

**ALEC's Corporate Board**  
--in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

**ALEC EXPOSED**

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Home → Model Legislation → Tax and Fiscal Policy ←

**An Act Relating to Recovery Audits for Government Overpayments of Tax Dollars**

*Model Language*

**Intent Section**

The Legislature finds that overpayments are a serious problem for state agencies given the magnitude and complexity of state operations. Overpayments waste tax dollars and detract from the efficiency and effectiveness of state operations by diverting resources from their intended uses. An overpayment occurs when an individual, vendor or other entity receives a government payment in error or in excess of the legal amount entitled. In order to improve the economy and efficiency of government operations, the state shall contract for recovery audits to recoup any overpayments made of state or federal tax dollars. The Legislature recognizes that recovery audits are a nationally recognized best practice for disbursements management and will provide insight for improving operational efficiency and internal controls in the state's disbursement of tax dollars. Additionally, recovery audits will not cost the state any resources as the contractor's costs are deducted from any dollars recovered, making the recovery audits self-funding.

**Definitions**

- (1) "Consultant" means a private contractor with recovery audit expertise.
- (2) "Director" means the Director of the [state budget office].
- (3) "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.
- (4) "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.
- (5) "Shall" means the obligation or duty to do and does not mean discretionary or has the option.
- (6) "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.

**Contracting for Recovery Audits**

- (1) The Director shall contract with private consultants to conduct recovery audits of payments made by state agencies to individuals, vendors, and other entities.
- (2) A contract under this section:

Did you know that the Evergreen Freedom Foundation--which is connected to the Kochs--was the corporate co-chair in 2011?"

- a. may provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities;
- b. may permit or require the consultant to pursue a judicial action in a court inside or outside this state to recover an overpaid amount; and
- c. to allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the 90-day period after the date the payment was made.

(3) The Director or a state agency whose payments are being audited shall provide a person acting under a contract authorized by this section with any confidential information in the custody of the Director or state agency that is necessary for the performance of the audit or the recovery audit of an overpayment, to the extent the Director and state agency are not prohibited from sharing the information under an agreement with another state or the federal government. A person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the Director or applicable state agency or an employee of the Director or applicable state agency. A person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to prosecution for a gross misdemeanor.

### **State Agencies Subject to Mandatory Recovery Audits**

(1) The Director shall require that recovery audits be performed on the payments to individuals, vendors, and other entities made by each state agency that has total expenditures (all funds) during a state fiscal biennium in an amount that exceeds \$50 million. Each state agency described by this subsection shall provide the recovery audit consultant with all information necessary for the audit.

(2) In addition, the Director shall require recovery audits for any state agency that receives an audit finding by the state auditor or the legislative auditor for internal control weaknesses concerning agency payments and contracts. Each state agency described by this subsection shall provide the recovery audit consultant with all information necessary for the audit.

(3) The Director may exempt from mandatory recovery audit process a state agency that has a low proportion of its expenditures made to individuals, vendors, and other entities, according to criteria the Director adopts by rule after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

a. The Director shall provide the [state auditor or comptroller] and legislative fiscal committees with a report by December 31 of each year detailing any exemptions from (1) and (2) of this subsection.

b. The legislative fiscal committees may veto any exemption claimed by the Director with a simple majority vote of both committees.

### **Payment to Consultants**

(1) The Director shall adopt by rule reasonable compensation for services provided under recovery audit contracts based on a specified percentage of the total amount recovered because of a consultant's audit activities.

(2) A state agency shall expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. The state agency shall expend or return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

### **Recovery Audit Reports**

(1) The Director shall provide copies, including electronic form copies, of any reports received from a consultant contracting under this chapter to:

- a. the Governor,
- b. the [state auditor or comptroller], and
- c. the legislative fiscal committees.

(2) The Director shall provide the copies required by subsection (1) not later than the seventh business day after the date the Director receives the consultant's report.

(3) Not later than December 31 of each year, the Director shall issue a report to the legislature summarizing the contents of all reports received under this chapter during the past fiscal year. This report shall also be posted on the [state budget office] website.

### **First Recovery Audit Contract**

(1) The Director shall adopt rules necessary to implement this chapter in a timely manner so that the Director may begin contracting with consultants under this chapter not later than January 1, 20xx.

*Adopted by the Tax and Fiscal Policy Task Force on July 31, 2008.*

*Approved by the ALEC Board of Directors on September 11, 2008.*

**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECexposed.org](http://www.ALECexposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.