

1 **DRAFT An Act Providing for the Detection and Prevention of Fraud, Waste,**
2 **Abuse and Improper Payments in State Government**

3
4 **Summary**

5
6 This Act would improve government efficiency and accountability by detecting and preventing
7 fraud, waste, abuse and improper payments in state government. This Act would establish an
8 Enterprise Fraud Program Office with the authority to develop and implement an automated
9 fraud detection system across state agencies.

10
11 **Model Legislation**

12
13 **{Title, Enacting Clause, etc.}**

14
15 **Section 1. {Legislative Findings}**

16
17 (A) Fraud, waste, abuse and improper payments are pervasive, and often on the rise, in many
18 government programs.

19
20 (1) According to The Centers for Medicare and Medicaid Services (CMS), the 2011
21 Medicaid Improper Payment rate was 8.1%;

22
23 (2) According to The Government Accountability Office (GAO), over \$70B in improper
24 payments are made each year in Medicaid and Medicare;

25
26 (3) According to the U.S. Department of Labor, the 2011 Unemployment Insurance
27 Payment Error Rate was 11.2%, resulting in \$5.7B of improper payments;

28
29 (4) According to The Internal Revenue Service (IRS), the tax gap for federal income tax
30 is at least \$270B per year;

31
32 (5) In the 2012 filing season, IRS estimated losses due to identity theft alone at \$5
33 billion, and detected an additional \$12 billion.

34
35 (B) Entities involved in perpetrating fraud and abuse of government programs are becoming
36 increasingly more sophisticated in their schemes and tactics, and often work in organized
37 and collusive fraud rings or networks to attack any and all government programs. The
38 fraud schemes can be massive, as illustrated in the following recent cases:

39
40 (1) October 2010: 73 defendants, \$163M in false Medicare/Medicaid billings, Armenian-
41 American fraud ring;

42
43 (2) February 2011: 20 defendants, \$200M in false Medicare/Medicaid billings, Florida;

44
45 (3) February 2011: 111 defendants, \$225M in false Medicare/Medicaid billings, 7 cities;
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- 47 (4) April 2011: 3 defendants; \$3.9M in Food Stamp fraud, Texas;
48
49 (5) September 2011: 91 defendants, \$295M in false Medicare/Medicaid billings, 8 cities;
50
51 (6) October 2012: 91 defendants, \$430M in false Medicare/Medicaid billings, 7 cities;
52
53 (C) Fraud, waste, abuse and improper payments can adversely affect the State budget,
54 impede economic development, and deplete benefits intended for citizens in need.
55
56 (D) The State's citizens expect state agencies to utilize modern techniques and technology to
57 prevent tax dollars from being spent on fraudulent or improper payments.
58
59 (E) Identifying possible waste, fraud, abuse and improper payments at the earliest point
60 possible will reduce losses and possibly prevent erroneous payments from being made,
61 thus providing potentially millions of dollars in cost-savings to the State.
62
63 (F) State-supported citizen and employee benefits programs, workers' compensation,
64 Medicaid, unemployment insurance, tax compliance, and discretionary grants to
65 community-based programs are areas where it is important for the State to identify and
66 prevent waste, fraud, abuse and improper payments.
67
68 (G) Modern technologies and best practices exist, and have been deployed successfully in the
69 commercial sector for many years, that can greatly reduce the losses associated with
70 fraud, waste, abuse and improper payments.
71
72 (H) An enterprise approach to reducing waste, fraud, abuse, and improper payments
73 coordinates efforts with more than one agency and incorporates data from multiple data
74 sources within an agency and between two or more agencies. This type of approach
75 allows state government to utilize its rich data assets across agencies and programs to
76 better detect improper behaviors, and to leverage economies of scale to reduce overall
77 costs for fraud detection and prevention across all state government programs and
78 functions.
79

80 **Section 2. {Establishment of an Enterprise Fraud Program Office}**
81

- 82 (A) There is established within the [insert appropriate state entity (state
83 controller/comptroller, inspector general, etc.) here], an Enterprise Fraud Program Office
84 to implement a fraud, waste, abuse and improper payments detection and prevention
85 capability across State agencies and programs.
86
87 (B) State agencies shall fully support and participate in the Enterprise Fraud Program's
88 efforts to develop an automated fraud detection system. State agencies shall provide
89 access to state databases as directed by the Enterprise Fraud Program Office to allow the
90 data to be integrated with various state data and to permit fraud detection analytics
91 software to analyze the data.
92

93 (C) In support of the automated fraud detection effort, the Enterprise Fraud Program Office
94 shall:

- 95
- 96 (1) Develop a detailed long-range plan to implement an automated fraud detection
97 system across State agencies;
- 98
- 99 (2) Determine costs, to include vendor costs, for the effort for five years;
- 100
- 101 (3) Coordinate with impacted State agencies to define their involvement in the project
102 and to identify potential data assets and applications that can be included in an initial
103 request for proposal;
- 104
- 105 (4) Establish priorities for developing and implementing potential applications;
- 106
- 107 (5) Work with the proper state agencies to evaluate potential savings resulting from
108 fraud, waste, abuse and improper payments reductions in the impacted agencies and
109 programs;
- 110
- 111 (6) Establish a pilot project as set forth in Section 4 of this Act to begin the
112 implementation process and to identify and resolve issues associated with expansion
113 of the initiative;
- 114
- 115 (7) Coordinate with participating agencies to ensure that each has the resources and
116 processes necessary to follow up on incidents of potential fraud, waste or abuse
117 identified; and
- 118
- 119 (8) Provide recommendations to the State legislature on potential future initiatives and
120 the cost and savings associated with each.

121

122 **Section 3. {Pilot Program}**

123

124 (A) So that savings and recoveries may be realized within the current budget cycle, the
125 Enterprise Fraud Program Office shall initiate a pilot project within 90 days of the
126 effective date of this Act to implement state-of-the-art enterprise fraud detection
127 technology that can support fraud, waste, abuse and improper payment detection and
128 prevention across state agencies, programs and functions.

129

130 (B) The technology must provide the following capabilities:

131

- 132 (1) Automated detection and alerting;
- 133
- 134 (2) Continuous monitoring of program transactions and activity, with ability to identify
135 fraud and improper payments both prospectively (before the payment is made) and
136 retrospectively (after payments are made);
- 137

- 138 (3) Ability to detect non-transactional fraud such as program eligibility issues and
139 identity theft;
140
141 (4) Use of the latest advanced analytical techniques including predictive modeling,
142 complex pattern analysis, social network analysis, text mining and geospatial
143 analysis;
144
145 (5) Feedback and self-learning capability to adapt to changing schemes and trends;
146
147 (6) Advanced entity resolution capabilities to create a holistic view of entities across
148 government agencies, programs and databases; and
149
150 (7) The ability to extend and adapt to all areas of state government.
151
152 (C) The Enterprise Fraud Program Office is authorized to enter into a vendor license
153 agreement for the pilot project in an amount not to exceed the potential cost savings as
154 estimated by the Enterprise Fraud Program Office in cooperation with impacted State
155 agencies as required in Section 2 (C)(5) of this Act.
156
157 (1) Payments shall be structured to coincide with expected savings or benefit realization.
158
159 (2) To maximize cost reductions and savings, the Enterprise Fraud Program Office shall
160 select a vendor and enter into the agreement within 120 days of the effective date of
161 this Act.
162

163 **Section 4. {Scheduled Reporting}**
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- 165 (A) Within 90 days from the effective date of this Act, the Enterprise Fraud Program Office
166 shall report to the State legislature on the identification and progress on at least five state
167 agencies participating in this effort.
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169 (B) Within 120 days from the effective date of this Act, the Enterprise Fraud Program Office
170 shall report to the State legislature on the progress and the status of pilot project as set
171 forth in Section 4 of this Act.
172
173 (C) These reports shall continue quarterly unless otherwise directed by the State legislature.
174
175 (D) These reports shall be developed and presented by the Enterprise Fraud Program Office.
176
177 (E) These reports shall include the following:
178
179 (1) Incidents, types, and amounts of fraud identified, by agency;
180
181 (2) The amount actually recovered as a result of fraud identification, by agency;
182

- 183 (3) Agency procedural changes resulting from fraud identification and the timeline for
184 implementing each;
185
- 186 (4) Recommendations for changes in state statute, agency regulations, and agency
187 operating procedures that would improve the state's ability to identify and prevent
188 fraud and/or increase the probability that funds lost to fraudulent activity are
189 recovered by the state;
190
- 191 (5) Recommendations for changes in the U.S. Code, Code of Federal Regulations, and
192 operating procedures by U.S. Departments and agencies that would improve the
193 state's ability to identify and prevent fraud and/or increase the probability that funds
194 lost to fraudulent activity are recovered by the state;
195
- 196 (6) State costs for fraud detection for the previous quarter;
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- 198 (7) Payments to the vendor for the previous quarter; and
199
- 200 (8) Anticipated costs and vendor payments for each of the next two years from the date
201 of the report.
202

203 **Section 5. {Allocation of Savings}**
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- 205 (A) Recoveries realized from these projects shall be placed in a nonreverting reserve in a fund
206 to operate the Enterprise Fraud Program Office or another appropriate savings
207 mechanism and shall not be utilized except by an appropriation of the State legislature.
208 Other benefits such as cost avoidance shall be identified and reported quarterly to the
209 State legislature.
210

211 **Section 6. {Optional Fiscal Note}**
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- 213 (A) This Act may require a fiscal note. All funding should be offset by estimated cost-savings
214 to the State.
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216 **Section 7. {Severability Clause}**
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218 **Section 8. {Repealer Clause}**
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220 **Section 9. {Effective Date}**

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BE IT FURTHER RESOLVED that the Chief Clerk of the Assembly transmit copies of this Resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to the Majority Leader in the Senate, to each Senator and Representative from [*insert state*] in the Congress of the United States, to the Secretary of United States Department of Transportation, and to the author for appropriate distribution.

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