

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 646

By: Jolley of the Senate

and

Quinn of the House

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10 COMMITTEE SUBSTITUTE

11 [public finance - creating the Recovery Audits for
12 Government Overpayments of Tax Dollars Act -
13 codification - effective date]

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

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

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

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

4 As used in the Recovery Audits for Government Overpayments of
5 Tax Dollars Act:

6 1. "Auditor" means the State Auditor and Inspector;

7 2. "Consultant" means a private contractor with recovery audit
8 expertise;

9 3. "Director" means the Director of the Office of Management
10 and Enterprise Services;

11 4. "Overpayment" includes:

12 a. failure to meet eligibility requirements,

13 b. duplicate payments,

14 c. invoice and pricing errors,

15 d. failure to apply discounts, rebates, or other
16 allowances, and

17 e. failure to comply with purchasing agreements;

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

22 6. "State agency" means a department, office, board,

23 commission, bureau, division, institution, or institution of higher

24 education, including individual state agencies and programs, whether

1 or not those programs and activities cross agency lines and all
2 elective offices in the executive and legislative branches of
3 government.

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

7 A. The State Auditor and Inspector may contract with private
8 consultants to conduct recovery audits of payments made by state
9 agencies to individuals, vendors, and other entities.

10 B. A contract under this section:

11 1. May provide for reasonable compensation for services
12 provided under the contract, including compensation determined by
13 the application of a specified percentage of the total amount
14 recovered as a result of the consultant's audit activities;

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

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

21 C. The Auditor or a state agency whose payments are being
22 audited shall provide a person acting under a contract authorized by
23 this section with any confidential information in the custody of the
24 Auditor or state agency that is necessary for the performance of the

1 audit or the recovery audit of an overpayment, to the extent the
2 Auditor and state agency are not prohibited from sharing the
3 information under an agreement with another state or the federal
4 government. A person acting under a contract authorized by this
5 section, and each employee or agent of the person, is subject to all
6 prohibitions against the disclosure of confidential information
7 obtained from the state in connection with the contract that apply
8 to the Auditor or applicable state agency or an employee of the
9 Auditor or applicable state agency. A person acting under a
10 contract authorized by this section or an employee or agent of the
11 person who discloses confidential information in violation of this
12 subsection shall be guilty of a misdemeanor.

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

16 A. The State Auditor and Inspector may require that recovery
17 audits be performed on the payments to individuals, vendors, and
18 other entities made by each state agency that has total expenditures
19 during a state fiscal year in an amount that exceeds Twenty-five
20 Million Dollars (\$25,000,000.00). Each state agency described by
21 this subsection shall provide the recovery audit consultant with all
22 information necessary for the audit.

23 B. In addition, the Auditor may require recovery audits for any
24 state agency that receives an audit finding by the Auditor for

1 internal control weaknesses concerning agency payments and
2 contracts. Each state agency described by this subsection shall
3 provide the recovery audit consultant with all information necessary
4 for the audit.

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

11 D. The Auditor shall provide the Director of the Office of
12 Management and Enterprise Services, the Senate Appropriations
13 Committee, and the House of Representatives Appropriations and
14 Budget Committee with a report by December 31 of each year detailing
15 any exemptions from subsections A and B of this section.

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

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

23 B. A state agency shall expend or return to the federal
24 government any federal money that is recovered through a recovery

1 audit conducted under the Recovery Audits for Government
2 Overpayments of Tax Dollars Act. The state agency shall expend or
3 return the federal money in accordance with the rules of the federal
4 program through which the agency received the federal money.

5 C. In calculating overpayments, sampling to calculate an
6 average overpayment rate and extrapolation of such rate to any payee
7 or group of payees shall be prohibited.

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

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

- 15 1. The Governor;
- 16 2. The Director of the Office of Management and Enterprise
17 Services; and
- 18 3. The House and Senate Appropriations and Budget Committees
19 Chairs.

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

23 C. Not later than December 31 of each year, the Auditor shall
24 issue a report to the Legislature summarizing the contents of all

1 reports received under the Recovery Audits for Government
2 Overpayments of Tax Dollars Act during the past fiscal year. This
3 report shall also be posted on the Office of Management and
4 Enterprise Services website.

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

8 The State Auditor and Inspector shall adopt rules necessary to
9 implement the Recovery Audits for Government Overpayments of Tax
10 Dollars Act in a timely manner so that the Auditor may begin
11 contracting with consultants under this act not later than January
12 1, 2014.

13 SECTION 8. This act shall become effective November 1, 2013.

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15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
16 04/11/2013 - DO PASS, As Amended.

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