

# Calendar No. 430

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1508

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

---

## IN THE SENATE OF THE UNITED STATES

JULY 23, 2009

Mr. CARPER (for himself, Mr. COBURN, Mrs. McCASKILL, Ms. COLLINS, Mr. MCCAIN, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

JUNE 15, 2010

Reported by Mr. LIEBERMAN, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

---

## A BILL

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

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 “Improper Payments  
5       Elimination and Recovery Act of 2009”.

1 **SEC. 2. IMPROPER PAYMENTS ELIMINATION AND RECOV-**  
 2 **ERY.**

3 (a) SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—Sec-  
 4 tion 2 of the Improper Payments Information Act of 2002  
 5 (31 U.S.C. 3321 note) is amended by striking subsection  
 6 (a) and inserting the following:

7 “(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS  
 8 AND ACTIVITIES.—

9 “(1) IN GENERAL.—The head of each agency  
 10 shall, in accordance with guidance prescribed by the  
 11 Director of the Office of Management and Budget,  
 12 periodically review all programs and activities that  
 13 the relevant agency head administers and identify all  
 14 programs and activities that may be susceptible to  
 15 significant improper payments.

16 “(2) FREQUENCY.—Reviews under paragraph  
 17 (1) shall be performed for each program and activity  
 18 that the relevant agency head administers during the  
 19 year after which the Improper Payments Elimination and Recovery Act of 2009 is enacted and at  
 20 least once every 3 fiscal years thereafter.

21 “(3) RISK ASSESSMENTS.—

22 “(A) DEFINITION.—In this subsection the  
 23 term ‘significant’ means—

24 “(i) except as provided under clause  
 25 (ii), that improper payments in the pro-

1                   gram or activity in the preceding fiscal  
2                   year may have exceeded—

3                               “(I) \$10,000,000 of all program  
4                               or activity payments made during that  
5                               fiscal year reported and 2.5 percent of  
6                               program outlays; or

7                               “(II) \$100,000,000; and

8                               “(ii) with respect to fiscal years fol-  
9                               lowing September 30th of a fiscal year be-  
10                              ginning before fiscal year 2013 as deter-  
11                              mined by the Office of Management and  
12                              Budget, that improper payments in the  
13                              program or activity in the preceding fiscal  
14                              year may have exceeded—

15                              “(I) \$10,000,000 of all program  
16                              or activity payments made during that  
17                              fiscal year reported and 1.5 percent of  
18                              program outlays; or

19                              “(II) \$100,000,000.

20                              “(B) SCOPE.—In conducting the reviews  
21                              under paragraph (1), the head of each agency  
22                              shall take into account those risk factors that  
23                              are likely to contribute to a susceptibility to sig-  
24                              nificant improper payments, such as—

1 “(i) whether the program or activity  
2 reviewed is new to the agency;

3 “(ii) the complexity of the program or  
4 activity reviewed;

5 “(iii) the volume of payments made  
6 through the program or activity reviewed;

7 “(iv) whether payments or payment  
8 eligibility decisions are made outside of the  
9 agency, such as by a State or local govern-  
10 ment;

11 “(v) recent major changes in program  
12 funding, authorities, practices, or proce-  
13 dures;

14 “(vi) the level and quality of training  
15 for personnel responsible for making pro-  
16 gram eligibility determinations or certi-  
17 fying that payments are accurate; and

18 “(vii) significant deficiencies in the  
19 audit report of the agency or other rel-  
20 evant management findings that might  
21 hinder accurate payment certification.”.

22 (b) ESTIMATION OF IMPROPER PAYMENTS.—Section  
23 2 of the Improper Payments Information Act of 2002 (31  
24 U.S.C. 3321 note) is amended by striking subsection (b)  
25 and inserting the following:

1       “(b) ESTIMATION OF IMPROPER PAYMENTS.—With  
2 respect to each program and activity identified under sub-  
3 section (a), the head of the relevant agency shall—

4           “(1) produce a statistically valid or otherwise  
5 appropriate estimate of the improper payments  
6 made by each program and activity; and

7           “(2) include those estimates in the accom-  
8 panying materials to the annual financial statement  
9 of the agency required under section 3515 of title  
10 31, United States Code, or similar provision of law  
11 and applicable guidance of the Office of Manage-  
12 ment and Budget.”.

13       (c) REPORTS ON ACTIONS TO REDUCE IMPROPER  
14 PAYMENTS.—Section 2 of the Improper Payments Infor-  
15 mation Act of 2002 (31 U.S.C. 3321 note) is amended  
16 by striking subsection (c) and inserting the following:

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

24           “(1) a description of the causes of the improper  
25 payments, actions planned or taken to correct those

1 causes, and the planned or actual completion date of  
2 the actions taken to address those causes;

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

10 “(A) internal controls;

11 “(B) human capital; and

12 “(C) information systems and other infra-  
13 structure;

14 “(3) if the agency does not have sufficient re-  
15 sources to establish and maintain effective internal  
16 controls under paragraph (2)(A), a description of  
17 the resources the agency has requested in its budget  
18 submission to establish and maintain such internal  
19 controls;

20 “(4) program-specific and activity-specific im-  
21 proper payments reduction targets that have been  
22 approved by the Director of the Office of Manage-  
23 ment and Budget; and

24 “(5) a description of the steps the agency has  
25 taken to ensure that agency managers, programs,

1 and, where appropriate, States and localities are  
2 held accountable through annual performance ap-  
3 praisal criteria for—

4 “(A) meeting applicable improper pay-  
5 ments reduction targets; and

6 “(B) establishing and maintaining suffi-  
7 cient internal controls, including an appropriate  
8 control environment, that effectively—

9 “(i) prevent improper payments from  
10 being made; and

11 “(ii) promptly detect and recover im-  
12 proper payments that are made.”.

13 (d) REPORTS ON ACTIONS TO RECOVER IMPROPER  
14 PAYMENTS.—Section 2 of the Improper Payments Infor-  
15 mation Act of 2002 (31 U.S.C. 3321 note) is amended—

16 (1) by striking subsection (e);

17 (2) by redesignating subsections (d) and (f) as  
18 subsections (f) and (g), respectively; and

19 (3) by inserting after subsection (c) the fol-  
20 lowing:

21 “(d) REPORTS ON ACTIONS TO RECOVER IMPROPER  
22 PAYMENTS.—With respect to any improper payments  
23 identified in recovery audits conducted under section 2(h)  
24 of the Improper Payments Elimination and Recovery Act  
25 of 2009 (31 U.S.C. 3321 note), the head of the agency

1 shall provide with the estimate under subsection (b) a re-  
2 port on all actions the agency is taking to recover im-  
3 proper payments, including—

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

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

10           “(3) if a determination has been made that cer-  
11 tain overpayments are not collectable, a justification  
12 for 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 agency has determined under section  
21 2(h) of the Improper Payments Elimination and Re-  
22 covery Act of 2009 (31 U.S.C. 3321 note) that per-  
23 forming recovery audits for any applicable program  
24 or activity is not cost effective, a justification for  
25 that determination.

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

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

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

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

15           “(C) the Comptroller General.

16           “(2) CONTENTS.—Each report under this sub-  
17 section shall include—

18           “(A) a summary of the reports of each  
19 agency on improper payments and recovery ac-  
20 tions submitted under this section;

21           “(B) an identification of the compliance  
22 status of each agency to which this Act applies;

23           “(C) governmentwide improper payment  
24 reduction targets; and

1           “(D) a discussion of progress made to-  
2           wards meeting governmentwide improper pay-  
3           ment reduction targets.”.

4           (e) DEFINITIONS.—Section 2 of the Improper Pay-  
5           ment Information Act of 2002 (31 U.S.C. 3321 note) is  
6           amended by striking subsections (f) (as redesignated by  
7           this section) and inserting the following:

8           “(f) DEFINITIONS.—In this section:

9           “(1) AGENCY.—The term ‘agency’ means an  
10          executive agency, as that term is defined in section  
11          102 of title 31, United States Code.

12          “(2) IMPROPER PAYMENT.—The term ‘im-  
13          proper payment’—

14                 “(A) means any payment that should not  
15                 have been made or that was made in an incor-  
16                 rect amount (including overpayments and un-  
17                 derpayments) under statutory, contractual, ad-  
18                 ministrative, or other legally applicable require-  
19                 ments; and

20                 “(B) includes any payment to an ineligible  
21                 recipient, any payment for an ineligible good or  
22                 service, any duplicate payment, any payment  
23                 for a good or service not received (except for  
24                 such payments where authorized by law), and

1           any payment that does not account for credit  
2           for applicable discounts.

3           “(3) PAYMENT.—The term ‘payment’ means  
4           any transfer or commitment for future transfer of  
5           Federal funds such as cash, securities, loans, loan  
6           guarantees, and insurance subsidies to any non-Fed-  
7           eral person or entity, that is made by a Federal  
8           agency, a Federal contractor, a Federal grantee, or  
9           a governmental or other organization administering  
10          a Federal program or activity.

11          “(4) PAYMENT FOR AN INELIGIBLE GOOD OR  
12          SERVICE.—The term ‘payment for an ineligible good  
13          or service’ shall include a payment for any good or  
14          service that is rejected under any provision of any  
15          contract, grant, lease, cooperative agreement, or any  
16          other procurement mechanism.”.

17          (f) GUIDANCE BY THE OFFICE OF MANAGEMENT  
18          AND BUDGET.—Section 2 of the Improper Payments In-  
19          formation Act of 2002 (31 U.S.C. 3321 note) is amended  
20          by striking subsection (g) (as redesignated by this section)  
21          and inserting the following:

22          “(g) GUIDANCE BY THE OFFICE OF MANAGEMENT  
23          AND BUDGET.—

24                 “(1) IN GENERAL.—Not later than 6 months  
25                 after the date of enactment of the Improper Pay-

1       ments Elimination and Recovery Act of 2009, the  
2       Director of the Office of Management and Budget  
3       shall prescribe guidance for agencies to implement  
4       the requirements of this section. The guidance shall  
5       not include any exemptions to such requirements not  
6       specifically authorized by this section.

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

9                       “(A) the form of the reports on actions to  
10                      reduce improper payments, recovery actions,  
11                      and governmentwide reporting; and

12                     “(B) strategies for addressing risks and  
13                      establishing appropriate prepayment and  
14                      postpayment internal controls.”.

15       (g) DETERMINATION OF AGENCY READINESS FOR  
16       OPINION ON INTERNAL CONTROL.—Not later than 1 year  
17       after the date of enactment of this Act, the Director of  
18       the Office of Management and Budget shall develop—

19               (1) specific criteria as to when an agency  
20               should initially be required to obtain an opinion on  
21               internal control over financial reporting; and

22               (2) criteria for an agency that has dem-  
23               onstrated a stabilized, effective system of internal  
24               control over financial reporting, whereby the agency  
25               would qualify for a multiyear cycle for obtaining an

1       audit opinion on internal control over financial re-  
2       porting, rather than an annual cycle.

3       (h) RECOVERY AUDITS.—

4             (1) DEFINITION.—In this subsection, the term  
5       “agency” has the meaning given under section 2(f)  
6       of the Improper Payments Information Act of 2002  
7       (31 U.S.C. 3321 note) as redesignated by this Act.

8             (2) IN GENERAL.—

9             (A) CONDUCT OF AUDITS.—Except as pro-  
10       vided under paragraph (4) and if not prohibited  
11       under any other provision of law, the head of  
12       each agency shall conduct recovery audits with  
13       respect to each program and activity of the  
14       agency that expends \$1,000,000 or more annu-  
15       ally if conducting such audits would be cost-ef-  
16       fective.

17            (B) PROCEDURES.—In conducting recovery  
18       audits under this subsection, the head of an  
19       agency—

20               (i) shall give priority to the most re-  
21       cent payments and to payments made in  
22       any program or programs identified as sus-  
23       ceptible to significant improper payments  
24       under section 2(a) of the Improper Pay-

1           ments Information Act of 2002 (31 U.S.C.  
2           3321 note);

3           (ii) shall implement this subsection in  
4           a manner designed to ensure the greatest  
5           financial benefit to the Government; and

6           (iii) may conduct recovery audits di-  
7           rectly, by procuring performance of recov-  
8           ery audits by contract (subject to the avail-  
9           ability of appropriations), or by any com-  
10          bination thereof.

11          (C) RECOVERY AUDIT CONTRACTS.—With  
12          respect to recovery audits procured by an agen-  
13          cy by contract—

14           (i) subject to subparagraph (B)(iii),  
15           the head of the agency may authorize the  
16           contractor to notify entities (including per-  
17           sons) of potential overpayments made to  
18           such entities, respond to questions con-  
19           cerning potential overpayments, and take  
20           other administrative actions with respect to  
21           overpayment claims made or to be made by  
22           the agency; and

23           (ii) such contractor shall have no au-  
24           thority to make final determinations relat-  
25           ing to whether any overpayment occurred

1           and whether to compromise, settle, or ter-  
2           minate overpayment claims.

3           (D) CONTRACT TERMS AND CONDITIONS.—

4           The agency shall include in each contract for  
5           procurement of performance of a recovery audit  
6           a requirement that the contractor shall—

7                   (i) provide to the agency periodic re-  
8                   ports on conditions giving rise to overpay-  
9                   ments identified by the contractor and any  
10                  recommendations on how to mitigate such  
11                  conditions; and

12                   (ii) notify the agency of any overpay-  
13                  ments identified by the contractor per-  
14                  taining to the agency or to any other agen-  
15                  cy or agencies that are beyond the scope of  
16                  the contract.

17           (E) AGENCY ACTION FOLLOWING NOTIFI-  
18           CATION.—An agency shall take prompt and ap-  
19           propriate action in response to a report or noti-  
20           fication by a contractor under subparagraph  
21           (D)(ii), to collect overpayments and shall for-  
22           ward to other agencies any information that ap-  
23           plies to such agencies.

24           (3) DISPOSITION OF AMOUNTS RECOVERED.—

1 (A) IN GENERAL.—Amounts collected by  
2 agencies each fiscal year through recovery au-  
3 dits conducted under this subsection shall be  
4 treated in accordance with this paragraph.

5 (B) USE FOR FINANCIAL MANAGEMENT IM-  
6 PROVEDMENT PROGRAM.—Not more than 25 per-  
7 cent of the amounts collected by an agency  
8 through recovery audits—

9 (i) shall be available, subject to appro-  
10 priation, to the head of the agency or the  
11 State or local government administering  
12 the program or activity to carry out the fi-  
13 nancial management improvement program  
14 of the agency under paragraph (4);

15 (ii) may be credited, if applicable, for  
16 that purpose by the head of an agency to  
17 any agency appropriations and funds that  
18 are available for obligation at the time of  
19 collection; and

20 (iii) shall be used to supplement and  
21 not supplant any other amounts available  
22 for that purpose and shall remain available  
23 until expended.

1 (C) USE FOR ORIGINAL PURPOSE.—Not  
2 more than 25 percent of the amounts collected  
3 by an agency—

4 (i) ~~shall be credited to the appropria-~~  
5 ~~tion or fund, if any, available for obligation~~  
6 ~~at the time of collection~~ *shall be deposited*  
7 *and available subject to appropriation* for  
8 the same general purposes as the appro-  
9 priation or fund from which the overpay-  
10 ment was made; and

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

14 (D) USE FOR INSPECTOR GENERAL AC-  
15 TIVITIES.—Not more than 5 percent of the  
16 amounts collected by an agency shall be avail-  
17 able, subject to appropriation, to the Inspector  
18 General of that agency for—

19 (i) the Inspector General to carry out  
20 this Act; or

21 (ii) any other activities of the Inspec-  
22 tor General relating to investigating im-  
23 proper payments or auditing internal con-  
24 trols associated with payments.

1 (E) DEPOSIT OF PROCEEDS.—Funds made  
2 available under subparagraphs (B) and (D) by  
3 appropriations shall be—

4 (i) deposited into the appropriate pro-  
5 gram integrity accounts of the agency or  
6 the State or local government admin-  
7 istering the program or activity; and

8 (ii) expended only as authorized in an-  
9 nual appropriations Acts.

10 (F) REMAINDER.—Amounts collected that  
11 are not applied in accordance with subpara-  
12 graphs (B), (C), or (D) or to meet obligations  
13 to recovery audit contractors shall be deposited  
14 in the Treasury as miscellaneous receipts.

15 (G) EXCEPTIONS RELATING TO ENTITLE-  
16 MENT AND TAX CREDIT PROGRAMS.—This  
17 paragraph shall not apply to amounts collected  
18 through recovery audits conducted under this  
19 subsection relating to—

20 (i) entitlement programs under section  
21 3(9) of the Congressional Budget and Im-  
22 poundment Control Act of 1974 (2 U.S.C.  
23 622(9)); or

24 (ii) tax credit programs under the In-  
25 ternal Revenue Code of 1986.

1           (4) FINANCIAL MANAGEMENT IMPROVEMENT  
2 PROGRAM.—

3           (A) REQUIREMENT.—The head of each  
4 agency shall conduct a financial management  
5 improvement program, consistent with rules  
6 prescribed by the Director of the Office of Man-  
7 agement and Budget.

8           (B) PROGRAM FEATURES.—In conducting  
9 the program, the head of the agency—

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

13           (ii) may seek to reduce errors and  
14 waste in other agency programs and oper-  
15 ations.

16           (5) OTHER RECOVERY AUDIT REQUIRE-  
17 MENTS.—

18           (A) IN GENERAL.—Subchapter VI of chap-  
19 ter 35 of title 31, United States Code, is re-  
20 pealed.

21           (B) TECHNICAL AND CONFORMING AMEND-  
22 MENTS.—

23           (i) TABLE OF SECTIONS.—The table  
24 of sections for chapter 35 of title 31,

1 United States Code, is amended by strik-  
2 ing the matter relating to subchapter VI.

3 (ii) DEFINITION.—Section 3501 of  
4 title 31, United States Code, is amended  
5 by striking “and subchapter VI of this  
6 title”.

7 (iii) HOMELAND SECURITY GRANTS.—  
8 Section 2022(a)(6) of the Homeland Secu-  
9 rity Act of 2002 (6 U.S.C. 612(a)(6)) is  
10 amended by striking “(as that term is de-  
11 fined by the Director of the Office of Man-  
12 agement and Budget under section 3561 of  
13 title 31, United States Code)” and insert-  
14 ing “under section 2(h) of the Improper  
15 Payments Elimination and Recovery Act of  
16 2009 (31 U.S.C. 3321 note)”.

17 (6) RULE OF CONSTRUCTION.—Except as pro-  
18 vided under paragraph (5), nothing in this section  
19 shall be construed as terminating or in any way lim-  
20 iting authorities that are otherwise available to agen-  
21 cies under existing provisions of law to recover im-  
22 proper payments and use recovered amounts.

23 (i) REPORT ON RECOVERY AUDITING.—Not later  
24 than 2 years after the date of the enactment of this Act,  
25 the Chief Financial Officers Council established under sec-

1 tion 302 of the Chief Financial Officers Act of 1990 (31  
2 U.S.C. 901 note), in consultation with the Council of In-  
3 spectors General on Integrity and Efficiency established  
4 under section 7 of the Inspector General Reform Act of  
5 2009 (Public Law 110–409) and recovery audit experts,  
6 shall conduct a study of—

7 (1) the implementation of subsection (h);

8 (2) the costs and benefits of agency recovery  
9 audit activities, including those under subsection (h),  
10 and including the effectiveness of using the services  
11 of—

12 (A) private contractors;

13 (B) agency employees;

14 (C) cross-servicing from other agencies; or

15 (D) any combination of the provision of  
16 services described under subparagraphs (A)  
17 through (C); and

18 (3) submit a report on the results of the study  
19 to—

20 (A) the Committee on Homeland Security  
21 and Governmental Affairs of the Senate;

22 (B) the Committee on Oversight and Gov-  
23 ernment Reform of the House of Representa-  
24 tives; and

25 (C) the Comptroller General.

1 **SEC. 3. COMPLIANCE.**

2 (a) DEFINITIONS.—In this section:

3 (1) AGENCY.—The term “agency” has the  
4 meaning given under section 2(f) of the Improper  
5 Payments Information Act of 2002 (31 U.S.C. 3321  
6 note) as redesignated by this Act.

7 (2) ANNUAL FINANCIAL STATEMENT.—The  
8 term “annual financial statement” means the annual  
9 financial statement required under section 3515 of  
10 title 31, United States Code, or similar provision of  
11 law.

12 (3) COMPLIANCE.—The term “compliance”  
13 means that the agency—

14 (A) has published an annual financial  
15 statement for the most recent fiscal year and  
16 posted that report and any accompanying mate-  
17 rials required under guidance of the Office of  
18 Management and Budget on the agency  
19 website;

20 (B) if required, has conducted a program  
21 specific risk assessment for each program or ac-  
22 tivity that conforms with section 2(a) the Im-  
23 proper Payments Information Act of 2002 (31  
24 U.S.C. 3321 note);

25 (C) if required, publishes improper pay-  
26 ments estimates for all programs and activities

1 identified under section 2(b) of the Improper  
2 Payments Information Act of 2002 (31 U.S.C.  
3 3321 note) in the accompanying materials to  
4 the annual financial statement;

5 (D) publishes programmatic corrective ac-  
6 tion plans prepared under section 2(c) of the  
7 Improper Payments Information Act of 2002  
8 (31 U.S.C. 3321 note) that the agency may  
9 have in the accompanying materials to the an-  
10 nual financial statement;

11 (E) publishes improper payments reduction  
12 targets established under section 2(c) of the  
13 Improper Payments Information Act of 2002  
14 (31 U.S.C. 3321 note) that the agency may  
15 have in the accompanying materials to the an-  
16 nual financial statement for each program as-  
17 sessed to be at risk, and is meeting such tar-  
18 gets; and

19 (F) has reported an improper payment  
20 rate of less than 10 percent for each program  
21 and activity for which an estimate was pub-  
22 lished under section 2(b) of the Improper Pay-  
23 ments Information Act of 2002 (31 U.S.C.  
24 3321 note).

1 (b) ANNUAL COMPLIANCE REPORT BY INSPECTORS  
2 GENERAL OF AGENCIES.—Each fiscal year, the Inspector  
3 General of each agency shall determine whether the agen-  
4 cy is in compliance and submit a report on that determina-  
5 tion to—

6 (1) the head of the agency;

7 (2) the Committee on Homeland Security and  
8 Governmental Affairs of the Senate;

9 (3) the Committee on Oversight and Govern-  
10 mental Reform of the House of Representatives; and

11 (4) the Comptroller General.

12 (c) REMEDIATION.—

13 (1) NONCOMPLIANCE.—

14 (A) IN GENERAL.—If an agency is deter-  
15 mined by the Inspector General of that agency  
16 not to be in compliance under subsection (b) in  
17 a fiscal year, the head of the agency shall sub-  
18 mit a plan to Congress describing the actions  
19 that the agency will take to come into compli-  
20 ance.

21 (B) PLAN.—The plan described under sub-  
22 paragraph (A) shall include—

23 (i) measurable milestones to be ac-  
24 complished in order to achieve compliance  
25 for each program or activity;

1           (ii) the designation of a senior agency  
2           official who shall be accountable for the  
3           progress of the agency in coming into com-  
4           pliance for each program or activity; and

5           (iii) the establishment of an account-  
6           ability mechanism, such as a performance  
7           agreement, with appropriate incentives and  
8           consequences tied to the success of the of-  
9           ficial designated under clause (ii) in lead-  
10          ing the efforts of the agency to come into  
11          compliance for each program and activity.

12          (2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

13           (A) IN GENERAL.—If an agency is deter-  
14           mined by the Inspector General of that agency  
15           not to be in compliance under subsection (b) for  
16           2 consecutive fiscal years for the same program  
17           or activity, and the Director of the Office of  
18           Management and Budget determines that addi-  
19           tional funding would help the agency come into  
20           compliance, the head of the agency shall obli-  
21           gate additional funding, in an amount deter-  
22           mined by the Director, to intensified compliance  
23           efforts.

24           (B) FUNDING.—In providing additional  
25           funding described under subparagraph (A), the

1 head of an agency shall use any reprogramming  
2 or transfer authority available to the agency. If  
3 after exercising that reprogramming or transfer  
4 authority additional funding is necessary to ob-  
5 ligate the full level of funding determined by  
6 the Director of the Office of Management and  
7 Budget under subparagraph (A), the agency  
8 shall submit a request to Congress for addi-  
9 tional reprogramming or transfer authority.

10 (3) REAUTHORIZATION PROPOSALS.—If an  
11 agency is determined by the Inspector General of  
12 that agency not to be in compliance under sub-  
13 section (b) for more than 3 consecutive fiscal years  
14 for the same program or activity, the head of the  
15 agency shall, not later than 30 days after such de-  
16 termination, submit to Congress—

17 (A) reauthorization proposals for each pro-  
18 gram or activity that has not been in compli-  
19 ance for 3 or more consecutive fiscal years; or

20 (B) proposed statutory changes necessary  
21 to bring the program or activity into compli-  
22 ance.

23 (d) COMPLIANCE ENFORCEMENT PILOT PRO-  
24 GRAMS.—

1           (1) IN GENERAL.—The Director of the Office of  
2           Management and Budget may establish 1 or more  
3           pilot programs which shall test potential account-  
4           ability mechanisms with appropriate incentives and  
5           consequences tied to success in ensuring compliance  
6           with this Act and eliminating improper payments.

7           (2) REPORT.—Not later than 5 years after the  
8           date of enactment of this Act, the Director of the  
9           Office of Management and Budget shall submit a re-  
10          port to Congress on the findings associated with any  
11          pilot programs conducted under paragraph (1). The  
12          report shall include any legislative or other rec-  
13          ommendations that the Director determines nec-  
14          essary.

15          (e) REPORT ON CHIEF FINANCIAL OFFICERS ACT OF  
16          1990.—Not later than 1 year after the date of the enact-  
17          ment of this Act, the Chief Financial Officers Council es-  
18          tablished under section 302 of the Chief Financial Officers  
19          Act of 1990 (31 U.S.C. 901 note) and the Council of In-  
20          spectors General on Integrity and Efficiency established  
21          under section 7 of the Inspector General Reform Act of  
22          2009 (Public Law 110–409), in consultation with a broad  
23          cross-section of experts and stakeholders in Government  
24          accounting and financial management shall—

1           (1) jointly examine the lessons learned during  
2 the first 20 years of implementing the Chief Finan-  
3 cial Officers Act of 1990 (31 U.S.C. 901) and iden-  
4 tify any reforms or improvements to the legislative  
5 and regulatory compliance framework for Federal fi-  
6 nancial management that will optimize Federal  
7 agency efforts to—

8                   (A) publish relevant, timely, and reliable  
9 reports on Government finances; and

10                   (B) implement internal controls that miti-  
11 gate the risk for fraud, waste, and error in Gov-  
12 ernment programs; and

13           (2) submit a report on the results of the exam-  
14 ination to—

15                   (A) the Committee on Homeland Security  
16 and Governmental Affairs of the Senate;

17                   (B) the Committee on Oversight and Gov-  
18 ernment Reform of the House of Representa-  
19 tives; and

20                   (C) the Comptroller General.



**Calendar No. 430**

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1508**

---

---

**A BILL**

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

---

---

JUNE 15, 2010

Reported with an amendment