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Introduced by:

Hon. Barry S. Kantrowitz, Sponsor

Referral No. 8135
, 2014

**RESOLUTION NO. OF 2014
REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL
A.6988 AND THE NEW YORK STATE SENATE PASS BILL S.4815
ESTABLISHING AN ENTERPRISE FRAUD PROGRAM OFFICE**

WHEREAS, the prevalence of fraud, waste, abuse and improper payments is pervasive and growing in many government programs, and the public is footing the bill; and

WHEREAS; the following are just a few examples of fraud and waste:

- 1) according to the Government Accountability Office, over \$70 billion in improper Medicaid and Medicare payments are made each year;
- 2) according to the U.S. Department of Labor, the 2011 unemployment insurance payment error rate was 11.2% and resulted in \$5.7 billion in improper payments; and
- 3) in the 2012 filing season, the IRS estimated losses due to identify theft at \$5 billion;

and

WHEREAS, these debilitating costs to the State are found in many agencies and programs, and are created by a variety of different problems and inefficiencies; and

WHEREAS, the collective cost of the fraud, waste, abuse and improper payments adversely affects the State budget, impedes economic development, and depletes benefits intended for citizens in need. While individual agencies may attempt to combat these improper behaviors on their own, they are out of their depths and are severely outmatched in their attempts; the entities involved in committing fraud and abusing government programs are becoming increasingly sophisticated in their schemes and tactics, and often work in organized rings or networks to steal from any and all government programs; and

WHEREAS, detecting the methods of these organizations requires state-of-the-art technology and constant vigilance that is beyond the capabilities of agencies and programs tasked with other important full-time responsibilities; and

WHEREAS, identifying possible waste, fraud, abuse and improper payments at the earliest possible point would reduce losses and prevent erroneous payments from being made, potentially providing millions if not billions of dollars in cost-savings to the State; and

WHEREAS, modern technologies and practices exist and have been successfully used in the commercial sector for many years and have been found to greatly reduce losses associated with fraud, waste, and improper payments. Integrating this state-of-the-art fraud detection and prevention technology into State government would greatly help agencies reduce their losses to fraudulent behaviors; and

WHEREAS, for this modern technology to most efficiently be deployed, a government office should be created that can devote its undivided attention to effectively combating waste, fraud, abuse and improper payments across various government offices and programs. An enterprise approach coordinates the efforts of many agencies and incorporates data from multiple sources, allowing the State to better detect improper behaviors across agencies and programs, and to leverage economics of scale to reduce overall costs for fraud detection and prevention across all state government programs; and

WHEREAS, bills A.6988 and S.4815 would amend the Executive Law to establish an Enterprise Fraud Program Office to provide for the detection and prevention of fraud, waste, abuse and improper payments in state government; and

WHEREAS, the Committee has met, considered and by a vote, approved this resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby urges the New York State Assembly to pass Bill A.6988 and the New York State Senate to pass Bill S.4815 establishing an Enterprise Fraud Program Office, and that the Governor of New York sign such legislation; and be it further

RESOLVED, That the Clerk to the Legislature be and he is hereby authorized and directed to send a copy of this resolution to Hon. Andrew M. Cuomo, Governor of the State of New York; Hon. David Carlucci, Hon. William J. Larkin, Jr., New York State Senators, Hon. Kenneth P. Zebrowski, Jr., Hon. Ellen C. Jaffee, and Hon. James G. Skoufis, Members of the New York State Assembly; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Senate and Assembly; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

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STATE OF NEW YORK

6988

2013-2014 Regular Sessions

IN ASSEMBLY

April 29, 2013

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing the enterprise fraud program office to provide for the detection and prevention of fraud, waste, abuse and improper payments in state government

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Legislative findings. (a) Fraud, waste, abuse and improper
2 payments are pervasive, and often on the rise, in many government
3 programs.
4 (1) According to the Centers for Medicare and Medicaid Services (CMS),
5 the 2011 Medicaid improper payment rate was 8.1%;
6 (2) According to the Government Accountability Office (GAO), over \$70
7 billion in improper payments are made each year in Medicaid and Medi-
8 care;
9 (3) According to the U.S. Department of Labor, the 2011 unemployment
10 insurance payment error rate was 11.2%, resulting in \$5.7 billion of
11 improper payments;
12 (4) According to the Internal Revenue Service (IRS), the tax gap for
13 federal income tax is at least \$270 billion per year;
14 (5) In the 2012 filing season, IRS estimated losses due to identity
15 theft alone at \$5 billion, and detected an additional \$12 billion.
16 (b) Entities involved in perpetrating fraud and abuse of government
17 programs are becoming increasingly more sophisticated in their schemes
18 and tactics, and often work in organized and collusive fraud rings or
19 networks to attack any and all government programs. The fraud schemes
20 can be massive, as illustrated in the following recent cases:
21 (1) October 2010: 73 defendants, \$163 million in false
22 Medicare/Medicaid billings, Armenian-American fraud ring;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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- 1 (2) February 2011: 20 defendants, \$200 million in false
2 Medicare/Medicaid billings, Florida;
3 (3) February 2011: 111 defendants, \$225 million in false
4 Medicare/Medicaid billings, 7 cities;
5 (4) April 2011: 3 defendants, \$3.9 million in food stamp 47 fraud,
6 Texas;
7 (5) September 2011: 91 defendants, \$295 million in false
8 Medicare/Medicaid billings, 8 cities;
9 (6) October 2012: 91 defendants, \$430 million in false
10 Medicare/Medicaid billings, 7 cities.
11 (c) Fraud, waste, abuse and improper payments can adversely affect the
12 state budget, impede economic development, and deplete benefits intended
13 for citizens in need.
14 (d) The state's citizens expect state agencies to utilize modern tech-
15 niques and technology to prevent tax dollars from being spent on fraudu-
16 lent or improper payments.
17 (e) Identifying possible waste, fraud, abuse and improper payments at
18 the earliest point possible will reduce losses and possibly prevent
19 erroneous payments from being made, thus providing potentially millions
20 of dollars in cost-savings to the state.
21 (f) State-supported citizen and employee benefits programs, workers'
22 compensation, Medicaid, unemployment insurance, tax compliance, and

23 discretionary grants to community-based programs are areas where it is
 24 important for the state to identify and prevent waste, fraud, abuse and
 25 improper payments.

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

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

38 S 2. The executive law is amended by adding a new section 56 to read
 39 as follows:

40 S 56. ENTERPRISE FRAUD PROGRAM OFFICE. 1. THERE IS ESTABLISHED WITHIN
 41 THE OFFICE OF THE STATE INSPECTOR GENERAL, AN ENTERPRISE FRAUD PROGRAM
 42 OFFICE TO IMPLEMENT A FRAUD, WASTE, ABUSE AND IMPROPER PAYMENTS
 43 DETECTION AND PREVENTION CAPABILITY ACROSS STATE AGENCIES AND PROGRAMS.

44 2. STATE AGENCIES SHALL FULLY SUPPORT AND PARTICIPATE IN THE ENTER-
 45 PRISE FRAUD PROGRAM'S EFFORTS TO DEVELOP AN AUTOMATED FRAUD DETECTION
 46 SYSTEM. STATE AGENCIES SHALL PROVIDE ACCESS TO STATE DATABASES AS
 47 DIRECTED BY THE ENTERPRISE FRAUD PROGRAM OFFICE TO ALLOW THE DATA TO BE
 48 INTEGRATED WITH VARIOUS STATE DATA AND TO PERMIT FRAUD DETECTION ANALYT-
 49 ICS SOFTWARE TO ANALYZE THE DATA.

50 3. IN SUPPORT OF THE AUTOMATED FRAUD DETECTION EFFORT, THE ENTERPRISE
 51 FRAUD PROGRAM OFFICE SHALL:

52 (A) DEVELOP A DETAILED LONG-RANGE PLAN TO IMPLEMENT AN AUTOMATED FRAUD
 53 DETECTION SYSTEM ACROSS STATE AGENCIES;

54 (B) DETERMINE COSTS, TO INCLUDE VENDOR COSTS, FOR THE EFFORT FOR FIVE
 55 YEARS;

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1 (C) COORDINATE WITH IMPACTED STATE AGENCIES TO DEFINE THEIR INVOLVE-
 2 MENT IN THE PROJECT AND TO IDENTIFY POTENTIAL DATA ASSETS AND APPLICA-
 3 TIONS THAT CAN BE INCLUDED IN AN INITIAL REQUEST FOR PROPOSAL;

4 (D) ESTABLISH PRIORITIES FOR DEVELOPING AND IMPLEMENTING POTENTIAL
 5 APPLICATIONS;

6 (E) WORK WITH THE PROPER STATE AGENCIES TO EVALUATE POTENTIAL SAVINGS
 7 RESULTING FROM FRAUD, WASTE, ABUSE AND IMPROPER PAYMENTS REDUCTIONS IN
 8 THE IMPACTED AGENCIES AND PROGRAMS;

9 (F) ESTABLISH A PILOT PROJECT AS SET FORTH IN SUBDIVISION FOUR OF THIS
 10 SECTION TO BEGIN THE IMPLEMENTATION PROCESS AND TO IDENTIFY AND RESOLVE
 11 ISSUES ASSOCIATED WITH EXPANSION OF THE INITIATIVE;

12 (G) COORDINATE WITH PARTICIPATING AGENCIES TO ENSURE THAT EACH HAS THE
 13 RESOURCES AND PROCESSES NECESSARY TO FOLLOW UP ON INCIDENTS OF POTENTIAL
 14 FRAUD, WASTE OR ABUSE IDENTIFIED; AND

15 (H) PROVIDE RECOMMENDATIONS TO THE LEGISLATURE ON POTENTIAL FUTURE
 16 INITIATIVES AND THE COST AND SAVINGS ASSOCIATED WITH EACH.

17 4. (A) THE ENTERPRISE FRAUD PROGRAM OFFICE SHALL INITIATE A PILOT
 18 PROJECT WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION TO
 19 IMPLEMENT STATE-OF-THE-ART ENTERPRISE FRAUD DETECTION TECHNOLOGY THAT
 20 CAN SUPPORT FRAUD, WASTE, ABUSE AND IMPROPER PAYMENT DETECTION AND
 21 PREVENTION ACROSS STATE AGENCIES, PROGRAMS AND FUNCTIONS.

22 (B) THE TECHNOLOGY MUST PROVIDE THE FOLLOWING CAPABILITIES:

23 (1) AUTOMATED DETECTION AND ALERTING;

24 (2) CONTINUOUS MONITORING OF PROGRAM TRANSACTIONS AND ACTIVITY, WITH
 25 ABILITY TO IDENTIFY FRAUD AND IMPROPER PAYMENTS BOTH PROSPECTIVELY
 26 (BEFORE THE PAYMENT IS MADE) AND RETROSPECTIVELY (AFTER PAYMENTS ARE
 27 MADE);

28 (3) ABILITY TO DETECT NON-TRANSACTIONAL FRAUD SUCH AS PROGRAM ELIGI-
 29 BILITY ISSUES AND IDENTITY THEFT;

30 (4) USE OF THE LATEST ADVANCED ANALYTICAL TECHNIQUES INCLUDING PREDIC-
 31 TIVE MODELING, COMPLEX PATTERN ANALYSIS, SOCIAL NETWORK ANALYSIS, TEXT
 32 MINING AND GEOSPATIAL ANALYSIS;

33 (5) FEEDBACK AND SELF-LEARNING CAPABILITY TO ADAPT TO CHANGING SCHEMES
 34 AND TRENDS;

35 (6) ADVANCED ENTITY RESOLUTION CAPABILITIES TO CREATE A HOLISTIC VIEW
 36 OF ENTITIES ACROSS GOVERNMENT AGENCIES, PROGRAMS AND DATABASES; AND

37 (7) THE ABILITY TO EXTEND AND ADAPT TO ALL AREAS OF STATE GOVERNMENT.

38 (C) THE ENTERPRISE FRAUD PROGRAM OFFICE IS AUTHORIZED TO ENTER INTO A

39 VENDOR LICENSE AGREEMENT FOR THE PILOT PROJECT IN AN AMOUNT NOT TO
40 EXCEED THE POTENTIAL COST SAVINGS AS ESTIMATED BY THE ENTERPRISE FRAUD
41 PROGRAM OFFICE IN COOPERATION WITH IMPACTED STATE AGENCIES.

42 (1) PAYMENTS SHALL BE STRUCTURED TO COINCIDE WITH EXPECTED SAVINGS OR
43 BENEFIT REALIZATION.

44 (2) TO MAXIMIZE COST REDUCTIONS AND SAVINGS, THE ENTERPRISE FRAUD
45 PROGRAM OFFICE SHALL SELECT A VENDOR AND ENTER INTO THE AGREEMENT WITHIN
46 ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

47 5. (A) WITHIN NINETY DAYS FROM THE EFFECTIVE DATE OF THIS SECTION, THE
48 ENTERPRISE FRAUD PROGRAM OFFICE SHALL REPORT TO THE LEGISLATURE ON THE
49 IDENTIFICATION AND PROGRESS ON AT LEAST FIVE STATE AGENCIES PARTICIPAT-
50 ING IN THIS EFFORT.

51 (B) WITHIN ONE HUNDRED TWENTY DAYS FROM THE EFFECTIVE DATE OF THIS
52 SECTION, THE ENTERPRISE FRAUD PROGRAM OFFICE SHALL REPORT TO THE LEGIS-
53 LATURE ON THE PROGRESS AND THE STATUS OF THE PILOT PROJECT AS SET FORTH
54 IN SUBDIVISION FOUR OF THIS SECTION.

55 (C) THESE REPORTS SHALL CONTINUE QUARTERLY UNLESS OTHERWISE DIRECTED
56 BY THE LEGISLATURE.

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1 (D) THESE REPORTS SHALL BE DEVELOPED AND PRESENTED BY THE ENTERPRISE
2 FRAUD PROGRAM OFFICE.

3 (E) THESE REPORTS SHALL INCLUDE THE FOLLOWING:

4 (1) INCIDENTS, TYPES, AND AMOUNTS OF FRAUD IDENTIFIED, BY AGENCY;

5 (2) THE AMOUNT ACTUALLY RECOVERED AS A RESULT OF FRAUD IDENTIFICATION,
6 BY AGENCY;

7 (3) AGENCY PROCEDURAL CHANGES RESULTING FROM FRAUD IDENTIFICATION AND
8 THE TIMELINE FOR IMPLEMENTING EACH;

9 (4) RECOMMENDATIONS FOR CHANGES IN STATE STATUTE, AGENCY REGULATIONS,
10 AND AGENCY OPERATING PROCEDURES THAT WOULD IMPROVE THE STATE'S ABILITY
11 TO IDENTIFY AND PREVENT FRAUD AND/OR INCREASE THE PROBABILITY THAT FUNDS
12 LOST TO FRAUDULENT ACTIVITY ARE RECOVERED BY THE STATE;

13 (5) RECOMMENDATIONS FOR CHANGES IN THE U.S. CODE, CODE OF FEDERAL
14 REGULATIONS, AND OPERATING PROCEDURES BY U.S. DEPARTMENTS AND AGENCIES
15 THAT WOULD IMPROVE THE STATE'S ABILITY TO IDENTIFY AND PREVENT FRAUD
16 AND/OR INCREASE THE PROBABILITY THAT FUNDS LOST TO FRAUDULENT ACTIVITY
17 ARE RECOVERED BY THE STATE;

18 (6) STATE COSTS FOR FRAUD DETECTION FOR THE PREVIOUS QUARTER;

19 (7) PAYMENTS TO THE VENDOR FOR THE PREVIOUS QUARTER; AND

20 (8) ANTICIPATED COSTS AND VENDOR PAYMENTS FOR EACH OF THE NEXT TWO
21 YEARS FROM THE DATE OF THE REPORT.

22 6. RECOVERIES REALIZED FROM PROJECTS UNDER THIS SECTION SHALL BE
23 PLACED IN A NONREVERTING RESERVE FUND TO OPERATE THE ENTERPRISE FRAUD
24 PROGRAM OFFICE OR ANOTHER APPROPRIATE SAVINGS MECHANISM AND SHALL NOT BE
25 UTILIZED EXCEPT BY AN APPROPRIATION OF THE LEGISLATURE. OTHER BENEFITS
26 SUCH AS COST AVOIDANCE SHALL BE IDENTIFIED AND REPORTED QUARTERLY TO THE
27 LEGISLATURE.

28 s 3. This act shall take effect immediately.