

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1058

By: Boles of the House

and

**Hall** of the Senate

7  
8  
9                               COMMITTEE SUBSTITUTE

10                   An Act relating to cities and towns; amending 11 O.S.  
11                   2011, Sections 17-105, as last amended by Section 1,  
12                   Chapter 82, O.S.L. 2017 and 17-107 (11 O.S. Supp.  
13                   2020, Section 17-105), which relate to municipal  
14                   finances; modifying minimum municipal income for  
15                   which certain audits shall be required; making  
16                   certain audits biennial; replacing certain auditing  
17                   procedures with procedures prescribed by the State  
18                   Auditor and Inspector; modifying time certain audit  
19                   report is due; modifying municipal income  
20                   requirements; redirecting certain funds; creating the  
21                   Special Investigative Unit Auditing Revolving Fund;  
22                   providing for revenue and expenditures; providing for  
23                   codification; and repealing 11 O.S. 2011, Section 17-  
24                   108, which relates to municipal trust exemptions;  
                 providing an effective date; and declaring an  
                 emergency.

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

SECTION 1.           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:

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 revenue~~  
4 to all funds, including component units of which the municipality is  
5 a beneficiary, during a fiscal year shall cause to be prepared, by  
6 an independent licensed public accountant or a certified public  
7 accountant, an annual financial statement audit to be conducted in  
8 accordance with auditing standards generally accepted in the United  
9 States of America and "Government Auditing Standards" as issued by  
10 the Comptroller General of the United States. Such audit shall be  
11 ordered within thirty (30) days of the close of each fiscal year.  
12 Copies shall be filed with the State Auditor and Inspector within  
13 six (6) months after the close of the fiscal year in accordance with  
14 the provisions of ~~Sections 3022 and 3023~~ paragraph 2 of subsection A  
15 of Section 212A of Title ~~68~~ 74 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.~~ Each  
6 biennial audit shall cover the two (2) preceding years. The  
7 governing body of each municipality may alternatively request  
8 biennial agreed-upon-procedures engagement over certain financial  
9 information and compliance requirements to be ~~performed in~~  
10 ~~accordance with the applicable attestation standards of The American~~  
11 ~~Institute of Certified Public Accountants. The specific procedures~~  
12 ~~to be performed are as follows for the fiscal year:~~

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

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

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

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

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

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

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

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

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

1 water, wastewater, and sanitation utilities shall be included for  
2 purposes of the municipal income requirements.

3 SECTION 2. AMENDATORY 11 O.S. 2011, Section 17-107, is  
4 amended to read as follows:

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

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 17-107A of Title 11, unless  
20 there is created a duplication in numbering, reads as follows:

21 There is hereby created in the State Treasury a revolving fund  
22 for the State Auditor and Inspector to be designated the "Special  
23 Investigative Unit Auditing Revolving Fund". The fund shall be a  
24 continuing fund, not subject to fiscal year limitations, and shall

1 consist of all monies received by the State Auditor and Inspector  
2 from funds withheld from a municipality's allocations of gasoline  
3 taxes as provided in Section 17-107 of Title 11 of the Oklahoma  
4 Statutes and all monies received from legislative appropriations.  
5 All monies accruing to the credit of said fund are hereby  
6 appropriated and may be budgeted and expended by the State Auditor  
7 and Inspector for the purpose of offsetting expenses incurred from  
8 special investigative audit activities relating to municipal  
9 government. Expenditures from said fund shall be made upon warrants  
10 issued by the State Treasurer against claims filed as prescribed by  
11 law with the Director of the Office of Management and Enterprise  
12 Services for approval and payment.

13 SECTION 4. REPEALER 11 O.S. 2011, Section 17-108, is  
14 hereby repealed.

15 SECTION 5. This act shall become effective July 1, 2021.

16 SECTION 6. It being immediately necessary for the preservation  
17 of the public peace, health or safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.  
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21 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,  
22 dated 02/10/2021 - DO PASS, As Amended and Coauthored.  
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