S T A T E O F N E W Y O R K

8388--A

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

Introduced by M. of A. LANCMAN -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to granting the office of the state inspector general jurisdiction over all state agencies and public authorities and establishing a metropolitan transportation authority oversight unit within such office; to amend the public authorities law and the transportation law, in relation to eliminating the office of the metropolitan transportation authority inspector general and establishing the office of the metropolitan transportation authority chief investigator; to amend the executive law, the tax law, the state finance law and the social services law, in relation to eliminating the office of the welfare inspector general and the office of the medicaid inspector general, and transferring the duties, powers and functions thereof to the deputy attorney general for medicaid fraud control; to repeal sections 46, 47, 48, 49 and 50 of the executive law relating to the office of the welfare inspector general; and to repeal title 3 of article 1 of the public health law relating to the office of the medicaid inspector general

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

Section 1. Section 51 of the executive law, as added by chapter 766 of the laws of 2005, is amended to read as follows:

S 51. Jurisdiction. This article shall, subject to the limitations contained herein, confer upon the office of the state inspector general, jurisdiction over all covered agencies. For the purposes of this article "covered agency" shall include all executive branch agencies, departments, divisions, officers, boards and commissions, public authorities (other than multi-state or multi-national authorities), and public bene-

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

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fit corporations, the heads of which are appointed by the governor [and which do not have their own inspector general by statute]. Wherever a covered agency is a board, commission, a public authority or public benefit corporation, the head of the agency is the chairperson thereof.

S 2. Section 52 of the executive law is amended by adding a new subdivision 4-a to read as follows:

4-A. THE STATE INSPECTOR GENERAL SHALL ESTABLISH, WITHIN THE OFFICE OF THE STATE INSPECTOR GENERAL, A METROPOLITAN TRANSPORTATION AUTHORITY OVERSIGHT UNIT, AND SHALL APPOINT A DEPUTY INSPECTOR GENERAL TO SERVE AT HIS OR HER PLEASURE, WHO SHALL BE RESPONSIBLE FOR CONDUCTING INVESTIGATIONS IN THE METROPOLITAN TRANSPORTATION AUTHORITY PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE PUBLIC AUTHORITIES LAW.

S 3. Subdivision 21 of section 1261 of the public authorities law, as amended by section 1 of part H of chapter 25 of the laws of 2009, is amended to read as follows:

21. ["Inspector general"] "CHIEF INVESTIGATOR" shall mean the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR.

S 4. Paragraph (a) of subdivision 2 of section 1269-g of the public authorities law, as amended by section 13 of part H of chapter 25 of the laws of 2009, is amended to read as follows:

(a) provide the telephone numbers and addresses to report information of fraud or other illegal activity to the appropriate officers of the [inspector general] CHIEF INVESTIGATOR of the authority and the attorney-general of the state;

S 5. Section 1279 of the public authorities law, as added by chapter 427 of the laws of 1983, paragraph (e) of subdivision 4 as amended by chapter 322 of the laws of 1985, subdivision 6 as amended by chapter 927 of the laws of 1984, is amended to read as follows:

S 1279. Metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR. 1. There is hereby created in the metropolitan transportation authority an office of metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR. The [inspector general] CHIEF INVESTIGATOR shall be appointed by the governor with the advice and consent of the senate. The [inspector general] CHIEF INVESTIGATOR shall, prior to his OR HER appointment, have had at least ten years experience in the management of transportation services, in auditing and investigation of governmental operations, or in services related to management and productivity improvement. The term of office of the [inspector general] CHIEF INVESTIGATOR shall be five years from the effective date of appointment, and he OR SHE shall serve at the pleasure of the governor. The salary of the [inspector general] CHIEF INVESTIGATOR shall be determined by the authority board.

2. The [inspector general] CHIEF INVESTIGATOR shall annually submit to the board of the metropolitan transportation authority a budget request for the operation of the office. If the board disapproves any portion of such request and the commissioner of transportation determines such disapproval to be unreasonable, such commissioner shall withhold from payments due such authority, the amount so determined to be unreasonable and transfer such amount to the office of the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR.

3. The [inspector general] CHIEF INVESTIGATOR AND THE METROPOLITAN TRANSPORTATION AUTHORITY OVERSIGHT UNIT OF THE OFFICE OF THE STATE INSPECTOR GENERAL shall have full and unrestricted access to all records, information, data, reports, plans, projections, matters, contracts, memoranda, correspondence and any other materials of the authority and its subsidiaries, the Long Island [railroad] RAIL ROAD,

metro-north railroad, metropolitan suburban bus authority and Staten Island rapid transit operating authority, of the Triborough bridge and tunnel authority, and of the New York city transit authority and its subsidiary, the Manhattan and Bronx surface transit operating authority, or any other agency that may come under the control of the authority, or within their custody or control.

4. The [inspector general] CHIEF INVESTIGATOR, notwithstanding the provisions of title nine of this article and this title, and of title three of article three OF THIS CHAPTER, shall have the following functions, powers and duties:

(a) to receive and investigate complaints from any source or upon his OR HER own initiative concerning alleged abuses, frauds and service deficiencies, including deficiencies in the maintenance and operation of facilities, relating to the authority and its subsidiaries as listed in subdivision two [above] OF THIS SECTION, the Triborough bridge and tunnel authority and the New York city transit authority and its subsidiary;

(b) to initiate such reviews as he OR SHE may deem appropriate of the operations of the authority and its subsidiaries as listed in subdivision two [above] OF THIS SECTION, the Triborough bridge and tunnel authority, or the New York city transit authority and its subsidiary, in order to identify areas in which performance might be improved and available funds used more effectively;

(c) to recommend remedial actions to be taken by the authority and its subsidiaries as listed in subdivision two of this section, the Triborough bridge and tunnel authority, and the New York city transit authority and its subsidiary, to overcome or correct operating or maintenance deficiencies and inefficiencies that he OR SHE determines to exist;

(d) to make available to appropriate law enforcement officials information and evidence which relate to criminal acts that he OR SHE may obtain in carrying out his OR HER duties;

(e) to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents as he OR SHE may deem to be relevant to any inquiry or investigation undertaken pursuant to this section [and to delegate such powers to a duly authorized deputy inspector general];

(f) to monitor the implementation by the authority and its subsidiaries, the [Triborugh] TRIBOROUGH bridge and tunnel authority and the New York city transit authority and its subsidiary of recommendations made by the [inspector general] CHIEF INVESTIGATOR, THE STATE INSPECTOR GENERAL or other audit agencies; and

(g) to do all things necessary to carry out the functions, powers and duties set forth in this section.

5. The [inspector general] CHIEF INVESTIGATOR shall cooperate, consult and coordinate with the state public transportation safety board with regard to any activity concerning the operations of the metropolitan transportation authority. With respect to any accident on the facilities of the metropolitan transportation authority, the primary responsibility for investigation shall be that of the board which shall share its findings with the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR AND THE METROPOLITAN TRANSPORTATION AUTHORITY OVERSIGHT UNIT OF THE OFFICE OF THE STATE INSPECTOR GENERAL.

6. The [inspector general] CHIEF INVESTIGATOR shall make annual public reports on his OR HER findings and recommendations. Such a report shall be filed in the office of the governor and with the legislature on or before the first day of February for the preceding year. The metropol-

itan transportation authority and its applicable constituent agencies shall prepare a response to the annual report and to any and all other final reports made by the [inspector general] CHIEF INVESTIGATOR within thirty days of receipt, which time may be extended by the [inspector general] CHIEF INVESTIGATOR in his OR HER discretion, indicating whether such authority intends to implement the recommendations in such reports, and, if not, why not. In addition, the metropolitan transportation authority and its applicable constituent agencies shall give quarterly reports to the [inspector general] CHIEF INVESTIGATOR outlining the status of each of the recommendations made by the [inspector general] CHIEF INVESTIGATOR in his OR HER final reports. Copies of all of these reports shall be sent to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate transportation committee, the chairman of the senate finance committee, the chairman of the assembly corporations, authorities and commissions committee and the chairman of the assembly ways and means committee.

7. To effectuate the purposes of this section, the [inspector general] CHIEF INVESTIGATOR may request from any department, board, bureau, commission, office or other agency of the state, or of any of its political subdivisions, such cooperation, assistance, services and data as will enable him OR HER to carry out his OR HER functions, powers and duties hereunder, and they are authorized and directed to provide said cooperation, assistance, services and data.

S 6. Section 216 of the transportation law, as amended by chapter 431 of the laws of 1983, subdivision 1 as amended by chapter 84 of the laws of 1985, is amended to read as follows:

S 216. State public transportation safety board. 1. There is hereby created in the department a board, to be known as the state public transportation safety board. Such board shall be responsible for the investigation of accidents involving public transportation in the state, including commuter rail, subways, rapid transit and buses. The board shall also be responsible for the presentation of recommendations to all public transportation operators and carriers to prevent the occurrence of future accidents. Such board shall consist of the commissioner and six other members, no more than three of whom shall belong to the same political party. Two of the members of the board shall be selected by the governor from a list submitted by the temporary president of the senate and two from a list submitted by the speaker of the assembly. The remaining two members shall be selected by the governor. One from each category of selected members shall have competence and experience in connection with the operation, design or management of public transportation facilities and systems. Three of the members, other than the commissioner, shall be from the metropolitan transportation authority region and three members shall be from areas of the state outside such region. All appointees to the board other than the commissioner shall be upon the advice and consent of the senate. The metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR shall be an ex officio member of the board but shall have no vote on matters arising outside of the operations of the metropolitan transportation authority. Provided, however, that with the exception of the commissioner, no elected or appointed public officer or transportation authority member shall be eligible for membership on such board. The governor shall select a [chairman] CHAIR from the members but the [chairman] CHAIR shall be someone other than the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR.

2. The board may be called to investigate any accident by the governor or chairman. Alternatively, any board member may call for an investigation with majority board concurrence.

3. Except for the commissioner and the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR, the term of office of each such member shall be six years, except that the members first selected shall serve for terms of six years, five years, four years, three years, two years and one year, respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

4. Members of the board, except the commissioner and the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR, shall receive one hundred fifty dollars per diem, not to exceed ten thousand dollars per annum compensation for their services as members of the board, and each of them shall be allowed the necessary and actual expenses which he OR SHE shall incur in the performance of his OR HER duties under this article.

S 7. Subdivision 2 of section 219 of the transportation law, as added by chapter 431 of the laws of 1983, is amended to read as follows:

2. The board shall cooperate, consult and coordinate with the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR with regard to any activity concerning the operations of the metropolitan transportation authority. With respect to any accident on the facilities of the metropolitan transportation authority, the primary responsibility for investigation shall be that of the board which shall share its findings with the metropolitan transportation authority [inspector general] CHIEF INVESTIGATOR AND THE METROPOLITAN TRANSPORTATION AUTHORITY OVERSIGHT UNIT OF THE OFFICE OF THE STATE INSPECTOR GENERAL.

S 8. The office of the metropolitan transportation authority inspector general is abolished. When the term "metropolitan transportation authority inspector general" or any equivalent expression thereof is used in the public authorities law or any other law such inspector general shall be deemed to mean and refer to the metropolitan transportation authority chief investigator.

S 9. Transfer of functions. All of the functions and powers possessed by all and all of the obligations and duties of the office of the metropolitan transportation authority inspector general are transferred and assigned to, assumed by and devolved upon the office of the metropolitan transportation authority chief investigator, in accordance with and pursuant to the provisions of this act.

S 10. Upon the abolition of the office of the metropolitan transportation authority inspector general all appropriations made thereto shall be reallocated as follows:

(a) ten percent thereof to the office of the metropolitan transportation authority chief investigator;

(b) forty percent thereof to the metropolitan transportation authority oversight unit of the office of the state inspector general; and

(c) fifty percent thereof to the general fund of the state treasury.

S 11. Continuity of authority. For the purpose of succession to all duties, functions, powers and obligations transferred and assigned to, devolved upon and assumed by the office of the metropolitan transportation authority chief investigator pursuant to this act, such office shall be deemed and held to constitute the continuation of the office of the metropolitan transportation authority inspector general as the content of subject matter requires.

S 12. Sections 46, 47, 48, 49 and 50 of the executive law are REPEALED.

S 13. Section 74 of the executive law, as added by chapter 41 of the laws of 1992, is amended to read as follows:

S 74. [Welfare inspector general] MEDICAID FRAUD CONTROL. 1. Definitions. For the purposes of this section, the following definitions shall apply:

a. ["Inspector" means the welfare inspector general created by this section] "DEPUTY ATTORNEY GENERAL" MEANS THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL.

b. "Investigation" means, investigations of fraud, abuse, or illegal acts perpetrated within the department of [social services] FAMILY ASSISTANCE OR THE DEPARTMENT OF HEALTH, or local social services districts, or by contractees or recipients of public assistance services as provided by the department of [social services] FAMILY ASSISTANCE OR OF MEDICAL ASSISTANCE AS PROVIDED BY THE DEPARTMENT OF HEALTH.

c. "Office" means the office of the [welfare inspector general created] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL CONTINUED by this section.

2. [a.] There is hereby [created] CONTINUED in the department of law [within], the office of the deputy attorney general for medicaid fraud control [an office of welfare inspector general]. The head of the office shall be the [welfare inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, who shall be appointed by the [governor, by and with the advice and consent of the senate] ATTORNEY GENERAL.

[b. The inspector shall serve for a term of five years unless removed by the governor for neglect or malfeasance in office, and may also be removed for neglect or malfeasance by the senate upon a vote of two-thirds of its members. An inspector removed from office may not be reappointed to such office.

c. The inspector may not be employed with the department of social services during his employment with the office or within two years after terminating employment with the office.]

3. Functions, duties and responsibilities. The [inspector] DEPUTY ATTORNEY GENERAL shall have the following functions, duties and responsibilities:

a. to appoint such [deputies, directors,] assistants and other officers and employees as may be needed for the performance of his OR HER duties and may prescribe their powers and fix their compensation within the amounts appropriated therefor;

b. to conduct and supervise investigations relating to the programs of the department of [social services] FAMILY ASSISTANCE AND THE DEPARTMENT OF HEALTH and, to the greatest extent possible, to coordinate such activities with [the deputy attorney general for medicaid fraud control,] the commissioner of [social services] TEMPORARY AND DISABILITY ASSISTANCE, THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES, the commissioner of health, the commissioner of education, the fiscal agent employed to operate the medicaid management information system, and the state comptroller;

c. to keep the governor, attorney general, state comptroller, TEMPORARY president [pro tem] and minority leader of the senate, the speaker and the minority and majority leaders of the assembly, apprised of fraud and abuse;

d. to prosecute fraud, abuse or illegal acts perpetrated within the department of [social services] FAMILY ASSISTANCE, DEPARTMENT OF HEALTH

or local social services districts, or by contractees or recipients of public assistance services;

e. to make information and evidence relating to criminal acts which he OR SHE may obtain in carrying out his OR HER duties available to appropriate law enforcement officials and to consult with [the deputy attorney general for medicaid fraud control and] local district attorneys to coordinate investigations and criminal prosecutions;

f. to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents as he OR SHE may deem to be relevant to an investigation undertaken pursuant to this section;

g. to monitor the implementation by the relevant office of his OR HER recommendations and those of other investigative agencies;

h. to recommend policies relating to the prevention and detection of fraud and abuse or the identification and prosecution of participants in such fraud or abuse; and

i. to receive complaints of alleged failures of state and local officials to prevent, detect and prosecute fraud and abuse.

4. Cooperation of agency officials and employees. a. In addition to the authority otherwise provided by this section, the [inspector] DEPUTY ATTORNEY GENERAL, in carrying out the provisions of this section, is authorized:

(i) to have full and unrestricted access to all records, reports, audits, reviews, documents, papers, recommendations or other material available to the department of [social services] FAMILY ASSISTANCE, THE DEPARTMENT OF HEALTH and local social services districts relating to programs and operations with respect to which the [inspector] DEPUTY ATTORNEY GENERAL has responsibilities under this section;

(ii) to make such investigations relating to the administration of the programs and operations of the department of [social services] FAMILY ASSISTANCE AND THE DEPARTMENT OF HEALTH as are, in the judgment of the [inspector] DEPUTY ATTORNEY GENERAL, necessary or desirable; and

(iii) to request such information, assistance and cooperation from any federal, state or local governmental department, board, bureau, commission, or other agency or unit thereof as may be necessary for carrying out the duties and responsibilities enjoined upon him OR HER by this section. State and local agencies or units thereof are hereby authorized and directed to provide such information, assistance and cooperation.

b. Notwithstanding any other provision of law, rule or regulation to the contrary, no person shall prevent, seek to prevent, interfere with, obstruct or otherwise hinder any investigation being conducted pursuant to this section. Section one hundred thirty-six of the social services law shall in no way be construed to restrict any person or governmental body from cooperating and assisting the [inspector] DEPUTY ATTORNEY GENERAL or his OR HER employees in carrying out their duties under this section. Any violation of this paragraph shall constitute cause for suspension or removal from office or employment.

5. [Establishment period. The governor shall nominate the initial inspector as soon as is practicable but in no event later than sixty days after the effective date of this section.

6.] Reports required of the [inspector] DEPUTY ATTORNEY GENERAL. The [inspector] DEPUTY ATTORNEY GENERAL shall, no later than February first of each year submit to the governor, the state comptroller, the attorney general and the legislature a report summarizing the activities of the office during the preceding calendar year.

[7.] 6. Disclosure of information. a. The [inspector] DEPUTY ATTORNEY GENERAL shall not publicly disclose information which is:

(i) a part of any ongoing investigation; or

(ii) specifically prohibited from disclosure by any other provision of law.

b. Notwithstanding paragraph a of this subdivision, any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

S 14. The executive law is amended by adding two new sections 75 and 76 to read as follows:

S 75. FUNCTIONS, POWERS AND DUTIES OF THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL. THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL SHALL, NOTWITHSTANDING ANY PROVISION OF THE SOCIAL SERVICES LAW TO THE CONTRARY, HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

1. TO PREVENT, DETECT AND INVESTIGATE FRAUD AND ABUSE WITH THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE SYSTEMS;

2. TO REFER APPROPRIATE CASES FOR CRIMINAL PROSECUTION;

3. TO RECOVER IMPROPERLY EXPENDED PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE FUNDS;

4. TO CONDUCT AND SUPERVISE ACTIVITIES TO PREVENT, DETECT AND INVESTIGATE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAM FRAUD AND ABUSE AMONGST THE FOLLOWING: THE DEPARTMENT OF HEALTH; THE OFFICES OF MENTAL HEALTH, FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, TEMPORARY DISABILITY ASSISTANCE, AND CHILDREN AND FAMILY SERVICES;

5. TO COORDINATE, TO THE GREATEST EXTENT POSSIBLE, ACTIVITIES TO PREVENT, DETECT AND INVESTIGATE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAM FRAUD AND ABUSE AMONGST THE FOLLOWING: THE DEPARTMENT OF HEALTH; THE OFFICES OF MENTAL HEALTH, FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, TEMPORARY DISABILITY ASSISTANCE, AND CHILDREN AND FAMILY SERVICES; THE COMMISSION ON QUALITY OF CARE AND ADVOCACY FOR PERSONS WITH DISABILITIES; THE EDUCATION DEPARTMENT; THE FISCAL AGENT EMPLOYED TO OPERATE THE MEDICAL ASSISTANCE INFORMATION AND PAYMENT SYSTEM; LOCAL GOVERNMENTS AND ENTITIES; AND TO WORK IN A COORDINATED AND COOPERATIVE MANNER WITH, TO THE GREATEST EXTENT POSSIBLE, FEDERAL PROSECUTORS, DISTRICT ATTORNEYS WITHIN THE STATE, THE SPECIAL INVESTIGATIVE UNIT MAINTAINED BY EACH HEALTH INSURER OPERATING WITHIN THE STATE, AND THE STATE COMPTROLLER;

6. TO SOLICIT, RECEIVE AND INVESTIGATE COMPLAINTS RELATED TO FRAUD AND ABUSE WITHIN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAM;

7. TO KEEP THE GOVERNOR, ATTORNEY GENERAL, STATE COMPTROLLER, TEMPORARY PRESIDENT AND MINORITY LEADER OF THE SENATE, THE SPEAKER AND THE MINORITY LEADER OF THE ASSEMBLY, AND THE HEADS OF AGENCIES WITH RESPONSIBILITY FOR THE ADMINISTRATION OF THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS APPRISED OF EFFORTS TO PREVENT, DETECT, INVESTIGATE, AND PROSECUTE FRAUD AND ABUSE WITHIN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS;

8. TO PURSUE CIVIL AND ADMINISTRATIVE ENFORCEMENT ACTIONS AGAINST ANY INDIVIDUAL OR ENTITY THAT ENGAGES IN FRAUD, ABUSE, OR ILLEGAL OR IMPROPER ACTS OR UNACCEPTABLE PRACTICES PERPETRATED WITHIN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS, INCLUDING BUT NOT LIMITED TO: (A) REFERRAL OF INFORMATION AND EVIDENCE TO REGULATORY AGENCIES AND LICENSURE BOARDS; (B) WITHHOLDING PAYMENT OF PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE FUNDS IN ACCORDANCE WITH STATE AND FEDERAL LAWS AND REGULATIONS; (C) IMPOSITION OF ADMINISTRATIVE SANCTIONS AND PENALTIES IN

ACCORDANCE WITH STATE AND FEDERAL LAWS AND REGULATIONS; (D) EXCLUSION OF PROVIDERS, VENDORS AND CONTRACTORS FROM PARTICIPATION IN THE PROGRAM; (E) INITIATING AND MAINTAINING ACTIONS FOR CIVIL RECOVERY AND, WHERE AUTHORIZED BY LAW, SEIZURE OF PROPERTY OR OTHER ASSETS CONNECTED WITH IMPROPER PAYMENTS; AND ENTERING INTO CIVIL SETTLEMENTS; AND (F) RECOVERY OF IMPROPERLY EXPENDED PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAM FUNDS FROM THOSE WHO ENGAGE IN FRAUD OR ABUSE, OR ILLEGAL OR IMPROPER ACTS PERPETRATED WITHIN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS. IN THE PURSUIT OF SUCH CIVIL AND ADMINISTRATIVE ENFORCEMENT ACTIONS UNDER THIS SUBDIVISION, THE DEPUTY ATTORNEY GENERAL SHALL CONSIDER THE QUALITY AND AVAILABILITY OF MEDICAL CARE AND SERVICES AND THE BEST INTEREST OF BOTH THE MEDICAL ASSISTANCE PROGRAM AND RECIPIENTS;

9. TO MAKE INFORMATION AND EVIDENCE RELATING TO SUSPECTED CRIMINAL ACTS WHICH HE OR SHE MAY OBTAIN IN CARRYING OUT HIS OR HER DUTIES AVAILABLE TO APPROPRIATE LAW ENFORCEMENT OFFICIALS AND TO CONSULT WITH OTHER STATE AND FEDERAL LAW ENFORCEMENT OFFICIALS FOR COORDINATION OF CRIMINAL INVESTIGATIONS AND PROSECUTIONS. THE DEPUTY ATTORNEY GENERAL SHALL REFER SUSPECTED FRAUD OR CRIMINALITY TO THE ATTORNEY GENERAL AND MAKE ANY OTHER REFERRALS TO SUCH ATTORNEY GENERAL AS REQUIRED OR CONTEMPLATED BY FEDERAL LAW. AT ANY TIME AFTER SUCH REFERRAL, WITH TEN DAYS WRITTEN NOTICE TO THE ATTORNEY GENERAL OR SUCH SHORTER TIME AS THE ATTORNEY GENERAL CONSENTS TO, THE DEPUTY ATTORNEY GENERAL MAY ADDITIONALLY PROVIDE RELEVANT INFORMATION ABOUT SUSPECTED FRAUD OR CRIMINALITY TO ANY OTHER FEDERAL OR STATE LAW ENFORCEMENT AGENCY THAT THE DEPUTY ATTORNEY GENERAL DEEMS APPROPRIATE UNDER THE CIRCUMSTANCES;

10. TO SUBPOENA AND ENFORCE THE ATTENDANCE OF WITNESSES, ADMINISTER OATHS OR AFFIRMATIONS, EXAMINE WITNESSES UNDER OATH, AND TAKE TESTIMONY;

11. TO REQUIRE AND COMPEL THE PRODUCTION OF SUCH BOOKS, PAPERS, RECORDS AND DOCUMENTS AS HE OR SHE MAY DEEM TO BE RELEVANT OR MATERIAL TO AN INVESTIGATION, EXAMINATION OR REVIEW UNDERTAKEN PURSUANT TO THIS SECTION;

12. TO EXAMINE AND COPY OR REMOVE DOCUMENTS OR RECORDS OF ANY KIND RELATED TO THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS OR NECESSARY FOR THE DEPUTY ATTORNEY GENERAL TO PERFORM HIS OR HER DUTIES AND RESPONSIBILITIES THAT ARE PREPARED, MAINTAINED OR HELD BY OR AVAILABLE TO ANY STATE AGENCY OR LOCAL GOVERNMENTAL ENTITY THE PATIENTS OR CLIENTS OF WHICH ARE SERVED BY THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS, OR WHICH IS OTHERWISE RESPONSIBLE FOR THE CONTROL OF FRAUD AND ABUSE WITHIN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS; PROVIDED, HOWEVER, THAT ANY SUCH INFORMATION BE AFFORDED CONFIDENTIALITY PROTECTION AS PROVIDED FOR UNDER STATE AND FEDERAL LAW. THE REMOVAL OF RECORDS SHALL BE LIMITED TO THOSE CIRCUMSTANCES IN WHICH A COPY THEREOF IS INSUFFICIENT FOR AN APPROPRIATE LEGAL OR INVESTIGATIVE PURPOSE, PROVIDED THAT IN SUCH INSTANCES THE COPYING AND RETURN OF SUCH ORIGINAL, OR COPY WHERE THE ORIGINAL IS REQUIRED FOR AN APPROPRIATE LEGAL OR INVESTIGATIVE PURPOSE, IS EXPEDITED AND SUCH ORIGINAL OR COPY IS READILY ACCESSIBLE IN ACCORDANCE WITH THE CARE AND TREATMENT NEEDS OF THE PATIENT;

13. TO RECOMMEND AND IMPLEMENT POLICIES RELATING TO THE PREVENTION AND DETECTION OF FRAUD AND ABUSE; PROVIDED HOWEVER, THAT THE CONSENT OF THE ATTORNEY GENERAL SHALL BE OBTAINED PRIOR TO THE IMPLEMENTATION OF ANY POLICY THAT SHALL AFFECT THE OPERATIONS OF THE DEPARTMENT OF LAW;

14. TO MONITOR THE IMPLEMENTATION OF ANY RECOMMENDATIONS MADE BY THE OFFICE TO AGENCIES OR OTHER ENTITIES WITH RESPONSIBILITY FOR ADMINISTRATION OF THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS;

15. TO PREPARE CASES, PROVIDE TESTIMONY AND SUPPORT ADMINISTRATIVE HEARINGS AND OTHER LEGAL PROCEEDINGS;

16. TO REVIEW AND AUDIT CONTRACTS, COST REPORTS, CLAIMS, BILLS AND ALL OTHER EXPENDITURES OF PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAM FUNDS TO DETERMINE COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS AND TAKE SUCH ACTIONS AS ARE AUTHORIZED BY FEDERAL OR STATE LAWS AND REGULATIONS;

17. TO WORK WITH THE FISCAL AGENT EMPLOYED TO OPERATE THE MEDICAID MANAGEMENT INFORMATION SYSTEM TO OPTIMIZE THE SYSTEM;

18. TO WORK IN A COORDINATED MANNER WITH RELEVANT AGENCIES IN THE IMPLEMENTATION OF INFORMATION TECHNOLOGY RELATING TO THE PREVENTION AND IDENTIFICATION OF FRAUD AND ABUSE IN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS, INCLUDING THE SURVEILLANCE UTILIZATION REVIEW SYSTEM AND OTHER AUTOMATED SYSTEMS PURSUANT TO PARAGRAPH (B) OF SUBDIVISION EIGHT OF SECTION THREE HUNDRED SIXTY-SEVEN-B OF THE SOCIAL SERVICES LAW;

19. TO CONDUCT EDUCATIONAL PROGRAMS FOR PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS PROVIDERS, VENDORS, CONTRACTORS AND RECIPIENTS DESIGNED TO LIMIT FRAUD AND ABUSE WITHIN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS;

20. TO, IN CONJUNCTION WITH THE COMMISSIONER, DEVELOP PROTOCOLS TO FACILITATE THE EFFICIENT SELF-DISCLOSURE AND COLLECTION OF OVERPAYMENTS AND MONITOR SUCH COLLECTIONS, INCLUDING THOSE THAT ARE SELF-DISCLOSED BY PROVIDERS. THE PROVIDER'S GOOD FAITH SELF-DISCLOSURE OF OVERPAYMENTS MAY BE CONSIDERED AS A MITIGATING FACTOR IN THE DETERMINATION OF AN ADMINISTRATIVE ENFORCEMENT ACTION;

21. TO RECEIVE AND TO INVESTIGATE COMPLAINTS OF ALLEGED FAILURES OF STATE AND LOCAL OFFICIALS TO PREVENT, DETECT AND PROSECUTE FRAUD AND ABUSE IN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS;

22. TO, CONSISTENT WITH PROVISIONS OF THIS ARTICLE, IMPLEMENT AND AMEND, AS NEEDED, RULES AND REGULATIONS RELATING TO THE PREVENTION, DETECTION, INVESTIGATION AND REFERRAL OF FRAUD AND ABUSE WITHIN THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS AND THE RECOVERY OF IMPROPERLY EXPENDED PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAM FUNDS;

23. TO CONDUCT, IN THE CONTEXT OF THE INVESTIGATION OF FRAUD AND ABUSE, ON-SITE FACILITY AND OFFICE INSPECTIONS;

24. TO TAKE APPROPRIATE ACTIONS TO ENSURE THAT THE PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE PROGRAMS ARE THE PAYOR OF LAST RESORT; AND

25. TO PERFORM ANY OTHER FUNCTIONS THAT ARE NECESSARY OR APPROPRIATE TO FULFILL THE DUTIES AND RESPONSIBILITIES OF THE OFFICE IN ACCORDANCE WITH FEDERAL AND STATE LAW.

S 76. COOPERATION OF AGENCY OFFICIALS AND EMPLOYEES. 1. IN ADDITION TO THE AUTHORITY OTHERWISE PROVIDED BY THIS ARTICLE, THE OFFICE, IN CARRYING OUT THE PROVISIONS OF THIS ARTICLE, IS AUTHORIZED TO REQUEST SUCH INFORMATION, ASSISTANCE AND COOPERATION FROM ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL DEPARTMENT, BOARD, BUREAU, COMMISSION, OR OTHER AGENCY OR UNIT THEREOF AS MAY BE NECESSARY FOR CARRYING OUT THE DUTIES AND RESPONSIBILITIES ENJOINED UPON THE OFFICE BY THIS ARTICLE. STATE AND LOCAL AGENCIES OR UNITS THEREOF ARE HEREBY AUTHORIZED AND DIRECTED TO PROVIDE TO THE OFFICE, OR, AT THE REQUEST OF THE OFFICE, TO STATE AGENCIES OR THEIR CONTRACTORS, SUCH INFORMATION, ASSISTANCE AND COOPERATION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, REQUESTS FOR INFORMATION, ASSISTANCE AND COOPERATION MAY INCLUDE, BUT NOT BE LIMITED TO, ALL STATE AND LOCAL GOVERNMENT BIRTH, DEATH AND VITAL STATISTICS WHICH MAY BE CONTAINED IN FILES, DATABASES OR REGISTRIES, AND FOR ALL

INFORMATION SHALL, UPON REQUEST, INCLUDE, WHERE POSSIBLE, MAKING ELECTRONIC COPIES OR RECORD EXCHANGES AVAILABLE. EXECUTIVE AGENCIES SHALL COORDINATE AND FACILITATE THE TRANSFER OF APPROPRIATE FUNCTIONS AND POSITIONS TO THE OFFICE AS NECESSARY AND IN ACCORDANCE WITH APPLICABLE LAW.

2. UPON REQUEST OF A LOCAL SOCIAL SERVICES DISTRICT OR A PROSECUTOR OF COMPETENT JURISDICTION, THE OFFICE, DEPARTMENT OF FAMILY ASSISTANCE, DEPARTMENT OF HEALTH, ANY OTHER STATE OR LOCAL GOVERNMENT ENTITY AND THE MEDICAID FRAUD CONTROL UNIT SHALL PROVIDE SUCH INFORMATION AND ASSISTANCE AS SUCH ENTITY OR UNIT SHALL DEEM NECESSARY, APPROPRIATE AND AVAILABLE TO AID AND FACILITATE THE INVESTIGATION OF FRAUD AND ABUSE WITHIN THE MEDICAL ASSISTANCE PROGRAM AND THE RECOUPMENT OF IMPROPERLY EXPENDED FUNDS.

S 15. Subdivision 9 of section 835 of the executive law, as amended by section 102 of subpart B of part C and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

9. "Qualified agencies" means courts in the unified court system, the administrative board of the judicial conference, probation departments, sheriffs' offices, district attorneys' offices, the state department of corrections and community supervision, the department of correction of any municipality, the insurance frauds bureau of the state department of financial services, the office of professional medical conduct of the state department of health for the purposes of section two hundred thirty of the public health law, the child protective services unit of a local social services district when conducting an investigation pursuant to subdivision six of section four hundred twenty-four of the social services law, the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, the temporary state commission of investigation, the criminal investigations bureau of the department of financial services, police forces and departments having responsibility for enforcement of the general criminal laws of the state and the Onondaga County Center for Forensic Sciences Laboratory when acting within the scope of its law enforcement duties.

S 16. Title 3 of article 1 of the public health law is REPEALED.

S 17. Paragraph 3 of subsection (e) of section 697 of the tax law, as amended by chapter 206 of the laws of 2011, is amended to read as follows:

(3) Nothing herein shall be construed to prohibit the department, its officers or employees from furnishing information to the office of temporary and disability assistance relating to the payment of the credit for certain household and dependent care services necessary for gainful employment under subsection (c) of section six hundred six of this article and the earned income credit under subsection (d) of section six hundred six of this article and the enhanced earned income credit under subsection (d-1) of section six hundred six of this article, or pursuant to a local law enacted by a city having a population of one million or more pursuant to subsection (f) of section thirteen hundred ten of this chapter, only to the extent necessary to calculate qualified state expenditures under paragraph seven of subdivision (a) of section four hundred nine of the federal social security act or to document the proper expenditure of federal temporary assistance for needy families funds under section four hundred three of such act. The office of temporary and disability assistance may redisclose such information to the United States department of health and human services only to the extent necessary to calculate such qualified state expenditures or to document the

proper expenditure of such federal temporary assistance for needy families funds. Nothing herein shall be construed to prohibit the delivery by the commissioner to a commissioner of jurors, appointed pursuant to section five hundred four of the judiciary law, or, in counties within cities having a population of one million or more, to the county clerk of such county, of a mailing list of individuals to whom income tax forms are mailed by the commissioner for the sole purpose of compiling a list of prospective jurors as provided in article sixteen of the judiciary law. Provided, however, such delivery shall only be made pursuant to an order of the chief administrator of the courts, appointed pursuant to section two hundred ten of the judiciary law. No such order may be issued unless such chief administrator is satisfied that such mailing list is needed to compile a proper list of prospective jurors for the county for which such order is sought and that, in view of the responsibilities imposed by the various laws of the state on the department, it is reasonable to require the commissioner to furnish such list. Such order shall provide that such list shall be used for the sole purpose of compiling a list of prospective jurors and that such commissioner of jurors, or such county clerk, shall take all necessary steps to insure that the list is kept confidential and that there is no unauthorized use or disclosure of such list. Furthermore, nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return or report filed in connection with his or her tax or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer or of any employer filed under section one hundred seventy-one-h of this chapter, where such taxpayer or employer shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this chapter or under this chapter and article eighteen of the labor law has been recommended by the commissioner, the commissioner of labor with respect to unemployment insurance matters, or the attorney general or has been instituted, or the inspection of the reports or returns required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a taxpayer under this article, or the furnishing to the state department of labor of unemployment insurance information obtained or derived from quarterly combined withholding, wage reporting and unemployment insurance returns required to be filed by employers pursuant to paragraph four of subsection (a) of section six hundred seventy-four of this article, for purposes of administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law or any other applicable law, or the furnishing to the state office of temporary and disability assistance of information obtained or derived from New York state personal income tax returns as described in paragraph (b) of subdivision two of section one hundred seventy-one-g of this chapter for the purpose of reviewing support orders enforced pursu-

ant to title six-A of article three of the social services law to aid in the determination of whether such orders should be adjusted, or the furnishing of information obtained from the reports required to be submitted by employers regarding newly hired or re-hired employees pursuant to section one hundred seventy-one-h of this chapter to the state office of temporary and disability assistance, the state department of health, the state department of labor and the workers' compensation board for purposes of administration of the child support enforcement program, verification of individuals' eligibility for one or more of the programs specified in subsection (b) of section eleven hundred thirty-seven of the federal social security act and for other public assistance programs authorized by state law, and administration of the state's employment security and workers' compensation programs, and to the national directory of new hires established pursuant to section four hundred fifty-three-A of the federal social security act for the purposes specified in such section, or the furnishing to the state office of temporary and disability assistance of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against past-due support pursuant to section one hundred seventy-one-c of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to the commissioner of finance of the city of New York, pursuant to section one hundred seventy-one-l of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a city of New York tax warrant judgment debt and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the New York state higher education services corporation of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of any education loan debt, including judgments, owed to the federal or New York state government that is being collected by the New York state higher education services corporation, and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the state department of health of the information required by paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and by subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, or the furnishing to the state university of New York or the city university of New York respectively or the attorney general on behalf of such state or city university the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of a state university loan pursuant to section one hundred seventy-one-e of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to a state agency, pursuant to section one hundred seventy-one-f of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a past-due legally enforceable debt owed to such agency and of the name and social security number of the taxpayer who made such overpayment, or the furnishing of employee and employer information obtained through the wage reporting system, pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance, the department of health or to the [state] office of the [medicaid

inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law or similar law of another jurisdiction, locating absent parents or other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act or similar provision of law of another jurisdiction for the purpose of evaluating the effect on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law by current recipients of public assistance and care and by former applicants and recipients of public assistance and care, (except that with regard to former recipients, information which relates to a particular former recipient shall be provided with client identifying data deleted), to the state office of temporary and disability assistance for the purpose of determining the eligibility of any child in the custody, care and custody or custody and guardianship of a local social services district or of the office of children and family services for federal payments for foster care and adoption assistance pursuant to the provisions of title IV-E of the federal social security act by providing information with respect to the parents, the stepparents, the child and the siblings of the child who were living in the same household as such child during the month that the court proceedings leading to the child's removal from the household were initiated, or the written instrument transferring care and custody of the child pursuant to the provisions of section three hundred fifty-eight-a or three hundred eighty-four-a of the social services law was signed, provided however that the office of temporary and disability assistance shall only use the information obtained pursuant to this subdivision for the purpose of determining the eligibility of such child for federal payments for foster care and adoption assistance pursuant to the provisions of title IV-E of the federal social security act, and to the state department of labor, or other individuals designated by the commissioner of labor, for the purpose of the administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law, or the furnishing of information, which is obtained from the wage reporting system operated pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance so that it may furnish such information to public agencies of other jurisdictions with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, and to the state office of temporary and disability assistance for the purpose of fulfilling obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act

of nineteen hundred eighty-eight, by giving the federal parent locator service, maintained by the federal department of health and human services, prompt access to such information as required by such act, or to the state department of health to verify eligibility under the child health insurance plan pursuant to subdivisions two and two-a of section two thousand five hundred eleven of the public health law, to verify eligibility under the medical assistance and family health plus programs pursuant to subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, and to verify eligibility for the program for elderly pharmaceutical insurance coverage under title three of article two of the elder law, or to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency, for purposes of obtaining reimbursement from the federal social security administration for expenditures made by such office, commission or agency on behalf of disabled individuals who have achieved economic self-sufficiency or to the higher education services corporation for the purpose of assisting the corporation in default prevention and default collection of education loan debt, including judgments, owed to the federal or New York state government; provided, however, that such information shall be limited to the names, social security numbers, home and/or business addresses, and employer names of defaulted or delinquent student loan borrowers, or to the office of the state comptroller for purposes of verifying the income of a retired member of a retirement system or pension plan administered by the state or any of its political subdivisions who returns to public employment.

Provided, however, that with respect to employee information the office of temporary and disability assistance shall only be furnished with the names, social security account numbers and gross wages of those employees who are (A) applicants for or recipients of benefits under the social services law, or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law) or, (B) absent parents or other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (C) persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (D) employees about whom wage reporting system information is being furnished to public agencies of other jurisdictions, with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, or (E) employees about whom wage reporting system information is being furnished to the federal parent locator service, maintained by the federal department of health and human services, for the purpose of enabling the state office of temporary and disability assistance to fulfill obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, and, only if, the office of temporary and disability assistance certifies to the commissioner that such persons are such

applicants, recipients, absent parents or persons legally responsible for support or persons about whom information has been requested by a public agency of another jurisdiction or by the federal parent locator service and further certifies that in the case of information requested under agreements with other jurisdictions entered into pursuant to subdivision three of section twenty of the social services law, that such request is in compliance with any applicable federal law. Provided, further, that where the office of temporary and disability assistance requests employee information for the purpose of evaluating the effects on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law, the office of temporary and disability assistance shall only be furnished with the quarterly gross wages (excluding any reference to the name, social security number or any other information which could be used to identify any employee or the name or identification number of any employer) paid to employees who are former applicants for or recipients of public assistance and care and who are so certified to the commissioner by the commissioner of the office of temporary and disability assistance. Provided, further, that with respect to employee information, the department of health shall only be furnished with the information required pursuant to the provisions of paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, with respect to those individuals whose eligibility under the child health insurance plan, medical assistance program, and family health plus program is to be determined pursuant to such provisions and with respect to those members of any such individual's household whose income affects such individual's eligibility and who are so certified to the commissioner or by the department of health. Provided, further, that wage reporting information shall be furnished to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency only if such office, commission or agency, as applicable, certifies to the commissioner that such information is necessary to obtain reimbursement from the federal social security administration for expenditures made on behalf of disabled individuals who have achieved self-sufficiency. Reports and returns shall be preserved for three years and thereafter until the commissioner orders them to be destroyed.

S 18. Subdivision 1 of section 190 of the state finance law, as amended by chapter 379 of the laws of 2010, is amended to read as follows:

1. Civil enforcement actions. The attorney general shall have the authority to investigate violations under section one hundred eighty-nine of this article. If the attorney general believes that a person has violated or is violating such section, then the attorney general may bring a civil action on behalf of the people of the state of New York or on behalf of a local government against such person. A local government also shall have the authority to investigate violations that may have resulted in damages to such local government under section one hundred eighty-nine of this article, and may bring a civil action on its own behalf, or on behalf of any subdivision of such local government, to recover damages sustained by such local government as a result of such violations. No action may be filed pursuant to this subdivision against

the federal government, the state or a local government, or any officer or employee thereof acting in his or her official capacity. The attorney general shall consult with the office of [medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL prior to filing any action related to the medicaid program.

S 19. The closing paragraph of paragraph (b) of subdivision 2 of section 190 of the state finance law, as amended by chapter 379 of the laws of 2010, is amended to read as follows:

The state may elect to supersede or intervene and proceed with the action, or to authorize a local government that may have sustained damages to supersede or intervene, within sixty days after it receives both the complaint and the material evidence and information; provided, however, that if the allegations in the complaint involve damages only to a city with a population of one million or more, then the attorney general may not supersede or intervene in such action without the consent of the corporation counsel of such city. The attorney general shall consult with the office of the [medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL prior to superseding or intervening in any action related to the medicaid program. The attorney general may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under this subdivision. Any such motions may be supported by affidavits or other submissions in camera.

S 20. Paragraph (c) of subdivision 5 of section 190 of the state finance law, as added by section 39 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(c) Notwithstanding any other provision of law, whether or not the attorney general or a local government elects to supersede or intervene in a qui tam civil action, the attorney general and such local government may elect to pursue any remedy available with respect to the criminal or civil prosecution of the presentation of false claims, including any administrative proceeding to determine a civil money penalty or to refer the matter to the office of the [medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL for medicaid related matters. If any such alternate civil remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section.

S 21. Subdivision 2 of section 23 of the social services law, as added by chapter 545 of the laws of 1978, is amended to read as follows:

2. Notwithstanding any law to the contrary, the department, upon request by the office of [welfare inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, shall provide said office with such information it receives from the wage reporting system operated by the department of taxation and finance that the office of [welfare inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL deems necessary to carry out its functions and duties under article [four] FIVE of the executive law.

S 22. Subdivision 2 of section 136 of the social services law, as amended by section 24 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

2. All communications and information relating to a person receiving public assistance or care obtained by any social services official, service officer, or employee in the course of his or her work shall be considered confidential and, except as otherwise provided in this section, shall be disclosed only to the commissioner, or his or her

authorized representative, the commissioner of labor, or his or her authorized representative, the commissioner of health, or his or her authorized representative, the [welfare inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, or his or her authorized representative, the county board of supervisors, city council, town board or other board or body authorized and required to appropriate funds for public assistance and care in and for such county, city or town or its authorized representative or, by authority of the county, city or town social services official, to a person or agency considered entitled to such information. Nothing herein shall preclude a social services official from reporting to an appropriate agency or official, including law enforcement agencies or officials, known or suspected instances of physical or mental injury, sexual abuse or exploitation, sexual contact with a minor or negligent treatment or maltreatment of a child of which the official becomes aware in the administration of public assistance and care nor shall it preclude communication with the federal immigration and naturalization service regarding the immigration status of any individual.

S 23. Subdivisions 2 and 5 of section 145-b of the social services law, as amended by chapter 109 of the laws of 2007, are amended to read as follows:

2. For any violation of subdivision one OF THIS SECTION, the local social services district or the state shall have a right to recover civil damages equal to three times the amount by which any figure is falsely overstated or in the case of non-monetary false statements or representations, three times the amount of damages which the state, political subdivision of the state, or entity performing services under contract to the state or political subdivision of the state sustain as a result of the violation or five thousand dollars, whichever is greater. Notwithstanding part C of chapter fifty-eight of the laws of two thousand five: (a) For civil damages collected by a local social services district, relating to the medical assistance program, pursuant to a judgment under this subdivision, such amounts shall be apportioned between the local social services district and the state. If the violation occurred: (i) prior to January first, two thousand six, the amount apportioned to the local social services district shall be the local share percentage in effect immediately prior to such date as certified by the division of budget, or (ii) after January first, two thousand six, the amount apportioned to the local social services district shall be based on a reimbursement schedule, created by the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, in effect at the time the violation occurred; provided that, if there is no schedule in effect at the time the violation occurred, the schedule to be used shall be the first schedule adopted pursuant to this subdivision. Such schedule shall provide for reimbursement to a local social services district in an amount between ten and fifteen percent of the gross amount collected. Such schedule shall be set on a county by county basis and shall be periodically reviewed and updated as necessary; provided, however, that any such updated schedule shall not be less than ten percent nor greater than fifteen percent of the gross amount collected; and (b) For civil damages collected by the state relating to the medical assistance program pursuant to a judgment under this subdivision, the local social services district shall be entitled to compensation up to fifteen percent of the gross amount collected for such participation, including but not limited to identification, investigation or development of a case, commensurate

with its level of effort or value added as determined by the [Medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL.

5. When in the course of conducting an investigation relating to the investigation relating to the medical assistance program, a local social services district deduces that a provider may have committed criminal fraud, it shall refer the case to the office of [Medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL along with appropriate supporting information. The office shall promptly review the case [and, if deemed appropriate, refer the case pursuant to subdivision seven of section thirty-two of the public health law]. If the deputy attorney general for [Medicaid] MEDICAID fraud control [accepts] PROSECUTES a [referral from the office of Medicaid inspector general] CASE that was identified, investigated or developed by a local social services district, and the state collects damages, the participating local social services district shall be entitled to compensation up to fifteen percent of the gross amount collected for such participation commensurate with its level of effort or value added as determined by the deputy attorney general for [Medicaid] MEDICAID fraud control. If the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL determines that it is not appropriate for [referral in accordance with subdivision seven of section thirty-two of the public health law] PROSECUTION the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL shall further investigate the case, with notice to the participating local social services district, or return the case to the participating social services district, which may resume its investigation of the provider.

S 24. The opening paragraph of subdivision 2, the opening paragraph of subdivision 3 and subdivision 4 of section 363-d of the social services law, the opening paragraph of subdivision 2 and subdivision 4 as added by chapter 442 of the laws of 2006 and the opening paragraph of subdivision 3 as amended by section 44 of part C of chapter 58 of the laws of 2007, are amended to read as follows:

Every provider of medical assistance program items and services that is subject to subdivision four of this section shall adopt and implement a compliance program. The office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL shall create and make available on its website guidelines, which may include a model compliance program, that reflect the requirements of this section. Such program shall at a minimum be applicable to billings to and payments from the medical assistance program but need not be confined to such matters. The compliance program required pursuant to this section may be a component of more comprehensive compliance activities by the medical assistance provider so long as the requirements of this section are met. A compliance program shall include the following elements:

Upon enrollment in the medical assistance program, a provider shall certify to the department that the provider satisfactorily meets the requirements of this section. Additionally, the commissioner of health and [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL shall have the authority to determine at any time if a provider has a compliance program that satisfactorily meets the requirements of this section.

4. The [Medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, in consultation with the department of health, shall promulgate regulations establishing those providers that shall be subject to the provisions of this section including, but not limited to, those subject to the provisions of articles twenty-eight and thirty-six

of the public health law, articles sixteen and thirty-one of the mental hygiene law, and other providers of care, services and supplies under the medical assistance program for which the medical assistance program is a substantial portion of their business operations.

S 25. Paragraph (c) of subdivision 1 of section 365-j of the social services law, as added by chapter 442 of the laws of 2006, is amended to read as follows:

(c) An advisory opinion will not be issued where the petition for an advisory opinion relates to a pending question raised by the provider in an ongoing or initiated investigation conducted by the [Medicaid inspector general,] deputy attorney general for [the Medicaid] MEDICAID fraud [unit,] CONTROL or any other criminal investigation or any civil or criminal proceeding, or where the provider has received any written notice of the commissioner or the [Medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL which advises a provider of an imminent investigation, audit, pended or otherwise suspended claim, or withhold of payment or reimbursement.

S 26. Paragraph (e) of subdivision 5 of section 366-a of the social services law, as added by section 1 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(e) The commissioner of health shall verify the accuracy of the information provided by the recipient pursuant to paragraph (d) of this subdivision by matching it against information to which the commissioner of health has access, including under subdivision eight of this section. In the event there is an inconsistency between the information reported by the recipient and any information obtained by the commissioner of health from other sources and such inconsistency is material to medical assistance eligibility, the commissioner of health shall request that the recipient provide adequate documentation to verify his or her place of residence or income, as applicable. In addition to the documentation of residence and income authorized by this paragraph, the commissioner of health is authorized to periodically require a reasonable sample of recipients to provide documentation of residence and income at recertification. The commissioner of health shall consult with the [medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL regarding income and residence verification practices and procedures necessary to maintain program integrity and deter fraud and abuse.

S 27. Subdivision 8 of section 367-b of the social services law, as amended by chapter 442 of the laws of 2006, paragraphs (a) and (b) as amended by chapter 109 of the laws of 2007, is amended to read as follows:

8. (a) For the purpose of orderly and timely implementation of the medical assistance information and payment system, the department is hereby authorized to enter into agreements with fiscal intermediaries or fiscal agents for the design, development, implementation, operation, processing, auditing and making of payments, subject to audits being conducted by the state in accordance with the terms of such agreements, for medical assistance claims under the system described by this section in any social services district. Such agreements shall specifically provide that the state shall have complete oversight responsibility for the fiscal intermediaries' or fiscal agents' performance and shall be solely responsible for establishing eligibility requirements for recipients, provider qualifications, rates of payment, investigation of suspected fraud and abuse, issuance of identification cards, establishing and maintaining recipient eligibility files, provider profiles, and conducting state audits of the fiscal intermediaries' or agents' at

least once annually. The system described in this subdivision shall be operated by a fiscal intermediary or fiscal agent in accordance with this subdivision unless the department is otherwise authorized by a law enacted subsequent to the effective date of this subdivision to operate the system in another manner. In no event shall such intermediary or agent be a political subdivision of the state or any other governmental agency or entity. The department shall consult with the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL regarding any activities undertaken by the fiscal intermediaries or fiscal agents regarding investigation of suspected fraud and abuse.

(b) The department of health, in consultation with the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, shall develop, test and implement new methods to strengthen the capability of the medical assistance information and payment system to detect and control fraud and improve expenditure accountability, and is hereby authorized to enter into further agreements with fiscal and/or information technology agents for the development, testing and implementation of such new methods. Any such agreements shall be with agents which have demonstrated expertise in the areas addressed by the agreement. Such methods shall, at a minimum, address the following areas:

(1) Prepayment claims review. Develop, test and implement an automated claims review process which, prior to payment, shall subject medical assistance program services claims to review for proper coding and such other review as may be deemed necessary. Services subject to review shall be based on: the expected cost-effectiveness of reviewing such service; the capabilities of the automated system for conducting such a review; and the potential to implement such review with negligible effect on the turnaround of claims for provider payment or on recipient access to necessary services. Such initiative shall be designed to provide for the efficient and effective operation of the medical assistance program claims payment system by performing functions including, but not limited to, capturing coding errors, misjudgments, incorrect or multiple billing for the same service and possible excesses in billing or service use, whether intentional or unintentional.

(2) Coordination of benefits. Develop, test and implement an automated process to improve the coordination of benefits between the medical assistance program and other sources of coverage for medical assistance recipients. Such initiative shall initially examine the savings potential to the medical assistance program through retrospective review of claims paid which shall be completed not later than January thirty-first, two thousand seven. If, based upon such initial experience, the [Medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL deems the automated process to be capable of including or moving to a prospective review, with negligible effect on the turnaround of claims for provider payment or on recipient access to services, then the [Medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL in subsequent tests shall examine the savings potential through prospective, pre-claims payment review.

(3) Comprehensive review of paid claims. Take all reasonable and necessary actions to intensify the state's current level of monitoring, analyzing, reporting and responding to medical assistance program claims data maintained by the state's medical assistance information and payment system contract agents. Pursuant to this initiative, the department of health, in collaboration with the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, shall

make efforts to improve the utilization of such data in order to better identify fraud and abuse within the medical assistance program and to identify and implement further program and patient care reforms for the improvement of such program. In addition, the department of health, in consultation with such contract agents and the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, shall identify additional data elements that are maintained and otherwise accessible by the state, directly or through any of its contractors, that would, if coordinated with medical assistance data, further increase the effectiveness of data analysis for the management of the medical assistance program. To further the objectives of this subparagraph, the department of health, in collaboration with the office of [Medicaid inspector general] THE DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, shall provide or arrange in-service training for state and county medical assistance personnel to increase the capability for state and local data analysis, leading to a more cost-effective operation of the medical assistance program.

(4) Targeted claims and utilization review. Develop, test and implement an automated process for the targeted review of claims, services and/or populations not later than January thirty-first, two thousand seven. Such review shall be for the purposes of identifying statistical aberrations in the use or billing of such services and for assisting in the development and implementation of measures to ensure that service use and billing are appropriate to recipients' needs.

(c) The commissioner of health shall prepare and submit an interim report to the governor and legislature on the implementation of the initiatives specified in paragraph (b) of this subdivision no later than December first, two thousand seven. Such report shall also include recommendations for any revisions that would further facilitate the goals of such paragraph, including recommendations for expansion. In addition, the commissioner of health shall submit a final report not later than December first, two thousand eight. In preparing such interim and final reports, the commissioner of health shall consult with the [Medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL, third-party agents, providers and recipients associated with the implementation of paragraph (b) of this subdivision.

S 28. Paragraph (d) of subdivision 2 of section 369-ee of the social services law, as added by section 1-c of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(d) In order to establish place of residence and income eligibility under this title at recertification, a recipient of assistance under this title shall attest to place of residence and to all information regarding the household's income that is necessary and sufficient to determine such eligibility. The commissioner of health shall verify the accuracy of the information provided by the recipient pursuant to this paragraph by matching it against information to which the commissioner of health has access, including under subdivision eight of section three hundred sixty-six-a of this article. In the event there is an inconsistency between the information reported by the recipient and any information obtained by the commissioner of health from other sources and such inconsistency is material to eligibility under this title, the commissioner of health shall request that the recipient provide adequate documentation to verify his or her place of residence or income, as applicable. In addition to the documentation of residence and income authorized by this paragraph, the commissioner of health is authorized to periodically require a reasonable sample of recipients to provide

documentation of residence and income at recertification. The commissioner of health shall consult with the [medicaid inspector general] DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD CONTROL regarding income and residence verification practices and procedures necessary to maintain program integrity and deter fraud and abuse.

S 29. The office of the welfare inspector general and the office of the medicaid inspector general are abolished. When the term "welfare inspector general" or "medicaid inspector general", or any equivalent expression thereof is used in any provision of law, contract or document, such office shall be deemed to mean and refer to the deputy attorney general for medicaid fraud control.

S 30. All of the functions and powers possessed by and all of the obligations and duties of the office of the welfare inspector general and the office of the medicaid inspector general are transferred and assigned to, assumed by and devolved upon the office of the deputy attorney general for medicaid fraud control.

S 31. The welfare inspector general and the medicaid inspector general shall deliver to the deputy attorney general for medicaid fraud control all books, papers, records, decisions and property of the office of the welfare inspector general and the office of the medicaid inspector general.

S 32. For the purpose of succession to all duties, functions, powers and obligations transferred and assigned to, devolved upon and assumed by the office of the deputy attorney general for medicaid fraud control, such office shall be deemed and held to constitute the continuation of the office of the welfare inspector general and the office of the medicaid inspector general.

S 33. All federal appropriations made to the office of the medicaid inspector are hereby transferred to the department of law for the purposes of the office of the deputy attorney general for medicaid fraud control.

S 34. This act shall take effect on the first of October next succeeding the date on which it shall have become a law.