AN ACT

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employees in certain departments, boards, and commissions; providing for judicial administration; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employees of certain departments, boards and commissions shall be determined," providing for miscellaneous provisions and for recovery audits.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is amended by adding an article to read:

ARTICLE XXVIII-I
MISCELLANEOUS PROVISIONS

Section 2801-I. Recovery audits.

(a) Schedule of recovery audit.--

(1) The secretary shall establish a schedule for the review of Commonwealth agency expenditures for improper payments and payment recovery for a Commonwealth agency that has $50,000,000 or more in payments to individuals, vendors or entities.

(2) For the review under this section, the secretary shall contract with an auditor to perform a recovery audit of payments by a Commonwealth agency to individuals, vendors or entities.

(b) Contract for auditor.--A contract for an auditor:

(1) May provide for reasonable compensation for services provided under the contract, which may include compensation as determined by the application of a specified percentage of the total amount of State money recovered during the recovery audit.

(2) May permit or require the auditor to pursue a judicial action in a court within or outside this Commonwealth to recover an overpaid amount.

(3) May allow for the performance of existing payment auditing procedures.

(4) Shall not allow a recovery audit of a payment during the 90-day period after the date the payment was made.

(c) Confidential information.--A Commonwealth agency being audited by an auditor shall provide the auditor with any confidential information in the custody of the Commonwealth agency or secretary that is necessary for the performance of the recovery audit. The following shall apply:
(1) The auditor shall be subject to restrictions regarding the disclosure of classified information under this section. These restrictions shall be included as part of the terms of the contract made between the secretary and Commonwealth agency.

(2) If the auditor discloses classified information, the auditor shall be guilty of a misdemeanor of the third degree.

(d) Recovery of Federal money.--Federal money recovered during a recovery audit shall be expended or returned in accordance with rules associated with the program associated with the Federal money.

(e) Report.--Within seven days of receiving a report regarding a recovery audit from an auditor, the secretary shall transmit, by electronic means or otherwise, a copy of the recovery audit performed by the auditor to the following:

(1) The Governor.

(2) The Inspector General.

(3) The General Assembly.

(f) Requirements for auditors.--

(1) The terms of a contract between a Commonwealth agency and an auditor under this section shall provide for the prohibition on a conflict or interest between the auditor and any Commonwealth agency or program that the auditor is contracted to audit.

(2) An auditor shall have experience in performing recovery audits for public entities that successfully recovered public money.

required by the United States Government Accountability
Office.

(g) Rules and guidelines.--The secretary shall adopt rules
or guidelines necessary for the implementation of this section.

(h) Definitions.--As used in this section, the following
words and phrases shall have the meanings given to them in this
subsection unless the context clearly indicates otherwise:

"Auditor." A private auditor or auditing firm with
experience in performing a recovery audit and hired under this
section to review a Commonwealth agency's expenditures.

"Commonwealth agency." A department, office, board,
commission or agency under the direct or policy supervision of
the Governor.

"Improper payment." A payment that should not have been made
by a Commonwealth agency or a contractor with a Commonwealth
agency under statutory, contractual, administrative or other
legal applicable requirements, including any of the following:

(1) An overpayment.
(2) An underpayment.
(3) A payment to an ineligible recipient.
(4) A payment for an ineligible service.
(5) A payment for a duplicative or redundant service.
(6) A payment for services not received.
(7) A payment for goods and services that does not
utilize or was not given available discounts.
(8) Invoice or pricing errors.
(9) The failure to comply with a purchasing agreement.

"Recovery audit." A financial management technique used to
identify improper payments made by a Commonwealth agency with
respect to individuals, vendors or entities in connection with a
payment activity.

"Secretary." The Secretary of the Budget of the Commonwealth.

Section 2. This act shall take effect in 180 days.