

Calendar No. 260

113TH CONGRESS }
1st Session }

SENATE

{ REPORT
113-124 }

IMPROPER PAYMENTS AGENCY
COOPERATION ENHANCEMENT ACT OF 2013

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1360

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



DECEMBER 12 (legislative day, DECEMBER 11), 2013.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

39-010

WASHINGTON : 2013

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

THOMAS R. CARPER, Delaware *Chairman*

CARL LEVIN, Michigan	TOM COBURN, Oklahoma
MARK L. PRYOR, Arkansas	JOHN McCAIN, Arizona
MARY L. LANDRIEU, Louisiana	RON JOHNSON, Wisconsin
CLAIRE McCASKILL, Missouri	ROB PORTMAN, Ohio
JON TESTER, Montana	RAND PAUL, Kentucky
MARK BEGICH, Alaska	MICHAEL B. ENZI, Wyoming
TAMMY BALDWIN, Wisconsin	KELLY AYOTTE, New Hampshire
HEIDI HEITKAMP, North Dakota	

RICHARD J. KESSLER, *Staff Director*

JOHN P. KILVINGTON, *Deputy Staff Director*

BETH M. GROSSMAN, *Chief Counsel*

PETER P. TYLER, *Senior Professional Staff Member*

KEITH B. ASHDOWN, *Minority Staff Director*

CHRISTOPHER J. BARKLEY, *Minority Deputy Staff Director*

ANDREW C. DOCKHAM, *Minority Chief Counsel*

PATRICK J. BAILEY, *Minority Counsel*

LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 260

113TH CONGRESS }
1st Session }

SENATE

{ REPORT
113-124

IMPROPER PAYMENTS AGENCY COOPERATION
ENHANCEMENT ACT OF 2013

DECEMBER 12 (legislative day, DECEMBER 11), 2013.—Ordered to be printed

Mr. CARPER, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1360]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1360) 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, having considered the same, reports favorably thereon and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	8
IV. Section-by-Section Analysis	8
V. Evaluation of Regulatory Impact	10
VI. Congressional Budget Office Estimate	11
VII. Changes in Existing Law Made by the Bill, as Reported	12

I. PURPOSE AND SUMMARY

S. 1360 seeks to reduce the inadvertent and improper payment of federal benefits to deceased individuals. It does so by (1) directing the Social Security Administration (SSA) to share its most complete database of deceased individuals with other federal agencies, (2) improving the accuracy of the death data the federal government collects, and (3) improving the sharing of best practices among government agencies to better identify, prevent and recover improper payments to dead people. In addition, S. 1360 requires

improvements to the data analytics operations of the Do Not Pay Initiative for the purposes of curbing improper payments, and provides federal agencies and their inspectors general with access to the Postal Service's database of mail delivery addresses, to better allow identification of individuals or businesses whose lack of a physical address prohibits them from billing for federal services.

II. BACKGROUND AND NEED FOR THE LEGISLATION

This Committee has long been concerned with the federal government's persistent improper payment problem—that is, executive branch agencies' too common mistake of sending money to people or companies, whether for benefits or under contracts, either in an incorrect amount or when no money should be paid to the recipient at all. Improper payments include remittances to ineligible recipients, duplicate payments, payments for a good or service not received, and payments that do not reflect credits for applicable discounts.¹ Improper payments by federal agencies impose a significant cost on taxpayers; the Treasury loses literally billions of dollars annually to overpayments, including, at times, fraudulent payments to government contractors, program beneficiaries, and others. For fiscal year 2012, for example, federal agencies reported an estimated total of \$108 billion in improper payments, a decrease from the \$116 billion reported for the prior fiscal year, but still a staggering amount.²

A. PREVIOUS LEGISLATION AND ADMINISTRATIVE ACTIONS

For over a decade, a series of important laws and administrative actions have attempted to identify, prevent, and recover improper payments.³

Improper Payments Information Act of 2002 (IPIA). Agencies began to deal comprehensively with improper payments following the enactment of IPIA, which required each agency subject to the requirements of the Chief Financial Officers Act of 1990⁴ to annually review all programs and activities that it administers, identify those that may be susceptible to significant improper payments, develop improper payments estimates for those programs deemed susceptible, and report the estimates annually.⁵

Improper Payments Elimination and Recovery Act of 2010 (IPERA). In July 2010, Congress passed, and the President signed, IPERA to enhance the reporting and reduction of improper payments.⁶ IPERA amended IPIA by expanding on the previous requirements for identifying, estimating, and reporting on programs and activities susceptible to significant improper payments and expanding requirements for recovering overpayments across a broad range of federal programs. IPERA:

¹ Congressional Research Service (CRS), *Improper Payments and Recovery Audits: Legislation, Implementation, and Analysis*, R42878 (January 2, 2013), p. 1.

² Pursuant to an executive order, the Secretary of the Treasury in consultation with the Attorney General and the Office of Management and Budget (OMB) maintains a website on improper payments reporting at <http://www.paymentaccuracy.gov/>.

³ CRS, *Improper Payments and Recovery Audits: Legislation, Implementation, and Analysis*, R42878, (January 2, 2013), p. 1.

⁴ The list of the 24 agencies covered by this mandate is found at 31 U.S.C.A. § 901(b)(1)(2004).

⁵ *Pub. L.No. 107-300, 116 Stat. 2350, (31 U.S.C.A. § 3321 note)(2002)*.

⁶ *Pub. L. No. 111-204, 124 Stat. 2224 (2010)*.

- Added a requirement that any program with estimated improper payments exceeding specific dollar amounts and error rate thresholds set out in the law must report on the actions the agency is taking to reduce improper payments.
- Imposed a new requirement for agencies to conduct audits to recover improper payments, where cost effective, for each program and activity with at least \$1 million in annual program outlays.
- Established incentives and budgetary penalties for programs that fail to comply with the requirements of the law over a reasonable number of years.
- Required each federal agency's inspector general to determine annually whether his or her agency is in compliance with certain IPERA requirements and to report on that determination.

Do Not Pay List. In June 2010, the Administration established a Do Not Pay List via a White House memorandum.⁷ The memorandum requires agencies to prevent payment errors before they occur by directing them to check the Do Not Pay List before making any payments or grants. Housed within the Department of the Treasury, the Do Not Pay List was established to allow single-stop screening against the following databases:

- The Social Security Administration's (SSA) *Death Master File* (DMF), which lists all deaths reported to the agency since 1936;
- The General Services Administration's *Excluded Parties List System*, which lists entities debarred from receiving federal contracts;
- The Department of the Treasury's *Debt Check Database*, which contains information on individuals who owe delinquent child support or non-tax debt that might exclude them from certain federal loans, loan insurance, or loan guarantees;
- The Department of Housing and Urban Development's (HUD) *Credit Alert Verification Reporting System*, which provides information on individuals who are in default or have had claims paid on direct or guaranteed federal loans, or are delinquent on other debts owed to federal agencies; and
- The Department of Health and Human Services' Office of Inspector General's (HHS-OIG) *List of Excluded Individuals/Entities*, which identifies those barred from federally-funded health care programs.

The memorandum requires that agencies access these databases through a single federal government electronic portal.

IPERA Improvement Act of 2012 (the "Improvement Act"). This law went beyond IPERA's goals for curbing agencies' improper payments.⁸ Specifically, the Improvement Act:

- Expanded requirements for agencies to estimate improper payments, forcing agencies to improve previously weak efforts at estimating such payments. For example, the Act prevents agencies from relying only on voluntary disclosure of improper payments by contractors and requires agencies to produce documentation to prove a payment was correct.

⁷ See *Memorandum on Enhancing Payment Accuracy Through a "Do Not Pay List,"* <http://www.whitehouse.gov/the-press-office/presidential-memorandum-enhancing-payment-accuracy-through-a-do-not-pay-list>.

⁸ Pub. L. No. 112-248, 126 Stat. 2390 (31 U.S.C.A. § 3321 note)(2013).

- Established in statute the government-wide Do Not Pay program (previously established through White House memorandum as described above) that requires agencies to check against a central, comprehensive database of entities ineligible to receive federal funds before making payments, including the SSA's DMF and the other databases specified in the 2010 White House memorandum. The law also addressed some of the challenges encountered by the Administration as it attempted to implement its Do Not Pay program, such as the need for multilateral data sharing agreements among agencies.
- Required that the Office of Management and Budget (OMB), within 120 days of enactment, issue a plan for curbing improper payments to deceased individuals.

B. IMPEDIMENTS TO AGENCY ACCESS TO THE MOST COMPLETE VERSION OF THE DEATH DATA

Most federal agencies do not have access to the most complete death records maintained by the SSA. The most complete version is provided to only a limited number of agencies due to statutory limits and a lack of interagency agreements between the requesting agency and SSA for sharing the death data.

The SSA receives death reports from family members, funeral homes, states, other federal agencies, postal authorities, and financial institutions. SSA records a person's death in the DMF if it can match that person's name and Social Security number to its records. The Social Security Act requires SSA to share death information, including data reported by the states, with federal agencies to ensure proper payment of benefits to individuals.⁹

However, that same provision of the Social Security Act prohibits SSA from sharing state-reported death information for any other non-beneficiary purposes.¹⁰ As a result, SSA maintains a shorter public list, available for purchase from the Commerce Department's National Technical Information Service, which excludes state-reported deaths—about 25 percent of SSA's total records.

Based on congressional testimony,¹¹ the Committee believes that barring all non-beneficiary agencies from accessing the most complete death data is antiquated, and that the law must therefore be updated. Procedures would be in place to ensure security and privacy of the data by non-beneficiary paying agencies (the same required for beneficiary paying agencies).

Unfortunately, even many benefit-paying federal agencies do not have access to the more comprehensive DMF.¹² This is largely because establishing a cooperative agreement with SSA—a prerequisite under the statute—is a time-consuming process often taking years and can be a low priority for SSA and other agencies. Examples of benefit-paying federal agencies that currently do not have access to the complete DMF include: (1) Department of Home-

⁹ 42 U.S.C.A. § 405(r)(2010)

¹⁰ 42 U.S.C.A. § 405(r)(6)(2010).

¹¹ "Curbing Federal Agency Waste and Fraud: New Steps to Strengthen the Integrity of Federal Payments;" Hearing Before the Committee on Homeland Security and Governmental Affairs, 113th Cong. (2013) <http://www.hsgac.senate.gov/hearings/curbing-federal-agency-waste-and-fraud-new-steps-to-strengthen-the-integrity-of-federal-payments>.

¹² To eliminate any confusion about the version that should be available to federal agencies, Section 7(b) of S. 1360 changes the name of the Death Master File to the National Death Registry (the "Registry").

land Security (2) Department of Agriculture (3) Department of Labor (4) Federal Black Lung Benefits Program (5) Federal Retirement Thrift Investment Board (6) Department of the Treasury and (7) Pension Benefit Guaranty Corporation.

Even if these benefit-paying federal agencies received access to the more comprehensive list, many other agencies that make non-benefit payments—and even programs within benefit-paying federal agencies that do not themselves make benefit payments—still would not have the ability to ensure that they were not making payments to deceased individuals. And their Inspectors General, whose audit work is so critical to ensuring the efficient function of federal programs, also would continue to have access only to the less complete list. Some examples of non-beneficiary agencies that are denied access to the complete DMF include: (1) Department of Justice (2) Department of State (3) Drug Enforcement Administration (4) Federal Bureau of Investigation (5) General Services Administration and (6) Centers for Disease Control.

While all payment-making agencies are allowed access to the Do Not Pay Initiative to screen payments, SSA has provided the Treasury Department with access only to its less comprehensive death list for use in the Do Not Pay initiative. This means that a critical screening mechanism established by the IPERA Improvement Act to screen federal payments for improper payments omits a significant number of individuals that SSA knows have died.

Denying access of the most complete death data to many federal agencies is significant and consequential to the level of federal improper payments. Federal agencies have in recent years remitted a large amount of money either to dead beneficiaries, or for payments for services for deceased individuals:

- A total of \$601 million in improper payments were made from 2006 through 2010 to federal retirees found to have already died.¹³
- More than \$1 billion in farm program payments were made to farmers who were dead for more than three years.¹⁴
- Medicare prescription drug plans were paid approximately \$3.6 million for drugs provided to 1,500 dead beneficiaries.¹⁵
- Medicare did not identify or recover an estimated \$8.2 million in overpayments for claims with dates of service after the beneficiaries' deaths.¹⁶
- New Mexico paid claims for 11 deceased Medicaid beneficiaries who died in other states and therefore were not included in the death data maintained by New Mexico Bureau of Vital Records, a situation not unique to New Mexico.¹⁷

¹³ Office of Personnel Management Office of Inspector General (OPM-OIG), *Stopping Improper Payment to Deceased Annuitants* (September 14, 2011), p. ii. <http://www.opm.gov/our-inspector-general/legal-and-legislative-affairs/stopping-improper-payments-to-deceased-annuitants.pdf>.

¹⁴ GAO, *Federal Farm Programs: USDA Needs to Strengthen Management Controls to Prevent Improper Payments to Estates and Deceased Individuals*, GAO-07-1137T (July 24, 2007), p. 2. A recent report found that payments to dead individuals continue to be a problem at the Department of Agriculture. See *Farm Programs: USDA Needs to Do More to Prevent Improper Payments to Deceased Individuals*, GAO-13-503 (June 28, 2013).

¹⁵ Health and Human Services Office of Inspector General (HHS-OIG), *Review of Medicare Payments to Prescription Drug Plans on Behalf of Deceased Enrollees*, A-05-09-00027 (May 17, 2011), p. i.

¹⁶ HHS-OIG, *Review of Medicare Parts A and B Services Billed with Dates of Services After Beneficiaries' Deaths*, A-01-09-00519 (September 2010), p. i.

¹⁷ HHS-OIG, *Review of Medicaid Payments for Deceased Recipients in New Mexico*, A-06-10-00093 (March 31, 2011), p. i.

- Public housing agencies paid an estimated \$7 million in federal rental assistance to deceased tenants in single-member households, even after receiving a 2008 memo from HUD to take corrective actions.¹⁸

C. IMPROVING ACCURACY OF THE DEATH DATA

In addition to SSA offering incomplete access to benefit-paying federal agencies, the DMF, as currently administered, faces additional shortcomings. Indications of these shortcomings include:

- In 2013, the Government Accountability Office (GAO) reported its analysis showing 130 records where the date of death was recorded to occur before the date of birth, and 1,295 records where the recorded age at death was between 111 and 129;¹⁹ and
- In July 2012, the Social Security Administration Office of Inspector General (SSA-OIG) reported that approximately 1.2 million deceased beneficiaries were not captured on the DMF because SSA was unable to match the beneficiaries' personally identifiable information in its records.²⁰

The SSA Inspector General and GAO made recommendations to improve the accuracy of the DMF, both the complete database available to some agencies, and the less complete public DMF. These steps include more frequent analysis of the existing data and improved procedures for correction.²¹

D. ADDITIONAL OPPORTUNITIES TO CURB FEDERAL IMPROPER PAYMENTS

Agencies can take actions to curb improper payments beyond those involving deceased individuals.

Since passage of the IPERA Improvement Act, the Department of Treasury established operations of the Do Not Pay Initiative. This Initiative includes the creation of a center within the Treasury Department that will analyze payment data in order to identify payments that are improper or potentially fraudulent. This analysis would involve payments across a wide-range of federal agencies and programs. However, the roles and responsibilities of this analysis center have not yet been determined. For example, the center's interaction with similar efforts by federal agency inspectors general is not yet defined, and there is no timetable for the continuing development of the center.

A common challenge for improving the detection of improper payments is access to databases helpful for identifying the validity of payment recipients under program rules. A common need is to verify business or home addresses. The U.S. Postal Service main-

¹⁸Housing and Urban Development Office of Inspector General (HUD-OIG), *HUD Did Not Maintain Documentation to Determine if Public Housing Agencies Took Corrective Action on its January 7, 2008 Memorandum and Public Housing Agencies Paid an Estimated \$7 million for Deceased Tenants, 2010-FW-0001* (November 10, 2009), p. 1.

¹⁹GAO, *Social Security Administration: Preliminary Observations on the Death Master File, GAO-13-574T* (May 8, 2013), p. 5.

²⁰SSA-OIG, *Title II Deceased Beneficiaries Who Do Not Have Death Information in the Numident, A-09-11-21171* (July 2012), p. 2.

²¹GAO, *Social Security Administration: Preliminary Observations on the Death Master File, GAO-13-574T* (May 8, 2013); GAO, *Social Security Death Data: Additional Action Needed to Address Data Errors and Federal Agency Access, GAO-14-46* (November 2013); and SSA Inspector General, Hearing Statement for the Record before the Senate Homeland Security and Governmental Affairs Committee, *Curbing Federal Agency Waste and: New Steps to Strengthen the Integrity of Federal Payments* (May 8, 2013).

tains a list of mail delivery addresses, including the lists of known locations of commercial mailboxes and unoccupied buildings. This database is helpful for purposes of curbing improper payments when a valid address is necessary, and the lack of a valid address is an indicator of potential fraud. However, most agencies and inspectors general do not yet have access to this database.

E. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE
OVERSIGHT HEARING

On May 8, 2013, the Committee held a hearing to examine the implementation of IPERA and the IPERA Improvement Act, and to explore potential next steps for similar initiatives, such as improving the sharing and accuracy of data to prevent improper payments to dead people. At the hearing, The Honorable Daniel I. Werfel, Controller, OMB's Office of Federal Financial Management, highlighted federal efforts to prevent improper payments. Both his testimony and that of Richard L. Gregg, Fiscal Assistant Secretary at the Department of the Treasury, also provided an update on the progress made in implementing the Do Not Pay initiative, acknowledging that there was much to be done to ensure that the initiative provided a comprehensive solution to payment integrity. The Honorable Patrick P. O'Carroll, Jr., SSA Inspector General and Daniel Bertoni, a GAO Director for Education, Welfare, and Income Security highlighted continuing weaknesses in the DMF. Finally, Marianna LaCanfora, the SSA Acting Deputy Commissioner for Retirement and Disability Policy, discussed administration proposals to make the DMF more widely available to federal agencies for purposes of combatting fraud and curbing improper payments. The proposals would require legislative action.

S. 1360 reflects lessons learned through the June 2013 hearing, as well as the Committee's other ongoing oversight of federal agency improper payments.

F. SUMMARY OF NEEDS FOR IMPROVEMENTS

S. 1360, the Improper Payments Agency Cooperation Enhancement Act, provides federal agencies, and states that manage federal programs, with much greater access to the complete DMF in order to curb improper payments to deceased individuals, as well as for other needs such as public safety and health. The Act also improves the accuracy of the DMF by establishing requirements for correcting any errors detected and by establishing procedures for sharing the instances of death among federal agencies. The Act convenes a short-term task force to ensure that federal agencies managing retirement programs share best practices for identifying deceased recipients. Also, the Act requires the Treasury Department to submit a report to Congress describing how the Do Not Pay data analysis center will operate. Finally, the Act requires the Postal Service to provide federal agencies and inspectors general with access to its database of mail delivery addresses, which can help to curb payments to fraudulent business that use invalid addresses.

III. LEGISLATIVE HISTORY

Senators Carper, Coburn, Ayotte, Johnson, McCaskill, and Tester introduced S. 1360 on July 24, 2013, and the bill was referred to the Committee.

The Committee considered S. 1360 at a business meeting on July 31, 2013. The Committee adopted the bill by voice vote. Members present for the vote on the bill were Senators Carper, Levin, McCaskill, Tester, Begich, Baldwin, Coburn, Johnson, Ayotte, and Chiesa.

IV. SECTION-BY-SECTION ANALYSIS

Section 1—Short title

This section establishes the Act's title as the "Improper Payments Agency Cooperation Enhancement Act of 2013."

Section 2—Improving the sharing and use of death data by government agencies to curb improper payments

This section amends the *IPERA Improvement Act* by adding to it a new Section 7, which establishes new requirements regarding improper payments.

Subsection (a) defines key terms used in the Act.

Subsection (b) requires the SSA Commissioner to establish and maintain a National Deaths Registry (the National Deaths Registry is the new name the bill gives to the existing Death Master File currently maintained by SSA).

Subsection (c) requires the Commissioner to enter into cooperative agreements with federal agencies, under which the agencies and their inspectors general may receive information in the Registry (in full and without limitation). The agreements will require agencies to reimburse SSA for the reasonable cost of providing such information. The agencies may receive the Registry information for the following purposes: (i) making authorized payments or to prevent, identify, or recover improper payments; (ii) curbing improper payments of federal retirement annuities to deceased individuals; (iii) verifying information obtained as part of the decennial census; and (iv) facilitating other agency functions, including public health or safety, law enforcement, tax administration, health administration, and debt collection. Subsection (c) also requires the SSA Commissioner, to the extent feasible, to enter into cooperative agreements with states and local and tribal governments to provide, on a reimbursable basis, information in the Registry for purposes of making federally funded payments, avoiding federally funded improper payments, and for making payments wholly funded by state or local or tribal governments. The Commissioner may withhold information in the Registry if he determines that there are exceptional circumstances, such as safety of the individual or interference with an investigation. Information provided from the Registry shall be considered strictly confidential and only used for purposes described therein.

Subsection (d) establishes Registry requirements. It requires the SSA Commissioner to implement procedures for identifying and correcting errors in the Registry identified by federal agencies, states and local and tribal governments, and members of the public. These procedures shall include a process for determining the

accuracy of death records in the Registry through the use of a statistical sample. The Commissioner shall ensure that the Registry is operated and maintained in accordance with protocols that ensure the secure transfer and storage of information. The Commissioner shall also make information in the Registry available to a contractor of any agency, state, or local or tribal government for purposes described in the Act if the agency, state or local or tribal government certifies that the contractor is in compliance with the Act's privacy and security requirements.

Subsection (e) requires the Director of OMB to identify each agency that maintains a beneficiary database that would benefit from improved data matching with the Registry. The head of each such agency shall establish a data matching procedure and, within one year of the enactment of this Act, a process to promptly inform the Commissioner of the death of a federal beneficiary or annuitant. Establishing such a data matching procedure shall not diminish the requirement for the OMB Director to convene a task force to improve the sharing of information related to the death of an individual receiving a federal retirement annuity.

Subsection (f) requires the OMB Director to (1) issue implementation guidance within six months of the date of enactment, after consulting with the Council of Inspectors General on Integrity and Efficiency, the SSA Commissioner, and the heads of other relevant agencies; (2) provide guidance to states and local and tribal governments on accessing and using the Registry; (3) develop a plan to assist states and local and tribal governments in order to enable them to electronically submit death records to the SSA Commissioner no later than January 1, 2015, including recommendations for statutory changes or financial assistance necessary to facilitate such electronic submissions.

Subsection (g) requires the OMB Director to (1) consult with relevant parties and to submit a plan within 270 days of enactment describing how states and local governments that provide benefits under a federally funded program will improve data matching with the Registry and (2) report annually on the implementation of this Act within one year of enactment and for three additional years.

Subsection (h) requires the SSA Commissioner to include in the Registry information regarding death information received from a state, or any other source, and to provide such information as authorized by the Act to any agency and inspector general, thereby overriding current statutory restrictions on such sharing. The Commissioner may use any information in the Registry for any purpose authorized under the Social Security Act (42 U.S.C. § 401 et seq.) regardless of whether the information was provided to the Commissioner under the authority of this Act or the Social Security Act.

Section 2 of the Act also makes a technical correction to Section 2(g)(3) of IPIA of 2002 (31 U.S.C. § 3321 note) to ensure that the definition of improper payments does not inadvertently omit any group of potential recipients. Specifically, this provision clarifies that improper payments encompasses improper payments not only to any non-federal person or entity and to federal employees but also to "any other individual in federal service," which includes elected officials and uniformed personnel as well.

Section 3. Enhancement of prepayment and pre-award procedures

This section amends Section 5(a)(2) of the IPERA Improvement Act of 2012 (31 U.S.C. § 3321 note) by adding subparagraph (F), which states “The registry of people who are deceased established by the Commissioner of Social Security under section 7.”; and by adding paragraph (3), requiring each agency operating or maintaining a database described in paragraph (2) to provide each other agency access to such database, subject to reasonable conditions. These amendments have the intent of requiring that relevant federal agencies, as determined, share information on identified deceased individuals.

Section 4. Data analytics

This section amends section 5 of the IPERA Improvement Act of 2012 (31 U.S.C. § 3321 note) by adding subparagraph (h), requiring the Secretary of the Treasury to submit a report to Congress describing how the Do Not Pay Initiative data analytics center incorporate (1) comparisons of payment and beneficiary enrollment lists for state programs that use federal funds to identify improper payments, (2) reviews of payments across federal programs to identify payment duplication, and (3) reviews of other information determined to be effective. The report, due within 180 days after enactment, must also describe the metrics used to determine if the analytic and investigatory efforts have helped reduce improper payments.

Section 5. Curbing improper payment of federal retirement annuities to deceased individuals

This section requires the OMB Director to convene a task force within 60 days of enactment charged with identifying ways to improve information sharing and best practices with respect to the deaths of retired annuitants. Task force membership shall include the Department of Defense, SSA, the Department of Veterans Affairs, the Office of Personnel Management, and any other agency that provides annuity payments. The task force’s plan is due within 270 days of enactment, and a report to the Congress on that plan is due no later than one year after enactment. The task force shall also report to Congress on the plan’s implementation no later than two years after enactment, at which time the task force will be dissolved.

Section 6. Agency access to postal database

This section amends 39 U.S.C. § 412 to require the Postal Service to provide agencies and inspectors general with access to its database of mail delivery addresses, including the lists of known locations of commercial mailbox offices, for purposes of curbing improper payments. Such access shall be made under mutually agreeable terms and be reimbursable. This section also specifies the definitions of certain terms.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. The Committee concurs with the

Congressional Budget Office, which states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would not affect state, local, and tribal governments. The enactment of this legislation will not have significant regulatory impact.

VI. CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 19, 2013.

Hon. TOM CARPER,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1360, the Improper Payments Agency Cooperation Enhancement Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sheila Dacey.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1360—Improper Payments Agency Cooperation Enhancement Act of 2013

S. 1360 would require federal agencies to expand their use of information on deceased individuals to improve accuracy of payments and for other purposes. To that end, the bill would require the Social Security Administration (SSA) to share information on deaths with more agencies and for a broader range of purposes. In addition, it would require the Office of Management and Budget to provide guidance, convene a task force on sharing information on the deaths of federal retirees, and submit reports to the Congress. Finally, the bill would require the Secretary of the Treasury to report efforts to reduce improper payments and require the Postal Service to share information on delivery addresses for the purposes of reducing improper payments.

Enacting S. 1360 could reduce direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that such effects would probably be insignificant for each year over the next 10 years. The bill also would not have a significant effect on revenues. CBO estimates that implementing S. 1360 would have no significant net impact on discretionary spending.

Under current law, the Social Security Administration collects information on deaths and maintains a record—the Death Master File (DMF)—of all deaths reported to the agency dating to 1936. The DMF includes the deceased person’s name, social security number, date of birth, and date of death. SSA uses the DMF to administer its own program and shares the information with other programs that pay federal benefits. For some federal agencies like the Internal Revenue Service, SSA provides the entire file. SSA also establishes cooperative agreements with other agencies, such as state agencies administering the Supplemental Nutrition Assistance Program, to periodically verify identifying information on program applicants and recipients against the DMF. SSA also makes

a less-complete file of information on deaths available to the general public. That public file has information on about 87 million deceased individuals compared to 98 million in the complete file. (A provision of law restricts SSA from sharing information about deaths that were reported to SSA by states with anyone other than agencies that pay federal benefits.)

S. 1360 would require SSA to share the complete DMF with more agencies and for a broader range of purposes. It also would make the complete DMF part of the Do Not Pay program—a program administered by the Department of the Treasury that allows agencies to check various databases before making payments in order to identify ineligible recipients. Hence, there would likely be more frequent checks against the DMF than occur under current law.

The expanded availability of information on deaths would probably reduce the amount of mistaken payments to dead people, but CBO expects that any budgetary savings would be small. Because large, benefit-paying agencies generally already use the complete DMF, CBO expects that enacting the bill would not reduce the number of payments to deceased people by a significant amount. In addition, the Department of Treasury has mechanisms it uses to recover such payments if they are identified at a later time, so many such improper payments are recovered anyway. For these reasons, CBO estimates that any reduction in unrecovered payments to deceased individuals as a result of enacting S. 1360 would be small.

S. 1360 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Sheila Dacey and Matt Pickford. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1360 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

**IMPROPER PAYMENTS ELIMINATION AND RECOVERY
IMPROVEMENT ACT OF 2012**

P.L. 112–248

(31 U.S.C. § 3321 note)

Section 1. Short title.

* * * * *

SEC. 5. DO NOT PAY INITIATIVE.

* * *

(a) PREPAYMENT AND PREAWARD PROCEDURES.—

(1) IN GENERAL.—Each agency shall review prepayment and preaward procedures and ensure that a thorough review of available databases with relevant information on eligibility oc-

curs to determine program or award eligibility and prevent improper payments before the release of any Federal funds.

(2) DATABASES.—At a minimum and before issuing any payment and award, each agency shall review as appropriate the following databases to verify eligibility of the payment and award:

(A) The Death Master File of the Social Security Administration.

(B) The General Services Administration’s Excluded Parties List System.

(C) The Debt Check Database of the Department of the Treasury.

(D) The Credit Alert System or Credit Alert Interactive Voice Response System of the Department of Housing and Urban Development.

(E) The List of Excluded Individuals/Entities of the Office of Inspector General of the Department of Health and Human Services.

(F) *The registry of people who are deceased established by the Commissioner of Social Security under section 7.*

(3) AGENCIES TO PROVIDE ACCESS.—*Each agency that operates or maintains a database described in paragraph (2) shall provide each other agency with access to the information contained in that database for purposes of complying with paragraphs (1) and (2), subject to such reasonable and permissible conditions as the agency operating or maintaining the database establishes.*

* * * * *

(h) REPORT ON IMPROPER PAYMENTS DATA ANALYSIS.—*Not later than 180 days after the date of enactment of the Improper Payments Agency Cooperation Enhancement Act of 2013, the Secretary of the Treasury shall submit to Congress a report, which may be included as part of another report submitted to Congress, which shall include a description of—*

(1) *data analytics performed as part of the Do Not Pay Initiative for the purpose of detecting, preventing, and recovering improper payments through pre-award, post-award per-payment, and post-payment analysis which shall include a description of any analysis or investigations incorporating—*

(A) *review and data matching of payments and beneficiary enrollment lists of State programs carried out using Federal funds for the purposes of identifying eligibility duplication, residency ineligibility, duplicate payments, or other potential improper payment issues;*

(B) *review of multiple Federal agencies and program for which comparison of data could show payment duplication; and*

(C) *review of other information the Secretary of the Treasury determines are effective, which may include investigation or review of information from multiple Federal agencies or programs; and*

(2) *the metrics used in determining whether the analytic and investigatory efforts have reduced, or contributed to the reduction of, improper payments or improper awards.*

* * * * *

SEC. 7. IMPROVING THE SHARING AND USE OF DEATH DATA BY GOVERNMENT AGENCIES TO CURB IMPROPER PAYMENTS.

(a) **DEFINITIONS.**—*In this section—*

(1) *the term “Commissioner” means the Commissioner of Social Security;*

(2) *the term “Director” means the Director of the Office of Management and Budget;*

(3) *the term “Inspector General” has the meaning defined by section 5(e)(1);*

(4) *the term “local government” means the government of a political subdivision of a State;*

(5) *the term “payment” has the meaning given that term under section 2(g) of the Improper Payment Information Act of 2002 (31 U.S.C. § 3321 note);*

(6) *the term “Registry” means the National Deaths Registry established under subsection (b)(1); and*

(7) *the term “tribal government” means the government of an Indian tribe, as that term is defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450b).*

(b) **ESTABLISHMENT OF REGISTRY.**—

(1) **IN GENERAL.**—*The Commissioner shall establish and maintain a registry of information relating to the deaths of individuals, to be known as the National Deaths Registry.*

(2) **INCLUSION OF INFORMATION.**—*As provided under this section and in accordance with the guidance issued under subsection (f), the Commissioner shall include information relating to the deaths of individuals in the Registry for the purpose of supporting the Do Not Pay Initiative under section 5 and otherwise preventing, identifying, or recovering improper payments.*

(c) **USE OF THE REGISTRY.**—

(1) **AVAILABILITY TO FEDERAL AGENCIES.**—*The Commissioner shall enter into cooperative agreements with agencies, including Inspectors General—*

(A) *under which the Commissioner shall provide the information in the Registry (in full and without limitation, as provided in subsection (h)(1)) to the agency or Inspector General for purposes of facilitating—*

(i) *the making of authorized payments or the prevention, identification, or recovery of improper payments;*

(ii) *carrying out section 5;*

(iii) *in the case of the Bureau of the Census, verifying information obtained as part of a decennial census conducted under section 141(a) of title 13, United States Code; or (iv) other agency functions, including public health or safety, law enforcement, tax administration, health administration oversight, and debt collection, as determined appropriate by the Commissioner and in accordance with guidance issued under subsection (f); and*

(B) which shall require the agency or Inspector General to provide reimbursement to the Commissioner for the reasonable cost of carrying out the agreement.

(2) AVAILABILITY TO STATES AND LOCAL AND TRIBAL GOVERNMENT.—

(A) FOR MAKING FEDERALLY FUNDED PAYMENTS OR AVOIDING FEDERALLY FUNDED PAYMENTS OR AVOIDING FEDERALLY FUNDED IMPROPER PAYMENTS.—The Commissioner shall, to the extent feasible, enter into cooperative agreements with States and local and tribal governments—

(i) to provide the information in the Registry to the State or local or tribal government for purposes of facilitating the making of authorized payments and the prevention, identification, or recovery of improper payments under federally funded programs; and

(ii) which shall require the State or local or tribal government to provide reimbursement to the Commissioner for the reasonable cost of carrying out the agreement.

(B) FOR PROGRAMS WHOLLY FUNDED BY STATES AND LOCAL AND TRIBAL GOVERNMENTS.—The Commissioner may enter into cooperative agreements with States and local and tribal governments—

(i) to provide the information in the Registry for purposes relating to programs wholly funded by the State or local or tribal governments; and

(ii) which shall require the State or local or tribal government to provide reimbursement to the Commissioner for the reasonable cost of carrying out the agreement.

(3) EXCEPTIONAL CIRCUMSTANCES.—The Commissioner may withhold information that would otherwise be required to be disclosed under a cooperative agreement under this subsection if the Commissioner determines there are exceptional circumstances warranting an exception (such as safety of the individual or interference with an investigation).

(4) CONFIDENTIALITY.—Information provided by the Commission under an agreement under this subsection or by an individual to any agency that has entered into a cooperative agreement under this subsection shall be—

(A) considered as strictly confidential; and

(B) used only for the purposes described in this subsection and for carrying out an agreement under this subsection.

(d) REGISTRY REQUIREMENTS.—The Commissioner shall—

(1) implement procedures for identifying and correcting errors, including those identified—

(A) by agencies;

(B) by States and local and tribal governments; and

(C) by members of the public;

(2) include a process for determining the accuracy of death records in the Registry, including estimates of accuracy through the use of statistical sampling of errors on a systematic basis;

(3) ensure the Registry is operated and maintained in accordance with protocols that ensure the secure transfer and storage

of any information provided to another entity consistent with applicable laws and best practices of the Federal Government relating to information, privacy, security, and disclosure, including protecting social security numbers and other identifiers determined appropriate by the Commissioner; and

(4) make the information in the Registry available to a contractor of an agency, State, or local or tribal government for carrying out a purpose described in subsection (c)(1) or (c)(2) and in accordance with the cooperative agreement with the agency, State, or local or tribal government if the agency, State, or local or tribal government submits to the Commissioner a certification that the contractor is in compliance with the requirements of the agency relating to privacy and security described in paragraph (3).

(e) REPORTING BY FEDERAL AGENCIES OF ADDITIONAL DEATH DATA TO THE REGISTRY.—

(1) IMPROVED DEATH DATA MATCHING BY FEDERAL AGENCIES.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of the Improper Payments Agency Cooperation Enhancement Act of 2013, the Director shall identify each agency or component of an agency that operates or maintains a database of information relating to beneficiaries, annuity recipients, or other matters such that improved data matching with the Registry would be desirable, as determined by the Director.

(B) MATCHING REQUIREMENT.—

(i) IN GENERAL.—The head of each agency identified by the Director under subparagraph (A) shall establish a data matching procedure under which the agency shall compare information in the database of the agency with information in the Registry in order to improve the accuracy and completeness of the information in both the database of the agency and in the Registry relating to the death of individuals and to facilitate the prevention, identification, and recovery of improper payments.

(ii) DO NOT PAY PROGRAM.—The requirement to establish a data matching procedure under this subparagraph shall not be construed to diminish in any way the requirements for an agency under section 5, relating to preventing identifying, and recovering improper payments, including to deceased individuals.

(2) PROMPT REPORTING.—Not later than 1 year after the date of enactment of the Improper Payments Agency Cooperation Enhancement Act of 2013, each agency identified by the Director under paragraph (1)(A) shall establish a procedure (consistent with guidance issued under subsection (f)) under which the agency shall, promptly and on a regular basis, submit to the Commissioner information relating to the death of a Federal beneficiary, Federal annuitant recipient, or other individual relevant for the purposes of this section.

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

(1) GUIDANCE TO AGENCIES.—Not later than 6 months after the date of enactment of the Improper Payments Agency Co-

operation Enhancement Act of 2013, and in consultation with the Council of Inspectors General on Integrity and Efficiency, the Commissioner, and the heads of other relevant agencies, the Director shall issue guidance for agencies regarding implementation of this section.

(2) *GUIDANCE FOR STATES AND LOCAL AND TRIBAL GOVERNMENTS.*—Not later than 6 months after the date of enactment of the Improper Payments Agency Cooperation Enhancement Act of 2013, the Director shall provide guidance to States and local and tribal governments relating to accessing and using information in the Registry.

(3) *PLAN TO ASSIST STATES AND LOCAL AND TRIBAL GOVERNMENTS.*—The Director shall develop a plan to assist States and local and tribal governments in providing electronically to the Commissioner, for use or inclusion in the Registry, records relating to the death of individuals, which shall include recommendations to Congress for any statutory changes or financial assistance to States and local and tribal governments that are necessary to ensure States and local and tribal governments can provide such records electronically not later than January 1, 2015.

(g) *REPORTING.*—

(1) *REPORT TO CONGRESS ON IMPROVING DATA MATCHING REGARDING PAYMENTS TO INDIVIDUALS WHO ARE DECEASED.*—Not later than 270 days after the date of enactment of Improper Payments Agency Cooperation Enhancement Act of 2013, the Director, after consultation with the Commissioner, the heads of other relevant agencies, and States and local and tribal governments, shall submit to Congress a plan regarding how States and local and tribal governments that provide benefits under a federally funded program will improve data matching with the Registry.

(2) *ANNUAL REPORT.*—Not later than 1 year after the date of enactment of the Improper Payments Agency Cooperation Enhancement Act of 2013, and every year thereafter until the date that is 4 years after such date of enactment, the Director shall submit to Congress a report, which may be included as part of another report submitted to Congress by the Director, regarding the implementation of this section and the Improper Payments Agency Cooperation Enhancement Act of 2013. The first report under this paragraph shall include the recommendations of the Director described in subsection (f)(3).

(h) *CONSISTENCY WITH THE SOCIAL SECURITY ACT.*—

(1) *IN GENERAL.*—Notwithstanding section 205(r) of the Social Security Act (42 U.S.C. § 405(r)) or any other provision of that Act, the Commissioner may include in the Registry any information provided to the Commissioner pursuant to that Act (including any information received from a State or any other source) and may use or provide all such information (including information received from States or any other source) as authorized under this section to any agency, including any Inspector General.

(2) *FUNCTIONS.*—To the extent any function of the Commissioner under the Social Security Act (42 U.S.C. § 401 et seq.) is the same as a required function of the Commissioner under this

section, performance of the function under that Act shall also satisfy the requirement to perform the function under this section.

(3) USE REGARDLESS OF SOURCE OF INFORMATION.—The Commissioner may use any information in the Registry for any purpose authorized under the Social Security Act (42 U.S.C. § 401 et seq.), regardless of whether the information was provided to the Commissioner under authority of this section or any provision of the Social Security Act.

IMPROPER PAYMENTS INFORMATION ACT OF 2002

P.L. 107–300

(31 U.S.C. § 3321 note)

Section 2. Estimates of Improper Payments and Reports on Actions to Reduce Them.

(g) DEFINITIONS.—In this section:

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

(2) IMPROPER PAYMENT.—The term “improper payment”—

(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(B) includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term “payment” means any transfer or commitment for future transfer of Federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any non-Federal person or entity or a Federal employee or any other individual in Federal service, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.

TITLE 39—POSTAL SERVICE

PART I. GENERAL

* * * * *

CHAPTER 4. GENERAL AUTHORITY

SEC. 412. NONDISCLOSURE OF LISTS OF NAMES AND ADDRESSES.

(a) Except as specifically provided by subsection [(b)] subsection (b) or (c) or other law, no officer or employee of the Postal Service shall make available to the public by any means or for any purpose

any mailing or other list of names or addresses (past or present) of postal patrons or other persons.

(b) The Postal Service shall provide to the Secretary of Commerce for use by the Bureau of the Census such address information, address-related information, and point of postal delivery information, including postal delivery codes, as may be determined by the Secretary to be appropriate for any census or survey being conducted by the Bureau of the Census. The provision of such information under this subsection shall be in accordance with such mutually agreeable terms and conditions, including reimbursability, as the Postal Service and the Secretary of Commerce shall deem appropriate.

(c)(1) FOR PURPOSES OF THIS SUBSECTION.—

(A) the term “agency” means an executive agency as that term is defined under section 102 of title 31;

(B) the term “improper payment” has the meaning given that term in section 2(g) of the Improper Payments Information Act of 2002 (31 U.S.C. § 3321 note); and

(C) the term “Inspector General” has the meaning given that term in section 5(e)(1) of the Improper Payments Elimination and Recovery Improvement Act of 2012 (31 U.S.C. § 3321 note);

(2) The Postal Service shall provide to agencies (including to Inspectors General) access to information concerning delivery addresses, including the Commercial Mail Receiving Agency lists of known locations of commercial mailbox offices, for purposes of improved detection, prevention, and recovery of improper payments.

(3) The provision of information under this subsection shall be in accordance with such mutually agreeable terms and conditions, including reimbursability, as the Postal Service and the agency or Inspector General determine appropriate.