

1 **SENATE FLOOR VERSION**

February 13, 2013

2 **AS AMENDED**

3 SENATE BILL NO. 646

By: Jolley of the Senate

4 and

5 Quinn of the House

6  
7  
8 **[ public finance - creating the Recovery Audits for**  
9 **Government Overpayments of Tax Dollars Act -**  
10 **codification - effective date ]**

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

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

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

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

21 As used in the Recovery Audits for Government Overpayments of  
22 Tax Dollars Act:

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

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

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

5        4. "Overpayment" includes:

6            a. failure to meet eligibility requirements,

7            b. duplicate payments,

8            c. invoice and pricing errors,

9            d. failure to apply discounts, rebates, or other  
10            allowances,

11           e. failure to comply with purchasing agreements, and

12           f. any other inadvertent errors resulting in  
13           overpayments;

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

18        6. "State agency" means a department, office, board,  
19 commission, bureau, division, institution, or institution of higher  
20 education, including individual state agencies and programs, whether  
21 or not those programs and activities cross agency lines and all  
22 elective offices in the executive and legislative branches of  
23 government.

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

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

7           B.   A contract under this section:

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

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

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

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

1 government. A person acting under a contract authorized by this  
2 section, and each employee or agent of the person, is subject to all  
3 prohibitions against the disclosure of confidential information  
4 obtained from the state in connection with the contract that apply  
5 to the Auditor or applicable state agency or an employee of the  
6 Auditor or applicable state agency. A person acting under a contract  
7 authorized by this section or an employee or agent of the person who  
8 discloses confidential information in violation of this subsection  
9 shall be guilty of a misdemeanor.

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

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

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

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

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

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

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

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

1 return the federal money in accordance with the rules of the federal  
2 program through which the agency received the federal money.

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

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

10 1. The Governor;

11 2. The Director of the Office of Management and Enterprise  
12 Services; and

13 3. The House and Senate Appropriations and Budget Committees  
14 Chairs.

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

18 C. Not later than December 31 of each year, the Auditor shall  
19 issue a report to the Legislature summarizing the contents of all  
20 reports received under the Recovery Audits for Government  
21 Overpayments of Tax Dollars Act during the past fiscal year. This  
22 report shall also be posted on the Office of Management and  
23 Enterprise Services website.

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
11 February 13, 2013 - DO PASS AS AMENDED  
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