

**Calendar No. 126**

116TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
116-49

STOPPING IMPROPER PAYMENTS TO  
DECEASED PEOPLE ACT

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 1333

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 PAY-  
MENTS TO DECEASED INDIVIDUALS, AND FOR OTHER PURPOSES



JUNE 25, 2019.—Ordered to be printed

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JUNE 25, 2019.—Ordered to be printed

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

**R E P O R T**

[To accompany S. 1333]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1333), 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 without amendment and recommends that the bill do pass.

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**I. PURPOSE AND SUMMARY**

S. 1333, the Stopping Improper Payments to Deceased People Act, seeks to reduce inadvertent and improper payments by Federal agencies to individuals who are deceased and to reduce the number of living people mistakenly listed as dead by the Federal Government. The bill accomplishes these goals by requiring the Social Security Administration (SSA) to develop a process to improve

the accuracy of the death data it collects and by sharing such death information with additional Federal agencies for the purposes of preventing improper payments, improving tax administration, aiding law enforcement, and for other purposes.<sup>1</sup>

## II. BACKGROUND AND THE NEED FOR LEGISLATION

S. 1333 is the result of years of congressional oversight by the Committee into improper payments by the Federal Government to people who are deceased. The Committee's first investigation resulted in a report by then-Ranking Member of the Subcommittee on Federal Financial Management, Senator Tom Coburn, titled *Federal Programs to Die for: American Tax Dollars Sent Six Feet Under*.<sup>2</sup> The report identified over \$1 billion paid to more than 250,000 deceased individuals in the decade preceding the report.<sup>3</sup> The report highlighted the payment of farm subsidies, rental assistance, and stimulus support to individuals who were deceased.<sup>4</sup>

Of concern is the Federal Government's inability to ensure that all recipients of Federal funds are alive. The report by Senator Coburn noted a response to the Committee by then-SSA Commissioner Michael Astrue that "it is extremely expensive and may even be impossible to determine if a person is alive or dead particularly if the person died many years ago."<sup>5</sup>

Committee hearings and continued oversight in both the 113th and 114th congressional sessions have found that the death data available to Federal agencies is not always accurate, and that many agencies that provide Federal benefits do not have access to all of the information they need to prevent improper payments to deceased individuals.<sup>6</sup> While SSA maintains a file with the death reports it receives from family members, funeral homes, states, Federal agencies, postal authorities, and financial institutions, most Federal agencies do not have access to the complete death information and instead rely on a slimmed down, less complete, and less timely version of this file that is commonly referred to as the "Death Master File" (DMF).<sup>7</sup>

SSA became the Federal clearinghouse for death data following a 1983 amendment to the Social Security Act authorizing the agency to collect and pay for death information from individual state vital records agencies.<sup>8</sup> Recognizing the value of this authorization, SSA began contracting with state vital records agencies to provide reports of death.<sup>9</sup> To incentivize faster reporting of deaths by

<sup>1</sup> On June 13, 2018, the Committee approved S. 2374, the Stopping Improper Payments to Deceased People Act. That bill is substantially similar to S. 1333, which has been modified only slightly. Accordingly, this committee report is in large part a reproduction of Chairman Johnson's committee report for S. 2374, S. Rep. No. 115-352 (2018).

<sup>2</sup> Senator Tom Coburn, *Federal Programs to Die For: American Tax Dollars Sent Six Feet Under* (Oct. 2010), available at [https://www.restoreaccountability.com/sites/restoreacc/uploads/documents/library\\_docs/FINAL-Federal\\_Programs\\_To\\_Die\\_For.pdf](https://www.restoreaccountability.com/sites/restoreacc/uploads/documents/library_docs/FINAL-Federal_Programs_To_Die_For.pdf).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3.

<sup>6</sup> See, e.g., *Curbing Federal Agency Waste and Fraud: New Steps to Strengthen the Integrity of Federal Payments: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 113th Cong. (2013); *Examining Federal Improper Payments and Errors in the Death Master File: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 114th Cong. (2015) [hereinafter *Examining Federal Improper Payments and Errors in the Death Master File*].

<sup>7</sup> Gov't Accountability Office, GAO-13-574T, *Social Security Administration: Preliminary Observations on the Death Master File 2-3* (2013), available at <http://www.gao.gov/assets/660/654411.pdf> [hereinafter, SSA Preliminary Observations].

<sup>8</sup> 42 U.S.C. § 405(r).

<sup>9</sup> SSA Preliminary Observations at 3.

states, SSA pays these state agencies more based on the timeliness of their reporting.<sup>10</sup> Faster reports of death allow SSA to cease benefit payments more quickly and in some cases help avoid devoting agency resources to recouping overpayments from grieving families.

When SSA receives a death report from a state vital record agency, it does not verify the report prior to entering it into the death data.<sup>11</sup> This is because states that participate in the electronic death registry program submit their reports over the Internet, and reports cannot be filed unless the fields are an exact match.<sup>12</sup> Therefore, these death reports are considered the most accurate and are unlikely to contain basic keystroke errors. If SSA receives a death report from a funeral home or family member, the agency enters the information manually and only verifies the death report if the individual was receiving benefits from SSA.<sup>13</sup>

The increased reliance on death data provided by the states through electronic death registry has resulted in improvements in SSA's death data, making it more valuable for SSA and other Federal agencies that are able to utilize this information to prevent payments to deceased people in their own programs.<sup>14</sup> However, the law that authorized SSA to contract with the state agencies for the death reports only allowed SSA to share such information for the purpose of ensuring proper payments of benefits.<sup>15</sup> This is why SSA creates two versions of the death data: one complete list that is provided to agencies considered to be benefit-paying agencies, and one partial list, the DMF, that does not contain the data from the state vital records agencies.<sup>16</sup> The DMF is then sold to eligible private sector entities and other government agencies by the Department of Commerce's National Technical Information Service (NTIS).<sup>17</sup>

As a result of SSA's interpretation of which agencies are "benefit-paying" and which are not, some Federal agencies purchase a version of the death data from NTIS that is incomplete and more likely to be inaccurate than the complete death data provided to other Federal agencies.<sup>18</sup> Furthermore, the DMF will contain fewer of the total deaths over time.<sup>19</sup> As states and jurisdictions increasingly adopt electronic processes for providing the death reports to SSA, the state-provided death reports will become a larger percentage of the overall death reports received by SSA.<sup>20</sup>

Accuracy problems with the DMF have real-world consequences. For example, the SSA Office of Inspector General (OIG) found that SSA mistakenly listed 6.5 million holders of Social Security Numbers (SSNs) as alive who were older than 112 years old, despite the fact that there was only one known living person of that age in the

<sup>10</sup> Gov't Accountability Office, GAO-14-46: Social Security Death Data: Additional Action Needed to Address Data Errors and Federal Agency Access (2013), *available at* <http://www.gao.gov/assets/660/659289.pdf> [hereinafter Social Security Death Data].

<sup>11</sup> Social Security Death Data at 10.

<sup>12</sup> *Id.* at 12.

<sup>13</sup> *Id.* at 10, 11.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 19.

<sup>16</sup> *Id.* at 21-22.

<sup>17</sup> *Id.* at 21.

<sup>18</sup> *Id.* at 22.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

United States at that time.<sup>21</sup> The OIG did not conduct an extensive investigation into the potential misuse of all of these 6.5 million SSNs, but did find that over a five-year period, \$3.1 billion in earnings were reported under approximately 67,000 of the SSNs.<sup>22</sup> The OIG also found that over a three-year period, there were approximately 4,000 E-Verify inquiries submitted to SSA through the Department of Homeland Security for SSNs of individuals over 112,<sup>23</sup> indicating that someone was attempting to obtain employment using those numbers.

In addition to concerns over improper payments resulting from an inaccurate DMF, the OIG raised concerns about SSA mistakenly listing living individuals as deceased.<sup>24</sup> According to SSA, there are nearly 1,000 living individuals each month who are mistakenly listed as deceased in the DMF.<sup>25</sup> For some of these individuals, it is a relatively simple error to correct. For others, however, the result can be devastating.<sup>26</sup>

Problems persist despite continued oversight and congressional interest, evidencing the need for legislation. For example, the OIG reported again in August 2018 that it had identified hundreds more SSA beneficiaries who received benefits, despite Treasury Department records indicating they were deceased.<sup>27</sup>

S. 1333 directs SSA to share the most complete death data with the Department of the Treasury's Do Not Pay system and all Federal agencies for the purposes of preventing improper payments, aiding law enforcement, and improving tax administration and collection. This requirement will end five years after the bill is enacted to allow Congress to reassess whether there is an alternative source of death data for Federal agencies. The legislation also requires that SSA develop a plan to improve the accuracy and completeness of the death data it collects and improves the use of death data by government agencies.

### III. LEGISLATIVE HISTORY

Senator Tom Carper (D-DE) introduced S. 1333 on May 6, 2019. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1333 at a May 15, 2019, business meeting. The Committee favorably reported the bill, *en bloc* by voice vote. Senators present for the vote were Johnson, Paul, Lankford, Scott, Peters, Carper, Hassan, and Rosen. For the record only, Senators Portman, Romney, Hawley, and Sinema later asked to be recorded as "yes" by unanimous consent.

<sup>21</sup>*Examining Federal Improper Payments and Errors in the Death Master File* at 2 (statement of the Honorable Patrick P. O'Carroll, Jr., Inspector General, U.S. Social Security Administration) available at <https://www.hsgac.senate.gov/imo/media/doc/Testimony-O'Carroll-2015-03-16.pdf>.

<sup>22</sup>*Id.* at 2.

<sup>23</sup>*Id.* at 3.

<sup>24</sup>*Id.* at 3.

<sup>25</sup>*Id.* at 3.

<sup>26</sup>*Examining Federal Improper Payments and Errors in the Death Master File* (statement of Judy Rivers) available at <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Rivers-2015-03-16.pdf>.

<sup>27</sup>Social Security Administration Office of Inspector General, A-06-18-50568, Match of Treasury Death Information Against Social Security Administration Records (2018), available at <https://oig.ssa.gov/sites/default/files/audit/full/pdf/A-06-18-50568.pdf>.

## IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

*Section 1. Short title*

This section establishes the short title of the bill as the “Stopping Improper Payments to Deceased People Act.”

*Section 2. Distribution of death information furnished to or maintained by the Social Security Administration*

Subsection (a) amends Section 205(r) of the Social Security Act to require, rather than allow, SSA to compensate states for the provision of death information, and makes ensuring the completeness, timeliness, and accuracy of the death data a reason for the compensation.

Subsection (a) strikes paragraphs (3), (4), and (5) of section 205(r) of the Social Security Act and reauthorizes these authorities with some technical drafting changes in new subsections (3)(A), (4), and (5). Subsection (a) also requires the Commissioner of Social Security, to the extent feasible, to provide for the use of information regarding all deceased individuals furnished to or maintained by SSA through a cooperative arrangement in order for a Federal agency to carry out any of the following purposes: (1) operating the Do Not Pay working system; (2) oversight by inspectors general; (3) to carry out tax administration or debt collection duties of the agency; or (4) for use by any policing agency of the federal government with the principle function of prevention, detection, or investigation of crime or apprehension of offenders. The agreements will require agencies to reimburse SSA for the reasonable cost of providing such information. Subsection (a) also provides that the amendments made by this subsection are repealed five years after the date of enactment.

Subsection (b) amends section 6103(d)(4) of the Internal Revenue Code to require States to have an agreement in place with the Commissioner of Social Security, instead of the Secretary of Health and Human Services, in order to receive certain Federal tax return information. Current law already requires states to have an agreement with the Secretary of Health and Human Services to receive certain federal tax information. Subsection (b) changes current law so that the agreement would be made with the Commissioner of Social Security, instead of the Secretary of Health and Human Services, and would allow the Commissioner of Social Security to share the state provided death information for the additional purposes in subsection (a) of this bill. It also includes an effective date 180 days after enactment.

Subsection (c) requires the SSA Commissioner, in consultation with the Treasury Secretary, to provide to Congress a report with the results of a review of potential alternative sources of death data maintained by nonfederal sources, including sources maintained by State agencies for the use by Federal agencies and partners. The report should include a recommendation regarding whether to extend the agency access to the death data provided by SSA under this bill.

*Section 3. Improving the use of death data by government agencies to curb improper payments*

This section creates a new section in the Improper Payments Elimination and Recovery Improvement Act of 2012 that requires the Office of Management and Budget to provide guidance to Federal agencies regarding the use of death data and to develop a plan to assist states, local governments, and Indian tribes in providing electronic death records to SSA within one year.

This section also requires a report to be submitted to Congress within one year concerning how States, local governments, and Indian tribes will improve data matching with the Federal Government with respect to the death of individuals.

*Section 4. Plan for ensuring the accuracy and completeness of death data maintained by the Social Security Administration*

This section requires the Commissioner of SSA to submit a plan to Congress within one year of enactment to improve the accuracy and completeness of death data maintained and distributed by SSA. The plan must include a procedure for identifying individuals who are listed as alive but older than the oldest known living person in SSA records, improved procedures for identifying and correcting erroneous records, and a process for employing statistical analysis of the death data to determine and estimate the number of erroneous records.

*Section 5. Report on information security*

This section requires the Commissioner of SSA to report to Congress on information security within 90 days of enactment.

## 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 and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill 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.

## VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 10, 2019.*

Hon. RON JOHNSON, *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. 1333, the Stopping Improper Payments to Deceased People Act.



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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>S. 1333, Stopping Improper Payments to Deceased People Act</b>			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 15, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Deficit Effect	0	*	*
Spending Subject to Appropriation (Outlays)	0	*	*
Pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

S. 1333 would expand the use of data on deaths by federal and state agencies for the purpose of limiting improper federal payments. The bill would require the Social Security Administration (SSA) to share all such information with more agencies and for a broader range of purposes.

Under current law, SSA collects information on deaths and maintains a record of all deaths reported to the agency dating to 1936. SSA has more than 124 million death records that contain the deceased person's name, Social Security number, date of birth, and date of death. SSA uses those data to administer its programs and shares the information with other agencies that administer federal benefit programs.

SSA provides the entire death file to some federal agencies, such as the Internal Revenue Service. SSA also has agreements with other agencies, such as state agencies that administer the Supplemental Nutrition Assistance Program, so that those agencies can periodically verify that program applicants and recipients are not listed on SSA's death records. The Department of Commerce makes the Death Master File (DMF), a subset of those data, available to nongovernmental organizations after the department certifies a legitimate purpose for using the data—for example, to prevent fraud. The DMF, which has information on about 101 million deceased people, excludes death data reported by states, because SSA may share data on deaths reported by states only in certain circumstances, such as to agencies that pay federal benefits. (A subset of the DMF, which is available to the general public through the Department of Commerce, excludes both death data reported by states and data on deaths within the past three years.)

S. 1333 would require SSA to share its complete death records with more agencies and for a broader range of purposes. It also would make the complete death file, rather than only the DMF,

available to the Do Not Pay program—a program administered by the Department of the Treasury that allows agencies to identify ineligible recipients by checking various databases before payments are made. Hence, there would probably be more frequent checks against the more complete file than occur under current law. Those provisions would expire five years after the bill’s enactment. The bill would require the Director of the Office of Management and Budget (OMB) to recommend, within four years of enactment, whether to extend the broader data access.

The expanded availability of information on deaths would probably reduce the amount of mistaken payments. However, the agencies making the largest benefit payments already use the complete death file, so CBO expects that enacting the bill would not significantly reduce the number of payments to deceased people. In addition, the Department of the Treasury has mechanisms to recover improper payments that are identified after the fact, so many such payments are already recovered. For those reasons, CBO estimates that enacting S. 1333 would reduce direct spending by an insignificant amount.

The bill also would require OMB to review alternative sources of death data and to report those findings to the Congress, to provide guidance to relevant agencies on how to access death data, and to develop a plan to assist state and local governments in providing death data to the federal government. However, under current law and OMB guidance, agencies already are required to assess their programs for risk and to initiate improvements to reduce and eliminate payment errors. In addition, CBO expects that many options to eliminate improper payments have been reviewed and analyzed by OMB and other agencies. Thus, CBO estimates that implementing those provisions would increase agency administrative costs by an insignificant amount.

The CBO staff contacts for this estimate are Noah Meyerson and Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy 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 the bill, 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):

### **UNITED STATES CODE**

\* \* \* \* \*

#### **TITLE 26—THE INTERNAL REVENUE CODE**

\* \* \* \* \*

#### **Subtitle F—Procedure and Administration**

\* \* \* \* \*

**CHAPTER 61—INFORMATION AND RETURNS**

\* \* \* \* \*

**Subchapter B—Miscellaneous Provisions**

\* \* \* \* \*

**SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.**

(a) \* \* \*

\* \* \* \* \*

**(d) DISCLOSURE TO STATE TAX OFFICIALS AND STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—**

(1) \* \* \*

\* \* \* \* \*

(4) \* \* \*

(A) **IN GENERAL.**—No returns or return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or any legal representative thereof) during any period during which a contract meeting the requirements of subparagraph (B) is not in effect between such State and the **【Secretary of Health and Human Services】** *Commissioner of Social Security*.

(B) **CONTRACTUAL REQUIREMENTS.**—A contract meets the requirements of this subparagraph if—

(i) such contract requires the State to furnish the **【Secretary of Health and Human Services】** *Commissioner of Social Security* information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it, and

(ii) such contract does not include any restriction on the use of information obtained by **【such Secretary pursuant to such contract, except that such contract may provide that such information is only to be used by the Secretary (or any other Federal agency) for purposes of ensuring that Federal benefits or other payments are not erroneously paid to deceased individuals】** *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.*

Any information obtained by the **【Secretary of Health and Human Services】** *Commissioner of Social Security* under such a contract shall be exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title 5.

\* \* \* \* \*

**TITLE 31—MONEY AND FINANCE**

\* \* \* \* \*

**§ 3321. Disbursing authority in the executive branch**

\* \* \* \* \*

**Improper Payments Elimination and Recovery Improvement**

\* \* \* \* \*

**SEC. 1. SHORT TITLE.**

\* \* \* \* \*

**SEC. 8. IMPROVING THE USE OF DATA BY GOVERNMENT AGENCIES FOR CURBING IMPROPER PAYMENTS.**

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

(1) *GUIDANCE TO AGENCIES.—Not later than 1 year 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 recipients, 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 implementation of this section to provide such agencies or components access to the death databases no later than 1 year after such date of enactment.*

(2) *PLAN TO ASSIST STATES AND LOCAL AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary of Health and Human Services and the Secretary of the Treasury shall jointly 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 recommendations 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 agencies and Indian tribes and tribal organizations can provide such records electronically. The plan may include recommendations for the authorization of appropriations or other funding to carry out the plan.*

(b) *REPORTS.—*

(1) *REPORT TO CONGRESS ON IMPROVING DATA MATCHING REGARDING PAYMENTS TO DECEASED INDIVIDUALS.—Not later than 1 year after the date of enactment of this section, the Secretary of the Treasury, 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 organizations that provide benefits under a federally funded program will improve data matching with the Federal Government with respect to the death of individuals 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 Secretary of the Treasury 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 Secretary 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).

\* \* \* \* \*

**TITLE 42—THE PUBLIC HEALTH AND WELFARE**

\* \* \* \* \*

**CHAPTER 7—SOCIAL SECURITY**

\* \* \* \* \*

**Subchapter II—Federal Old-Age, Survivors, and Disability Insurance Benefits**

\* \* \* \* \*

**SEC. 405. EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENTS.**

(a) \* \* \*

\* \* \* \* \*

(r)

(1) \* \* \*

(2) Each State (or political subdivision thereof) which furnishes the Commissioner of Social Security with information on records of deaths in the State or subdivision under this subsection **may** shall be paid by the Commissioner of Social Security from amounts available for administration of this chapter the reasonable costs (established by the Commissioner of Social Security in consultations with the States) for transcribing and transmitting, *and to ensure the completeness, timeliness, and accuracy of* such information to the Commissioner of Social Security.

[(3) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency other than under this chapter, the Commissioner of Social Security shall to the extent feasible provide such information through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals if—

[(A) under such arrangement the agency provides reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out such arrangement, and

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

[(4) The Commissioner of Social Security may enter into similar agreements with States to provide information for their

use in programs wholly funded by the States if the requirements of subparagraphs (A) and (B) of paragraph (3) are met.

[(5) The Commissioner of Social Security may use or provide for the use of such records as may be corrected under this section, 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 and research activities conducted by Federal and State agencies.]

(3)(A) *In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency, the Commissioner of Social Security shall to the extent feasibly provide such information through a cooperative arrangement with such agency for ensuring proper payment of those benefits with respect to such individuals if—*

*(i) under such arrangement the agency agrees to such safeguards as the Commissioner determines are necessary or appropriate to protect the information from unauthorized use or disclosure;*

*(ii) under such arrangement the agency 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 furnished to the Commissioner pursuant to paragraph (1); and*

*(iii) 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 regarding all deceased individuals furnished to or maintained 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), (ii), and (iii) of subparagraph (A) are met:*

*(i) Under such arrangement, the agency operating the Do Not Pay working system established under section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2002 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) The tax administration duties of the agency.*

*(iii) Oversight activities of the Inspector General of an agency that is provided information regarding all deceased individuals pursuant to this subsection.*

*(iv) Civil or criminal enforcement activities that are authorized by law.*

(C) *With respect to the reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out a cooperative arrangement described in subparagraph (A) between the Commissioner of Social Security and an agency, the Commissioner shall—*

(i) establish a defined calculation method for purposes of calculating the reasonable cost of carrying out the arrangement that does not take into account any services, information, or unrelated payments provided by the agency to the Commissioner; and

(ii) reimbursement payments shall be accounted for and recorded separately from other transactions.

(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 use by the 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), (ii), and (iii) 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 for statistical purposes and research activities by Federal and State agencies (including research activities conducted by nongovernment researchers under a contract or a cooperative arrangement (as such terms are defined for purposes of sections 6303 and 6305, respectively, of title 31, United States Code) with such and agency) if the requirements of clauses (i) and (ii) of paragraph (3)(A) are met.

\* \* \* \* \*

(8)(A) The Commissioner of Social Security shall, upon the request of the official responsible for a State driver's license agency pursuant to the Help America Vote Act of 2002—

(i) enter into an agreement with such official for the purpose of verifying applicable information, so long as the requirements of [subparagraphs (A) and (B) of paragraph (3)] clauses (i) and (ii) of paragraph (3)(A) are met; and

(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit such agency to use the applicable information for the purpose of maintaining its records.

\* \* \* \* \*