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107TH CONGRESS
2d Session

SENATE

REPORT
107–333

IMPROPER PAYMENTS INFORMATION ACT OF 2002

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

H.R. 4878

TO PROVIDE FOR ESTIMATES AND REPORTS OF IMPROPER PAYMENTS BY FEDERAL AGENCIES



NOVEMBER 4, 2002.—Ordered to be printed

Filed, under authority of the order of the Senate of October 17, 2002

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Mr. LIEBERMAN, from the Committee on Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 4878]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 4878) to provide for estimates and reports of improper payments by Federal agencies, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. PURPOSE AND SUMMARY

H.R. 4878 as amended requires federal agencies to identify programs that are vulnerable to improper payments and to estimate annually the amount of underpayments and overpayments made by these programs, whether by the agency or through a contractor or other third party administering the program. "Improper payments" are defined to include any payments that should not have been made or were made in an incorrect amount. They include any payments to ineligible recipients, payments for an ineligible service, duplicate payments, payments for services not received, and payments that do not account for credit for applicable discounts. Under H.R. 4878 as amended, the agency will have to take steps to reduce the amount of improper payments for any program with improper payment estimates that exceed $10 million.

II. BACKGROUND

Federal agencies make billions of dollars in improper payments each fiscal year. Using estimates voluntarily provided by some agencies, the General Accounting Office (GAO) has reported that improper payments of between $19 billion and $20.7 billion were made in fiscal years 1999, 2000 and 2001. According to GAO, these improper payments include "inadvertent errors, such as duplicate

payments and calculation errors; payments for unsupported or inadequately supported claims; payments for services not rendered or rendered to ineligible beneficiaries; and payments resulting from fraud and abuse." Coordinated Approach Needed to Address the Government's Improper Payments Problems, GAO–02–749, August 9, 2002, p. 1. Since there is no current requirement to report the amount of improper payments, GAO believes that these voluntarily-provided figures "do not present a true picture of the level of improper payments in federal programs and activities. As significant as the $19 billion in improper payments [reported for fiscal year 2001] is, the actual extent of improper payments governmentwide is unknown, is likely to be billions of dollars more, and will likely grow in the future without concerted and coordinated efforts by agencies, the administration, and the Congress." Id., p.3.

In October, 2001, GAO issued an Executive Guide prepared at Senator Lieberman's request, Strategies to Manage Improper Payments, GAO–02–69G. This Guide provided best practices recommendations for federal agencies to consider when developing strategies and planning and implementing actions to manage improper payments in their programs. A key step identified in the Guide is determining the nature and extent of the risks of improper payments. This includes estimating the total amount of improper payments made, as well as identifying the areas of highest risk for such payments so that corrective efforts can be aimed at those areas.

H.R. 4878 begins the process of putting these recommendations into practice by requiring that agencies annually estimate the amount of improper payments, and report on the steps they are taking to reduce the amount of those payments in the largest programs.

III. DISCUSSION OF LEGISLATION

H.R. 4878 as amended requires agencies for the first time to review annually their programs and activities and identify those that may be susceptible to improper payments, using guidelines prescribed by the Office of Management and Budget (OMB). For each program, the agency must estimate the annual amount of improper payments made and submit that estimate to Congress. H.R. 4878 as amended also requires agencies to report on the steps they are taking to reduce improper payments for each program with estimated improper payments that exceed $10 million and requires OMB to issue guidelines to implement this legislation within 6 months after enactment. The requirement to estimate and report on improper payments begins with agencies' administration of programs in fiscal year 2003; these estimates and other required information must be included in agency budget submissions for fiscal year 2004 and thereafter.

The Committee notes that this legislation is intended to improve the accountability of federal agencies' administration of federal tax dollars. The annual program reviews and annual estimates of improper payments should not be construed as a requirement for agencies to perform annual payment audits of their contractors.

IV. LEGISLATIVE HISTORY

H.R. 4878 was introduced in the House of Representatives by Representative Horn on June 6, 2002. The bill was co-sponsored by a bipartisan group of Representatives. It was marked up by the Subcommittee on Governmental Efficiency, Financial Management and Intergovernmental Relations of the Committee on Government Reform on June 18, 2002 with a substitute amendment offered by Representative Horn that changed the title and removed language that would have required agencies to set annual goals for reducing improper payments. The bill was passed by the House under suspension of the rules on July 9, 2002 by voice vote.

The bill was received by the Senate on July 11, 2002 and referred to the Committee on Governmental Affairs. At the Committee's markup of October 9, 2002, the bill was reported out by a roll call vote of 9–0, with a Thompson/Lieberman substitute amendment. Members present were Levin, Akaka, Durbin, Torricelli, Cleland, Carper, Carnahan, Dayton and Lieberman. The substitute makes clear that agencies are to report their estimates of improper payments to Congress in a uniform manner specified by OMB; revises the threshold for identifying programs for which agencies must report the actions they have taken; requires that agencies report the causes of improper payments, the actions taken to correct those causes and the results; and requires OMB to issue its guidance to agencies within 6 months after the date the legislation is enacted.

V. SECTION-BY-SECTION ANALYSIS

Section 1 entitles the Act as the "Improper Payments Information Act of 2002."

Section 2 requires each agency to review annually all programs and activities that it administers using guidelines prepared by OMB, and identify those programs and activities that may be susceptible to improper payments. For each program and activity administered by the agency, the agency head shall estimate the annual amount of improper payments and submit the estimates to Congress by March 31 of the following year, in a manner prescribed by OMB. If the agency determines that any program or activity has estimated improper payments exceeding $10 million, the agency must also report on the actions the agency is taking to reduce the improper payments. This report must include a discussion of the causes of the improper payments, what actions the agency has taken to correct those causes and the results achieved. The agency must also state whether it has the information systems and other infrastructure it needs to reduce improper payments, and if not, what resources it has requested in its budget submission. Finally, it must report on what steps the agency has taken to hold its managers accountable for reducing improper payments.

Section 2 also defines the terms "agency," "improper payment," and "payment." It provides that this legislation will apply to agency programs beginning in fiscal year 2003 and requires the inclusion of improper payment estimates in agency budget submissions for fiscal year 2004 and thereafter. OMB must prescribe guidance to implement this legislation no later than 6 months after the date of enactment of this Act.

VI. EVALUATION OF REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out this bill."

The enactment of this legislation will not have significant regulatory impact.

VII. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 23, 2002.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4878, the Improper Payments Information Act of 2002.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4878—Improper Payments Information Act of 2002

H.R. 4878 would require federal agencies, beginning in fiscal year 2003, to estimate the amounts of improper payments made by federal agencies and programs that are susceptible to significant improper payments. For estimates of improper payments that exceed $1 million, each agency would prepare a report that discusses the causes of the improper payments and specific actions taken to correct the problem. In addition, the act would designate the Office of Management and Budget as the agency responsible for providing guidance to identify improper payments.

CBO estimates that enacting this legislation would not significantly affect the federal budget. H.R. 4878 would expand on existing measures designed to address waste, fraud, and abuse in the Government Performance and Results Act, the President's Management Agenda for fiscal year 2002, and OMB Circular A–11.

For most agencies, any impact of H.R. 4878 on spending would be subject to the availability of appropriated funds; however, the legislation could also affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration. CBO estimates, however, that any change in spending by these agencies would not be significant.

H.R. 4878 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 contact for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VIII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that the legislation is a free-standing bill that will make no changes to any existing law.

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