To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2015

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

A BILL

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, 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 “Stopping Improper
5 Payments to Deceased People Act”.

S. 1073
SEC. 2. DISTRIBUTION OF DEATH INFORMATION FURNISHED TO OR MAINTAINED BY THE SOCIAL SECURITY ADMINISTRATION.

(a) In general.—

(1) In general.—Section 205(r) of the Social Security Act (42 U.S.C. 405(r)) is amended—

(A) in paragraph (2)—

(i) by striking “may” and inserting “shall”; and

(ii) by inserting “, and to ensure the completeness, timeliness, and accuracy of,” after “transmitting”; 

(B) by striking paragraphs (3), (4), and (5) and inserting the following:

“(3)(A) The Commissioner of Social Security shall, to the extent feasible, provide for the use of information regarding all deceased individuals furnished to or maintained by the Commissioner under this subsection in accordance with subparagraph (B), subject to such safeguards as the Commissioner of Social Security determines are necessary or appropriate to protect the information from unauthorized use or disclosure, by any Federal or State agency providing federally funded benefits or administering a Federal program for such benefits, including the agency operating the Do Not Pay working system for ensuring proper payment of those benefits, through a cooper-
ative arrangement with the agency (that includes the
agency’s Inspector General) or with an agency’s Inspector
General, if—

“(i) under such arrangement the agency (in-
cluding, if applicable, the agency’s Inspector Gen-
eral) provides reimbursement to the Commissioner of
Social Security for the reasonable cost of carrying
out such arrangement, including the reasonable
costs associated with the collection and maintenance
of information regarding deceased individuals fur-
nished to the Commissioner pursuant to paragraph
(1), and

“(ii) such arrangement does not conflict with
the duties of the Commissioner of Social Security
under paragraph (1).

“(B) The Commissioner of Social Security shall, to
the extent feasible, provide for the use of information re-
garding all deceased individuals furnished to or main-
tained by the Commissioner under this subsection,
through a cooperative arrangement in order for a Federal
agency to carry out any of the following purposes, if the
requirements of clauses (i) and (ii) of subparagraph (A)
are met:

“(i) Operating the Do Not Pay working system
established by section 5 of the Improper Payments
Elimination and Recovery Improvement Act of 2012.

Under such arrangement, the agency operating the working system may compare death information disclosed by the Commissioner with personally identifiable information reviewed through the working system, and may redisclose such comparison of information, as appropriate, to any Federal or State agency authorized to use the working system.

“(ii) To ensure proper payments under a Federal program or the proper payment of federally funded benefits, including for purposes of payment certification, payment disbursement, and the prevention, identification, or recoupment of improper payments.

“(iii) To carry out tax administration or debt collection duties of the agency.

“(iv) For use by any policing agency of the Federal Government with the principle function of prevention, detection, or investigation of crime or the apprehension of alleged offenders.

“(4) The Commissioner of Social Security may enter into similar arrangements with States to provide information regarding all deceased individuals furnished to or maintained by the Commissioner under this subsection, for any of the purposes specified in paragraph (3)(B), for
use by States in programs wholly funded by the States, or for use in the administration of a benefit pension plan or retirement system for employees of a State or a political subdivision thereof, if the requirements of clauses (i) and (ii) of paragraph (3)(A) are met. For purposes of this paragraph, the terms ‘retirement system’ and ‘political subdivision’ have the meanings given such terms in section 218(b).

“(5) The Commissioner of Social Security may use or provide for the use of information regarding all deceased individuals furnished to or maintained by the Commissioner under this subsection, subject to such safeguards as the Commissioner of Social Security determines are necessary or appropriate to protect the information from unauthorized use or disclosure, for statistical purposes and research activities by Federal and State agencies if the requirements of clauses (i) and (ii) of paragraph (3)(A) are met. For purposes of this paragraph, the term ‘statistical purposes’ has the meaning given that term in section 502 of the Confidential Information Protection and Statistical Efficiency Act of 2002.”; and

(C) in paragraph (8)(A)(i), by striking “subparagraphs (A) and (B) of paragraph (3)” and inserting “clauses (i) and (ii) of paragraph (3)(A)”. 
(2) REPEAL.—Effective on the date that is 5 years after the date of enactment of this Act, the amendments made by this subsection to paragraphs (3), (4), (5), and (8) of section 205(r) of the Social Security Act (42 U.S.C. 405(r)) are repealed, and the provisions of section 205(r) of the Social Security Act (42 U.S.C. 605(r)) so amended are restored and revived as if such amendments had not been enacted.

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6103(d)(4) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraphs (A) and (B), by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”; and

(2) in subparagraph (B)(ii), by striking “such Secretary” and all that follows through “deceased individuals.” and inserting “such Commissioner pursuant to such contract, except that such contract may provide that such information is only to be used by the Social Security Administration (or any other Federal agency) for purposes authorized in the Social Security Act or this title.”.
(c) Report to Congress on Alternative Sources of Death Data.—

(1) Requirements.—The Director of the Office of Management and Budget shall conduct a review of potential alternative sources of death data maintained by the non-Federal sources, including sources maintained by State agencies or associations of State agencies, for use by Federal agencies and programs. The review shall include analyses of—

(A) the accuracy and completeness of such data;

(B) interoperability of such data;

(C) the extent to which there is efficient accessibility of such data by Federal agencies;

(D) the cost to Federal agencies of accessing and maintaining such data;

(E) the security of such data;

(F) the reliability of such data; and

(G) a comparison of the potential alternate sources of death data to the death data distributed by the Commissioner of Social Security.

(2) Report.—Not later than 4 years after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to Congress on the results of the review and
analyses required under paragraph (1). The report shall include a recommendation by the Director of the Office of Management and Budget regarding whether to extend the agency access to death data distributed by the Commissioner of Social Security provided under the amendments made by subsection (a)(1) beyond the date on which such amendments are to be repealed under subsection (a)(2).

SEC. 3. IMPROVING THE USE OF DATA BY GOVERNMENT AGENCIES TO CURB IMPROPER PAYMENTS.

The Improper Payments Elimination and Recovery Improvement Act of 2012 (31 U.S.C. 3321 note) is amended by adding at the end the following:

“SEC. 7. IMPROVING THE USE OF DEATH DATA BY GOVERNMENT AGENCIES.

“(a) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—

“(1) GUIDANCE TO AGENCIES.—Not later than 6 months after the date of enactment of this section, and in consultation with the Council of Inspectors General on Integrity and Efficiency and the heads of other relevant Federal, State, and local agencies, and Indian tribes and tribal organizations, the Director of the Office of Management and Budget shall issue guidance for each agency or component
of an agency that operates or maintains a database of information relating to beneficiaries, annuity recip-
cipients, or any purpose described in section 205(r)(3)(B) of the Social Security Act (42 U.S.C. 405(r)(3)(B)) for which improved data matching with databases relating to the death of an individual (in this section referred to as ‘death databases’) would be relevant and necessary regarding imple-
mentation of this section to provide such agencies or components access to the death databases no later than 6 months after such date of enactment.

“(2) Plan to assist states and local agencies and Indian tribes and tribal organi-
zations.—Not later than 1 year after the date of enactment of this section, the Director of the Office of Management and Budget shall develop a plan to assist States and local agencies, and Indian tribes and tribal organizations, in providing electronically to the Federal Government records relating to the death of individuals, which may include rec-
ommendations to Congress for any statutory changes or financial assistance to States and local agencies and Indian tribes and tribal organizations that are necessary to ensure States and local agen-
cies and Indian tribes and tribal organizations can
provide such records electronically. The plan may in-
clude recommendations for the authorization of ap-
propriations or other funding to carry out the plan.

“(b) Reports.—

“(1) Report to congress on improving
data matching regarding payments to de-
ceased individuals.—Not later than 270 days
after the date of enactment of this section, the Di-
rector of the Office of Management and Budget, in
consultation with the heads of other relevant Federal
agencies, and in consultation with States and local
agencies, Indian tribes and tribal organizations, shall
submit to Congress a plan to improve how States
and local agencies and Indian tribes and tribal orga-
nizations that provide benefits under a federally
funded program will improve data matching with the
Federal Government with respect to the death of in-
dividuals who are recipients of such benefits.

“(2) Annual report.—Not later than 1 year
after the date of enactment of this section, and for
each of the 4 succeeding years, the Director of the
Office of Management and Budget shall submit to
Congress a report regarding the implementation of
this section. The first report submitted under this
paragraph shall include the recommendations of the
Director required under subsection (a)(2).

“(c) DEFINITIONS.—In this section, the terms ‘Indian tribe’ and ‘tribal organization’ have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).”.

SEC. 4. PLAN FOR ENSURING THE ACCURACY AND COMPLETENESS OF DEATH DATA MAINTAINED AND DISTRIBUTED BY THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner of Social Security shall submit to Congress a plan, which shall include the elements described in subsection (b), to ensure the accuracy and completeness of the death data (including data regarding individuals who are not eligible for or receiving benefits under titles II or XVI of the Social Security Act) maintained and distributed by the Social Security Administration.

(b) CONTENT OF PLAN.—The plan required under subsection (a) shall include the following elements:

(1) A procedure for identifying extremely elderly individuals who are still alive according to the
records of the Social Security Administration and verifying the accuracy of this information.

(2) Improved policies and procedures for identifying and correcting erroneous records, including policies and procedures for—

(A) identifying individuals listed as dead who are actually alive;

(B) indentifying individuals listed as alive who are actually dead; and

(C) allowing individuals or survivors of deceased individuals to notify the Social Security Administration of potential errors.

(3) Improved policies and procedures to identify and correct errors in the records of the Numerical Identification System, and death data.

(4) A process for employing statistical analysis of the death data maintained and distributed by the Social Security Administration to determine an estimate of the number of erroneous records.

(5) Recommendations for legislation.

(c) IMPLEMENTATION OF PLAN.—Not later than 2 years after the date of enactment of this Act, the Commissioner of Social Security shall implement the plan required under subsection (a).