**A** **BILL**

TO AMEND CHAPTER 3, TITLE 11 OF THE 1976 CODE, RELATING TO THE COMPTROLLER GENERAL, BY ADDING SECTION 11‑3‑250, TO PROVIDE THAT THE COMPTROLLER GENERAL SHALL CONTRACT WITH CONSULTANTS TO CONDUCT RECOVERY AUDITS OF PAYMENTS MADE ON BEHALF OF STATE AGENCIES TO VENDORS, TO PROVIDE WHEN AN AUDIT IS NECESSARY, AND TO PROVIDE THE PROCESS IN WHICH THE RESULTS OF THE AUDIT ARE ADMINISTERED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 11 of the 1976 Code is amended by adding:

“Section 11‑3‑250. (A) For purposes of this section:

(1) ‘Overpayment’ includes a duplicate payment made to a vendor for a single invoice and a payment made to a vendor:

(a) when an available discount from the vendor was not applied;

(b) for a late payment penalty that was improperly applied by the vendor;

(c) for shipping costs that were computed incorrectly or incorrectly included in an invoice;

(d) for state sales tax; or

(e) for a good or service the vendor did not provide.

(2) ‘State agency’ means a department, commission, board, office, state‑supported institution of higher learning, state‑supported technical institution, or other agency.

(B)(1) The Comptroller General shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(2) A consultant’s contract:

(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 or recommendations as a fee for services;

(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 one hundred eighty day period after the date the payment was made.

(3) The Comptroller General, or a state agency whose payments are being audited, may provide a person acting under a contract authorized by this section with any confidential information in the custody of the Comptroller General or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the Comptroller General 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 Comptroller General or applicable state agency or an employee of the Comptroller General 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 section is subject to the same sanctions and penalties that would apply to the Comptroller General or applicable state agency or an employee of the Comptroller General or applicable state agency for that disclosure.

(C)(1) The Comptroller General shall require that recovery audits be performed on payments to vendors made by any state agency that submits vouchers for expenditures in an amount that exceeds fifty million dollars in a fiscal year. Each state agency described by this subsection shall provide the recovery audit consultant with all information necessary for the audit.

(2) The Comptroller General may exempt from the mandatory recovery audit process a state agency that submits a low proportion of its vouchers for expenditures made to vendors, according to criteria the Comptroller General adopts by rule after consideration of the likely costs and benefits of performing recovery audits for agencies that submit relatively few vouchers or inexpensive vouchers for payments to vendors.

(D)(1) A state agency shall pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(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 section. 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.

(E)(1) The Comptroller General shall provide copies, including electronic form copies, of any reports received from a consultant contracting under subsection (B) to:

(a) the Governor;

(b) the State Auditor; and

(c) the Budget and Control Board.

(2) The Comptroller General shall provide the copies required by this subsection not later than the seventh day after the date the Comptroller General receives the consultant’s report.

(3) Not later than January first of each year, the Comptroller General shall issue a report to the General Assembly summarizing the contents of all reports received under this section during the previous fiscal year.

(F) The Comptroller General shall adopt rules to administer this section.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑