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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 104 Session of  
2021

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INTRODUCED BY GAYDOS, OWLETT, SANKEY, THOMAS, IRVIN, GROVE,  
RYAN, KAUFFMAN, SAYLOR, BERNSTINE, GLEIM, WEBSTER AND  
WHEELAND, JANUARY 11, 2021

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 11, 2021

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AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania  
2 Consolidated Statutes, providing for the assessment and  
3 reduction of improper payments by Commonwealth agencies.

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

6 Section 1. Title 71 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a part to read:

8 PART II

9 COMMONWEALTH AGENCIES

10 Chapter

11 11. Preliminary Provisions (Reserved)

12 13. Assessment and Reduction of Improper Payments

13 CHAPTER 11

14 PRELIMINARY PROVISIONS

15 (Reserved)

16 CHAPTER 13

17 ASSESSMENT AND REDUCTION OF IMPROPER PAYMENTS

18 Sec.

1 1301. Definitions.

2 1302. Assessment of improper payments.

3 1303. Review of programs and activities of Commonwealth  
4 agencies.

5 1304. Corrective action plans.

6 1305. Audits of Commonwealth agencies.

7 § 1301. Definitions.

8 The following words and phrases when used in this chapter  
9 shall have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Commonwealth agency." Any board, commission or department  
12 of the executive branch under the policy supervision and  
13 jurisdiction of the Governor. The term does not include any of  
14 the following:

15 (1) The Treasury Department.

16 (2) The Department of the Auditor General.

17 (3) The Office of Attorney General.

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

22 (1) An overpayment.

23 (2) An underpayment.

24 (3) A payment to an ineligible recipient.

25 (4) A payment for an ineligible service.

26 (5) A payment for a duplicative or redundant service.

27 (6) A payment for services not received.

28 (7) A payment for goods and services that does not  
29 utilize or was not given available discounts.

30 "Office." The Office of State Inspector General.

1 "Payment." A payment, including a commitment for a future  
2 payment, that is made by a Commonwealth agency or a contractor  
3 with a Commonwealth agency and utilizes Federal or State funds.  
4 § 1302. Assessment of improper payments.

5 (a) Assessment.--No less than once every two years, a  
6 Commonwealth agency shall conduct an assessment of improper  
7 payments. A Commonwealth agency shall conduct an initial  
8 assessment of improper payments no later than 10 days after the  
9 effective date of this section.

10 (b) Contents.--As part of the assessment under subsection  
11 (a), a Commonwealth agency shall:

12 (1) Determine whether the programs operated by the  
13 Commonwealth agency have a low, moderate or high risk of  
14 resulting in improper payments.

15 (2) Explain the reasons why the programs operated by the  
16 Commonwealth have been assessed as having a low, moderate or  
17 high risk of resulting in improper payments.

18 (3) Make recommendations for reducing improper payments.

19 (c) Copies.--A Commonwealth agency shall provide a copy of  
20 the assessment under subsection (a) to all of the following:

21 (1) The Secretary of the Budget.

22 (2) The office.

23 (3) The Department of the Auditor General.

24 (4) The Independent Fiscal Office.

25 (5) The Legislative Budget and Finance Committee.

26 (6) Members of the General Assembly.

27 § 1303. Review of programs and activities of Commonwealth  
28 agencies.

29 (a) Review.--The office shall establish a schedule to review  
30 at least one Commonwealth agency during each calendar year.

1 (b) Examination.--In reviewing a Commonwealth agency under  
2 subsection (a), the office shall examine the Commonwealth  
3 agency's programs and activities to determine all of the  
4 following:

5 (1) The total percentage of the Commonwealth agency's  
6 activities and programs susceptible to improper payments.

7 (2) The number of the Commonwealth agency's improper  
8 payments.

9 (3) The total amount of Federal or State funds that were  
10 expended through improper payments.

11 (c) Duties of Commonwealth agencies.--A Commonwealth agency  
12 shall provide the office with all the information necessary to  
13 conduct the review under subsection (a).

14 (d) Reports.--The following shall apply:

15 (1) Upon completion of the office's review of a  
16 Commonwealth agency under subsection (a), the Inspector  
17 General shall submit a report on the Commonwealth agency's  
18 programs and activities to all of the following:

19 (i) The Department of the Auditor General.

20 (ii) The Legislative Budget and Finance Committee.

21 (iii) Members of the General Assembly.

22 (2) The Inspector General shall submit the report no  
23 later than December 31, 2022, and each December 31  
24 thereafter.

25 (3) The report shall include all of the following:

26 (i) An estimate of the total annual amount of  
27 improper payments by the Commonwealth agency during the  
28 previous two fiscal years.

29 (ii) The total percentage of the Commonwealth  
30 agency's expenditures that constitute improper payments

1 during the previous two fiscal years.

2 (iii) The reasons why the Commonwealth agency made  
3 the improper payments.

4 (iv) An evaluation of whether the Commonwealth  
5 agency has the procedures and resources to prevent  
6 improper payments.

7 (v) Whether the Commonwealth agency has taken steps  
8 to address improper payments.

9 (vi) The actions necessary for the Commonwealth  
10 agency to reduce improper payments as a percentage of the  
11 Commonwealth agency's total expenditures to no more than  
12 3% within the next five fiscal years.

13 § 1304. Corrective action plans.

14 After the office submits a report on a Commonwealth agency  
15 under section 1303(d) (1) (relating to review of programs and  
16 activities of Commonwealth agencies), the Commonwealth agency  
17 shall adopt a corrective action plan to reduce the rate of  
18 improper payments to no more than 3% as specified under section  
19 1303(d) (3) (vi).

20 § 1305. Audits of Commonwealth agencies.

21 (a) Initial audits.--The Legislative Budget and Finance  
22 Committee shall perform an audit on a Commonwealth agency no  
23 later than five years after the office has completed its review  
24 of the Commonwealth agency under section 1303(a) (relating to  
25 review of programs and activities of Commonwealth agencies) to  
26 determine whether the Commonwealth agency has reduced its rate  
27 of improper payments by at least 50% since the initial review by  
28 the office under section 1303(a).

29 (b) Initial notice.--After the Legislative Budget and  
30 Finance Committee performs an audit under subsection (a), if the

1 Legislative Budget and Finance Committee finds that the  
2 Commonwealth agency's rate of improper payments has not been  
3 reduced by at least 50% since the initial review by the office  
4 under section 1303(a), the Executive Director of the Legislative  
5 Budget and Finance Committee shall provide notice to all of the  
6 following:

7 (1) The Governor.

8 (2) The office.

9 (3) The members of the General Assembly.

10 (c) Transfers.--Upon receiving the notice under subsection  
11 (b), the Governor shall transfer, the lesser of the following  
12 from the funds appropriated to the Commonwealth agency for  
13 general government operations into budgetary reserve:

14 (1) An amount equal to the total improper payments by  
15 the Commonwealth agency.

16 (2) An amount equal to the percentage of the  
17 Commonwealth agency's expenditures that exceed the improper  
18 payment rate established in the corrective action plan under  
19 section 1304.

20 (d) Additional audits.--No later than six months after the  
21 Governor transfers funds into budgetary reserve under subsection  
22 (c), the Legislative Budget and Finance Committee shall perform  
23 another audit of the Commonwealth agency to determine whether  
24 the Commonwealth agency's rate of improper payments has been  
25 reduced by at least 50% since the initial review by the office  
26 under section 1303(a).

27 (e) Additional notice.--After the Legislative Budget and  
28 Finance Committee performs an audit under subsection (d), if the  
29 Legislative Budget and Finance Committee finds that the  
30 Commonwealth agency's rate of improper payments has been reduced

1 by at least 50% since the initial review by the office under  
2 section 1303(a), the Executive Director of the Legislative  
3 Budget and Finance Committee shall provide notice to all of the  
4 following:

5 (1) The Governor.

6 (2) The office.

7 (3) The members of the General Assembly.

8 (f) Transfers prohibited.--Upon receiving the notice under  
9 subsection (e), if the Governor has already transferred funds  
10 from the Commonwealth agency's general government operations  
11 into budgetary reserves, the Governor shall transfer the funds  
12 out of budgetary reserves to the Commonwealth agency for general  
13 government operations.

14 Section 2. This act shall take effect in 60 days.