FRAUD REDUCTION AND DATA ANALYTICS ACT OF 2015

FEBRUARY 9, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 4180]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 4180) to improve Federal agency financial and administrative controls and procedures to assess and mitigate fraud risks, and to improve Federal agencies' development and use of data analytics for the purpose of identifying, preventing, and responding to fraud, including improper payments, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4180, the Fraud Reduction and Data Analytics Act of 2015, is a bipartisan bill that would strengthen agency fraud protection and detection efforts by requiring agencies to adopt more proactive measures. The Act requires the U.S. Office of Management and Budget (OMB) to establish fraud detection and prevention guidelines that incorporate anti-fraud best practices identified by the U.S. Government Accountability Office (GAO).

BACKGROUND AND NEED FOR LEGISLATION

Currently, the Federal government relies on fraud detection and prevention systems that are based on after-the-fact reviews of transactions to determine if fraud occurred. This system identified $124 billion in improper payments in fiscal year 2014, nearly $19 billion more than the previous year. The current system also requires agencies to spend time and resources tracking down and recovering these dollars after they have been expended, rather than ensuring the improper payments are never made in the first place. H.R. 4180 will help to address this flawed improper payment and fraud prevention system by establishing a proactive approach. This bill requires agencies to review and implement continuously evolving anti-fraud measures, thereby ensuring better protection of taxpayer dollars.

LEGISLATIVE HISTORY

H.R. 4180 was introduced by Congressman Mark Meadows (R–NC) on December 3, 2015, and referred to the Committee on Oversight and Government Reform. On December 9, 2015, H.R. 4180 was favorably reported without amendment by unanimous consent. H.R. 4180 is co-sponsored by Congressman Gerald Connolly (D–VA), Congressman Mick Mulvaney (R–SC), and Congresswoman Tammy Duckworth (D–IL).

H.R. 4180 is the House companion to S. 2133, the Fraud Reduction and Data Analytics Act of 2015. S. 2133 was introduced on October 5, 2015 by Senator Tom Carper (D–MO) and referred to the Committee on Homeland Security and Government Affairs. The Committee favorably reported the bill without amendment on October 7, 2015. S. 2133 is co-sponsored by Senators Thom Tillis (R–NC), Claire McCaskill (D–MO), Ron Johnson (R–WI), Tammy Baldwin (D–WI), and Kelly Ayotte (R–NH).

SECTION-BY-SECTION

Section 1. Short title

Designates the short title of the bill as the "Fraud Reduction and Data Analytics Act of 2015".

Section 2. Definitions

Defines agency as it is used in 5 U.S.C. 551. Defines improper payment as used in section 2(g) of the Improper Payments Information Act of 2002.

Section 3. Establishment of financial and administrative controls relating to fraud and improper payments

Subsection (a) of the Act requires that, within 90 days of enactment, the Director of OMB, in consultation with the Comptroller General, establish guidelines for agencies regarding fraud. Agencies are to use the guidelines to create controls to identify and assess, and prevent and respond to, fraud. The guidelines shall incorporate GAO best practices. The OMB Director, consulting with Comptroller General, upon a determination of necessity, may modify these guidelines periodically.

Subsection (b) states that the required controls shall include: (1) evaluating fraud risk and using risk-based approach to design and implement controls; (2) use of data from known fraud to monitor trends and improve prevention controls; (3) use of results from fraud investigations, and (4) ways to improve future anti-fraud measures.

Subsection (c) requires agencies to submit to Congress, as part of the annual financial report of the agency, a report for each of the first three fiscal years following enactment. The report shall include progress made in implementing the following: financial and administrative controls, the fraud risk principle found in the Standards for Internal Control in the Federal Government, and OMB's circular on leading practices for managing fraud risks. The subsection also requires the report to outline the progress the agency has made in identifying risks and vulnerabilities in areas where fraud may occur such as payroll, grants, and contracts. Finally, the subsection requires agencies to include in each of the annual reports progress made in establishing strategies, procedures, and other steps to curb fraud. If the bill is enacted less than 180 days before the next annual financial report is due from an agency; the agency may submit the report as part of the following annual financial report.

Section 4. Working group

Requires OMB, within 180 days of enactment of this Act, to establish a working group to improve the sharing of controls and other best practices and techniques among agencies and the sharing and development of analytic techniques.

The composition of the working group shall be: the Director of OMB, who will be the chair; agency Chief Financial Officers; and any other party determined appropriate by director of OMB, including agency Chief Information Officers, Chief Procurement Officers, and Chief Operating Officers.

This section also requires that within 270 days of enactment the working group submit a plan on the establishment and use of an interagency data and analytics library to facilitate fraud detection, prevention, and recovery.

COMMITTEE CONSIDERATION

On December 9, 2015, the Committee met in open session and ordered reported favorably the bill, H.R. 4180, by unanimous consent, a quorum being present.

ROLL CALL VOTES

There were no recorded votes during Full Committee consideration of H.R. 4180.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill improve Federal agency financial and administrative controls and procedures to assess and mitigate fraud risks, and to improve Federal agencies' development and use of data analytics for the purpose of identifying, preventing, and responding to fraud, including improper payments. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of the bill is to improve Federal agency financial and administrative controls and procedures to assess and mitigate fraud risks, and to improve Federal agencies' development and use of data analytics for the purpose of identifying, preventing, and responding to fraud, including improper payments.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

H.R. 4180—Fraud Reduction and Data Analytics Act of 2015

H.R. 4180 would require federal agencies to report on their efforts to assess and combat fraud and improper payments in each of the next three years. In addition, the legislation would require the Office of Management and Budget (OMB) to set up a working group to establish best practices for preventing fraud and improper payments and for sharing analytical information among federal agencies.

The Federal Managers' Financial Integrity Act requires agencies to establish and maintain internal controls to ensure that federal programs operate efficiently, effectively, and in compliance with relevant laws. The Government Accountability Office (GAO) issues financial control standards for the federal government in the *Standards for Internal Control in the Federal Government* (known as the Green Book). Additionally, OMB establishes specific requirements for assessing and reporting on financial controls used by the federal government. The standards in the most recent Green Book include methods for assessing the risk of fraud.

Based on information from GAO and OMB, CBO expects that implementing the bill would increase the administrative costs of each

major federal agency by roughly $50,000 annually, primarily to prepare reports for the Congress for three years. Because there are about 25 major agencies, CBO estimates that implementing H.R. 4180 would cost about $4 million over the 2016–2020 period, including funds to operate the proposed working group. Such spending would be subject to the availability of appropriated funds.

Under H.R. 4180, some agencies would increase their efforts to detect fraud and improper payments. Such efforts could result in cost savings to those agencies, but could also lead to additional costs to improve their financial systems. CBO has no basis for estimating the magnitude of either increases in the recovery of fraudulent payments or costs to improve financial systems.

Enacting H.R. 4180 also could affect direct spending by some agencies (such as the Tennessee Valley Authority) because they are authorized to use receipts from the sale of goods, fees, and other collections to cover their operating costs. Therefore, pay-as-you-go procedures apply. Because most of those agencies can make adjustments to the amounts collected as operating costs change, CBO estimates that any net changes in direct spending by those agencies would not be significant. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 4180 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 4180 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On January 12, 2016, CBO transmitted a cost estimate for S. 2133, the Fraud Reduction and Data Analytics Act of 2015, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on October 7, 2015. The two pieces of legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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