

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 104 Session of 2021

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 26, 2021

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. AND <--
4 FOR PUBLIC INFORMATION ON PAYMENTS AND PROGRAMS OF
5 COMMONWEALTH AGENCIES.

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

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

10 PART II

11 COMMONWEALTH AGENCIES

12 Chapter

13 11. Preliminary Provisions (Reserved)

14 13. Assessment and Reduction of Improper Payments <--

15 CHAPTER 11

16 PRELIMINARY PROVISIONS

17 (Reserved)

18 CHAPTER 13

1 ASSESSMENT AND REDUCTION OF IMPROPER PAYMENTS <--

2 Sec.

3 1301. Definitions.

4 1302. Assessment of improper payments.

5 1303. Review of programs and activities of Commonwealth <--

6 agencies.

7 1304. Corrective action plans.

8 1305. Audits of Commonwealth agencies. PUBLIC INFORMATION ON <--

9 PAYMENTS AND PROGRAMS OF COMMONWEALTH AGENCIES

10 § 1301. Definitions.

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

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

18 (1) The Treasury Department.

19 (2) The Department of the Auditor General.

20 (3) The Office of Attorney General.

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

25 (1) An overpayment.

26 (2) An underpayment.

27 (3) A payment to an ineligible recipient.

28 (4) A payment for an ineligible service.

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

30 (6) A payment for services not received.

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

3           ~~"Office." The Office of State Inspector General.~~           <--

4           "Payment." A payment, including a commitment for a future  
5           payment, that is made by a Commonwealth agency or a contractor  
6           with a Commonwealth agency and utilizes Federal or State funds.  
7           § 1302. Assessment of improper payments.

8           (a) Assessment.--No less than once every two years, a  
9           Commonwealth agency shall conduct an assessment of improper  
10           payments ON ANY PROGRAM WHICH IS NOT REQUIRED UNDER FEDERAL LAW. <--  
11           A Commonwealth agency shall conduct an initial assessment of  
12           improper payments no later than ~~10~~ 120 days after the effective <--  
13           date of this section.

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

16                   (1) Determine whether the programs operated by the  
17                   Commonwealth agency have a low, moderate or high risk of  
18                   resulting in improper payments. BASED ON EACH PROGRAM'S TOTAL <--  
19                   AMOUNT OF IMPROPER PAYMENTS IN DOLLARS AND TOTAL IMPROPER  
20                   PAYMENTS AS A PERCENTAGE OF EACH PROGRAM'S TOTAL  
21                   EXPENDITURES.

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

25                   ~~(3) Make recommendations for reducing improper payments.~~ <--

26                   (3) DISCOVER AND REPORT THE ROOT CAUSES OF IMPROPER <--  
27                   PAYMENTS WITHIN HIGH-RISK PROGRAMS.

28                   (4) UTILIZE STATISTICAL SAMPLING AND EXTRAPOLATION TO  
29                   CALCULATE AN IMPROPER PAYMENT ERROR RATE FOR HIGH-RISK  
30                   PROGRAMS.

1           (5) ADOPT A CORRECTIVE ACTION PLAN TO REDUCE IMPROPER  
2           PAYMENT ERROR RATES TO NO MORE THAN 3% FOR HIGH-RISK PROGRAMS  
3           FOR THE NEXT OCCURRING BIENNIAL ASSESSMENT.

4           (c) Copies.--A Commonwealth agency shall provide a AN           <--  
5           ELECTRONIC copy of the assessment under subsection (a) to all of  
6           the following:

7           (1) The Secretary of the Budget.

8           (2) The ~~office~~ OFFICE OF THE INSPECTOR GENERAL.           <--

9           (3) The Department of the Auditor General.

10          (4) The Independent Fiscal Office.

11          (5) The Legislative Budget and Finance Committee.           <--

12          ~~(6) Members of the General Assembly.~~

13          ~~§ 1303. Review of programs and activities of Commonwealth~~           <--  
14                           ~~agencies.~~

15          ~~(a) Review. The office shall establish a schedule to review~~  
16          ~~at least one Commonwealth agency during each calendar year.~~

17          ~~(b) Examination. In reviewing a Commonwealth agency under~~  
18          ~~subsection (a), the office shall examine the Commonwealth~~  
19          ~~agency's programs and activities to determine all of the~~  
20          ~~following:~~

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

23                   ~~(2) The number of the Commonwealth agency's improper~~  
24                   ~~payments.~~

25                   ~~(3) The total amount of Federal or State funds that were~~  
26                   ~~expended through improper payments.~~

27          ~~(c) Duties of Commonwealth agencies. A Commonwealth agency~~  
28          ~~shall provide the office with all the information necessary to~~  
29          ~~conduct the review under subsection (a).~~

30          ~~(d) Reports. The following shall apply:~~

1 ~~(1) Upon completion of the office's review of a~~  
2 ~~Commonwealth agency under subsection (a), the Inspector~~  
3 ~~General shall submit a report on the Commonwealth agency's~~  
4 ~~programs and activities to all of the following:~~

5 ~~(i) The Department of the Auditor General.~~

6 ~~(ii) The Legislative Budget and Finance Committee.~~

7 ~~(iii) Members of the General Assembly.~~

8 ~~(2) The Inspector General shall submit the report no~~  
9 ~~later than December 31, 2022, and each December 31~~  
10 ~~thereafter.~~

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

12 ~~(i) An estimate of the total annual amount of~~  
13 ~~improper payments by the Commonwealth agency during the~~  
14 ~~previous two fiscal years.~~

15 ~~(ii) The total percentage of the Commonwealth~~  
16 ~~agency's expenditures that constitute improper payments~~  
17 ~~during the previous two fiscal years.~~

18 ~~(iii) The reasons why the Commonwealth agency made~~  
19 ~~the improper payments.~~

20 ~~(iv) An evaluation of whether the Commonwealth~~  
21 ~~agency has the procedures and resources to prevent~~  
22 ~~improper payments.~~

23 ~~(v) Whether the Commonwealth agency has taken steps~~  
24 ~~to address improper payments.~~

25 ~~(vi) The actions necessary for the Commonwealth~~  
26 ~~agency to reduce improper payments as a percentage of the~~  
27 ~~Commonwealth agency's total expenditures to no more than~~  
28 ~~3% within the next five fiscal years.~~

29 ~~§ 1304. Corrective action plans.~~

30 ~~After the office submits a report on a Commonwealth agency~~

~~1 under section 1303(d)(1) (relating to review of programs and  
2 activities of Commonwealth agencies), the Commonwealth agency  
3 shall adopt a corrective action plan to reduce the rate of  
4 improper payments to no more than 3% as specified under section  
5 1303(d)(3)(vi).~~

~~6 § 1305. Audits of Commonwealth agencies.~~

~~7 (a) Initial audits. The Legislative Budget and Finance  
8 Committee shall perform an audit on a Commonwealth agency no  
9 later than five years after the office has completed its review  
10 of the Commonwealth agency under section 1303(a) (relating to  
11 review of programs and activities of Commonwealth agencies) to  
12 determine whether the Commonwealth agency has reduced its rate  
13 of improper payments by at least 50% since the initial review by  
14 the office under section 1303(a).~~

~~15 (b) Initial notice. After the Legislative Budget and  
16 Finance Committee performs an audit under subsection (a), if the  
17 Legislative Budget and Finance Committee finds that the  
18 Commonwealth agency's rate of improper payments has not been  
19 reduced by at least 50% since the initial review by the office  
20 under section 1303(a), the Executive Director of the Legislative  
21 Budget and Finance Committee shall provide notice to all of the  
22 following:~~

~~23 (1) The Governor.~~

~~24 (2) The office.~~

~~25 (3) The members of the General Assembly.~~

~~26 (c) Transfers. Upon receiving the notice under subsection  
27 (b), the Governor shall transfer, the lesser of the following  
28 from the funds appropriated to the Commonwealth agency for  
29 general government operations into budgetary reserve:~~

~~30 (1) An amount equal to the total improper payments by~~

1 ~~the Commonwealth agency.~~

2 ~~(2) An amount equal to the percentage of the~~  
3 ~~Commonwealth agency's expenditures that exceed the improper~~  
4 ~~payment rate established in the corrective action plan under~~  
5 ~~section 1304.~~

6 ~~(d) Additional audits. No later than six months after the~~  
7 ~~Governor transfers funds into budgetary reserve under subsection~~  
8 ~~(c), the Legislative Budget and Finance Committee shall perform~~  
9 ~~another audit of the Commonwealth agency to determine whether~~  
10 ~~the Commonwealth agency's rate of improper payments has been~~  
11 ~~reduced by at least 50% since the initial review by the office~~  
12 ~~under section 1303(a).~~

13 ~~(e) Additional notice. After the Legislative Budget and~~  
14 ~~Finance Committee performs an audit under subsection (d), if the~~  
15 ~~Legislative Budget and Finance Committee finds that the~~  
16 ~~Commonwealth agency's rate of improper payments has been reduced~~  
17 ~~by at least 50% since the initial review by the office under~~  
18 ~~section 1303(a), the Executive Director of the Legislative~~  
19 ~~Budget and Finance Committee shall provide notice to all of the~~  
20 ~~following:~~

21 ~~(1) The Governor.~~

22 ~~(2) The office.~~

23 ~~(3) The members of the General Assembly.~~

24 ~~(f) Transfers prohibited. Upon receiving the notice under~~  
25 ~~subsection (e), if the Governor has already transferred funds~~  
26 ~~from the Commonwealth agency's general government operations~~  
27 ~~into budgetary reserves, the Governor shall transfer the funds~~  
28 ~~out of budgetary reserves to the Commonwealth agency for general~~  
29 ~~government operations.~~

30 ~~§ 1303. PUBLIC INFORMATION ON PAYMENTS AND PROGRAMS OF~~

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1 COMMONWEALTH AGENCIES.

2 THE OFFICE OF THE BUDGET SHALL MAINTAIN A PUBLICLY ACCESSIBLE  
3 INTERNET WEBSITE AND UPDATE THE WEBSITE TO INFORM THE PUBLIC OF,  
4 AT A MINIMUM, ALL OF THE FOLLOWING INFORMATION:

5 (1) EACH COMMONWEALTH AGENCY'S BIENNIAL IMPROPER PAYMENT  
6 ASSESSMENTS.

7 (2) EACH COMMONWEALTH AGENCY'S TOTAL IMPROPER PAYMENTS  
8 IN DOLLAR VALUE AND TOTAL IMPROPER PAYMENT ERROR RATE.

9 (3) EACH COMMONWEALTH AGENCY'S HIGH-RISK PROGRAM, THE  
10 DOLLAR VALUE OF IMPROPER PAYMENTS FOR EACH HIGH-RISK PROGRAM  
11 AND THE IMPROPER PAYMENT ERROR RATE PERCENTAGE FOR EACH HIGH-  
12 PRIORITY PROGRAM.

13 (4) EACH COMMONWEALTH AGENCY'S HIGH-RISK PROGRAM  
14 CORRECTIVE ACTION PLAN AND A SUMMARY STATUS OF COMPLETING THE  
15 CORRECTIVE ACTION PLAN.

16 (5) THE RECOVERY OF IMPROPER PAYMENTS FOR EACH PROGRAM  
17 IN TOTAL DOLLARS AND BY PERCENTAGE.

18 Section 2. This act shall take effect in ~~60~~ 120 days.

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