
22 or program would be preferable to its current structure.

23 C. Copies of the reports of audits conducted shall be furnished
24 to the Governor, the President Pro Tempore of the Senate, the

1 Speaker of the House of Representatives, each member and the staff
2 of the Joint Committee on Accountability, the audited state agency
3 and each member of the governing board of the state agency, if
4 applicable, and other interested persons or agencies as may be
5 specified by the Committee or required by law or by the
6 specifications of the audit. The copies may be furnished
7 electronically.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 450.8 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 An investigation may be ordered and conducted by the Joint
12 Committee on Accountability, upon a majority vote of a quorum of the
13 members thereof, into any information received by the Joint
14 Committee alleging waste, fraud, abuse or corruption in state
15 government. The Joint Committee may request the assistance of the
16 Office of the Attorney General, the Office of the State Auditor and
17 Inspector, the Office of Management and Enterprise Services or any
18 other state agency. If the Committee determines that waste, fraud,
19 abuse or corruption has or may have occurred, the Joint Committee
20 shall forward the results of its investigation and any other
21 relevant information that it has received to the appropriate
22 authority for prosecution or other action.

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SECTION 6. AMENDATORY 62 O.S. 2011, Section 34.96, as last amended by Section 3, Chapter 168, O.S.L. 2015 (62 O.S. Supp. 2016, Section 34.96), is amended to read as follows:

Section 34.96 A. There is hereby established the ~~Legislative Oversight Committee on State Budget Performance. The purposes of this committee shall include oversight of the implementation of a system of program performance-based budgeting for implementation by state agencies~~ Joint Committee on Accountability.

B. ~~The~~ In addition to its duties specified in Section 3 of this act, the Joint Committee's duties shall also include:

1. ~~Development of agency budget request forms and instructions in conjunction with the Office of Management and Enterprise Services;~~

2. ~~Directing studies to aid in the development of legislative and procedural changes to further improve the budgetary, financial, accounting, reporting, personnel, and purchasing processes and systems of the state;~~

3. Direction of program evaluation and management studies;

4. 2. Oversight and reporting on executive branch compliance with the legislative intent of appropriation measures. Such oversight and reporting duties may include:

a. agency reorganization actions,

b. executive orders calling for reduction of full-time-equivalents or hiring freezes, and

1 c. transfer of funds by the executive branch;

2 ~~5. The development of revenue and expenditure estimates and~~
3 ~~analyses;~~

4 ~~6.~~ 3. Study of the management, operations, programs and fiscal
5 needs of the agencies and institutions of Oklahoma state government
6 pursuant to the Oklahoma Program Performance Budgeting and
7 Accountability Act;

8 ~~7.~~ 4. Review of the executive budget, agency strategic plans
9 and the estimate of needs of each state agency and institution.
10 Reports may be issued by the Joint Committee as it deems
11 appropriate; and

12 ~~8.~~ 5. Implementation of an ongoing evaluation review procedure
13 of existing programs based on performance-informed budgeting
14 techniques pursuant to the Oklahoma Program Performance Budgeting
15 and Accountability Act. The ~~committee~~ Joint Committee in
16 cooperation with the Office of Management and Enterprise Services
17 shall establish a schedule to review strategic plans and existing
18 programs for each agency a minimum of once every four (4) years.
19 The ~~committee~~ Joint Committee shall issue an evaluation report for
20 each agency once every four (4) years which will include but not be
21 limited to the following information:

22 a. a review of the agency's programs, performance and
23 management,
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1 b. whether the agency has demonstrated that there is a
2 need for the services and programs which justifies the
3 agency's continued existence, and

4 c. whether the agency is the most appropriate provider of
5 the programs and services furnished by the agency.

6 C. ~~Any reference in the Oklahoma Statutes to the Joint~~
7 ~~Legislative Committee on Budget and Program Oversight shall be a~~
8 ~~reference to the Legislative Oversight Committee on State Budget~~
9 ~~Performance.~~

10 ~~D.~~ The Joint Committee shall be composed of ~~three~~ two members
11 appointed by the President Pro Tempore of the Senate, ~~three~~ two
12 members appointed by the Speaker of the House of Representatives,
13 ~~two members~~ one member appointed by the minority leader of the
14 Senate and ~~two members~~ one member appointed by the minority leader
15 of the House of Representatives; provided, not more than two members
16 shall represent legislative districts which are part of the same
17 county. The State Auditor and Inspector or his or her designee,
18 along with two additional members appointed by the State Auditor and
19 Inspector, shall also be members of the Joint Committee. The Chair
20 and Vice Chair of the Committee shall rotate every two (2) years
21 between the Senate and the House of Representatives beginning with a
22 Senate member serving as Chair in ~~2003~~ 2017. The Committee shall
23 meet at least four (4) times per year and at other times as called
24 by the Chair. The ~~Legislative Oversight Committee on State Budget~~

1 ~~Performance~~ Joint Committee shall function as a committee of the
2 Legislature when the Legislature is in session and is not in
3 session. Each member of the Joint Committee shall serve until a
4 successor is appointed. The duties of the Committee may be
5 performed by the Appropriations Committee of the Senate and the
6 Appropriations and Budget Committee of the House of Representatives
7 or subcommittees thereof.

8 ~~E. The Committee shall be staffed jointly by the staff of the~~
9 ~~fiscal divisions of the Senate and the House of Representatives.~~

10 ~~F.~~ D. The Joint Committee may make use of all available
11 teleconferencing technology to facilitate meetings of the Joint
12 Committee when the Legislature is not in session. The Joint
13 Committee shall take any appropriate action to make such
14 teleconferenced meetings comply with the provisions of the Oklahoma
15 Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma
16 Statutes.

17 ~~G.~~ E. The Joint Committee shall periodically meet in different
18 geographical regions of the state to enhance the Joint Committee's
19 understanding of local conditions and to help educate the public as
20 to the fiscal condition of the state.

21 F. All expenditures made by the Joint Committee or any
22 expenditure made by any other state governmental entity acting at
23 the request of or in conjunction with the Joint Committee shall be
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1 deemed "records" within the meaning of such term as defined in the
2 Oklahoma Open Records Act.

3 SECTION 7. AMENDATORY 74 O.S. 2011, Section 213.2, as
4 amended by Section 844, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
5 2016, Section 213.2), is amended to read as follows:

6 Section 213.2 A. There is hereby created in the Office of the
7 State Auditor and Inspector a Performance Audit Division, subject to
8 the discretion of the State Auditor and Inspector. An Assistant
9 State Auditor and Inspector may be appointed to direct the
10 operations of the Division, subject to the supervision and control
11 of the State Auditor and Inspector at all times.

12 B. The State Auditor and Inspector, deputies and agents of the
13 Performance Audit Division may examine all books and accounts of all
14 public officers, institutions and other governmental entities
15 specified in Sections 212 through 227.9 of this title to instruct
16 the proper officers thereof in the performance of their duties and
17 to prescribe cost-effective methods of operating such governmental
18 entities; provided, however, the State Auditor and Inspector shall
19 perform the examinations authorized in this subsection upon
20 receiving a written request to do so by the Governor, the chief
21 executive officer of a governmental entity or pursuant to a joint or
22 concurrent resolution of the Legislature or as directed by the Joint
23 Committee on Accountability. ~~A~~ An electronic copy of the
24 examination shall be given to the examined entity. A copy of any

1 examination conducted pursuant to this subsection shall be submitted
2 to the Governor, the Speaker of the House of Representatives, the
3 President Pro Tempore of the Senate, the appropriations and budget
4 chairs of the House of Representatives and the Senate, ~~and~~ the
5 Minority Leader of the House of Representatives and of the Senate
6 and all members of the Joint Committee on Accountability.

7 C. The cost of the examinations authorized pursuant to
8 subsection B of this section shall be borne by the examined agency
9 in an amount not to exceed the actual costs of the examination or
10 from funds made available to conduct such examinations. Prior to
11 the start of such an examination, the State Auditor and Inspector
12 shall prepare in writing and present to the affected state agency an
13 estimate of the cost of the examination. If the estimate requires
14 revision, the State Auditor and Inspector shall notify the agency in
15 a prompt manner. Except as otherwise provided, the State Auditor
16 and Inspector shall recover its costs for the examination pursuant
17 to monthly progress billings presented by the State Auditor and
18 Inspector to the Office of Management and Enterprise Services
19 detailing current monthly costs for each examination. In addition,
20 the State Auditor and Inspector shall provide a copy of the billing
21 to the affected state agency. The Office of Management and
22 Enterprise Services may deduct the amounts billed from the next
23 subsequent allotment for the corresponding state agency and transfer
24 the funds to the State Auditor and Inspector Revolving Fund.

1 D. The salaries and traveling expenses of the Assistant State
2 Auditor and Inspector, deputies and agents of the Performance Audit
3 Division and the costs of material, supplies and equipment for the
4 Division shall be paid from funds made available through
5 appropriation by the Legislature.

6 E. The State Auditor and Inspector shall submit an annual
7 report of the Performance Audit Division to the Governor, the
8 President Pro Tempore of the Senate, the Speaker of the House of
9 Representatives, appropriations and budget chairs of the House of
10 Representatives and the Senate, ~~and~~ the Minority Leader of the
11 Senate and of the House of Representatives and all members of the
12 Joint Committee on Accountability.

13 SECTION 8. AMENDATORY 74 O.S. 2011, Section 219A, is
14 amended to read as follows:

15 Section 219A. The State Auditor and Inspector shall provide
16 adequate continuing professional education for all staff members
17 necessary to comply fully with federal requirements to ensure the
18 acceptability of all audits performed under Section ~~2~~ 212 of this
19 ~~act~~ title. Such training may take the form of courses presented by
20 competent state and federal employees, the American Institute of
21 Certified Public Accountants and other organizations recognized by
22 the Office of Management and Budget as competent to provide such
23 training. Employees of other state entities who can demonstrate
24 they are mandated to participate in continuing professional

1 education because of their assignment may be included in relevant
2 training sessions if, within available resources, the State Auditor
3 and Inspector is reimbursed for the costs of their participation.
4 All payments received by the State Auditor and Inspector from
5 providing continuing professional education shall be deposited to
6 the State Auditor and Inspector Revolving Fund.

7 SECTION 9. AMENDATORY 74 O.S. 2011, Section 227.9, as
8 amended by Section 845, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
9 2016, Section 227.9), is amended to read as follows:

10 Section 227.9 There is hereby created in the State Treasury a
11 revolving fund for the Office of the State Auditor and Inspector to
12 be designated the "State Auditor and Inspector Revolving Fund". The
13 fund shall be a continuing fund, not subject to fiscal year
14 limitations, and shall consist of all money paid to and received by
15 the State Auditor and Inspector from all sources, including, but not
16 limited to, state agencies, boards and commissions authorized by
17 statute to pay the expense of audits and consulting services, money
18 received for performance of audits and consulting services pursuant
19 to contract entered into ~~under the authority of Section 227.8 of~~
20 ~~this title~~ as provided by state law, funds received from state
21 agencies, boards and commissions receiving federal grants of funds
22 which require periodic audits under ~~said~~ the grants or any federal
23 regulations, all money received from counties, cities, towns and
24 public trusts in payment of audit expense, funds appropriated to

1 state agencies, boards and commissions for payment of audit expense,
2 and fees collected pursuant to Section 212A of this title and any
3 other monies received by the State Auditor and Inspector. All
4 monies accruing to the credit of ~~said~~ the fund are hereby
5 appropriated and may be budgeted and expended by the Office of the
6 State Auditor and Inspector for expenses necessary for the
7 performance of duties imposed upon the Office of the State Auditor
8 and Inspector by law. Expenditures from ~~said~~ the fund shall be made
9 upon warrants issued by the State Treasurer against claims filed as
10 prescribed by law with the Director of the Office of Management and
11 Enterprise Services for approval and payment. The State Auditor and
12 Inspector shall at the close of each fiscal year pay into the
13 General Revenue Fund of the state any unencumbered balance remaining
14 in ~~said~~ the revolving fund in excess of Eight Hundred Fifty Thousand
15 Dollars (\$850,000.00).

16 SECTION 10. This act shall become effective July 1, 2017.

17 SECTION 11. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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