

An Act

ENROLLED HOUSE
BILL NO. 1058

By: Boles of the House

and

Taylor and Hall of the
Senate

An Act relating to cities and towns; enacting the Municipal Audit Reform Act of 2022; amending 11 O.S. 2021, Section 17-105, which relates to annual audits of municipalities; increasing municipal income threshold for required annual or biennial audits to be conducted; modifying manner in which threshold is calculated; modifying statutory references; defining scope of biennial audit; deleting certain required procedures; authorizing the use of alternate auditing procedure; directing development of alternate auditing procedure in collaboration with certain entities; providing time limitation for use of alternate auditing procedure; providing that act shall sunset by operation of law unless certain conditions have been met; requiring alternate auditing procedure to meet certain attestation standards; extending time for filing of audit; providing for additional extension of time under certain conditions; including and excluding income from certain trusts in calculating municipal income; amending 11 O.S. 2021, Section 17-107, which relates to the failure to file an audit; specifying condition under which withholding of certain gasoline taxes shall cease; requiring certain withheld funds to be deposited in certain revolving fund; creating the Special Investigative Unit Auditing Revolving Fund; making fund continuing and nonfiscal; stating sources of revenue; stating purpose of fund; establishing procedures of expenditures of monies accruing to the credit of the fund; repealing 11 O.S. 2021, Section 17-108, which relates to municipal trust exemptions; providing for noncodification; providing for

codification; providing an effective date; and
declaring an emergency.

SUBJECT: Cities and towns

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Municipal Audit
Reform Act of 2022".

SECTION 2. AMENDATORY 11 O.S. 2021, Section 17-105, is
amended to read as follows:

Section 17-105. A. The governing body of each municipality
with ~~an income of Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty
Thousand Dollars (\$50,000.00) or more ~~to its general fund in total
revenue to all funds, including component units of which the
municipality is a beneficiary,~~ during a fiscal year shall cause to
be prepared, by an independent licensed public accountant or a
certified public accountant, an annual financial statement audit to
be conducted in accordance with auditing standards generally
accepted in the United States of America and "Government Auditing
Standards" as issued by the Comptroller General of the United
States. Such audit shall be ordered within thirty (30) days of the
close of each fiscal year. Copies shall be filed with the State
Auditor and Inspector within six (6) months after the close of the
fiscal year in accordance with the provisions of ~~Sections 3022 and
3023 of Title 68 of the Oklahoma Statutes~~ this act and with the
governing body of the municipality.

B. The governing body of each municipality with ~~an income of
Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars
(\$50,000.00) or more ~~to its general fund during a fiscal year in
total revenue to all funds, including component units of which the
municipality is a beneficiary,~~ and with a population of less than
two thousand five hundred (2,500) as of the most recent Federal
Decennial Census, and for whom an annual financial statement audit
is not required by another law, regulation or contract, shall cause
to be prepared, by an independent licensed public accountant or a

certified public accountant, ~~an annual~~ a biennial financial statement audit in accordance with auditing standards generally accepted in the United States and Government Auditing Standards as issued by the Comptroller General of the United States, ~~or an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants. The specific procedures to be performed are as follows for the fiscal year:~~

~~1. Prepare a schedule of changes in fund balances for each fund and determine compliance with the statutory prohibition of creating fund balance deficits;~~

~~2. Prepare a budget and actual financial schedule for the General Fund and any other significant funds listing separately each federal fund and determine compliance with the legal level of appropriations by comparing expenditures and encumbrances to authorized appropriations;~~

~~3. Agree material bank account balances to bank statements, and trace significant reconciling items to subsequent clearance;~~

~~4. Compare uninsured deposits to fair value of pledged collateral;~~

~~5. Compare use of material-restricted revenues and resources to their restrictions;~~

~~6. Determine compliance with requirements for separate funds; and~~

~~7. Determine compliance with reserve account and debt service coverage requirements of bond indentures. Each biennial audit shall cover the two (2) preceding years.~~

~~Such~~ The governing body of each municipality may alternatively request a biennial agreed-upon-procedures engagement to be prescribed by the State Auditor and Inspector, developed in collaboration with a representative from a statewide organization that has represented municipal governments for at least fifty (50) years, a representative from an organization that advises or trains municipal clerks and treasurers, and a certified public accountant. Each biennial agreed-upon-procedures engagement shall cover the two (2) preceding years.

For engagements performed for the fiscal year ending June 30, 2023, the prescribed procedures developed under the terms of this subsection will be utilized on a one-year basis ending June 30, 2024. The procedures shall then be submitted to the Legislature for ratification. If the rules are not ratified by the Legislature on or before December 31, 2023, the Municipal Audit Reform Act of 2022 shall sunset and be repealed as a matter of law. Agreed-upon procedures required under this act shall be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants.

The audit or agreed-upon-procedures engagement shall be ordered within thirty (30) days of the close of ~~each~~ the fiscal year that the audit is due. Copies shall be filed with the State Auditor and Inspector within ~~six (6)~~ nine (9) months after the close of the fiscal year in accordance with the provisions of ~~Sections 3022 and 3023~~ paragraph 2 of subsection A of Section 212A of Title ~~68~~ 74 of the Oklahoma Statutes and with the governing body of the municipality-, with the deadline to order and file the audit or agreed-upon procedures eligible for extension by the State Auditor and Inspector for special circumstances or emergencies.

C. The municipal income requirements in subsections A and B of this section shall not include any grant monies provided to a municipality from any federal, state, or other governmental entity. The municipal income requirements shall not include income of any public trust established under Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes with a municipality as the beneficiary of the trust; provided, income from trusts established principally for the purpose of operating electric, water, wastewater, and sanitation utilities shall be included for purposes of the municipal income requirements.

SECTION 3. AMENDATORY 11 O.S. 2021, Section 17-107, is amended to read as follows:

Section 17-107. If a municipality does not file a copy of its audit or agreed-upon-procedures report as provided in Section 17-105 of this title, the State Auditor and Inspector shall notify the Oklahoma Tax Commission which shall withhold from the municipality its monthly allocations of gasoline taxes until notified by the Office of the State Auditor and Inspector that the audit report ~~is~~ has been filed. If a report is not filed within two (2) years after the close of the fiscal year in the case of an annual audit, or the

second fiscal year of a biennial audit period, the funds being withheld shall be remitted by the Oklahoma Tax Commission to the county in which the incorporated city or town is located and deposited to the county highway fund of that county to be used as otherwise provided by law Special Investigative Unit Auditing Revolving Fund created pursuant to Section 4 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-107A of Title 11, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Auditor and Inspector to be designated the "Special Investigative Unit Auditing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Auditor and Inspector from funds withheld from a municipality's allocations of gasoline taxes as provided in Section 17-107 of Title 11 of the Oklahoma Statutes and all monies received from legislative appropriations for the purpose of conducting investigative municipal audits. All monies accruing to the credit of such fund are hereby appropriated and may be budgeted and expended by the State Auditor and Inspector for the purpose of offsetting expenses incurred from special investigative audit activities relating to municipal government. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 5. REPEALER 11 O.S. 2021, Section 17-108, is hereby repealed.

SECTION 6. This act shall become effective July 1, 2022.

SECTION 7. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 11th day of May, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2022.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____