

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 1058

By: Boles of the House

and

Hall of the Senate

7 An Act relating to cities and towns; amending 11 O.S.
8 2011, Sections 17-105, as last amended by Section 1,
9 Chapter 82, O.S.L. 2017 and 17-107 (11 O.S. Supp.
10 2020, Section 17-105), which relate to municipal
11 finances; modifying minimum municipal income for
12 which certain audits shall be required; making
13 certain audits biennial; replacing certain auditing
14 procedures with procedures prescribed by the State
15 Auditor and Inspector; modifying time certain audit
16 report is due; modifying municipal income
17 requirements; redirecting certain funds; creating the
18 Special Investigative Unit Auditing Revolving Fund;
19 providing for revenue and expenditures; providing for
20 codification; repealing 11 O.S. 2011, Section 17-108,
21 which relates to municipal trust exemptions;
22 providing an effective date; and declaring an
23 emergency.

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18 AUTHOR: Remove as principal Senate author Hall and substitute as
19 principal Senate author Taylor. Retain Hall as Senate
20 coauthor

20 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
21 entire bill and insert

21
22 "An Act relating to cities and towns; providing short
23 title; amending 11 O.S. 2021, Section 17-105, which
24 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

1 statutory references; defining scope of biennial
2 audit; deleting certain required procedures;
3 authorizing the use of alternate auditing procedure;
4 directing development of alternate auditing procedure
5 in collaboration with certain entities; providing
6 time limitation for use of alternate auditing
7 procedure; providing that act shall sunset by
8 operation of law unless certain conditions have been
9 met; requiring alternate auditing procedure to meet
10 certain attestation standards; extending time for
11 filing of audit; providing for additional extension
12 of time under certain conditions; including and
13 excluding income from certain trusts in calculating
14 municipal income; amending 11 O.S. 2021, Section 17-
15 107, which relates to the failure to file an audit;
16 specifying condition under which withholding of
17 certain gasoline taxes shall cease; requiring certain
18 withheld funds to be deposited in certain revolving
19 fund; creating the Special Investigative Unit
20 Auditing Revolving Fund; making fund continuing and
21 nonfiscal; stating sources of revenue; stating
22 purpose of fund; establishing procedures of
23 expenditures of monies accruing to the credit of the
24 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.

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:

1 Section 17-105. A. The governing body of each municipality
2 with an income of ~~Twenty five Thousand Dollars (\$25,000.00)~~ Fifty
3 Thousand Dollars (\$50,000.00) or more ~~to its general fund in total~~
4 revenue to all funds including component units of which the
5 municipality is a beneficiary, during a fiscal year shall cause to
6 be prepared, by an independent licensed public accountant or a
7 certified public accountant, an annual financial statement audit to
8 be conducted in accordance with auditing standards generally
9 accepted in the United States of America and "Government Auditing
10 Standards" as issued by the Comptroller General of the United
11 States. Such audit shall be ordered within thirty (30) days of the
12 close of each fiscal year. Copies shall be filed with the State
13 Auditor and Inspector within six (6) months after the close of the
14 fiscal year in accordance with the provisions of ~~Sections 3022 and~~
15 ~~3023 of this act Title 68 of the Oklahoma Statutes~~ and with the
16 governing body of the municipality.

17 B. The governing body of each municipality with an income of
18 ~~Twenty five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars
19 (\$50,000.00) or more ~~to its general fund during a fiscal year in~~
20 total revenue to all funds including component units of which the
21 municipality is a beneficiary, and with a population of less than
22 two thousand five hundred (2,500) as of the most recent Federal
23 Decennial Census, and for whom an annual financial statement audit
24 is not required by another law, regulation or contract, shall cause

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

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

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

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

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

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

1 ~~6. Determine compliance with requirements for separate funds,~~
2 and

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

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

15 For engagements performed for the fiscal year ending June 30,
16 2023, the prescribed procedures developed under the terms of this
17 subsection will be utilized on a one-year basis ending June 30,
18 2024. The procedures shall then be submitted to the Legislature for
19 ratification. If the rules are not ratified by the Legislature on
20 or before December 31, 2023, the Municipal Audit Reform Act of 2022
21 shall sunset and be repealed as a matter of law. Agreed-upon
22 procedures required under this act shall be performed in accordance
23 with the applicable attestation standards of The American Institute
24 of Certified Public Accountants.

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

11 C. The municipal income requirements in subsections A and B of
12 this section shall not include any grant monies provided to a
13 municipality from any federal, state, or other governmental entity.
14 The municipal income requirements shall not include income of any
15 public trust established under Sections 176 through 180.4 of Title
16 60 of the Oklahoma Statutes with a municipality as the beneficiary
17 of the trust; provided, income from trusts established principally
18 for the purpose of operating electric, water, wastewater, and
19 sanitation utilities shall be included for purposes of the municipal
20 income requirements.

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

23 Section 17-107. If a municipality does not file a copy of its
24 audit or agreed-upon-procedures report as provided in Section 17-105

1 of this title, the State Auditor and Inspector shall notify the
2 Oklahoma Tax Commission which shall withhold from the municipality
3 its monthly allocations of gasoline taxes until notified by the
4 Office of the State Auditor and Inspector that the audit report ~~is~~
5 has been filed. If a report is not filed within two (2) years after
6 the close of the fiscal year in the case of an annual audit, or the
7 second fiscal year of a biennial audit period, the funds being
8 withheld shall be remitted by the Oklahoma Tax Commission to the
9 ~~county in which the incorporated city or town is located and~~
10 ~~deposited to the county highway fund of that county to be used as~~
11 ~~otherwise provided by law~~ Special Investigative Unit Auditing
12 Revolving Fund created pursuant to Section 4 of this act.

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

16 There is hereby created in the State Treasury a revolving fund
17 for the State Auditor and Inspector to be designated the "Special
18 Investigative Unit Auditing Revolving Fund". The fund shall be a
19 continuing fund, not subject to fiscal year limitations, and shall
20 consist of all monies received by the State Auditor and Inspector
21 from funds withheld from a municipality's allocations of gasoline
22 taxes as provided in Section 17-107 of Title 11 of the Oklahoma
23 Statutes and all monies received from legislative appropriations for
24 the purpose of conducting investigative municipal audits. All

1 monies accruing to the credit of such fund are hereby appropriated
2 and may be budgeted and expended by the State Auditor and Inspector
3 for the purpose of offsetting expenses incurred from special
4 investigative audit activities relating to municipal government.
5 Expenditures from the fund shall be made upon warrants issued by the
6 State Treasurer against claims filed as prescribed by law with the
7 Director of the Office of Management and Enterprise Services for
8 approval and payment.

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

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

12 SECTION 7. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.”
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1 Passed the Senate the 25th day of April, 2022.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2022.

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9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1058

By: Boles of the House

3 and

4 Hall of the Senate

5
6 An Act relating to cities and towns; amending 11 O.S.
7 2011, Sections 17-105, as last amended by Section 1,
8 Chapter 82, O.S.L. 2017 and 17-107 (11 O.S. Supp.
9 2020, Section 17-105), which relate to municipal
10 finances; modifying minimum municipal income for
11 which certain audits shall be required; making
12 certain audits biennial; replacing certain auditing
13 procedures with procedures prescribed by the State
14 Auditor and Inspector; modifying time certain audit
15 report is due; modifying municipal income
16 requirements; redirecting certain funds; creating the
17 Special Investigative Unit Auditing Revolving Fund;
18 providing for revenue and expenditures; providing for
19 codification; repealing 11 O.S. 2011, Section 17-108,
20 which relates to municipal trust exemptions;
21 providing an effective date; and declaring an
22 emergency.

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

24 SECTION 8. AMENDATORY 11 O.S. 2011, Section 17-105, as
last amended by Section 1, Chapter 82, O.S.L. 2017 (11 O.S. Supp.
2020, 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 revenue
to all funds, including component units of which the municipality is

1 a beneficiary, during a fiscal year shall cause to be prepared, by
2 an independent licensed public accountant or a certified public
3 accountant, an annual financial statement audit to be conducted in
4 accordance with auditing standards generally accepted in the United
5 States of America and "Government Auditing Standards" as issued by
6 the Comptroller General of the United States. Such audit shall be
7 ordered within thirty (30) days of the close of each fiscal year.
8 Copies shall be filed with the State Auditor and Inspector within
9 six (6) months after the close of the fiscal year in accordance with
10 the provisions of ~~Sections 3022 and 3023~~ paragraph 2 of subsection A
11 of Section 212A of Title ~~68~~ 74 of the Oklahoma Statutes and with the
12 governing body of the municipality.

13 B. The governing body of each municipality with ~~an income of~~
14 ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars
15 (\$50,000.00) or more ~~to its general fund during a fiscal year in~~
16 total revenue to all funds, including component units of which the
17 municipality is a beneficiary, and with a population of less than
18 two thousand five hundred (2,500) as of the most recent Federal
19 Decennial Census, and for whom an annual financial statement audit
20 is not required by another law, regulation or contract, shall cause
21 to be prepared, by an independent licensed public accountant or a
22 certified public accountant, ~~an annual~~ a biennial financial
23 statement audit in accordance with auditing standards generally
24 accepted in the United States and Government Auditing Standards as

1 issued by the Comptroller General of the United States, ~~or an~~. Each
2 biennial audit shall cover the two (2) preceding years. The
3 governing body of each municipality may alternatively request
4 biennial agreed-upon-procedures engagement over certain financial
5 information and compliance requirements to be ~~performed in~~
6 ~~accordance with the applicable attestation standards of The American~~
7 ~~Institute of Certified Public Accountants. The specific procedures~~
8 ~~to be performed are as follows for the fiscal year:~~

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

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

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

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

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

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

1 7. ~~Determine compliance with reserve account and debt service~~
2 ~~coverage requirements of bond indentures.~~

3 ~~Such~~ prescribed by the State Auditor and Inspector. Each
4 biennial agreed-upon-procedures engagement shall cover the two (2)
5 preceding years. The audit or agreed-upon-procedures engagement
6 shall be ordered within thirty (30) days of the close of ~~each~~ the
7 fiscal year that the audit is due. Copies shall be filed with the
8 State Auditor and Inspector within ~~six (6)~~ nine (9) months after the
9 close of the fiscal year in accordance with the provisions of
10 ~~Sections 3022 and 3023~~ paragraph 2 of subsection A of Section 212A
11 of Title ~~68~~ 74 of the Oklahoma Statutes and with the governing body
12 of the municipality.

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

23 SECTION 9. AMENDATORY 11 O.S. 2011, Section 17-107, is
24 amended to read as follows:

1 Section 17-107. If a municipality does not file a copy of its
2 audit or agreed-upon-procedures report as provided in Section 17-105
3 of this title, the State Auditor and Inspector shall notify the
4 Oklahoma Tax Commission which shall withhold from the municipality
5 its monthly allocations of gasoline taxes until the audit report is
6 filed. If a report is not filed within ~~two (2) years~~ one (1) year
7 after the close of the fiscal year in the case of an annual audit,
8 or the second fiscal year of a biennial audit period, the funds
9 being withheld shall be remitted by the Oklahoma Tax Commission to
10 the ~~county in which the incorporated city or town is located and~~
11 ~~deposited to the county highway fund of that county to be used as~~
12 ~~otherwise provided by law~~ Special Investigative Unit Auditing
13 Revolving Fund created pursuant to Section 3 of this act.

14 SECTION 10. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 17-107A of Title 11, unless
16 there is created a duplication in numbering, reads as follows:

17 There is hereby created in the State Treasury a revolving fund
18 for the State Auditor and Inspector to be designated the "Special
19 Investigative Unit Auditing Revolving Fund". The fund shall be a
20 continuing fund, not subject to fiscal year limitations, and shall
21 consist of all monies received by the State Auditor and Inspector
22 from funds withheld from a municipality's allocations of gasoline
23 taxes as provided in Section 17-107 of Title 11 of the Oklahoma
24 Statutes and all monies received from legislative appropriations.

1 All monies accruing to the credit of said fund are hereby
2 appropriated and may be budgeted and expended by the State Auditor
3 and Inspector for the purpose of offsetting expenses incurred from
4 special investigative audit activities relating to municipal
5 government. Expenditures from said fund shall be made upon warrants
6 issued by the State Treasurer against claims filed as prescribed by
7 law with the Director of the Office of Management and Enterprise
8 Services for approval and payment.

9 SECTION 11. REPEALER 11 O.S. 2011, Section 17-108, is
10 hereby repealed.

11 SECTION 12. This act shall become effective July 1, 2021.

12 SECTION 13. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 Passed the House of Representatives the 1st day of March, 2021.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2021.

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Presiding Officer of the Senate

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