

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2304 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Wes Hilliard \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2304

By: Hilliard

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to public finance; creating the  
9 Recovery Audits for Government Overpayments of Tax  
10 Dollars Act; declaring intent; defining terms;  
11 authorizing contracts for recovery audits; providing  
12 for confidential information; making state agencies  
13 subject to recovery audits; providing for payment to  
14 consultants; providing for recovery audit reports;  
15 authorizing the adoption of certain rules; providing  
16 for codification; and providing an effective date.

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

17 SECTION 1. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 34.201 of Title 62, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. This act shall be known and may be cited as the "Recovery  
21 Audits for Government Overpayments of Tax Dollars Act".

22 B. The Legislature finds that overpayments are a serious  
23 problem for state agencies given the magnitude and complexity of  
24 state operations. Overpayments waste tax dollars and detract from

1 the efficiency and effectiveness of state operations by diverting  
2 resources from their intended uses. An overpayment occurs when an  
3 individual, vendor or other entity receives a government payment in  
4 error or in excess of the legal amount entitled. In order to  
5 improve the economy and efficiency of government operations, the  
6 state shall contract for recovery audits to recoup any overpayments  
7 made of state or federal tax dollars. The Legislature recognizes  
8 that recovery audits are a nationally recognized best practice for  
9 disbursements management and will provide insight for improving  
10 operational efficiency and internal controls in the state's  
11 disbursement of tax dollars. Additionally, recovery audits will not  
12 cost the state any resources as the contractor's costs are deducted  
13 from any dollars recovered, making the recovery audits self-funding.

14 SECTION 2. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 34.202 of Title 62, unless there  
16 is created a duplication in numbering, reads as follows:

17 As used in the Recovery Audits for Government Overpayments of  
18 Tax Dollars Act:

- 19 1. "Auditor" means the State Auditor and Inspector;
- 20 2. "Consultant" means a private contractor with recovery audit  
21 expertise;
- 22 3. "Director" means the Director of the Office of State  
23 Finance;
- 24 4. "Overpayment" includes:

- a. failure to meet eligibility requirements,
- b. duplicate payments,
- c. invoice and pricing errors,
- d. failure to apply discounts, rebates, or other allowances,
- e. failure to comply with purchasing agreements, and
- f. any other inadvertent errors resulting in overpayments;

5. "Recovery audit" means a financial management technique used to identify overpayments made by a state agency with respect to individuals, vendors, and other entities in connection with a payment activity;

6. "Shall" means the obligation or duty to do and does not mean discretionary or has the option; and

7. "State agency" means a department, office, board, commission, bureau, division, institution, or institution of higher education. This includes individual state agencies and programs, as well as those programs and activities that cross agency lines. State agency includes all elective offices in the Executive Branch of government and the Legislature.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.203 of Title 62, unless there is created a duplication in numbering, reads as follows:

1       A. The State Auditor and Inspector shall contract with private  
2 consultants to conduct recovery audits of payments made by state  
3 agencies to individuals, vendors, and other entities.

4       B. A contract under this section:

5       1. May provide for reasonable compensation for services  
6 provided under the contract, including compensation determined by  
7 the application of a specified percentage of the total amount  
8 recovered because of the consultant's audit activities;

9       2. May permit or require the consultant to pursue a judicial  
10 action in a court inside or outside this state to recover an  
11 overpaid amount; and

12       3. To allow time for the performance of existing state payment  
13 auditing procedures, may not allow a recovery audit of a payment  
14 during the ninety-day period after the date the payment was made.

15       C. The Auditor or a state agency whose payments are being  
16 audited shall provide a person acting under a contract authorized by  
17 this section with any confidential information in the custody of the  
18 Auditor or state agency that is necessary for the performance of the  
19 audit or the recovery audit of an overpayment, to the extent the  
20 Auditor and state agency are not prohibited from sharing the  
21 information under an agreement with another state or the federal  
22 government. A person acting under a contract authorized by this  
23 section, and each employee or agent of the person, is subject to all  
24 prohibitions against the disclosure of confidential information

1 obtained from the state in connection with the contract that apply  
2 to the Auditor or applicable state agency or an employee of the  
3 Auditor or applicable state agency. A person acting under a  
4 contract authorized by this section or an employee or agent of the  
5 person who discloses confidential information in violation of a  
6 prohibition made applicable to the person under this subsection is  
7 subject to prosecution for a gross misdemeanor.

8 SECTION 4. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 34.204 of Title 62, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. The State Auditor and Inspector shall require that recovery  
12 audits be performed on the payments to individuals, vendors, and  
13 other entities made by each state agency that has total expenditures  
14 during a state fiscal biennium in an amount that exceeds Fifty  
15 Million Dollars (\$50,000,000.00). Each state agency described by  
16 this subsection shall provide the recovery audit consultant with all  
17 information necessary for the audit.

18 B. In addition, the Auditor shall require recovery audits for  
19 any state agency that receives an audit finding by the Auditor for  
20 internal control weaknesses concerning agency payments and  
21 contracts. Each state agency described by this subsection shall  
22 provide the recovery audit consultant with all information necessary  
23 for the audit.

24

1 C. The Auditor may exempt from mandatory recovery audit process  
2 a state agency that has a low proportion of its expenditures made to  
3 individuals, vendors, and other entities, according to criteria the  
4 Auditor adopts after consideration of the likely costs and benefits  
5 of performing recovery audits for agencies that make relatively few  
6 or small payments to vendors.

7 D. The Auditor shall provide the Director of the Office of  
8 State Finance, the Senate Appropriations Committee, and the House of  
9 Representatives Appropriations and Budget Committee with a report by  
10 December 31 of each year detailing any exemptions from subsections A  
11 and B of this section.

12 SECTION 5. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 34.205 of Title 62, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. The State Auditor and Inspector shall adopt reasonable  
16 compensation for services provided under recovery audit contracts  
17 based on a specified percentage of the total amount recovered  
18 because of a consultant's audit activities.

19 B. A state agency shall expend or return to the federal  
20 government any federal money that is recovered through a recovery  
21 audit conducted under the Recovery Audits for Government  
22 Overpayments of Tax Dollars Act. The state agency shall expend or  
23 return the federal money in accordance with the rules of the federal  
24 program through which the agency received the federal money.

1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 34.206 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The State Auditor and Inspector shall provide copies,  
5 including electronic form copies, of any reports received from a  
6 consultant contracting under the Recovery Audits for Government  
7 Overpayments of Tax Dollars Act to:

- 8 1. The Governor;
- 9 2. The Director of the Office of State Finance; and
- 10 3. The House and Senate Appropriations and Budget Committees  
11 Chairs.

12 B. The Auditor shall provide the copies required by subsection  
13 A of this section not later than seven (7) business days after the  
14 date the Auditor receives the consultant's report.

15 C. Not later than December 31 of each year, the Auditor shall  
16 issue a report to the Legislature summarizing the contents of all  
17 reports received under the Recovery Audits for Government  
18 Overpayments of Tax Dollars Act during the past fiscal year. This  
19 report shall also be posted on the Office of State Finance website.

20 SECTION 7. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 34.207 of Title 62, unless there  
22 is created a duplication in numbering, reads as follows:

23 The State Auditor and Inspector shall adopt rules necessary to  
24 implement the Recovery Audits for Government Overpayments of Tax



1 Dollars Act in a timely manner so that the Auditor may begin  
2 contracting with consultants under this act not later than January  
3 1, 2013.

4 SECTION 8. This act shall become effective November 1, 2012.

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