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[Report No. 116–35]

To improve efforts to identify and reduce Governmentwide improper payments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2019

Mr. CARPER (for himself, Mr. JOHNSON, Mr. PETERS, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

MAY 6, 2019

Reported by Mr. JOHNSON, without amendment

A BILL

To improve efforts to identify and reduce Governmentwide improper payments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Payment Integrity In-
5 formation Act of 2019”.

1 **SEC. 2. IMPROPER PAYMENTS.**

2 (a) IN GENERAL.—Chapter 33 of title 31, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“Subchapter IV—Improper Payments**

6 **“§ 3351. Definitions**

7 “In this subchapter:

8 “(1) ANNUAL FINANCIAL STATEMENT.—The
9 term ‘annual financial statement’ means the annual
10 financial statement required under section 3515 of
11 this title or similar provision of law.

12 “(2) COMPLIANCE.—The term ‘compliance’
13 means that an executive agency—

14 “(A) has—

15 “(i) published improper payments in-
16 formation with the annual financial state-
17 ment of the executive agency for the most
18 recent fiscal year; and

19 “(ii) posted on the website of the ex-
20 ecutive agency that statement and any ac-
21 companying materials required under guid-
22 ance of the Office of Management and
23 Budget;

24 “(B) if required, has conducted a program
25 specific risk assessment for each program or ac-

1 tivity that conforms with the requirements
2 under section 3352(a);

3 “(C) if required, publishes improper pay-
4 ments estimates for all programs and activities
5 identified under section 3352(a) in the accom-
6 panying materials to the annual financial state-
7 ment;

8 “(D) publishes programmatic corrective ac-
9 tion plans prepared under section 3352(d) that
10 the executive agency may have in the accom-
11 panying materials to the annual financial state-
12 ment;

13 “(E) publishes improper payments reduc-
14 tion targets established under section 3352(d)
15 that the executive agency may have in the ac-
16 companying materials to the annual financial
17 statement for each program or activity assessed
18 to be at risk, and has demonstrated improve-
19 ments and developed a plan to meet the reduc-
20 tion targets; and

21 “(F) has reported an improper payment
22 rate of less than 10 percent for each program
23 and activity for which an estimate was pub-
24 lished under section 3352(c).

1 “(3) DO NOT PAY INITIATIVE.—The term ‘Do
2 Not Pay Initiative’ means the initiative described in
3 section 3354(b).

4 “(4) IMPROPER PAYMENT.—The term ‘im-
5 proper payment’—

6 “(A) means any payment that should not
7 have been made or that was made in an incor-
8 rect amount, including an overpayment or un-
9 derpayment, under a statutory, contractual, ad-
10 ministrative, or other legally applicable require-
11 ment; and

12 “(B) includes—

13 “(i) any payment to an ineligible re-
14 cipient;

15 “(ii) any payment for an ineligible
16 good or service;

17 “(iii) any duplicate payment;

18 “(iv) any payment for a good or serv-
19 ice not received, except for those payments
20 where authorized by law; and

21 “(v) any payment that does not ac-
22 count for credit for applicable discounts.

23 “(5) PAYMENT.—The term ‘payment’ means
24 any transfer or commitment for future transfer of
25 Federal funds such as cash, securities, loans, loan

1 guarantees, and insurance subsidies to any non-Fed-
 2 eral person or entity or a Federal employee, that is
 3 made by a Federal agency, a Federal contractor, a
 4 Federal grantee, or a governmental or other organi-
 5 zation administering a Federal program or activity.

6 “(6) PAYMENT FOR AN INELIGIBLE GOOD OR
 7 SERVICE.—The term ‘payment for an ineligible good
 8 or service’ includes a payment for any good or serv-
 9 ice that is rejected under any provision of any con-
 10 tract, grant, lease, cooperative agreement, or other
 11 funding mechanism.

12 “(7) RECOVERY AUDIT.—The term ‘recovery
 13 audit’ means a recovery audit described in section
 14 3352(i).

15 “(8) STATE.—The term ‘State’ means each
 16 State of the United States, the District of Columbia,
 17 each territory or possession of the United States,
 18 and each Federally recognized Indian tribe.

19 **“§ 3352. Estimates of improper payments and reports**
 20 **on actions to reduce improper payments**

21 “(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS
 22 AND ACTIVITIES.—

23 “(1) IN GENERAL.—The head of each executive
 24 agency shall, in accordance with guidance prescribed

1 by the Director of the Office of Management and
2 Budget—

3 “(A) periodically review all programs and
4 activities that the head of the executive agency
5 administers; and

6 “(B) identify all programs and activities
7 with outlays exceeding the statutory threshold
8 dollar amount described in paragraph (3)(A)(i)
9 that may be susceptible to significant improper
10 payments.

11 “(2) FREQUENCY.—A review under paragraph
12 (1) shall be performed for each program and activity
13 that the head of an executive agency administers not
14 less frequently than once every 3 fiscal years.

15 “(3) RISK ASSESSMENTS.—

16 “(A) DEFINITION OF SIGNIFICANT.—In
17 this paragraph, the term ‘significant’ means
18 that, in the preceding fiscal year, the sum of a
19 program or activity’s improper payments and
20 payments whose propriety cannot be determined
21 by the executive agency due to lacking or insuf-
22 ficient documentation may have exceeded—

23 “(i) \$10,000,000 of all reported pro-
24 gram or activity payments of the executive

1 agency made during that fiscal year and
2 1.5 percent of program outlays; or

3 “(ii) \$100,000,000.

4 “(B) SCOPE.—In conducting a review
5 under paragraph (1), the head of each executive
6 agency shall take into account those risk factors
7 that are likely to contribute to a susceptibility
8 to significant improper payments, such as—

9 “(i) whether the program or activity
10 reviewed is new to the executive agency;

11 “(ii) the complexity of the program or
12 activity reviewed;

13 “(iii) the volume of payments made
14 through the program or activity reviewed;

15 “(iv) whether payments or payment
16 eligibility decisions are made outside of the
17 executive agency, such as by a State or
18 local government;

19 “(v) recent major changes in program
20 funding, authorities, practices, or proce-
21 dures;

22 “(vi) the level, experience, and quality
23 of training for personnel responsible for
24 making program eligibility determinations
25 or certifying that payments are accurate;

1 “(vii) significant deficiencies in the
2 audit report of the executive agency or
3 other relevant management findings that
4 might hinder accurate payment certifi-
5 cation;

6 “(viii) similarities to other programs
7 or activities that have reported improper
8 payment estimates or been deemed suscep-
9 tible to significant improper payments;

10 “(ix) the accuracy and reliability of
11 improper payment estimates previously re-
12 ported for the program or activity, or other
13 indicator of potential susceptibility to im-
14 proper payments identified by the Inspec-
15 tor General of the executive agency, the
16 Government Accountability Office, other
17 audits performed by or on behalf of the
18 Federal, State, or local government, disclo-
19 sures by the executive agency, or any other
20 means;

21 “(x) whether the program or activity
22 lacks information or data systems to con-
23 firm eligibility or provide for other pay-
24 ment integrity needs; and

1 “(xi) the risk of fraud as assessed by
 2 the executive agency under the Standards
 3 for Internal Control in the Federal Govern-
 4 ment published by the Government Ac-
 5 countability Office (commonly known as
 6 the ‘Green Book’).

7 “(C) ANNUAL REPORT.—Each executive
 8 agency shall publish an annual report that in-
 9 cludes—

10 “(i) a listing of each program or activ-
 11 ity identified under paragraph (1), includ-
 12 ing the date on which the program or ac-
 13 tivity was most recently assessed for risk
 14 under paragraph (1); and

15 “(ii) a listing of any program or activ-
 16 ity for which the executive agency makes
 17 any substantial changes to the methodolo-
 18 gies of the reviews conducted under para-
 19 graph (1).

20 “(b) IMPROVING THE DETERMINATION OF IMPROPER
 21 PAYMENTS.—

22 “(1) IN GENERAL.—The Director of the Office
 23 of Management and Budget shall on an annual
 24 basis—

1 “(A) identify a list of high-priority Federal
2 programs for greater levels of oversight and re-
3 view—

4 “(i) in which the highest dollar value
5 or highest rate of improper payments
6 occur; or

7 “(ii) for which there is a higher risk
8 of improper payments; and

9 “(B) in coordination with the executive
10 agency responsible for administering a high-pri-
11 ority program identified under subparagraph
12 (A), establish annual targets and semi-annual
13 or quarterly actions for reducing improper pay-
14 ments associated with the high-priority pro-
15 gram.

16 “(2) REPORT ON HIGH-PRIORITY IMPROPER
17 PAYMENTS.—

18 “(A) IN GENERAL.—Subject to Federal
19 privacy policies and to the extent permitted by
20 law, each executive agency with a program iden-
21 tified under paragraph (1)(A) shall on an an-
22 nual basis submit to the Inspector General of
23 the executive agency and the Office of Manage-
24 ment and Budget, and make available to the

1 public, including through a website, a report on
2 that program.

3 “(B) CONTENTS.—Each report submitted
4 under subparagraph (A)—

5 “(i) shall describe any action the execu-
6 tive agency—

7 “(I) has taken or plans to take to
8 recover improper payments; and

9 “(II) intends to take to prevent
10 future improper payments; and

11 “(ii) shall not include—

12 “(I) any referrals the executive
13 agency made or anticipates making to
14 the Department of Justice; or

15 “(II) any information provided in
16 connection with a referral described in
17 subclause (I).

18 “(C) PUBLIC AVAILABILITY ON CENTRAL
19 WEBSITE.—The Office of Management and
20 Budget shall make each report submitted under
21 subparagraph (A) available on a central
22 website.

23 “(D) AVAILABILITY OF INFORMATION TO
24 INSPECTOR GENERAL.—Subparagraph (B)(ii)
25 shall not prohibit any referral or information

1 being made available to an Inspector General as
2 otherwise provided by law.

3 “(E) ASSESSMENT AND RECOMMENDA-
4 TIONS.—The Inspector General of each execu-
5 tive agency that submits a report under sub-
6 paragraph (A) shall, for each program of the
7 executive agency that is identified under para-
8 graph (1)(A)—

9 “(i) review—

10 “(I) the assessment of the level
11 of risk associated with the program
12 and the quality of the improper pay-
13 ment estimates and methodology of
14 the executive agency relating to the
15 program; and

16 “(II) the oversight or financial
17 controls to identify and prevent im-
18 proper payments under the program;
19 and

20 “(ii) submit to the appropriate au-
21 thorizing and appropriations committees of
22 Congress recommendations, which may be
23 included in another report submitted by
24 the Inspector General to Congress, for
25 modifying any plans of the executive agen-

1 cy relating to the program, including im-
 2 provements for improper payments deter-
 3 mination and estimation methodology.

4 “(F) ANNUAL MEETING.—Not less fre-
 5 quently than once every year, the head of each
 6 executive agency with a program identified
 7 under paragraph (1)(A), or a designee of the
 8 head of the executive agency, shall meet with
 9 the Director of the Office of Management and
 10 Budget, or a designee of the Director, to report
 11 on actions taken during the preceding year and
 12 planned actions to prevent improper payments.

13 “(c) ESTIMATION OF IMPROPER PAYMENTS.—

14 “(1) ESTIMATION.—With respect to each pro-
 15 gram and activity identified under subsection (a)(1),
 16 the head of the relevant executive agency shall—

17 “(A) produce a statistically valid estimate,
 18 or an estimate that is otherwise appropriate
 19 using a methodology approved by the Director
 20 of the Office of Management and Budget, of
 21 the improper payments made under the pro-
 22 gram or activity; and

23 “(B) include the estimates described in
 24 subparagraph (A) in the accompanying mate-
 25 rials to the annual financial statement of the

1 executive agency and as required in applicable
2 guidance of the Office of Management and
3 Budget.

4 “(2) LACKING OR INSUFFICIENT DOCUMENTA-
5 TION.—

6 “(A) IN GENERAL.—For the purpose of
7 producing an estimate under paragraph (1),
8 when the executive agency cannot determine,
9 due to lacking or insufficient documentation,
10 whether a payment is proper or not, the pay-
11 ment shall be treated as an improper payment.

12 “(B) SEPARATE REPORT.—The head of an
13 executive agency may report separately on what
14 portion of the improper payments estimate for
15 a program or activity of the executive agency
16 under paragraph (1) is attributable to lacking
17 or insufficient documentation.

18 “(d) REPORTS ON ACTIONS TO REDUCE IMPROPER
19 PAYMENTS.—With respect to any program or activity of
20 an executive agency with estimated improper payments
21 under subsection (c), the head of the executive agency
22 shall provide with the estimate required under subsection
23 (c) a report on what actions the executive agency is taking
24 to reduce improper payments, including—

1 “(1) a description of the causes of the improper
2 payments, actions planned or taken to correct those
3 causes, and the planned or actual completion date of
4 the actions taken to address those causes;

5 “(2) in order to reduce improper payments to
6 a level below which further expenditures to reduce
7 improper payments would cost more than the
8 amount those expenditures would save in prevented
9 or recovered improper payments, a statement of
10 whether the executive agency has what is needed
11 with respect to—

12 “(A) internal controls;

13 “(B) human capital; and

14 “(C) information systems and other infra-
15 structure;

16 “(3) if the executive agency does not have suffi-
17 cient resources to establish and maintain effective
18 internal controls as described in paragraph (2)(A), a
19 description of the resources the executive agency has
20 requested in the budget submission of the executive
21 agency to establish and maintain those internal con-
22 trols;

23 “(4) program-specific and activity-specific im-
24 proper payments reduction targets that have been

1 approved by the Director of the Office of Manage-
2 ment and Budget;

3 “(5) a description of the steps the executive
4 agency has taken to ensure that executive agency
5 managers, programs, and, where appropriate, States
6 and local governments are held accountable through
7 annual performance appraisal criteria for—

8 “(A) meeting applicable improper pay-
9 ments reduction targets; and

10 “(B) establishing and maintaining suffi-
11 cient internal controls, including an appropriate
12 control environment, that effectively—

13 “(i) prevent improper payments from
14 being made; and

15 “(ii) promptly detect and recover im-
16 proper payments that are made; and

17 “(6) a description of how the level of planned
18 or completed actions by the executive agency to ad-
19 dress the causes of the improper payments matches
20 the level of improper payments, including a break-
21 down by category of improper payment and specific
22 timelines for completion of those actions.

23 “(e) REPORTS ON ACTIONS TO RECOVER IMPROPER
24 PAYMENTS.—With respect to improper payments identi-
25 fied in a recovery audit, the head of the executive agency

1 shall provide with the estimate required under subsection
2 (c) a report on all actions the executive agency is taking
3 to recover the improper payments, including—

4 “(1) a discussion of the methods used by the
5 executive agency to recover improper payments;

6 “(2) the amounts recovered, outstanding, and
7 determined to not be collectable, including the per-
8 cent those amounts represent of the total improper
9 payments of the executive agency;

10 “(3) if a determination has been made that cer-
11 tain improper payments are not collectable, a jus-
12 tification of that determination;

13 “(4) an aging schedule of the amounts out-
14 standing;

15 “(5) a summary of how recovered amounts have
16 been disposed of;

17 “(6) a discussion of any conditions giving rise
18 to improper payments and how those conditions are
19 being resolved; and

20 “(7) if the executive agency has determined
21 under subsection (i) that performing recovery audits
22 for any applicable program or activity is not cost-ef-
23 fective, a justification for that determination.

1 “(f) GOVERNMENTWIDE REPORTING OF IMPROPER
2 PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAY-
3 MENTS.—

4 “(1) REPORT.—Each fiscal year, the Director
5 of the Office of Management and Budget shall sub-
6 mit a report with respect to the preceding fiscal year
7 on actions that executive agencies have taken to re-
8 port information regarding improper payments and
9 actions to recover improper payments to—

10 “(A) the Committee on Homeland Security
11 and Governmental Affairs of the Senate;

12 “(B) the Committee on Oversight and Re-
13 form of the House of Representatives; and

14 “(C) the Comptroller General of the
15 United States.

16 “(2) CONTENTS.—Each report required under
17 paragraph (1) shall include—

18 “(A) a summary of the reports of each ex-
19 ecutive agency on improper payments and re-
20 covery actions submitted under this section;

21 “(B) an identification of the compliance
22 status of each executive agency, as determined
23 by the Inspector General of the executive agen-
24 cy under section 3353, to which this section ap-
25 plies;

1 “(C) Governmentwide improper payment
2 reduction targets;

3 “(D) a Governmentwide estimate of im-
4 proper payments; and

5 “(E) a discussion of progress made to-
6 wards meeting Governmentwide improper pay-
7 ment reduction targets.

8 “(g) GUIDANCE BY THE OFFICE OF MANAGEMENT
9 AND BUDGET.—

10 “(1) IN GENERAL.—Not later than 1 year after
11 the date of enactment of this section, the Director
12 of the Office of Management and Budget shall pre-
13 scribe guidance for executive agencies to implement
14 the requirements of this section, which shall not in-
15 clude any exemptions to those requirements that are
16 not specifically authorized by this section.

17 “(2) CONTENTS.—The guidance under para-
18 graph (1) shall prescribe—

19 “(A) the form of the reports on actions to
20 reduce improper payments, recovery actions,
21 and Governmentwide reporting; and

22 “(B) strategies for addressing risks and
23 establishing appropriate prepayment and
24 postpayment internal controls.

1 “(h) DETERMINATIONS OF AGENCY READINESS FOR
 2 OPINION ON INTERNAL CONTROL.—The criteria required
 3 to be developed under section 2(g) of the Improper Pay-
 4 ments Elimination and Recovery Act of 2010, as in effect
 5 on the day before the date of enactment of this section—

6 “(1) shall continue to be in effect on and after
 7 the date of enactment of this section; and

8 “(2) may be modified as determined appro-
 9 priate by the Director of the Office of Management
 10 and Budget.

11 “(i) RECOVERY AUDITS.—

12 “(1) IN GENERAL.—

13 “(A) CONDUCT OF AUDITS.—Except as
 14 provided under paragraph (3) and if not prohib-
 15 ited under any other provision of law, the head
 16 of each executive agency shall conduct recovery
 17 audits with respect to each program and activ-
 18 ity of the executive agency that expends
 19 \$1,000,000 or more annually if conducting the
 20 audits would be cost effective.

21 “(B) PROCEDURES.—In conducting a re-
 22 covery audit under this subsection, the head of
 23 an executive agency—

24 “(i) shall give priority to the most re-
 25 cent payments and to payments made in

1 any program identified as susceptible to
2 significant improper payments under sub-
3 section (a);

4 “(ii) shall implement this subsection
5 in a manner designed to ensure the great-
6 est financial benefit to the Federal Govern-
7 ment; and

8 “(iii) may conduct the recovery audit
9 directly, by using other departments and
10 agencies of the United States, or by pro-
11 curing performance of recovery audits by
12 private sector sources by contract, subject
13 to the availability of appropriations, or by
14 any combination thereof.

15 “(C) RECOVERY AUDIT CONTRACTS.—With
16 respect to a recovery audit procured by an exec-
17 utive agency by contract—

18 “(i) subject to subparagraph (B)(iii),
19 and except to the extent such actions are
20 outside the authority of the executive agen-
21 cy under section 7103 of title 41, the head
22 of the executive agency may authorize the
23 contractor to—

1 “(I) notify entities, including in-
2 dividuals, of potential overpayments
3 made to those entities;

4 “(II) respond to questions con-
5 cerning potential overpayments; and

6 “(III) take other administrative
7 actions with respect to an overpay-
8 ment claim made or to be made by
9 the executive agency; and

10 “(ii) the contractor shall not have the
11 authority to make a final determination re-
12 lating to whether any overpayment oc-
13 curred or whether to compromise, settle, or
14 terminate an overpayment claim.

15 “(D) CONTRACT TERMS AND CONDI-
16 TIONS.—

17 “(i) IN GENERAL.—The executive
18 agency shall include in each contract for
19 procurement of performance of a recovery
20 audit a requirement that the contractor
21 shall—

22 “(I) provide to the executive
23 agency periodic reports on conditions
24 giving rise to overpayments identified
25 by the contractor and any rec-

ommendations on how to mitigate those conditions;

“(II) notify the executive agency of any overpayments identified by the contractor pertaining to the executive agency or to any other executive agency that are beyond the scope of the contract; and

“(III) report to the executive agency credible evidence of fraud or vulnerabilities to fraud and conduct appropriate training of personnel of the contractor on identification of fraud.

“(ii) REPORTS ON ACTIONS TAKEN.—

Each executive agency shall, on an annual basis, include in annual financial statement of the executive agency a report on actions taken by the executive agency during the preceding fiscal year to address the recommendations described in clause (i)(I).

“(E) AGENCY ACTION FOLLOWING NOTIFICATION.—Each executive agency shall—

“(i) take prompt and appropriate action in response to a report or notification

by a contractor under subclause (I) or (II)
of subparagraph (D)(i) to collect an over-
payment; and

“(ii) forward to other executive agen-
cies any information that applies to that
executive agency.

“(2) DISPOSITION OF AMOUNTS RECOVERED.—

“(A) IN GENERAL.—Amounts collected by
executive agencies each fiscal year through re-
covery audits shall be treated in accordance
with this paragraph.

“(B) DISTRIBUTION.—The head of an ex-
ecutive agency shall determine the distribution
of collected amounts described in subparagraph
(A), less amounts needed to fulfill the purposes
of section 3562(a) of this title, in accordance
with subparagraphs (C), (D), and (E).

“(C) USE FOR FINANCIAL MANAGEMENT
IMPROVEMENT PROGRAM.—Not more than 25
percent of the amounts collected by an execu-
tive agency through recovery audits—

“(i) shall be available to the head of
the executive agency to carry out the fi-
nancial management improvement program

1 of the executive agency under paragraph
2 (3);

3 “(ii) may be credited, if applicable, for
4 the purpose described in clause (i) by the
5 head of an executive agency to any execu-
6 tive agency appropriations and funds that
7 are available for obligation at the time of
8 collection; and

9 “(iii) shall be used to supplement and
10 not supplant any other amounts available
11 for the purpose described in clause (i) and
12 shall remain available until expended.

13 “(D) USE FOR ORIGINAL PURPOSE.—Not
14 more than 25 percent of the amounts collected
15 by an executive agency through recovery au-
16 dits—

17 “(i) shall be credited to the appropria-
18 tion or fund, if any, available for obligation
19 at the time of collection for the same gen-
20 eral purposes as the appropriation or fund
21 from which the overpayment was made;

22 “(ii) shall remain available for the
23 same period and purposes as the appro-
24 priation or fund to which credited; and

1 “(iii) if the appropriation from which
2 an overpayment was made has expired—

3 “(I) in the case of recoveries of
4 overpayments that are made from a
5 trust or special fund account, shall re-
6 vert to that account; and

7 “(II) in the case of other recov-
8 eries of overpayments—

9 “(aa) for amounts that are
10 recovered more than 5 fiscal
11 years from the last fiscal year in
12 which the funds were available
13 for obligation, shall be deposited
14 in the Treasury as miscellaneous
15 receipts; and

16 “(bb) for other amounts,
17 shall be newly available for the
18 same time period as the funds
19 were originally available for obli-
20 gation.

21 “(E) USE FOR INSPECTOR GENERAL AC-
22 TIVITIES.—Not more than 5 percent of the
23 amounts collected by an executive agency
24 through recovery audits—

1 “(i) shall be available to the Inspector
2 General of that executive agency for—

3 “(I) the Inspector General to
4 carry out this Act; or

5 “(II) any other activities of the
6 Inspector General relating to inves-
7 tigating improper payments or audit-
8 ing internal controls associated with
9 payments; and

10 “(ii) shall remain available for the
11 same period and purposes as the appro-
12 priation or fund to which credited.

13 “(F) REMAINDER.—Amounts collected
14 that are not applied in accordance with sub-
15 paragraph (B), (C), (D), or (E) shall be depos-
16 ited in the Treasury as miscellaneous receipts,
17 except that in the case of recoveries of overpay-
18 ments that are made from trust or special fund
19 accounts, those amounts shall revert to those
20 accounts.

21 “(G) DISCRETIONARY AMOUNTS.—This
22 paragraph shall apply only to recoveries of over-
23 payments that are made from discretionary ap-
24 propriations, as defined in section 250(c)(7) of
25 the Balanced Budget and Emergency Deficit

Control Act of 1985 (2 U.S.C. 900(c)(7)), and shall not apply to recoveries of overpayments that are made from discretionary amounts that were appropriated before the date of enactment of the Improper Payments Elimination and Recovery Act of 2010, as in effect on the day before the date of enactment of this section.

“(H) APPLICATION.—This paragraph shall not apply to the recovery of an overpayment if the appropriation from which the overpayment was made has not expired.

“(3) FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—

“(A) REQUIREMENT.—The head of each executive agency shall conduct a financial management improvement program consistent with rules prescribed by the Director of the Office of Management and Budget.

“(B) PROGRAM FEATURES.—In conducting a program described in subparagraph (A), the head of an executive agency—

“(i) shall, as the first priority of the program, address problems that contribute directly to executive agency improper payments; and

1 “(ii) may seek to reduce errors and
2 waste in other executive agency programs
3 and operations.

4 “(4) PRIVACY PROTECTIONS.—Any nongovern-
5 mental entity that, in the course of recovery auditing
6 or recovery activity under this subsection, obtains in-
7 formation that identifies an individual or with re-
8 spect to which there is a reasonable basis to believe
9 that the information can be used to identify an indi-
10 vidual, may not disclose the information for any pur-
11 pose other than the recovery auditing or recovery ac-
12 tivity and governmental oversight of the activity, un-
13 less disclosure for that other purpose is authorized
14 by the individual to the executive agency that con-
15 tracted for the performance of the recovery auditing
16 or recovery activity.

17 “(5) RULE OF CONSTRUCTION.—Except as pro-
18 vided under paragraph (4), nothing in this sub-
19 section shall be construed as terminating or in any
20 way limiting authorities that are otherwise available
21 to executive agencies under existing provisions of law
22 to recover improper payments and use recovered
23 amounts.

1 **“§ 3353. Compliance**

2 “(a) ANNUAL COMPLIANCE REPORT BY INSPECTORS
3 GENERAL OF EXECUTIVE AGENCIES.—

4 “(1) IN GENERAL.—Each fiscal year, the In-
5 spector General of each executive agency shall—

6 “(A) determine whether the executive
7 agency is in compliance; and

8 “(B) submit a report on the determination
9 made under subparagraph (A) to—

10 “(i) the head of the executive agency;

11 “(ii) the Committee on Homeland Se-
12 curity and Governmental Affairs of the
13 Senate;

14 “(iii) the Committee on Oversight and
15 Reform of the House of Representatives;
16 and

17 “(iv) the Comptroller General of the
18 United States.

19 “(2) DEVELOPMENT OR USE OF A CENTRAL
20 WEBSITE.—The Council of the Inspectors General
21 on Integrity and Efficiency (in this subsection re-
22 ferred to as the ‘Council’) shall develop a public cen-
23 tral website, or make use of a public central website
24 in existence on the date of enactment of this section,
25 to contain individual compliance determination re-
26 ports issued by Inspectors General under paragraph

1 (1)(B) and such additional information as deter-
2 mined by the Council.

3 “(3) OMB GUIDANCE.—Not later than 180
4 days after the date of enactment of this section, the
5 Director of the Office of Management and Budget,
6 in consultation with the Council and with consider-
7 ation given to the available resources and independ-
8 ence of individual Offices of Inspectors General,
9 shall develop and promulgate guidance for the com-
10 pliance determination reports issued by the Inspec-
11 tors General under paragraph (1)(B), which shall re-
12 quire that—

13 “(A) the reporting format used by the In-
14 spectors General is consistent;

15 “(B) Inspectors General evaluate and take
16 into account the adequacy of executive agency
17 risk assessments, improper payment estimates
18 methodology, and executive agency action plans
19 to address the causes of improper payments;

20 “(C) Inspectors General take into account
21 whether the executive agency has correctly iden-
22 tified the causes of improper payments and
23 whether the actions of the executive agency to
24 address those causes are adequate and effective;

1 “(D) Inspectors General evaluate the ade-
 2 quacy of executive agency action plans on how
 3 the executive agency addresses the causes of
 4 improper payments; and

5 “(E) as part of the report, Inspectors Gen-
 6 eral include an evaluation of executive agency
 7 efforts to prevent and reduce improper pay-
 8 ments and any recommendations for actions to
 9 further improve that prevention and reduction.

10 “(4) CIGIE GUIDANCE.—Not later than 180
 11 days after the date of enactment of this section, the
 12 Council shall, with consideration given to the avail-
 13 able resources and independence of individual Of-
 14 fices of Inspectors General, develop and promulgate
 15 guidance that specifies procedures for compliance
 16 determinations made by the Inspectors General
 17 under paragraph (1)(A), which shall describe proce-
 18 dures for Inspectors General—

19 “(A) to make the determinations consistent
 20 regarding compliance; and

21 “(B) to evaluate—

22 “(i) for compliance with the require-
 23 ment described in section 3351(2)(B), the
 24 risk assessment methodology of the execu-
 25 tive agency, including whether the audits,

1 examinations, and legal actions of the In-
2 spector General indicate a higher risk of
3 improper payments or actual improper
4 payments that were not included in the
5 risk assessments of the executive agency
6 conducted under section 3352(a);

7 “(ii) for compliance with the require-
8 ment described in section 3351(2)(C), the
9 accuracy of the rate estimates and whether
10 the sampling and estimation plan used is
11 appropriate given program characteristics;

12 “(iii) for compliance with the require-
13 ment described in section 3351(2)(D), the
14 corrective action plans and whether the
15 plans are adequate and focused on the true
16 causes of improper payments, including
17 whether the corrective action plans are—

18 “(I) reducing improper pay-
19 ments;

20 “(II) effectively implemented;
21 and

22 “(III) prioritized within the exec-
23 utive agency;

1 “(iv) the adequacy of executive agency
2 action plans to address the causes of im-
3 proper payments;

4 “(v) executive agency efforts to pre-
5 vent and reduce improper payments, and
6 any recommendations for actions to fur-
7 ther improve; and

8 “(vi) whether an executive agency has
9 published an annual financial statement in
10 accordance with the requirement described
11 in section 3351(2)(A).

12 “(b) REMEDIATION.—

13 “(1) NONCOMPLIANCE.—

14 “(A) IN GENERAL.—If an executive agency
15 is determined by the Inspector General of that
16 executive agency not to be in compliance under
17 subsection (a) in a fiscal year with respect to a
18 program or activity, the head of the executive
19 agency shall submit to the appropriate author-
20 izing and appropriations committees of Con-
21 gress a plan describing the actions that the ex-
22 ecutive agency will take to come into compli-
23 ance.

24 “(B) PLAN.—The plan described in sub-
25 paragraph (A) shall include—

1 “(i) measurable milestones to be ac-
 2 complished in order to achieve compliance
 3 for each program or activity;

4 “(ii) the designation of a senior execu-
 5 tive agency official who shall be account-
 6 able for the progress of the executive agen-
 7 cy in coming into compliance for each pro-
 8 gram or activity; and

9 “(iii) the establishment of an account-
 10 ability mechanism, such as a performance
 11 agreement, with appropriate incentives and
 12 consequences tied to the success of the of-
 13 ficial designated under clause (ii) in lead-
 14 ing the efforts of the executive agency to
 15 come into compliance for each program or
 16 activity.

17 “(2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

18 “(A) IN GENERAL.—If an executive agency
 19 is determined by the Inspector General of that
 20 executive agency not to be in compliance under
 21 subsection (a) for 2 consecutive fiscal years for
 22 the same program or activity, the executive
 23 agency shall propose to the Director of the Of-
 24 fice of Management and Budget additional pro-

1 gram integrity proposals that would help the
2 executive agency come into compliance.

3 “(B) ADDITIONAL FUNDING.—

4 “(i) IN GENERAL.—If the Director of
5 the Office of Management and Budget de-
6 termines that additional funding would
7 help an executive agency described in sub-
8 paragraph (A) come into compliance, the
9 head of the executive agency shall obligate
10 additional funding, in an amount deter-
11 mined by the Director, to intensified com-
12 pliance efforts.

13 “(ii) REPROGRAMMING OR TRANSFER
14 AUTHORITY.—In providing additional fund-
15 ing under clause (i)—

16 “(I) the head of an executive
17 agency shall use any reprogramming
18 or transfer authority available to the
19 executive agency; and

20 “(II) if after exercising the re-
21 programming or transfer authority de-
22 scribed in subclause (I), additional
23 funding is necessary to obligate the
24 full level of funding determined by the
25 Director of the Office of Management

1 and Budget under clause (i), the execu-
2 utive agency shall submit a request to
3 Congress for additional reprogram-
4 ming or transfer authority.

5 “(3) REAUTHORIZATION AND STATUTORY PRO-
6 POSALS.—If an executive agency is determined by
7 the Inspector General of that executive agency not
8 to be in compliance under subsection (a) for 3 con-
9 secutive fiscal years for the same program or activ-
10 ity, the head of the executive agency shall, not later
11 than 30 days after the date of that determination,
12 submit to the appropriate authorizing and appro-
13 priations committees of Congress and the Comp-
14 troller General of the United States—

15 “(A)(i) reauthorization proposals for each
16 program or activity that has not been in compli-
17 ance for 3 or more consecutive fiscal years; and

18 “(ii) proposed statutory changes necessary
19 to bring the program or activity into compli-
20 ance; or

21 “(B) if the head of the executive agency
22 determines that clauses (i) and (ii) of subpara-
23 graph (A) will not bring the program or activity
24 into compliance, a description of the actions
25 that the executive agency is undertaking to

1 bring the program or activity into compliance
2 and a timeline of when the compliance will be
3 achieved.

4 “(4) PLAN AND TIMELINE FOR COMPLIANCE.—

5 If an executive agency is determined by the Inspec-
6 tor General of that executive agency not to be in
7 compliance under subsection (a) for 4 or more con-
8 secutive fiscal years for the same program or activ-
9 ity, the head of the executive agency shall, not later
10 than 30 days after such determination, submit to
11 the appropriate authorizing and appropriations com-
12 mittees of Congress a report that includes—

13 “(A) the activities taken to comply with
14 the requirements for 1, 2, 3, 4, or more years
15 of noncompliance;

16 “(B) a description of any requirements
17 that were fulfilled for 1, 2, or 3 consecutive
18 years of noncompliance that are still relevant
19 and being pursued as a means to bring the pro-
20 gram or activity into compliance and prevent
21 and reduce improper payments;

22 “(C) a description of any new corrective
23 actions; and

1 “(D) a timeline for when the program or
2 activity will achieve compliance based on the ac-
3 tions described within the report.

4 “(5) ANNUAL REPORT.—Each executive agency
5 shall submit to the appropriate authorizing and ap-
6 propriations committees of Congress and the Comp-
7 troller General of the United States—

8 “(A) a list of each program or activity that
9 was determined to not be in compliance under
10 paragraph (1), (2), (3), or (4); and

11 “(B) actions that are planned to bring the
12 program or activity into compliance.

13 “(c) COMPLIANCE ENFORCEMENT PILOT PRO-
14 GRAMS.—The Director of the Office of Management and
15 Budget may establish 1 or more pilot programs that shall
16 test potential accountability mechanisms with appropriate
17 incentives and consequences tied to success in ensuring
18 compliance with this section and eliminating improper
19 payments.

20 “(d) IMPROVED ESTIMATES GUIDANCE.—The guid-
21 ance required to be provided under section 3(b) of the Im-
22 proper Payments Elimination and Recovery Improvement
23 Act of 2012, as in effect on the day before the date of
24 enactment of this section—

1 “(1) shall continue to be in effect on and after
2 the date of enactment of this section; and

3 “(2) may be modified as determined appro-
4 priate by the Director of the Office of Management
5 and Budget.

6 **“§ 3354. Do Not Pay Initiative**

7 “(a) PREPAYMENT AND PREAWARD PROCEDURES.—

8 “(1) IN GENERAL.—Each executive agency shall
9 review prepayment and preaward procedures and en-
10 sure that a thorough review of available databases
11 with relevant information on eligibility occurs to de-
12 termine program or award eligibility and prevent im-
13 proper payments before the release of any Federal
14 funds.

15 “(2) DATABASES.—At a minimum and before
16 issuing any payment or award, each executive agen-
17 cy shall review as appropriate the following data-
18 bases to verify eligibility of the payment and award:

19 “(A) The death records maintained by the
20 Commissioner of Social Security.

21 “(B) The System for Award Management
22 Exclusion Records, formerly known as the Ex-
23 cluded Parties List System, of the General
24 Services Administration.

1 “(C) The Debt Check Database of the De-
2 partment of the Treasury.

3 “(D) The Credit Alert System or Credit
4 Alert Interactive Voice Response System of the
5 Department of Housing and Urban Develop-
6 ment.

7 “(E) The List of Excluded Individuals/En-
8 tities of the Office of Inspector General of the
9 Department of Health and Human Services.

10 “(F) Information regarding incarcerated
11 individuals maintained by the Commissioner of
12 Social Security under sections 202(x) and
13 1611(e) of the Social Security Act (42 U.S.C.
14 402(x), 1382(e)).

15 “(b) DO NOT PAY INITIATIVE.—

16 “(1) IN GENERAL.—There is the Do Not Pay
17 Initiative, which shall include—

18 “(A) use of the databases described in sub-
19 section (a)(2); and

20 “(B) use of other databases designated by
21 the Director of the Office of Management and
22 Budget, or the designee of the Director, in con-
23 sultation with executive agencies and in accord-
24 ance with paragraph (2).

1 “(2) OTHER DATABASES.—In making designa-
 2 tions of other databases under paragraph (1)(B), the
 3 Director of the Office of Management and Budget,
 4 or the head of any executive agency designated by
 5 the Director, shall—

6 “(A) consider any database that substan-
 7 tially assists in preventing improper payments;
 8 and

9 “(B) provide public notice and an oppor-
 10 tunity for comment before designating a data-
 11 base under paragraph (1)(B).

12 “(3) ACCESS AND REVIEW.—

13 “(A) IN GENERAL.—For purposes of iden-
 14 tifying and preventing improper payments, each
 15 executive agency shall have access to, and use
 16 of, the Do Not Pay Initiative to verify payment
 17 or award eligibility in accordance with sub-
 18 section (a).

19 “(B) MATCHING PROGRAMS.—

20 “(i) IN GENERAL.—The head of the
 21 agency operating the Working System
 22 may, in consultation with the Office of
 23 Management and Budget, waive the re-
 24 quirements of section 552a(o) of title 5 in
 25 any case or class of cases for computer

1 matching activities conducted under this
2 section.

3 “(ii) GUIDANCE.—The Director of the
4 Office of Management and Budget may
5 issue guidance that establishes require-
6 ments governing waivers under clause (i).

7 “(C) OTHER ENTITIES.—Each State and
8 any contractor, subcontractor, or agent of a
9 State, including a State auditor or State pro-
10 gram responsible for reducing improper pay-
11 ments of a federally funded State-administered
12 program, and the judicial and legislative
13 branches of the United States, as defined in
14 paragraphs (2) and (3), respectively, of section
15 202(e) of title 18, shall have access to, and use
16 of, the Do Not Pay Initiative for the purpose of
17 verifying payment or award eligibility for pay-
18 ments.

19 “(D) CONSISTENCY WITH PRIVACY ACT OF
20 1974.—To ensure consistency with the principles
21 of section 552a of title 5 (commonly known as
22 the ‘Privacy Act of 1974’), the Director of the
23 Office of Management and Budget may issue
24 guidance that establishes privacy and other re-
25 quirements that shall be incorporated into Do

1 Not Pay Initiative access agreements with
2 States, including any contractor, subcontractor,
3 or agent of a State, and the judicial and legisla-
4 tive branches of the United States, as defined
5 in paragraphs (2) and (3), respectively, of sec-
6 tion 202(e) of title 18.

7 “(4) PAYMENT OTHERWISE REQUIRED.—When
8 using the Do Not Pay Initiative, an executive agency
9 shall recognize that there may be circumstances
10 under which the law requires a payment or award to
11 be made to a recipient, regardless of whether that
12 recipient is identified as potentially ineligible under
13 the Do Not Pay Initiative.

14 “(5) ANNUAL REPORT.—The Director of the
15 Office of Management and Budget shall submit to
16 Congress an annual report, which may be included
17 as part of another report submitted to Congress by
18 the Director, regarding the operation of the Do Not
19 Pay Initiative, which shall—

20 “(A) include an evaluation of whether the
21 Do Not Pay Initiative has reduced improper
22 payments or improper awards; and

23 “(B) provide the frequency of corrections
24 or identification of incorrect information.

1 “(c) INITIAL WORKING SYSTEM.—The working sys-
 2 tem required to be established under section 5(d) of the
 3 Improper Payments Elimination and Recovery Improve-
 4 ment Act of 2012, as in effect on the day before the date
 5 of enactment of this section—

6 “(1) shall continue to be in effect on and after
 7 the date of enactment of this section; and

8 “(2) shall require each executive agency to re-
 9 view all payments and awards for all programs and
 10 activities of that executive agency through the work-
 11 ing system.

12 “(d) FACILITATING DATA ACCESS BY FEDERAL
 13 AGENCIES AND OFFICES OF INSPECTORS GENERAL FOR
 14 PURPOSES OF PROGRAM INTEGRITY.—

15 “(1) COMPUTER MATCHING BY EXECUTIVE
 16 AGENCIES FOR PURPOSES OF INVESTIGATION AND
 17 PREVENTION OF IMPROPER PAYMENTS AND
 18 FRAUD.—

19 “(A) IN GENERAL.—Except as provided in
 20 this paragraph, in accordance with section 552a
 21 of title 5 (commonly known as the ‘Privacy Act
 22 of 1974’), the head of each executive agency
 23 may enter into computer matching agreements
 24 with other heads of executive agencies that
 25 allow ongoing data matching, which shall in-

1 clude automated data matching, in order to as-
 2 sist in the detection and prevention of improper
 3 payments.

4 “(B) REVIEW.—Not later than 60 days
 5 after the date on which a proposal for an agree-
 6 ment under subparagraph (A) has been pre-
 7 sented to a Data Integrity Board established
 8 under section 552a(u) of title 5 for consider-
 9 ation, the Data Integrity Board shall respond
 10 to the proposal.

11 “(C) TERMINATION DATE.—An agreement
 12 described in subparagraph (A)—

13 “(i) shall have a termination date of
 14 less than 3 years; and

15 “(ii) during the 3-month period end-
 16 ing on the date on which the agreement is
 17 scheduled to terminate, may be renewed by
 18 the executive agencies entering the agree-
 19 ment for not more than 3 years.

20 “(D) MULTIPLE AGENCIES.—For purposes
 21 of this paragraph, section 552a(o)(1) of title 5
 22 shall be applied by substituting ‘between the
 23 source agency and the recipient agency or non-
 24 Federal agency or an agreement governing mul-
 25 tiple agencies’ for ‘between the source agency

1 and the recipient agency or non-Federal agency’
 2 in the matter preceding subparagraph (A).

3 “(E) COST-BENEFIT ANALYSIS.—A jus-
 4 tification under section 552a(o)(1)(B) of title 5
 5 relating to an agreement under subparagraph
 6 (A) is not required to contain a specific esti-
 7 mate of any savings under the computer match-
 8 ing agreement.

9 “(2) GUIDANCE AND PROCEDURES BY THE OF-
 10 FICE OF MANAGEMENT AND BUDGET.—The guid-
 11 ance, rules, and procedures required to be issued,
 12 clarified, and established under paragraphs (3) and
 13 (4) of section 5(e) of the Improper Payments Elimini-
 14 nation and Recovery Improvement Act of 2012, as
 15 in effect on the day before the date of enactment of
 16 this section—

17 “(A) shall continue to be in effect on and
 18 after the date of enactment of this section; and

19 “(B) may be modified as determined ap-
 20 propriate by the Director of the Office of Man-
 21 agement and Budget.

22 “(3) COMPLIANCE.—The head of each executive
 23 agency, in consultation with the Inspector General of
 24 the executive agency, shall ensure that any informa-
 25 tion provided to an individual or entity under this

1 subsection is provided in accordance with protocols
 2 established under this subsection.

3 “(4) RULE OF CONSTRUCTION.—Nothing in
 4 this subsection shall be construed—

5 “(A) to affect the rights of an individual
 6 under section 552a(p) of title 5; or

7 “(B) to impede the exercise of an exemp-
 8 tion provided to Inspectors General or by an ex-
 9 ecutive agency in coordination with an Inspec-
 10 tor General under section 6(j) of the Inspector
 11 General Act of 1978 (5 U.S.C. App.).

12 “(e) PLAN TO CURB FEDERAL IMPROPER PAYMENTS
 13 TO DECEASED INDIVIDUALS BY IMPROVING THE QUALITY
 14 AND USE BY FEDERAL AGENCIES OF THE SOCIAL SECU-
 15 RITY ADMINISTRATION DEATH MASTER FILE AND OTHER
 16 DEATH DATA.—

17 “(1) ESTABLISHMENT.—In conjunction with
 18 the Commissioner of Social Security and in consulta-
 19 tion with relevant stakeholders that have an interest
 20 in or responsibility for providing the data, and each
 21 State, the Director of the Office of Management and
 22 Budget shall conduct a study and update the plan
 23 required to be established under section 5(g) of the
 24 Improper Payments Elimination and Recovery Im-
 25 provement Act of 2012, as in effect on the day be-

1 fore the date of enactment of this section, for im-
2 proving the quality, accuracy, and timeliness of
3 death data maintained by the Social Security Ad-
4 ministration, including death information reported to
5 the Commissioner under section 205(r) of the Social
6 Security Act (42 U.S.C. 405(r)).

7 “(2) ADDITIONAL ACTIONS UNDER PLAN.—The
8 plan described in this subsection shall include rec-
9 ommended actions by executive agencies to—

10 “(A) increase the quality and frequency of
11 access to the Death Master File and other
12 death data;

13 “(B) achieve a goal of at least daily access
14 as appropriate;

15 “(C) provide for all States and other data
16 providers to use improved and electronic means
17 for providing data;

18 “(D) identify improved methods by execu-
19 tive agencies for determining ineligible pay-
20 ments due to the death of a recipient through
21 proactive verification means; and

22 “(E) address improper payments made by
23 executive agencies to deceased individuals as
24 part of Federal retirement programs.

1 “(3) REPORT.—Not later than 120 days after
 2 the date of enactment of this section, the Director
 3 of the Office of Management and Budget shall sub-
 4 mit a report to Congress on the plan described in
 5 this subsection, including recommended legislation.

6 **“§ 3355. Improving recovery of improper payments**

7 “The Director of the Office of Management and
 8 Budget shall determine—

9 “(1) current and historical rates and amounts
 10 of recovery of improper payments, or, in cases in
 11 which improper payments are identified solely on the
 12 basis of a sample, recovery rates and amounts esti-
 13 mated on the basis of the applicable sample, includ-
 14 ing a list of executive agency recovery audit contract
 15 programs and specific information of amounts and
 16 payments recovered by recovery audit contractors;
 17 and

18 “(2) targets for recovering improper payments,
 19 including specific information on amounts and pay-
 20 ments recovered by recovery audit contractors.

21 **“§ 3356. Improving the use of data by executive agen-**
 22 **cies for curbing improper payments**

23 “(a) PROMPT REPORTING OF DEATH INFORMATION
 24 BY THE DEPARTMENT OF STATE AND THE DEPARTMENT
 25 OF DEFENSE.—The procedure required to be established

1 under section 7(a) of the Improper Payments Elimination
2 and Recovery Improvement Act of 2012, as in effect on
3 the day before the date of enactment of this section—

4 “(1) shall continue to be in effect on and after
5 the date of enactment of this section; and

6 “(2) may be modified as determined appro-
7 priate by the Director of the Office of Management
8 and Budget.

9 “(b) PROMPT REPORTING OF DEATH INFORMATION
10 BY THE DEPARTMENT OF VETERANS AFFAIRS AND THE
11 OFFICE OF PERSONNEL MANAGEMENT.—Not later than
12 1 year after the date of enactment of this section, the Sec-
13 retary of Veterans Affairs and the Director of the Office
14 of Personnel Management shall establish a procedure
15 under which the Secretary and the Director—

16 “(1) shall promptly and on a regular basis sub-
17 mit information relating to the deaths of individuals,
18 including stopped payments data as applicable, to
19 each executive agency for which the Director of the
20 Office of Management and Budget determines re-
21 ceiving and using such information would be rel-
22 evant and necessary; and

23 “(2) to facilitate the centralized access of death
24 data for the use of reducing improper payments,
25 may identify additional Federal sources of death

1 data and direct the data owner to provide that data
 2 to 1 or more executive agencies for that purpose.

3 “(c) GUIDANCE TO EXECUTIVE AGENCIES REGARD-
 4 ING DATA ACCESS AND USE FOR IMPROPER PAYMENTS
 5 PURPOSES.—The guidance required to be issued under
 6 section 7(b) of the Improper Payments Elimination and
 7 Recovery Improvement Act of 2012, as in effect on the
 8 day before the date of enactment of this section—

9 “(1) shall continue to be in effect on and after
 10 the date of enactment of this section; and

11 “(2) may be modified as determined appro-
 12 priate by the Director of the Office of Management
 13 and Budget.

14 **“§ 3357. Financial and administrative controls relat-**
 15 **ing to fraud and improper payments**

16 “(a) DEFINITION.—In this section, the term ‘agency’
 17 has the meaning given the term in section 551 of title 5.

18 “(b) GUIDELINES.—The guidelines required to be es-
 19 tablished under section 3(a) of the Fraud Reduction and
 20 Data Analytics Act of 2015, as in effect on the day before
 21 the date of enactment of this section—

22 “(1) shall continue to be in effect on and after
 23 the date of enactment of this section; and

24 “(2) may be periodically modified by the Direc-
 25 tor of the Office of Management and Budget, in con-

1 sultation with the Comptroller General of the United
2 States, as the Director and Comptroller General may
3 determine necessary.

4 “(c) REQUIREMENTS FOR CONTROLS.—The guide-
5 lines described in subsection (b) shall include—

6 “(1) conducting an evaluation of fraud risks
7 and using a risk-based approach to design and im-
8 plement financial and administrative control activi-
9 ties to mitigate identified fraud risks;

10 “(2) collecting and analyzing data from report-
11 ing mechanisms on detected fraud to monitor fraud
12 trends and using that data and information to con-
13 tinuously improve fraud prevention controls; and

14 “(3) using the results of monitoring, evaluation,
15 audits, and investigations to improve fraud preven-
16 tion, detection, and response.

17 “(d) REPORT.—For each of fiscal years 2019 and
18 2020, each agency shall submit to Congress, as part of
19 the annual financial report of the agency, a report of the
20 agency on—

21 “(1) implementing—

22 “(A) the financial and administrative con-
23 trols described in subsection (b);

24 “(B) the fraud risk principle in the Stand-
25 ards for Internal Control in the Federal Gov-

1 ernment published by the Government Account-
 2 ability Office (commonly known as the ‘Green
 3 Book’); and

4 “(C) Office of Management and Budget
 5 Circular A–123, or any successor thereto, with
 6 respect to the leading practices for managing
 7 fraud risk;

8 “(2) identifying risks and vulnerabilities to
 9 fraud, including with respect to payroll, beneficiary
 10 payments, grants, large contracts, and purchase and
 11 travel cards; and

12 “(3) establishing strategies, procedures, and
 13 other steps to curb fraud.

14 **“§ 3358. Interagency working group for Government-**
 15 **wide payment integrity improvement**

16 “(a) WORKING GROUP.—

17 “(1) ESTABLISHMENT.—Not later than 90 days
 18 after the date of enactment of this section, there is
 19 established an interagency working group on pay-
 20 ment integrity—

21 “(A) to improve—

22 “(i) State-administered Federal pro-
 23 grams to determine eligibility processes
 24 and data sharing practices;

1 “(ii) the guidelines described in sec-
2 tion 3357(b) and other best practices and
3 techniques for detecting, preventing, and
4 responding to improper payments, includ-
5 ing improper payments that are the result
6 of fraud; and

7 “(iii) the sharing and development of
8 data analytics techniques to help prevent
9 and identify potential improper payments,
10 including those that are the result of
11 fraud; and

12 “(B) to identify any additional activities
13 that will improve payment integrity of Federal
14 programs.

15 “(2) COMPOSITION.—The interagency working
16 group established under paragraph (1) shall be com-
17 posed of—

18 “(A) the Director of the Office of Manage-
19 ment and Budget;

20 “(B) 1 representative from each of the
21 agencies described in paragraphs (1) and (2) of
22 section 901(b) of this title; and

23 “(C) any other representatives of other ex-
24 ecutive agencies determined appropriate by the
25 Director of the Office of Management and

1 Budget, which may include the Chief Informa-
 2 tion Officer, the Chief Procurement Officer, the
 3 Chief Risk Officer, or the Chief Operating Offi-
 4 cer of an executive agency.

5 “(b) CONSULTATION.—The working group estab-
 6 lished under subsection (a)(1) may consult with Offices
 7 of Inspectors General and Federal and non-Federal ex-
 8 perts on fraud risk assessments, administrative controls
 9 over payment integrity, financial controls, and other rel-
 10 evant matters.

11 “(c) MEETINGS.—The working group established
 12 under subsection (a)(1) shall hold not fewer than 4 meet-
 13 ings per year.

14 “(d) REPORT.—Not later than 240 days after the
 15 date of enactment of this section, the working group estab-
 16 lished under subsection (a)(1) shall submit to Congress
 17 a report that includes—

18 “(1) a plan containing tangible solutions to pre-
 19 vent and reduce improper payments; and

20 “(2) a plan for State agencies to work with
 21 Federal agencies to regularly review lists of bene-
 22 ficiaries of State-managed Federal programs for du-
 23 plicate enrollment between States, including how the
 24 Do Not Pay Business Center and the data analytics

1 initiative of the Department of the Treasury could
 2 aid in the detection of duplicate enrollment.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 4 The table of sections for chapter 33 of title 31, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

“SUBCHAPTER IV—IMPROPER PAYMENTS

“3351. Definitions.

“3352. Estimates of improper payments and reports on actions to reduce im-
 proper payments.

“3353. Compliance.

“3354. Do Not Pay Initiative.

“3355. Improving recovery of improper payments.

“3356. Improving the use of data by executive agencies for curbing improper
 payments.

“3357. Financial and administrative controls relating to fraud and improper
 payments.

“3358. Interagency working group for Governmentwide payment integrity im-
 provement.”.

7 **SEC. 3. REPEALS.**

8 (a) IN GENERAL.—

9 (1) IMPROPER PAYMENTS INFORMATION ACT OF
 10 2002.—The Improper Payments Information Act of
 11 2002 (31 U.S.C. 3321 note) is repealed.

12 (2) IMPROPER PAYMENTS ELIMINATION AND
 13 RECOVERY ACT OF 2010.—The Improper Payments
 14 Elimination and Recovery Act of 2010 (Public Law
 15 114–204; 124 Stat. 2224) is repealed.

16 (3) IMPROPER PAYMENTS ELIMINATION AND
 17 RECOVERY IMPROVEMENT ACT OF 2012.—The Im-
 18 proper Payments Elimination and Recovery Im-

1 provement Act of 2012 (31 U.S.C. 3321 note) is re-
2 pealed.

3 (4) FRAUD REDUCTION AND DATA ANALYTICS
4 ACT OF 2015.—The Fraud Reduction and Data Ana-
5 lytics Act of 2015 (31 U.S.C. 3321 note) is repealed.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) GOVERNMENT CHARGE CARD ABUSE PRE-
8 VENTION ACT OF 2012.—Section 6(a) of the Govern-
9 ment Charge Card Abuse Prevention Act of 2012 (5
10 U.S.C. 5701 note) is amended by striking “section
11 3512 of title 31, United States Code, or in the Im-
12 proper Payments Information Act of 2002 (31
13 U.S.C. 3321 note)” and inserting “section 3512 or
14 subchapter IV of chapter 33 of title 31, United
15 States Code”.

16 (2) HOMELAND SECURITY ACT OF 2002.—Sec-
17 tion 2022(a) of the Homeland Security Act of 2002
18 (6 U.S.C. 612(a)) is amended—

19 (A) in paragraph (1)(C), by striking “Con-
20 sistent with the Improper Payments Informa-
21 tion Act of 2002 (31 U.S.C. 3321 note)” and
22 inserting “Consistent with subchapter IV of
23 chapter 33 of title 31, United States Code”;
24 and

1 (B) in paragraph (5), by striking “section
 2 2(h) of the Improper Payments Elimination
 3 and Recovery Act of 2010 (31 U.S.C. 3321
 4 note)” and inserting “section 3352(i) of title
 5 31, United States Code,”.

6 (3) SOCIAL SECURITY ACT.—Section 2105 of
 7 the Social Security Act (42 U.S.C. 1397ee(c)) is
 8 amended by striking “Improper Payments Informa-
 9 tion Act of 2002” each place that term appears and
 10 inserting “subchapter IV of chapter 33 of title 31,
 11 United States Code”.

12 (4) TITLE 31.—Section 3562(a) of title 31,
 13 United States Code, is amended—

14 (A) in the matter preceding paragraph
 15 (1)—

16 (i) by striking “section 3561” and in-
 17 serting “section 3352(i)”; and

18 (ii) by striking “agency for the fol-
 19 lowing purposes:” and all that follows
 20 through “To reimburse” and inserting
 21 “agency to reimburse”; and

22 (B) by striking paragraph (2).

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S. 375

[Report No. 116-35]

A BILL

To improve efforts to identify and reduce Governmentwide improper payments, and for other purposes.

MAY 6, 2019

Reported without amendment