

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3474

By: Jordan

6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.
8 2011, Section 212, as last amended by Section 1,
Chapter 187, O.S.L. 2014 (74 O.S. Supp. 2017, Section
9 212), which relates to the State Auditor and
Inspector; prohibiting public disclosure of the
10 financial status of state agencies; allowing
disclosure of audit findings; providing for emergency
11 audits of state agencies; creating the State Auditor
and Inspector Emergency Audit Revolving Fund;
12 providing for codification; and providing an
effective date.

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

16 SECTION 1. AMENDATORY 74 O.S. 2011, Section 212, as last
17 amended by Section 1, Chapter 187, O.S.L. 2014 (74 O.S. Supp. 2017,
18 Section 212), is amended to read as follows:

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

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

1 recordkeeping practices consistent with and to facilitate compliance
2 with all reporting requirements as set forth by law.

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

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

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

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

12 B. STATE AGENCIES

13 1. Except as otherwise provided by law, the State Auditor and
14 Inspector shall audit at least once every two (2) fiscal years the
15 books and accounts of all state agencies whose duty it is to
16 collect, disburse or manage funds of the state. The State Auditor
17 and Inspector shall audit a state agency each fiscal year if that
18 state agency is required to be audited on an annual basis pursuant
19 to the federal Single Audit Act of 1984, as amended, 31 U.S.C.,
20 Section 7501 et seq. If the state agency is audited only once every
21 two (2) fiscal years, the audit shall cover both fiscal years. The
22 State Auditor and Inspector shall not publicly disclose the
23 financial status of a state agency but may disclose the findings of
24 an audit performed on a state agency.

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

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

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

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

1 accordance with auditing standards generally accepted
2 in the United States and the standards applicable to
3 financial audits contained in Government Auditing
4 Standards, latest revised edition, issued by the
5 Comptroller General of the United States,

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

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

- 1 d. "special or investigative audit", which means an audit
2 with respect to a particular situation which may be,
3 but is not required to be, conducted in accordance
4 with applicable Government Auditing Standards, and
5 e. any other type of engagement conducted in accordance
6 with Government Auditing Standards.

7 C. GUBERNATORIAL REQUEST

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

13 D. COUNTY TREASURER

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

17 E. DISTRICT ATTORNEYS

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

1 with any regulations of state or federal programs. The expense of
2 the audits shall be paid by the entity audited.

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

11 F. DEPARTMENT OF CORRECTIONS

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

22 G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD

23 The State Auditor and Inspector shall cause to be audited the
24 books and accounts of the office of the Oklahoma Employees Insurance

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

8 H. DISTRICT ATTORNEY REQUEST

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

14 I. COUNTY OFFICERS BY REQUEST

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

20 J. AUDITORS

21 The State Auditor and Inspector shall have power to employ
22 auditors. No auditor shall examine the books or records of the
23 county of the auditor's residence in counties of under two hundred
24 thousand (200,000) population according to the most recent Federal

1 Decennial Census. The State Auditor and Inspector may employ on an
2 as-needed basis only, legal counsel to carry out the statutory
3 duties of the Office of the State Auditor and Inspector.

4 K. EXAMINATION OF LEVIES

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

13 L. PETITION AUDITS

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

18 2. The petition must contain the number of signatures
19 equivalent to ten percent (10%) of the registered voters of the
20 subdivision as determined by the county election board or, if the
21 county election board determines that the number of registered
22 voters in the subdivision cannot be determined due to boundary lines
23 not conforming to precinct lines, the required number of petitioners
24 shall be twenty-five percent (25%) of the total number of persons

1 voting in the last general election. If the subdivision is a public
2 trust, the required number of petitioners shall be the same as those
3 required for an audit of its beneficiary. The appropriate county
4 election board shall provide the number of signatures so required
5 upon request.

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

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

1 obtain the requisite number of signatures and return it to the State
2 Auditor and Inspector.

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

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

17 7. The cost of the audit shall be borne by the public entity
18 audited. Upon notification by the State Auditor and Inspector of
19 receipt of the petition, certified by the county election board as
20 having the required number of signatures, the public entity shall
21 encumber funds in an amount specified by the State Auditor and
22 Inspector, which shall be within the range of anticipated cost
23 stated on the petition from any funds not otherwise specifically
24 appropriated or allocated. Payment for the audit from such

1 encumbered funds shall be made as work progresses, and final payment
2 shall be made on or before its publication.

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

8 M. PENALTIES FOR NONPAYMENT

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

17 N. EMERGENCY AUDITS

18 Upon a determination by the State Auditor and Inspector that an
19 audit pursuant to this section is required, the State Auditor and
20 Inspector shall perform an emergency audit on any state agency. Cost
21 of any emergency audit provided by the State Auditor and Inspector
22 shall be paid out of the State Auditor and Inspector Emergency Audit
23 Revolving Fund as created by Section 2 of this act.
24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 227.9a of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a fund to be
5 designated the "State Auditor and Inspector Emergency Audit
6 Revolving Fund". The fund shall be administered by the Office of
7 the State Auditor and Inspector. The fund shall be a continuing
8 fund, not subject to fiscal year limitations, and shall consist of
9 any monies designated to the fund by law. All monies accruing to
10 the credit of the fund are appropriated and may be expended by the
11 Office of the State Auditor and Inspector for the purposes of
12 emergency audits as provided in subsection N of Section 212 of Title
13 74 of the Oklahoma Statutes. Expenditures from the fund shall be
14 made upon warrants issued by the State Treasurer against claims
15 filed as prescribed by law with the Director of the Office of
16 Management and Enterprise Services for approval and payment.

17 SECTION 3. This act shall become effective November 1, 2018.
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