

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 895

By: Rosino

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5  
6 AS INTRODUCED

7 An Act relating to state audits; amending Section 74  
8 O.S. 2011, Section 212, as last amended by Section 1,  
9 Chapter 187, O.S.L. 2014 (74 O.S. Supp. 2020, Section  
10 212), which relates to the duties and powers of the  
11 State Auditor and Inspector; allowing state agencies  
12 to choose public audit; providing that the state  
13 agency director has sole discretion to utilize a  
14 public audit and to request cost estimate from the  
15 State Auditor and Inspector; requiring certain  
16 notification upon decision; relieving State Auditor  
17 and Inspector of statutory duties upon notification;  
18 modifying definition; amending 74 O.S. 2011, Section  
19 212A, as amended by Section 843, Chapter 304, O.S.L.  
20 2012 (74 O.S. Supp. 2020, Section 212A), which  
21 relates to audits of governmental entities; adding  
22 provision for state agencies; and providing an  
23 effective date.

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

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

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

29 1. The State Treasurer and the Oklahoma Tax Commission shall  
30 prepare annual financial statements in accordance with the reporting  
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1 requirements set forth by the Governmental Accounting Standards  
2 Board (GASB). The State Treasurer and the Tax Commission shall  
3 prescribe and implement sound internal control, accounting and  
4 recordkeeping practices consistent with and to facilitate compliance  
5 with all reporting requirements as set forth by law.

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

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

1 members of the Cash Management and Investment Oversight Commission  
2 created by Section 71.1 of Title 62 of the Oklahoma Statutes. The  
3 annual audit report and related financial statements of the Tax  
4 Commission shall also be delivered to the Director of the Office of  
5 Management and Enterprise Services and the Legislative Service  
6 Bureau. The State Auditor and Inspector shall conduct unannounced  
7 cash audits of the State Treasury at least once each quarter.

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

15 B. STATE AGENCIES

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

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. State agencies may choose to have the required audit  
7 performed by a public accountant or certified public accountant  
8 registered to do business with this state. Use of a public  
9 accountant or certified public accountant shall follow the  
10 procedures and standards established for government entities in  
11 Section 212A of this title.

12           4. The decision to utilize a public accountant or certified  
13 public accountant instead of the State Auditor and Inspector shall  
14 be at the sole discretion of the agency director. The agency  
15 director may request a cost estimate from the State Auditor and  
16 Inspector to assist him or her in deciding which entity shall  
17 perform the audit.

18           5. The agency director shall notify the State Auditor and  
19 Inspector if he or she chooses to have the agency's audit performed  
20 by a public accountant or certified public accountant.

21           6. Upon notification by a state agency to use a public  
22 accountant or certified public accountant, the State Auditor and  
23 Inspector is relieved of his or her statutory duty to perform that  
24 audit.

1       ~~3.~~ 7. As used in this section, "state agency" means every  
2 agency, board~~7~~ or commission included in the primary government of  
3 the State of Oklahoma. For purposes of this paragraph, the primary  
4 government of the State of Oklahoma includes all agencies, boards~~7~~  
5 and commissions included in the primary government in the State of  
6 Oklahoma Comprehensive Annual Financial Report. The agencies,  
7 boards~~7~~ and commissions included in the primary government of the  
8 State of Oklahoma shall be determined using criteria set by the  
9 Governmental Accounting Standards Board.

10       ~~4.~~ 8. As used in this subsection, "audit" means any of the  
11 following:

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

- 1           b. "operational audit", which means an audit conducted in  
2           accordance with applicable Government Auditing  
3           Standards, the purpose of which is to evaluate  
4           management's performance in administering assigned  
5           responsibilities in accordance with applicable laws,  
6           administrative rules, and other policies and  
7           guidelines and to determine the extent to which the  
8           internal control, as designed and placed in operation,  
9           promotes and encourages the achievement of  
10          management's control objectives in the categories of  
11          compliance, reliability of financial records and  
12          reports, and safeguarding of assets,
- 13          c. "performance audit", which means an audit of a  
14          program, activity, or function of a state agency  
15          conducted in accordance with applicable Government  
16          Auditing Standards. The term includes, but is not  
17          limited to, an audit to assess program, activity, or  
18          function effectiveness, economy and efficiency,  
19          internal control, or compliance,
- 20          d. "special or investigative audit", which means an audit  
21          with respect to a particular situation which ~~may be,~~  
22          ~~but is not required to~~ shall be, conducted in  
23          accordance with applicable Government Auditing  
24          Standards, and shall include a management response

1                   that is limited in length to the same number of pages  
2                   as the special or investigative audit report, and

3           e.   any other type of engagement conducted in accordance  
4                   with Government Auditing Standards.

5           C.   GUBERNATORIAL REQUEST

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

11           D.   COUNTY TREASURER

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

15           E.   DISTRICT ATTORNEYS

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

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

9           F. DEPARTMENT OF CORRECTIONS

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

20           G. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD

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

6 H. DISTRICT ATTORNEY REQUEST

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

12 I. COUNTY OFFICERS BY REQUEST

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

18 J. AUDITORS

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

3 K. EXAMINATION OF LEVIES

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

12 L. PETITION AUDITS

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

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

1 trust, the required number of petitioners shall be the same as those  
2 required for an audit of its beneficiary. The appropriate county  
3 election board shall provide the number of signatures so required  
4 upon request.

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

15 4. Any person desiring to petition for an audit shall list the  
16 areas, items or concerns they want to be audited, and request from  
17 the State Auditor and Inspector the anticipated range of cost of the  
18 audit. Within thirty (30) days from the receipt of the request, the  
19 State Auditor and Inspector shall mail a petition form to the person  
20 requesting the information which shall state the anticipated range  
21 of the cost and the items or concerns to be audited. The  
22 circulators of the petition shall have thirty (30) days from the  
23 date the petition is mailed by the State Auditor and Inspector to  
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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 SECTION 2. AMENDATORY 74 O.S. 2011, Section 212A, as  
18 amended by Section 843, Chapter 304, O.S.L. 2012 (74 O.S. Supp.  
19 2020, Section 212A), is amended to read as follows:

20 Section 212A. A. 1. Except as otherwise provided by law, all  
21 government entities, as defined by the Governmental Accounting  
22 Standards Board, shall and, pursuant to the provisions of Section  
23 212 of this title, any state agency is authorized to have an audit  
24 conducted in accordance with auditing standards generally accepted

1 in the United States of America and Government Auditing Standards.  
2 Copies of any audit, performance audit, agreed-upon-procedures  
3 report, or other attestation engagement report produced by a person  
4 other than the State Auditor shall be filed with the State Auditor  
5 and Inspector by that person. The expense of the audit shall be  
6 paid by the government entity. For fiscal years ending after  
7 December 31, 1995, all government entities receiving public funds  
8 that are included in the reporting entity of the State of Oklahoma  
9 shall file a copy of the audit required by this paragraph with the  
10 Director of the Office of Management and Enterprise Services no  
11 later than four (4) months after the end of the fiscal year of the  
12 government entity. For purposes of this paragraph, the reporting  
13 entity of the State of Oklahoma includes all government entities  
14 included in the State of Oklahoma Comprehensive Annual Financial  
15 Report. The government entities included in the State of Oklahoma  
16 reporting entity shall be determined by the Director of the Office  
17 of Management and Enterprise Services using criteria set by the  
18 Governmental Accounting Standards Board.

19 2. Any public accountant or certified public accountant filing  
20 an audit, performance audit, agreed-upon-procedures report or other  
21 attestation engagement report with the State Auditor and Inspector  
22 pursuant to this section shall be required to pay a filing fee of  
23 One Hundred Dollars (\$100.00) for the purposes of processing such  
24 reports and ensuring compliance with the provisions of this section.

1 Such payments shall be deposited in the State Auditor and Inspector  
2 Revolving Fund, created pursuant to Section 227.9 of this title.

3 B. All registrants, as defined in the Oklahoma Accountancy Act,  
4 before entering into audit contracts required under this section,  
5 shall satisfy the Oklahoma Accountancy Board and the State Auditor  
6 and Inspector that such registrant meets Government Auditing  
7 Standards and has a current permit to practice issued by the  
8 Oklahoma Accountancy Board.

9 The State Auditor and Inspector shall receive annual reports  
10 from the Oklahoma Accountancy Board of all registrants meeting the  
11 requirements of this subsection. The Oklahoma Accountancy Board  
12 shall provide changes and updates to the annual report to the State  
13 Auditor and Inspector upon request.

14 C. Schedules of federal awards expended will be in a form  
15 consistent with the guidance in the most recent audit guide for  
16 state and local governments prepared by "The American Institute of  
17 Certified Public Accountants". State agencies or other pass-through  
18 grantors of federal awards expended will not place reporting  
19 requirements on a grantee or subrecipients in addition to the  
20 required federal compliance reports and schedules of federal awards  
21 expended, without approval of the State Auditor and Inspector.

22 D. All governmental entities shall report grant funds received,  
23 administered or used by the entity and all grant funds under the  
24 direct or indirect control of the governmental entity or any of its  
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1 employees in their employment capacity. A copy of the report shall  
2 be filed with the State Auditor and Inspector and the Director of  
3 the Office of Management and Enterprise Services within four (4)  
4 months after the end of the fiscal year of the governmental entity.  
5 The State Auditor and Inspector may audit any funds reported. The  
6 cost of the audit shall be paid by the governmental entity unless  
7 the grant provides for the cost of audits from grant funds.

8 SECTION 3. This act shall become effective November 1, 2021.

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