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

Summary

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

Model Legislation

{Title, Enacting Clause, etc.}

Section 1. {Legislative Findings}

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

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

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

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

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

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

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

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

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

(3) February 2011: 111 defendants, $225M in false Medicare/Medicaid billings, 7 cities;
(4) April 2011: 3 defendants; $3.9M in Food Stamp fraud, Texas;

(5) September 2011: 91 defendants, $295M in false Medicare/Medicaid billings, 8 cities;

(6) October 2012: 91 defendants, $430M in false Medicare/Medicaid billings, 7 cities;

(C) Fraud, waste, abuse and improper payments can adversely affect the State budget, impede economic development, and deplete benefits intended for citizens in need.

(D) The State’s citizens expect state agencies to utilize modern techniques and technology to prevent tax dollars from being spent on fraudulent or improper payments.

(E) Identifying possible waste, fraud, abuse and improper payments at the earliest point possible will reduce losses and possibly prevent erroneous payments from being made, thus providing potentially millions of dollars in cost-savings to the State.

(F) State-supported citizen and employee benefits programs, workers’ compensation, Medicaid, unemployment insurance, tax compliance, and discretionary grants to community-based programs are areas where it is important for the State to identify and prevent waste, fraud, abuse and improper payments.

(G) Modern technologies and best practices exist, and have been deployed successfully in the commercial sector for many years, that can greatly reduce the losses associated with fraud, waste, abuse and improper payments.

(H) An enterprise approach to reducing waste, fraud, abuse, and improper payments coordinates efforts with more than one agency and incorporates data from multiple data sources within an agency and between two or more agencies. This type of approach allows state government to utilize its rich data assets across agencies and programs to better detect improper behaviors, and to leverage economies of scale to reduce overall costs for fraud detection and prevention across all state government programs and functions.

Section 2. (Establishment of an Enterprise Fraud Program Office)

(A) There is established within the [insert appropriate state entity (state controller/comptroller, inspector general, etc.) here], an Enterprise Fraud Program Office to implement a fraud, waste, abuse and improper payments detection and prevention capability across State agencies and programs.

(B) State agencies shall fully support and participate in the Enterprise Fraud Program’s efforts to develop an automated fraud detection system. State agencies shall provide access to state databases as directed by the Enterprise Fraud Program Office to allow the data to be integrated with various state data and to permit fraud detection analytics software to analyze the data.
(C) In support of the automated fraud detection effort, the Enterprise Fraud Program Office shall:

(1) Develop a detailed long-range plan to implement an automated fraud detection system across State agencies;

(2) Determine costs, to include vendor costs, for the effort for five years;

(3) Coordinate with impacted State agencies to define their involvement in the project and to identify potential data assets and applications that can be included in an initial request for proposal;

(4) Establish priorities for developing and implementing potential applications;

(5) Work with the proper state agencies to evaluate potential savings resulting from fraud, waste, abuse and improper payments reductions in the impacted agencies and programs;

(6) Establish a pilot project as set forth in Section 4 of this Act to begin the implementation process and to identify and resolve issues associated with expansion of the initiative;

(7) Coordinate with participating agencies to ensure that each has the resources and processes necessary to follow up on incidents of potential fraud, waste or abuse identified; and

(8) Provide recommendations to the State legislature on potential future initiatives and the cost and savings associated with each.

Section 3. {Pilot Program}

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

(B) The technology must provide the following capabilities:

(1) Automated detection and alerting;

(2) Continuous monitoring of program transactions and activity, with ability to identify fraud and improper payments both prospectively (before the payment is made) and retrospectively (after payments are made);
(3) Ability to detect non-transactional fraud such as program eligibility issues and identity theft;

(4) Use of the latest advanced analytical techniques including predictive modeling, complex pattern analysis, social network analysis, text mining and geospatial analysis;

(5) Feedback and self-learning capability to adapt to changing schemes and trends;

(6) Advanced entity resolution capabilities to create a holistic view of entities across government agencies, programs and databases; and

(7) The ability to extend and adapt to all areas of state government.

(C) The Enterprise Fraud Program Office is authorized to enter into a vendor license agreement for the pilot project in an amount not to exceed the potential cost savings as estimated by the Enterprise Fraud Program Office in cooperation with impacted State agencies as required in Section 2 (C)(5) of this Act.

(1) Payments shall be structured to coincide with expected savings or benefit realization.

(2) To maximize cost reductions and savings, the Enterprise Fraud Program Office shall select a vendor and enter into the agreement within 120 days of the effective date of this Act.

Section 4. {Scheduled Reporting}

(A) Within 90 days from the effective date of this Act, the Enterprise Fraud Program Office shall report to the State legislature on the identification and progress on at least five state agencies participating in this effort.

(B) Within 120 days from the effective date of this Act, the Enterprise Fraud Program Office shall report to the State legislature on the progress and the status of pilot project as set forth in Section 4 of this Act.

(C) These reports shall continue quarterly unless otherwise directed by the State legislature.

(D) These reports shall be developed and presented by the Enterprise Fraud Program Office.

(E) These reports shall include the following:

(1) Incidents, types, and amounts of fraud identified, by agency;

(2) The amount actually recovered as a result of fraud identification, by agency;
(3) Agency procedural changes resulting from fraud identification and the timeline for implementing each;

(4) Recommendations for changes in state statute, agency regulations, and agency operating procedures that would improve the state’s ability to identify and prevent fraud and/or increase the probability that funds lost to fraudulent activity are recovered by the state;

(5) Recommendations for changes in the U.S. Code, Code of Federal Regulations, and operating procedures by U.S. Departments and agencies that would improve the state’s ability to identify and prevent fraud and/or increase the probability that funds lost to fraudulent activity are recovered by the state;

(6) State costs for fraud detection for the previous quarter;

(7) Payments to the vendor for the previous quarter; and

(8) Anticipated costs and vendor payments for each of the next two years from the date of the report.

Section 5. {Allocation of Savings}

(A) Recoveries realized from these projects shall be placed in a nonreverting reserve in a fund to operate the Enterprise Fraud Program Office or another appropriate savings mechanism and shall not be utilized except by an appropriation of the State legislature. Other benefits such as cost avoidance shall be identified and reported quarterly to the State legislature.

Section 6. {Optional Fiscal Note}

(A) This Act may require a fiscal note. All funding should be offset by estimated cost-savings to the State.

Section 7. {Severability Clause}

Section 8. {Repealer Clause}

Section 9. {Effective Date}
DRAFT Resolution Supporting the Elimination of Federal Restrictions on Tolling

Summary

Tolling provides an efficient, fair and practical way for states to manage congestion in urban areas and meet the increasing budget demands of highway construction and maintenance. Advances in fuel efficiency have diminished the ability of traditional sources of state revenue, such as the per gallon gasoline tax, to meet the rising need for highway construction and maintenance. This resolution supports the elimination of federal restrictions on state tolling to give states maximum flexibility to meet their transportation needs.

Model Resolution

WHEREAS, the United States Department of Transportation restricts an individual state’s ability to toll by requiring state application for the implementation of toll roads and regulating how toll money may be spent; and

WHEREAS, the federal government has failed to pass a long-term highway reauthorization bill; and

WHEREAS, the cost to simply maintain and rebuild existing U.S. highway infrastructure is more than $4 trillion over the next 20 years; and

WHEREAS, more fuel efficient and electric cars are using the highway system, limiting the effectiveness of per gallon gas tax; and

WHEREAS, traffic congestion consumes 4.2 billion hours of commuters time and tolling is often the only way to manage congestion in urban areas where adding additional lanes is not an option; and

WHEREAS, states need every tool available to them to manage congestion and finance infrastructure; and

WHEREAS, electronic toll collection enables tolls to be collected at high speed, without toll booths and disruption to traffic flows; and

WHEREAS, it is in the economic interest of the State of [insert state] and the United States to encourage investment in nationally and regionally significant infrastructure, which fuels job creation in the near and long term and improves the quality of life for hard-working families and businesses who rely on major highways to access employment, customers and their families;

THEREFORE, BE IT RESOLVED that Congress should not restrict states’ ability to toll, save for minimal protections necessary to ensure interstate commerce.
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.