

Calendar No. 736

115TH CONGRESS
2^D SESSION**S. 2948****[Report No. 115–445]**

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

IN THE SENATE OF THE UNITED STATES

MAY 24, 2018

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

DECEMBER 19, 2018

Reported by Mr. JOHNSON, with amendments

[Omit the part struck through and insert the part printed in *italie*]**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 2018”.

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.—~~If~~ *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 ~~by~~ *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 ~~under~~ *as described in* paragraph
19 (2)(A), a description of the resources the executive
20 agency has requested in the budget submission of
21 the executive agency to establish and maintain those
22 internal controls;

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 ~~localities~~ *local governments* are held accountable
7 through 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 ~~overpayments~~ *improper*
6 *payments*;

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

11 “(3) if a determination has been made that cer-
12 tain ~~overpayments~~ *improper payments* are not col-
13 lectable, a justification of that determination;

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

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

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

21 “(7) if the executive agency has determined
22 under subsection (i) that performing recovery audits
23 for any applicable program or activity is not cost-ef-
24 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 ~~overpayments~~ *improper payments*
10 to—

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

13 “(B) the Committee on Oversight and Gov-
14 ernment Reform of the House of Representa-
15 tives; and

16 “(C) the Comptroller General of the
17 United States.

18 “(2) CONTENTS.—Each report required under
19 paragraph (1) shall include—

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

23 “(B) an identification of the compliance
24 status of each executive agency, as determined
25 by the Inspector General of the executive agen-

1 cy under section 3353, to which this section ap-
2 plies;

3 “(C) Governmentwide improper payment
4 reduction targets;

5 “(D) a Governmentwide estimate of im-
6 proper payments; and

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

10 “(g) GUIDANCE BY THE OFFICE OF MANAGEMENT
11 AND BUDGET.—

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

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

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

1 “(B) strategies for addressing risks and
2 establishing appropriate prepayment and
3 postpayment internal controls.

4 “(h) DETERMINATIONS OF AGENCY READINESS FOR
5 OPINION ON INTERNAL CONTROL.—The criteria required
6 to be developed under section 2(g) of the Improper Pay-
7 ments Elimination and Recovery Act of 2010, as in effect
8 on the 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 “(i) RECOVERY AUDITS.—

15 “(1) IN GENERAL.—

16 “(A) CONDUCT OF AUDITS.—Except as
17 provided under paragraph (3) and if not prohib-
18 ited under any other provision of law, the head
19 of each executive agency shall conduct recovery
20 audits with respect to each program and activ-
21 ity of the executive agency that expends
22 \$1,000,000 or more annually if conducting the
23 audits would be cost effective.

1 “(B) PROCEDURES.—In conducting a re-
2 recovery audit under this subsection, the head of
3 an executive agency—

4 “(i) shall give priority to the most re-
5 cent payments and to payments made in
6 any program identified as susceptible to
7 significant improper payments under sub-
8 section (a);

9 “(ii) shall implement this subsection
10 in a manner designed to ensure the great-
11 est financial benefit to the Federal Govern-
12 ment; and

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

20 “(C) RECOVERY AUDIT CONTRACTS.—With
21 respect to a recovery audit procured by an exec-
22 utive agency by contract—

23 “(i) subject to subparagraph (B)(iii),
24 and except to the extent such actions are
25 outside the authority of the executive agen-

1 cy under section 7103 of title 41, the head
2 of the executive agency may authorize the
3 contractor to—

4 “(I) notify entities, including in-
5 dividuals, of potential overpayments
6 made to those entities;

7 “(II) respond to questions con-
8 cerning potential overpayments; and

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

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

18 “(D) CONTRACT TERMS AND CONDI-
19 TIONS.—

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

1 “(I) provide to the executive
2 agency periodic reports on conditions
3 giving rise to overpayments identified
4 by the contractor and any rec-
5 ommendations on how to mitigate
6 those conditions;

7 “(II) notify the executive agency
8 of any overpayments identified by the
9 contractor pertaining to the executive
10 agency or to any other executive agen-
11 cy that are beyond the scope of the
12 contract; and

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

19 “(ii) REPORTS ON ACTIONS TAKEN.—
20 Each executive agency shall, on an annual
21 basis, include in annual financial statement
22 of the executive agency a report on actions
23 taken by the executive agency during the
24 preceding fiscal year to address the rec-
25 ommendations described in clause (i)(I).

1 “(E) AGENCY ACTION FOLLOWING NOTIFI-
2 CATION.—Each executive agency shall—

3 “(i) take prompt and appropriate ac-
4 tion in response to a report or notification
5 by a contractor under subclause (I) or (II)
6 of subparagraph (D)(i) to collect an over-
7 payment; and

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

11 “(2) DISPOSITION OF AMOUNTS RECOVERED.—

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

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

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

1 “(i) shall be available to the head of
2 the executive agency to carry out the fi-
3 nancial management improvement program
4 of the executive agency under paragraph
5 (3);

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

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

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

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

1 “(ii) shall remain available for the
2 same period and purposes as the appro-
3 priation or fund to which credited; and

4 ~~“(iii) if the appropriation from which~~
5 ~~an overpayment was made has expired,~~
6 ~~shall be newly available for the same time~~
7 ~~period as the funds were originally avail-~~
8 ~~able for obligation, except that any~~
9 ~~amounts that are recovered more than 5~~
10 ~~fiscal years from the last fiscal year in~~
11 ~~which the funds were available for obliga-~~
12 ~~tion shall be deposited in the Treasury as~~
13 ~~miscellaneous receipts, except that in the~~
14 ~~case of recoveries of overpayments that are~~
15 ~~made from trust or special fund accounts,~~
16 ~~those amounts shall revert to those ac-~~
17 ~~counts.~~

18 “(iii) *if the appropriation from which*
19 *an overpayment was made has expired—*

20 “(I) *in the case of recoveries of*
21 *overpayments that are made from a*
22 *trust or special fund account, shall re-*
23 *vert to that account; and*

24 “(II) *in the case of other recov-*
25 *eries of overpayments—*

1 “(aa) for amounts that are
2 recovered more than 5 fiscal years
3 from the last fiscal year in which
4 the funds were available for obli-
5 gation, shall be deposited in the
6 Treasury as miscellaneous re-
7 ceipts; and

8 “(bb) for other amounts, shall
9 be newly available for the same
10 time period as the funds were
11 originally available for obligation.

12 “(E) USE FOR INSPECTOR GENERAL AC-
13 TIVITIES.—Not more than 5 percent of the
14 amounts collected by an executive agency
15 through recovery audits—

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

18 “(I) the Inspector General to
19 carry out this Act; or

20 “(II) any other activities of the
21 Inspector General relating to inves-
22 tigating improper payments or audit-
23 ing internal controls associated with
24 payments; and

1 “(ii) shall remain available for the
2 same period and purposes as the appro-
3 priation or fund to which credited.

4 “(F) REMAINDER.—Amounts collected
5 that are not applied in accordance with sub-
6 paragraph (B), (C), (D), or (E) shall be depos-
7 ited in the Treasury as miscellaneous receipts,
8 except that in the case of recoveries of overpay-
9 ments that are made from trust or special fund
10 accounts, those amounts shall revert to those
11 accounts.

12 “(G) DISCRETIONARY AMOUNTS.—This
13 paragraph shall apply only to recoveries of over-
14 payments that are made from discretionary ap-
15 propriations, as defined in section 250(e)(7) of
16 the Balanced Budget and Emergency Deficit
17 Control Act of 1985 (2 U.S.C. 900(e)(7)), and
18 shall not apply to recoveries of overpayments
19 that are made from discretionary amounts that
20 were appropriated before the date of enactment
21 of the Improper Payments Elimination and Re-
22 covery Act of 2010, as in effect on the day be-
23 fore the date of enactment of this section.

24 “(H) APPLICATION.—This paragraph shall
25 not apply to the recovery of an overpayment if

1 the appropriation from which the overpayment
2 was made has not expired.

3 “(3) FINANCIAL MANAGEMENT IMPROVEMENT
4 PROGRAM.—

5 “(A) REQUIREMENT.—The head of each
6 executive agency shall conduct a financial man-
7 agement improvement program consistent with
8 rules prescribed by the Director of the Office of
9 Management and Budget.

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

13 “(i) shall, as the first priority of the
14 program, address problems that contribute
15 directly to executive agency improper pay-
16 ments; and

17 “(ii) may seek to reduce errors and
18 waste in other executive agency programs
19 and operations.

20 “(4) PRIVACY PROTECTIONS.—Any nongovern-
21 mental entity that, in the course of recovery auditing
22 or recovery activity under this subsection, obtains in-
23 formation that identifies an individual or with re-
24 spect to which there is a reasonable basis to believe
25 that the information can be used to identify an indi-

1 vidual, may not disclose the information for any pur-
 2 pose other than the recovery auditing or recovery ac-
 3 tivity and governmental oversight of the activity, un-
 4 less disclosure for that other purpose is authorized
 5 by the individual to the executive agency that con-
 6 tracted for the performance of the recovery auditing
 7 or recovery activity.

8 “(5) RULE OF CONSTRUCTION.—Except as pro-
 9 vided under paragraph (4), nothing in this sub-
 10 section shall be construed as terminating or in any
 11 way limiting authorities that are otherwise available
 12 to executive agencies under existing provisions of law
 13 to recover improper payments and use recovered
 14 amounts.

15 **“§ 3353. Compliance**

16 “(a) ANNUAL COMPLIANCE REPORT BY INSPECTORS
 17 GENERAL OF EXECUTIVE AGENCIES.—

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

20 “(A) determine whether the executive
 21 agency is in compliance; and

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

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

1 “(ii) the Committee on Homeland Se-
2 curity and Governmental Affairs of the
3 Senate;

4 “(iii) the Committee on Oversight and
5 Governmental Reform of the House of
6 Representatives; and

7 “(iv) the Comptroller General of the
8 United States.

9 “(2) DEVELOPMENT OR USE OF A CENTRAL
10 WEBSITE.—The Council of the Inspectors General
11 on Integrity and Efficiency (in this subsection re-
12 ferred to as the ‘Council’) shall develop a public cen-
13 tral website, or make use of a public central website
14 in existence on the date of enactment of this section,
15 to contain individual compliance determination re-
16 ports issued by Inspectors General under paragraph
17 (1)(B) and such additional information as deter-
18 mined by the Council.

19 “(3) OMB GUIDANCE.—Not later than 180
20 days after the date of enactment of this section, the
21 Director of the Office of Management and Budget,
22 in consultation with the Council and with consider-
23 ation given to the available resources and independ-
24 ence of individual Offices of Inspectors General,
25 shall develop and promulgate guidance for the com-

1 pliance determination reports issued by the Inspec-
2 tors General under paragraph (1)(B), which shall re-
3 quire that—

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

6 “(B) Inspectors General evaluate and take
7 into account the adequacy of executive agency
8 risk assessments, improper payment estimates
9 methodology, and executive agency action plans
10 to address the causes of improper payments;

11 “(C) Inspectors General take into account
12 whether the executive agency has correctly iden-
13 tified the causes of improper payments and
14 whether the actions of the executive agency to
15 address those causes are adequate and effective;

16 “(D) Inspectors General evaluate the ade-
17 quacy of executive agency action plans on how
18 the executive agency addresses the causes of
19 improper payments; and

20 “(E) as part of the report, Inspectors Gen-
21 eral include an evaluation of executive agency
22 efforts to prevent and reduce improper pay-
23 ments and any recommendations for actions to
24 further improve that prevention and reduction.

1 “(4) CIGIE GUIDANCE.—Not later than 180
2 days after the date of enactment of this section, the
3 Council shall, with consideration given to the avail-
4 able resources and independence of individual Of-
5 fices of Inspectors General, develop and promulgate
6 guidance that specifies procedures for compliance
7 determinations made by the Inspectors General
8 under paragraph (1)(A), which shall describe proce-
9 dures for Inspectors General—

10 “(A) to make the determinations consistent
11 regarding compliance; and

12 “(B) to evaluate—

13 “(i) for compliance with the require-
14 ment described in section 3351(2)(B), the
15 risk assessment methodology of the execu-
16 tive agency, including whether the audits,
17 examinations, and legal actions of the In-
18 spector General indicate a higher risk of
19 improper payments or actual improper
20 payments that were not included in the
21 risk assessments of the executive agency
22 conducted under section 3352(a);

23 “(ii) for compliance with the require-
24 ment described in section 3351(2)(C), the
25 accuracy of the rate estimates and whether

1 the sampling and estimation plan used is
2 appropriate given program characteristics;

3 “(iii) for compliance with the require-
4 ment described in section 3351(2)(D), the
5 corrective action plans and whether the
6 plans are adequate and focused on the true
7 causes of improper payments, including
8 whether the corrective action plans are—

9 “(I) reducing improper pay-
10 ments;

11 “(II) effectively implemented;
12 and

13 “(III) prioritized within the execu-
14 tive agency;

15 “(iv) the adequacy of executive agency
16 action plans to address the causes of im-
17 proper payments;

18 “(v) executive agency efforts to pre-
19 vent and reduce improper payments, and
20 any recommendations for actions to fur-
21 ther improve; and

22 “(vi) whether an executive agency has
23 published an annual financial statement in
24 accordance with the requirement described
25 in section 3351(2)(A).

1 “(b) REMEDIATION.—

2 “(1) NONCOMPLIANCE.—

3 “(A) IN GENERAL.—If an executive agency
4 is determined by the Inspector General of that
5 executive agency not to be in compliance under
6 subsection (a) in a fiscal year with respect to a
7 program or activity, the head of the executive
8 agency shall submit to the appropriate author-
9 izing and appropriations committees of Con-
10 gress a plan describing the actions that the ex-
11 ecutive agency will take to come into compli-
12 ance.

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

15 “(i) measurable milestones to be ac-
16 complished in order to achieve compliance
17 for each program or activity;

18 “(ii) the designation of a senior execu-
19 tive agency official who shall be account-
20 able for the progress of the executive agen-
21 cy in coming into compliance for each pro-
22 gram or activity; and

23 “(iii) the establishment of an account-
24 ability mechanism, such as a performance
25 agreement, with appropriate incentives and

1 consequences tied to the success of the of-
2 ficial designated under clause (ii) in lead-
3 ing the efforts of the executive agency to
4 come into compliance for each program or
5 activity.

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

7 “(A) IN GENERAL.—If an executive agency
8 is determined by the Inspector General of that
9 executive agency not to be in compliance under
10 subsection (a) for 2 consecutive fiscal years for
11 the same program or activity, the executive
12 agency shall propose to the Director of the Of-
13 fice of Management and Budget additional pro-
14 gram integrity proposals that would help the
15 executive agency come into compliance.

16 “(B) ADDITIONAL FUNDING.—

17 “(i) IN GENERAL.—If the Director of
18 the Office of Management and Budget de-
19 termines that additional funding would
20 help ~~the~~ *an* executive agency *described in*
21 *subparagraph (A)* come into compliance,
22 the head of the executive agency shall obli-
23 gate additional funding, in an amount de-
24 termined by the Director, to intensified
25 compliance efforts.

1 “(ii) REPROGRAMMING OR TRANSFER
2 AUTHORITY.—In providing additional fund-
3 ing under clause (i)—

4 “ (I) the head of an executive
5 agency shall use any reprogramming
6 or transfer authority available to the
7 executive agency; and

8 “ (II) if after exercising the re-
9 programming or transfer authority de-
10 scribed in subclause (I), additional
11 funding is necessary to obligate the
12 full level of funding determined by the
13 Director of the Office of Management
14 and Budget under clause (i), the exec-
15 utive agency shall submit a request to
16 Congress for additional reprogram-
17 ming or transfer authority.

18 “(3) REAUTHORIZATION AND STATUTORY PRO-
19 POSALS.—If an executive agency is determined by
20 the Inspector General of that executive agency not
21 to be in compliance under subsection (a) for 3 con-
22 secutive fiscal years for the same program or activ-
23 ity, the head of the executive agency shall, not later
24 than 30 days after the date of that determination,
25 submit to the appropriate authorizing and appro-

1 appropriations committees of Congress and the Comp-
2 troller General of the United States—

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

6 “(ii) proposed statutory changes necessary
7 to bring the program or activity into compli-
8 ance; or

9 “(B) if the head of the executive agency
10 determines that clauses (i) and (ii) of subpara-
11 graph (A) will not bring the program or activity
12 into compliance, a description of the actions
13 that the executive agency is undertaking to
14 bring the program or activity into compliance
15 and a timeline of when the compliance will be
16 achieved.

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

18 If an executive agency is determined by the Inspec-
19 tor General of that executive agency not to be in
20 compliance under subsection (a) for 4 or more con-
21 secutive fiscal years for the same program or activ-
22 ity, the head of the executive agency shall, not later
23 than 30 days after such determination, submit to
24 the appropriate authorizing and appropriations com-
25 mittees of Congress a report that includes—

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

4 “(B) a description of any requirements
5 that were fulfilled for 1, 2, or 3 consecutive
6 years of noncompliance that are still relevant
7 and being pursued as a means to bring the pro-
8 gram or activity into compliance and prevent
9 and reduce improper payments;

10 “(C) a description of any new corrective
11 actions; and

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

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

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

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

24 “(c) COMPLIANCE ENFORCEMENT PILOT PRO-
25 GRAMS.—The Director of the Office of Management and

1 Budget may establish 1 or more pilot programs that shall
2 test potential accountability mechanisms with appropriate
3 incentives and consequences tied to success in ensuring
4 compliance with this section and eliminating improper
5 payments.

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

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

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

16 **“§ 3354. Do Not Pay Initiative**

17 “(a) PREPAYMENT AND PREAWARD PROCEDURES.—

18 “(1) IN GENERAL.—Each executive agency shall
19 review prepayment and preaward procedures and en-
20 sure that a thorough review of available databases
21 with relevant information on eligibility occurs to de-
22 termine program or award eligibility and prevent im-
23 proper payments before the release of any Federal
24 funds.

1 “(2) DATABASES.—At a minimum and before
2 issuing any payment ~~and~~ *or* award, each executive
3 agency shall review as appropriate the following
4 databases to verify eligibility of the payment and
5 award:

6 “(A) The death records maintained by the
7 Commissioner of Social Security.

8 “(B) The System for Award Management
9 Exclusion Records, formerly known as the Ex-
10 cluded Parties List System, of the General
11 Services Administration.

12 “(C) The Debt Check Database of the De-
13 partment of the Treasury.

14 “(D) The Credit Alert System or Credit
15 Alert Interactive Voice Response System of the
16 Department of Housing and Urban Develop-
17 ment.

18 “(E) The List of Excluded Individuals/En-
19 tities of the Office of Inspector General of the
20 Department of Health and Human Services.

21 “(F) Information regarding incarcerated
22 individuals maintained by the Commissioner of
23 Social Security under sections 202(x) and
24 1611(e) of the Social Security Act (42 U.S.C.
25 402(x), 1382(e)).

1 “(b) DO NOT PAY INITIATIVE.—

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

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

6 “(B) use of other databases designated by
7 the Director of the Office of Management and
8 Budget, or the designee of the Director, in con-
9 sultation with executive agencies and in accord-
10 ance with paragraph (2).

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

16 “(A) consider any database that substan-
17 tially assists in preventing improper payments;
18 and

19 “(B) provide public notice and an oppor-
20 tunity for comment before designating a data-
21 base under paragraph (1)(B).

22 “(3) ACCESS AND REVIEW.—

23 “(A) IN GENERAL.—For purposes of iden-
24 tifying and preventing improper payments, each
25 executive agency shall have access to, and use

1 of, the Do Not Pay Initiative to verify payment
2 or award eligibility in accordance with sub-
3 section (a).

4 “(B) MATCHING PROGRAMS.—

5 “(i) IN GENERAL.—The head of the
6 agency operating the Working System
7 may, in consultation with the Office of
8 Management and Budget, waive the re-
9 quirements of section 552a(o) of title 5 in
10 any case or class of cases for computer
11 matching activities conducted under this
12 section.

13 “(ii) GUIDANCE.—The Director of the
14 Office of Management and Budget may
15 issue guidance that establishes require-
16 ments governing waivers under clause (i).

17 “(C) OTHER ENTITIES.—Each State and
18 any contractor, subcontractor, or agent of a
19 State, including a State auditor or State pro-
20 gram responsible for reducing improper pay-
21 ments of a federally funded State-administered
22 program, and the judicial and legislative
23 branches of the United States, as defined in
24 paragraphs (2) and (3), respectively, of section
25 202(e) of title 18, shall have access to, and use

1 of, the Do Not Pay Initiative for the purpose of
2 verifying payment or award eligibility for pay-
3 ments.

4 “(D) CONSISTENCY WITH PRIVACY ACT OF
5 1974.—To ensure consistency with the principles
6 of section 552a of title 5 (commonly known as
7 the ‘Privacy Act of 1974’), the Director of the
8 Office of Management and Budget may issue
9 guidance that establishes privacy and other re-
10 quirements that shall be incorporated into Do
11 Not Pay Initiative access agreements with
12 States, including any contractor, subcontractor,
13 or agent of a State, and the judicial and legisla-
14 tive branches of the United States, as defined
15 in paragraphs (2) and (3), respectively, of sec-
16 tion 202(e) of title 18.

17 “(4) PAYMENT OTHERWISE REQUIRED.—When
18 using the Do Not Pay Initiative, an executive agency
19 shall recognize that there may be circumstances
20 under which the law requires a payment or award to
21 be made to a recipient, regardless of whether that
22 recipient is identified as potentially ineligible under
23 the Do Not Pay Initiative.

24 “(5) ANNUAL REPORT.—The Director of the
25 Office of Management and Budget shall submit to

1 Congress an annual report, which may be included
2 as part of another report submitted to Congress by
3 the Director, regarding the operation of the Do Not
4 Pay Initiative, which shall—

5 “(A) include an evaluation of whether the
6 Do Not Pay Initiative has reduced improper
7 payments or improper awards; and

8 “(B) provide the frequency of corrections
9 or identification of incorrect information.

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

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

17 “(2) shall require each executive agency to re-
18 view all payments and awards for all programs and
19 activities of that executive agency through the work-
20 ing system.

21 “(d) FACILITATING DATA ACCESS BY FEDERAL
22 AGENCIES AND OFFICES OF INSPECTORS GENERAL FOR
23 PURPOSES OF PROGRAM INTEGRITY.—

24 “(1) COMPUTER MATCHING BY EXECUTIVE
25 AGENCIES FOR PURPOSES OF INVESTIGATION AND

1 PREVENTION OF IMPROPER PAYMENTS AND
2 FRAUD.—

3 “(A) IN GENERAL.—Except as provided in
4 this paragraph, in accordance with section 552a
5 of title 5 (commonly known as the ‘Privacy Act
6 of 1974’), the head of each executive agency
7 may enter into computer matching agreements
8 with other heads of executive agencies that
9 allow ongoing data matching, which shall in-
10 clude automated data matching, in order to as-
11 sist in the detection and prevention of improper
12 payments.

13 “(B) REVIEW.—Not later than 60 days
14 after the date on which a proposal for an agree-
15 ment under subparagraph (A) has been pre-
16 sented to a Data Integrity Board established
17 under section 552a(u) of title 5 for consider-
18 ation, the Data Integrity Board shall respond
19 to the proposal.

20 “(C) TERMINATION DATE.—An agreement
21 described in subparagraph (A)—

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

24 “(ii) during the 3-month period end-
25 ing on the date on which the agreement is

1 scheduled to terminate, may be renewed by
2 the executive agencies entering the agree-
3 ment for not more than 3 years.

4 “(D) MULTIPLE AGENCIES.—For purposes
5 of this paragraph, section 552a(o)(1) of title 5
6 shall be applied by substituting ‘between the
7 source agency and the recipient agency or non-
8 Federal agency or an agreement governing mul-
9 tiple agencies’ for ‘between the source agency
10 and the recipient agency or non-Federal agency’
11 in the matter preceding subparagraph (A).

12 “(E) COST-BENEFIT ANALYSIS.—A jus-
13 tification under section 552a(o)(1)(B) of title 5
14 relating to an agreement under subparagraph
15 (A) is not required to contain a specific esti-
16 mate of any savings under the computer match-
17 ing agreement.

18 “(2) GUIDANCE AND PROCEDURES BY THE OF-
19 FICE OF MANAGEMENT AND BUDGET.—The guid-
20 ance, rules, and procedures required to be issued,
21 clarified, and established under paragraphs (3) and
22 (4) of section 5(e) of the Improper Payments Elimini-
23 nation and Recovery Improvement Act of 2012, as
24 in effect on the day before the date of enactment of
25 this section—

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

3 “(B) may be modified as determined ap-
4 propriate by the Director of the Office of Man-
5 agement and Budget.

6 “(3) COMPLIANCE.—The head of each executive
7 agency, in consultation with the Inspector General of
8 the executive agency, shall ensure that any informa-
9 tion provided to an individual or entity under this
10 subsection is provided in accordance with protocols
11 established under this subsection.

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

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

16 “(B) to impede the exercise of an exemp-
17 tion provided to Inspectors General or by an ex-
18 ecutive agency in coordination with an Inspec-
19 tor General under section 6(j) of the Inspector
20 General Act of 1978 (5 U.S.C. App.).

21 “(e) PLAN TO CURB FEDERAL IMPROPER PAYMENTS
22 TO DECEASED INDIVIDUALS BY IMPROVING THE QUALITY
23 AND USE BY FEDERAL AGENCIES OF THE SOCIAL SECU-
24 RITY ADMINISTRATION DEATH MASTER FILE AND OTHER
25 DEATH DATA.—

1 “(1) ESTABLISHMENT.—In conjunction with
2 the Commissioner of Social Security and in consulta-
3 tion with relevant stakeholders that have an interest
4 in or responsibility for providing the data, and each
5 State, the Director of the Office of Management and
6 Budget shall conduct a study and update the plan
7 required to be established under section 5(g) of the
8 Improper Payments Elimination and Recovery Im-
9 provement Act of 2012, as in effect on the day be-
10 fore the date of enactment of this section, for im-
11 proving the quality, accuracy, and timeliness of
12 death data maintained by the Social Security Ad-
13 ministration, including death information reported to
14 the Commissioner under section 205(r) of the Social
15 Security Act (42 U.S.C. 405(r)).

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

19 “(A) increase the quality and frequency of
20 access to the Death Master File and other
21 death data;

22 “(B) achieve a goal of at least daily access
23 as appropriate;

1 “(C) provide for all States and other data
2 providers to use improved and electronic means
3 for providing data;

4 “(D) identify improved methods by execu-
5 tive agencies for determining ineligible pay-
6 ments due to the death of a recipient through
7 proactive verification means; and

8 “(E) address improper payments made by
9 executive agencies to deceased individuals as
10 part of Federal retirement programs.

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

16 **“§ 3355. Improving recovery of improper payments**

17 “The Director of the Office of Management and
18 Budget shall determine—

19 “(1) current and historical rates and amounts
20 of recovery of improper payments, or, in cases in
21 which improper payments are identified solely on the
22 basis of a sample, recovery rates and amounts esti-
23 mated on the basis of the applicable sample, includ-
24 ing a list of executive agency recovery audit contract
25 programs and specific information of amounts and

1 payments recovered by recovery audit contractors;
2 and

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

6 **“§ 3356. Improving the use of data by executive agen-**
7 **cies for curbing improper payments**

8 “(a) PROMPT REPORTING OF DEATH INFORMATION
9 BY THE DEPARTMENT OF STATE AND THE DEPARTMENT
10 OF DEFENSE.—The procedure required to be established
11 under section 7(a) of the Improper Payments Elimination
12 and Recovery Improvement Act of 2012, as in effect on
13 the day before the date of enactment of this section—

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

16 “(2) may be modified as determined appro-
17 priate by the Director of the Office of Management
18 and Budget.

19 “(b) PROMPT REPORTING OF DEATH INFORMATION
20 BY THE DEPARTMENT OF VETERANS AFFAIRS AND THE
21 OFFICE OF PERSONNEL MANAGEMENT.—Not later than
22 1 year after the date of enactment of this section, the Sec-
23 retary of Veterans Affairs and the Director of the Office
24 of Personnel Management shall establish a procedure
25 under which the Secretary and the Director—

1 “(1) shall promptly and on a regular basis sub-
2 mit information relating to the deaths of individuals,
3 including stopped payments data as applicable, to
4 each executive agency for which the Director of the
5 Office of Management and Budget determines re-
6 ceiving and using such information would be rel-
7 evant and necessary; and

8 “(2) to facilitate the centralized access of death
9 data for the use of reducing improper payments,
10 may identify additional Federal sources of death
11 data and direct the data owner to provide that data
12 to 1 or more executive agencies for that purpose.

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

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

21 “(2) may be modified as determined appro-
22 priate by the Director of the Office of Management
23 and Budget.

1 **“§ 3357. Financial and administrative controls relat-**
2 **ing to fraud and improper payments**

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

5 “(b) GUIDELINES.—The guidelines required to be es-
6 tablished under section 3(a) of the Fraud Reduction and
7 Data Analytics Act of 2015, as in effect on the day before
8 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 periodically modified by the Direc-
12 tor of the Office of Management and Budget, in con-
13 sultation with the Comptroller General of the United
14 States, as the Director and Comptroller General may
15 determine necessary.

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

18 “(1) conducting an evaluation of fraud risks
19 and using a risk-based approach to design and im-
20 plement financial and administrative control activi-
21 ties to mitigate identified fraud risks;

22 “(2) collecting and analyzing data from report-
23 ing mechanisms on detected fraud to monitor fraud
24 trends and using that data and information to con-
25 tinuously improve fraud prevention controls; and

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

4 “(d) REPORT.—For each of fiscal years 2018 and
5 2019, each agency shall submit to Congress, as part of
6 the annual financial report of the agency, a report of the
7 agency on—

8 “(1) implementing—

9 “(A) the financial and administrative con-
10 trols ~~required to be~~ described in subsection (b);

11 “(B) the fraud risk principle in the Stand-
12 ards for Internal Control in the Federal Gov-
13 ernment published by the Government Account-
14 ability Office (commonly known as the ‘Green
15 Book’); and

16 “(C) Office of Management and Budget
17 Circular A–123, or any successor thereto, with
18 respect to the leading practices for managing
19 fraud risk;

20 “(2) identifying risks and vulnerabilities to
21 fraud, including with respect to payroll, beneficiary
22 payments, grants, large contracts, and purchase and
23 travel cards; and

24 “(3) establishing strategies, procedures, and
25 other steps to curb fraud.

1 **“§ 3358. Interagency working group for Government-**
2 **wide payment integrity improvement**

3 “(a) WORKING GROUP.—

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

8 “(A) to improve—

9 “(i) State-administered Federal pro-
10 grams to determine eligibility processes
11 and data sharing practices;

12 “(ii) the guidelines described in sec-
13 tion 3357(b) and other best practices and
14 techniques for detecting, preventing, and
15 responding to improper payments, includ-
16 ing improper payments that are the result
17 of fraud; and

18 “(iii) the sharing and development of
19 data analytics techniques to help prevent
20 and identify potential improper payments,
21 including those that are the result of
22 fraud; and

23 “(B) to identify any additional activities
24 that will improve payment integrity of Federal
25 programs.

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

4 “(A) the Director of the Office of Manage-
5 ment and Budget;

6 “(B) 1 representative from each of the
7 agencies described in paragraphs (1) and (2) of
8 section 901(b) of this title; and

9 “(C) any other representatives of other ex-
10 ecutive agencies determined appropriate by the
11 Director of the Office of Management and
12 Budget, which may include the Chief Informa-
13 tion Officer, the Chief Procurement Officer, the
14 Chief Risk Officer, or the Chief Operating Offi-
15 cer of an executive agency.

16 “(b) CONSULTATION.—The working group estab-
17 lished under subsection (a)(1) may consult with Offices
18 of Inspectors General and Federal and non-Federal ex-
19 perts on fraud risk assessments, administrative controls
20 over payment integrity, financial controls, and other rel-
21 evant matters.

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

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

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

7 “(2) a plan for State agencies to work with
 8 Federal agencies to regularly review lists of bene-
 9 ficiaries of State-managed Federal programs for du-
 10 plicate enrollment between States, including how the
 11 Do Not Pay Business Center and the data analytics
 12 initiative of the Department of the Treasury could
 13 aid in the detection of duplicate enrollment.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 15 The table of sections for chapter 33 of title 31, United
 16 States Code, is amended by adding at the end the fol-
 17 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.”.

18 **SEC. 3. REPEALS.**

19 (a) IN GENERAL.—

1 (1) IMPROPER PAYMENTS INFORMATION ACT OF
2 2002.—The Improper Payments Information Act of
3 2002 (31 U.S.C. 3321 note) is repealed.

4 (2) IMPROPER PAYMENTS ELIMINATION AND
5 RECOVERY ACT OF 2010.—The Improper Payments
6 Elimination and Recovery Act of 2010 (Public Law
7 114–204; 124 Stat. 2224) is repealed.

8 (3) IMPROPER PAYMENTS ELIMINATION AND
9 RECOVERY IMPROVEMENT ACT OF 2012.—The Im-
10 proper Payments Elimination and Recovery Im-
11 provement Act of 2012 (31 U.S.C. 3321 note) is re-
12 pealed.

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

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) GOVERNMENT CHARGE CARD ABUSE PRE-
18 VENTION ACT OF 2012.—Section 6(a) of the Govern-
19 ment Charge Card Abuse Prevention Act of 2012 (5
20 U.S.C. 5701 note) is amended by striking “section
21 3512 of title 31, United States Code, or in the Im-
22 proper Payments Information Act of 2002 (31
23 U.S.C. 3321 note)” and inserting “section 3512 or
24 subchapter IV of chapter 33 of title 31, United
25 States Code”.

1 (2) HOMELAND SECURITY ACT OF 2002.—Sec-
2 tion 2022(a) of the Homeland Security Act of 2002
3 (6 U.S.C. 612(a)) is amended—

4 (A) in paragraph (1)(C), by striking “Con-
5 sistent with the Improper Payments Informa-
6 tion Act of 2002 (31 U.S.C. 3321 note)” and
7 inserting “Consistent with subchapter IV of
8 chapter 33 of title 31, United States Code”;
9 and

10 (B) in paragraph (5), by striking “section
11 2(h) of the Improper Payments Elimination
12 and Recovery Act of 2010 (31 U.S.C. 3321
13 note)” and inserting “section 3352(i) of title
14 31, United States Code,”.

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

21 (4) TITLE 31.—Section 3562(a) of title 31,
22 United States Code, is amended, in the matter pre-
23 ceding paragraph (1)—

24 (A) by striking “section 3561” and insert-
25 ing “section 3352(i)”; and

1 (B) by striking “agency for the following
2 purposes:” and all that follows through “To re-
3 imburse” and inserting “agency to reimburse”.

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2D SESSION

S. 2948

[Report No. 115-445]

A BILL

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

DECEMBER 19, 2018

Reported with amendments