

117TH CONGRESS
1ST SESSION

S. 3221

To reduce improper payments and eliminate waste in Federal programs,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2021

Mr. BRAUN introduced the following bill; which was read twice and referred
to the Committee on Homeland Security and Governmental Affairs

A BILL

To reduce improper payments and eliminate waste in Federal
programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “IRS Improper Pay-
5 ments Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that when the Fed-
8 eral Government makes payments to individuals and busi-
9 nesses as beneficiaries, grantees, or contractors, or on be-
10 half of beneficiaries, of Federal programs, the Federal

1 Government must make every effort to confirm that the
2 right recipient is receiving the right payment for the right
3 reason at the right time.

4 (b) PURPOSE.—The purpose of this Act is to—

5 (1) reduce improper payments in the major pro-
6 grams administered by the Federal Government—

7 (A) by intensifying efforts to eliminate
8 payment error, waste, fraud, and abuse in those
9 programs; and

10 (B) continuing to ensure that Federal pro-
11 grams serve and provide access to the intended
12 beneficiaries of those programs;

13 (2) adopt a comprehensive set of policies, in-
14 cluding—

15 (A) transparency and public scrutiny of
16 significant improper payments throughout the
17 Federal Government;

18 (B) a focus on identifying and eliminating
19 the highest improper payments;

20 (C) accountability for reducing improper
21 payments among agencies and officials of agen-
22 cies; and

23 (D) coordinated action by the Federal Gov-
24 ernment and State and local governments in

1 identifying and eliminating improper payments;
 2 and
 3 (3) protect access to Federal programs by their
 4 intended beneficiaries.

5 **SEC. 3. TITLE 31 AMENDMENTS.**

6 (a) IN GENERAL.—Subchapter IV of chapter 33 of
 7 title 31, United States Code, is amended—

8 (1) in section 3351—

9 (A) by redesignating paragraphs (4), (5),
 10 (6), (7), and (8) as paragraphs (5), (6), (7),
 11 (8), and (10), respectively;

12 (B) by inserting after paragraph (3) the
 13 following:

14 “(5) HIGH-PRIORITY PROGRAM.—The term
 15 ‘high-priority program’ means a Federal program
 16 identified by the Director of the Office of Manage-
 17 ment and Budget under section 3359(a)(1).”; and

18 (C) by inserting after paragraph (8), as so
 19 redesignated, the following:

20 “(9) HIGH-PRIORITY PROGRAM REDUCTION
 21 TARGET.—The term ‘high-priority program reduc-
 22 tion target’ means a target for reducing improper
 23 payments associated with a high-priority program
 24 under section 3359(a)(2).”; and

25 (2) by adding at the end the following:

1 **“§ 3359. Transparency and public participation**

2 “(a) HIGH PRIORITY PROGRAMS.—Not later than 90
3 days after the date of enactment of this section, the Direc-
4 tor of the Office of Management and Budget shall—

5 “(1) identify Federal programs in which the
6 highest dollar value or majority of Government-wide
7 improper payments occur;

8 “(2) establish, in coordination with the head of
9 each executive agency responsible for administering
10 a high-priority program—

11 “(A) annual targets for reducing improper
12 payments associated with the high-priority pro-
13 gram; or

14 “(B) if a target described in subparagraph
15 (A) exists as of the date of enactment of this
16 Act, supplemental targets for reducing improper
17 payments associated with the high-priority pro-
18 gram; and

19 “(3) issue Government-wide guidance on the
20 implementation of this Act, including procedures
21 for—

22 “(A) identifying and publicizing the list of
23 entities described in subsection (c)(2)(E); and

24 “(B) prior to publication, administratively
25 appealing the decision to publish the identity of
26 those entities.

1 “(b) WORKING GROUP.—

2 “(1) IN GENERAL.—Not later than 90 days
3 after the date of enactment of this section, the Di-
4 rector of the Office of Management and Budget
5 shall establish a working group to be known as the
6 ‘High Priority Program Working Group’ (referred to
7 in this section as the ‘Working Group’).

8 “(2) MEMBERS.—The Working Group shall
9 consist of officials of the Federal Government and
10 State and local governments.

11 “(3) RECOMMENDATIONS.—Not later than 180
12 days after the date of enactment of this section, the
13 Working Group, in coordination with Council of the
14 Inspectors General on Integrity and Efficiency, shall
15 submit to the Director of the Office of Management
16 and Budget recommendations designed to improve
17 the measurement by the Federal Government of ac-
18 cess to Federal programs by the intended bene-
19 ficiaries of those programs.

20 “(c) PUBLISHED HIGH-PRIORITY PROGRAM INFOR-
21 MATION.—

22 “(1) IN GENERAL.—Not later than 180 days
23 after the date of enactment of this section, and an-
24 nually thereafter, the Secretary of the Treasury, in
25 coordination with the Attorney General and the Di-

1 rector of the Office of Management and Budget,
2 shall publish on the internet information about im-
3 proper payments under high-priority programs.

4 “(2) CONTENTS.—The information published
5 under paragraph (1) shall include, subject to Fed-
6 eral privacy policies and to the extent permitted by
7 law—

8 “(A) the names of the accountable officials
9 designated under section 3360(a);

10 “(B) rates and amounts as of the date of
11 enactment of this section, and historical rates
12 and amounts, of improper payments in Federal
13 programs of the Internal Revenue Service, in-
14 cluding, if known and appropriate, the causes of
15 the improper payments;

16 “(C)(i) rates and amounts as of the date
17 of enactment of this section, and historical
18 rates and amounts, of the recovery of improper
19 payments, where appropriate; or

20 “(ii) for high-priority programs in which
21 improper payments are identified solely on the
22 basis of a sample, rates and amounts of the re-
23 covery of improper payments estimated on the
24 basis of the applicable sample;

1 “(D) high-priority program reduction tar-
 2 gets, where appropriate; and

3 “(E) the entities that—

4 “(i) have received the greatest amount
 5 of unreturned improper payments; and

6 “(ii) in Federal programs in which
 7 improper payments are identified solely on
 8 the basis of a sample, have received the
 9 greatest amount of outstanding improper
 10 payments in the applicable sample.

11 “(3) MEASUREMENTS.—The Secretary of the
 12 Treasury may include in the information published
 13 under paragraph (1) any measurements included in
 14 the recommendations of the Working Group sub-
 15 mitted under subsection (b)(3).

16 “(4) PROHIBITION.—The information described
 17 in paragraph (2)(E) may not include information re-
 18 lating to any referrals the executive agency has
 19 made or anticipates making to the Attorney General
 20 or any information provided in connection with those
 21 referrals.

22 “(d) COLLECTING INFORMATION FROM THE PUB-
 23 LIC.—Not later than 180 days after the date of enactment
 24 of this section, the Secretary of the Treasury, in coordina-
 25 tion with the Attorney General and the Director of the

1 Office of Management and Budget and in consultation
 2 with the Council of the Inspectors General on Integrity
 3 and Efficiency, shall establish a central internet-based
 4 method to collect from the public information relating to
 5 suspected incidents of waste, fraud, and abuse by an entity
 6 receiving Federal funds that have led or may lead to im-
 7 proper payments by the Federal Government.

8 “(e) LINKS.—The head of each executive agency shall
 9 prominently display on the homepage of the website of the
 10 executive agency a link to internet-based resources for ad-
 11 dressing improper payments, including the information
 12 published under subsection (c)(1) and the internet-based
 13 method established under subsection (d).

14 **“§ 3360. Agency accountability and coordination**

15 “(a) ACCOUNTABLE OFFICIALS.—Not later than 120
 16 days after the date of enactment of this section, the head
 17 of each executive agency that administers a high-priority
 18 program shall designate a Senate-confirmed official of the
 19 executive agency to be accountable for meeting the high-
 20 priority program reduction targets of the executive agency
 21 without unduly burdening access to the high-priority pro-
 22 gram and participation by eligible beneficiaries.

23 “(b) SECOND OFFICIAL.—If an executive agency that
 24 administers a high-priority program for which the major-
 25 ity of payments are administered under a single compo-

1 nent of the executive agency, the head of the executive
 2 agency shall designate an official of that component, who
 3 shall—

4 “(1) be responsible for program integrity activi-
 5 ties; and

6 “(2) as appropriate, consolidate and coordinate
 7 each program integrity activity of the component.

8 “(c) REPORT.—Not later than 180 days after the
 9 date of enactment of this section, and annually thereafter,
 10 each executive agency official who is designated by the Di-
 11 rector of the Office of Management and Budget under
 12 subsection (a) or otherwise shall provide the inspector gen-
 13 eral of the executive agency served by the official a report
 14 that includes—

15 “(1) the methodology of the executive agency
 16 for identifying and measuring improper payments by
 17 each high-priority program of the executive agency;

18 “(2) the plans of the executive agency and sup-
 19 porting analysis for meeting high-priority program
 20 reduction targets; and

21 “(3) the plans of the executive agency and sup-
 22 porting analysis for ensuring that initiatives under-
 23 taken in accordance with this subchapter do not un-
 24 duly burden program access and participation by eli-
 25 gible beneficiaries.

1 “(d) DUTIES OF INSPECTOR GENERAL.—Annually,
2 the inspector general shall, with respect to each high-pri-
3 ority program of the executive agency—

4 “(1) assess the level of risk associated with the
5 program;

6 “(2) determine the extent of oversight war-
7 ranted; and

8 “(3) provide the head of the executive agency
9 with recommendations, if any, for modifying the
10 methodology, improper payment reduction plans, or
11 program access and participation plans of the execu-
12 tive agency.

13 “(e) AGENCY FAILURE.—

14 “(1) IN GENERAL.—If an executive agency fails
15 to meet the high-priority program reduction targets
16 of the executive agency or implement the plans de-
17 scribed in subsection (c)(3) for not less than 2 con-
18 secutive years, the official of the executive agency
19 designated under subsection (a) shall submit to the
20 head of the executive agency, the inspector general
21 of the executive agency, and chief financial officer of
22 the executive agency a report that—

23 “(A) describe the likely causes of the fail-
24 ure; and

25 “(B) proposes a remedial plan.

1 “(2) REVIEW.—Annually, the head of an execu-
2 tive agency described in paragraph (1) shall, with re-
3 spect to a remedial plan proposed under paragraph
4 (1)(B)—

5 “(A) review the remedial plan; and

6 “(B) in consultation with the inspector
7 general and chief financial officer of the execu-
8 tive agency, forward the remedial plan and any
9 additional comments and analysis to the Direc-
10 tor of the Office of Management and Budget.

11 “(f) CFOC RECOMMENDATIONS.—

12 “(1) IN GENERAL.—Not later than 180 days
13 after the date of enactment of this section, the Chief
14 Financial Officers Council, in consultation with the
15 Council of the Inspectors General on Integrity and
16 Efficiency, the Attorney General, and Federal pro-
17 gram experts, shall submit to the Director of the Of-
18 fice of Management and Budget and the Secretary
19 of the Treasury recommendations on actions, includ-
20 ing actions relating to forensic accounting and au-
21 dits, agencies should take to more effectively tailor
22 methodologies for identifying and measuring im-
23 proper payments to Federal programs, or compo-
24 nents of Federal programs, in which improper pay-
25 ments are most likely to occur.

1 “(2) CONTENTS.—The recommendations sub-
 2 mitted under paragraph (1) shall address the man-
 3 ner in which the recommended actions would affect
 4 program access and participation by eligible bene-
 5 ficiaries.

6 “(g) RECOMMENDATIONS TO REDUCE IMPROPER
 7 PAYMENTS.—

8 “(1) IN GENERAL.—Not later than 180 days
 9 after the date of enactment of this section, the Sec-
 10 retary of the Treasury and the Director of the Office
 11 of Management and Budget, in consultation with the
 12 Council of the Inspectors General on Integrity and
 13 Efficiency, the Attorney General, and Federal pro-
 14 gram experts, shall submit to the President rec-
 15 ommendations for actions designed to reduce im-
 16 proper payments by improving information sharing
 17 among agencies and Federal programs, and when
 18 applicable, State and local governments and other
 19 stakeholders.

20 “(2) CONTENTS.—The recommendations sub-
 21 mitted under paragraph (1) shall—

22 “(A) address the ways in which informa-
 23 tion sharing may improve eligibility verification
 24 and pre-payment scrutiny;

1 “(B) identify legal or regulatory impedi-
2 ments to effective information sharing; and

3 “(C) address the manner in which the rec-
4 ommended actions would affect Federal pro-
5 gram access and participation by eligible bene-
6 ficiaries.

7 “(h) REPORT.—

8 “(1) IN GENERAL.—Subject to Federal privacy
9 policies and to the extent permitted by law, not later
10 than 180 days after the date of enactment of this
11 section, and not less frequently than quarterly there-
12 after, the head of each executive agency shall submit
13 to the inspector general of the executive agency and
14 the Council of the Inspectors General on Integrity
15 and Efficiency, and make available to the public, a
16 report on any high-dollar improper payments identi-
17 fied by the executive agency.

18 “(2) CONTENTS.—The report required under
19 paragraph (1)—

20 “(A) shall describe any actions that the ex-
21 ecutive agency—

22 “(i) has taken or plans to take to re-
23 cover improper payments; and

1 “(ii) intends to take to prevent im-
2 proper payments from occurring in the fu-
3 ture; and

4 “(B) may not include any referrals the ex-
5 ecutive agency made or anticipates making to
6 the Attorney General or any information pro-
7 vided in connection with those referrals.

8 “(3) REVIEW.—Not later than 60 days after
9 the date on which the head of an executive agency
10 submits a report under paragraph (1), the inspector
11 general of each executive agency and the Council of
12 the Inspectors General on Integrity and Efficiency
13 shall—

14 “(A) assess the level of risk associated
15 with the Federal program under which a high-
16 dollar improper payment described in para-
17 graph (1) was made;

18 “(B) determine the extent of oversight of
19 the Federal program described in subparagraph
20 (A) that is warranted; and

21 “(C) provide the head of the executive
22 agency with recommendations, if any, for modi-
23 fying the plans of the executive agency.

1 **“§ 3361. Enhanced focus on contractors and working**
 2 **with State and local stakeholders**

3 “(a) ENHANCED FOCUS ON CONTRACTORS.—Not
 4 later than 180 days after the date of enactment of this
 5 section, the Federal Acquisition Regulatory Council, in co-
 6 ordination with the Director of the Office of Management
 7 and Budget and in consultation with the National Pro-
 8 curement Fraud Task Force (or its successor group), the
 9 Council of the Inspectors General on Integrity and Effi-
 10 ciency, and appropriate executive agency officials, shall
 11 recommend to the President actions designed to enhance
 12 contractor accountability for improper payments, which
 13 may include subjecting contractors to debarment, suspen-
 14 sion, financial penalties, and identification through a pub-
 15 lic internet website, subject to Federal privacy policies and
 16 to the extent permitted by law and where the identification
 17 would not interfere with or compromise an ongoing crimi-
 18 nal or civil investigation, for knowingly failing timely to
 19 disclose credible evidence of significant overpayments re-
 20 ceived under Federal contracts.

21 “(b) WORKING GROUP FOR AUDITS.—

22 “(1) IN GENERAL.—Not later than 30 days
 23 after the date of enactment of this section, the Di-
 24 rector of the Office of Management and Budget
 25 shall establish a working group to be known as the
 26 ‘Auditing Working Group’.

1 “(2) MEMBERS.—The working group estab-
2 lished under paragraph (1) shall consist of officials
3 of the Federal Government and elected officials of
4 State and local governments.

5 “(3) CHAIR.—The Director of the Office of
6 Management and Budget may designate an appro-
7 priate official to serve as the Chair of the working
8 group established under paragraph (1) to convene
9 the meetings and direct the work of the working
10 group.

11 “(4) DUTIES.—Not later than 180 days after
12 the date of enactment of this section, the working
13 group established under paragraph (1), in coordina-
14 tion with the Council of the Inspectors General on
15 Integrity and Efficiency, shall submit to the Director
16 of the Office of Management and Budget rec-
17 ommendations designed to improve the effectiveness
18 of single audits of State and local governments and
19 nonprofit organizations that expend Federal funds.

20 “(5) CONTENTS.—The recommendations re-
21 quired under paragraph (4) shall address—

22 “(A) the effectiveness of the audits de-
23 scribed in that paragraph in identifying im-
24 proper payments; and

1 “(B) opportunities to streamline or elimi-
2 nate single audit requirements in situations in
3 which the value of those requirements is mini-
4 mal.

5 “(c) WORKING GROUP FOR ACCOUNTABILITY.—

6 “(1) IN GENERAL.—Not later than 30 days
7 after the date of enactment of this section, the Di-
8 rector of the Office of Management and Budget
9 shall establish a working group, which may be a
10 component of the working group established under
11 subsection (b), to be known as the ‘Accountability
12 Working Group’.

13 “(2) MEMBERS.—The working group estab-
14 lished under paragraph (1) shall consist of officials
15 of the Federal Government and elected officials of
16 State and local governments.

17 “(3) CHAIR.—The Director of the Office of
18 Management and Budget may designate an appro-
19 priate official to serve as the Chair of the working
20 group established under paragraph (1) to convene
21 the meetings and direct the work of the working
22 group.

23 “(4) DUTIES.—Not later than 180 days after
24 the date of enactment of this section, the working
25 group established under paragraph (1), in consulta-

1 tion with the Council of the Inspectors General on
 2 Integrity and Efficiency, shall submit to the Director
 3 of the Office of Management and Budget rec-
 4 ommendations for administrative actions designed to
 5 improve the incentives and accountability of State
 6 and local governments and other entities receiving
 7 Federal funds for reducing improper payments.

8 **“§ 3362. Policy proposals**

9 “(a) IN GENERAL.—Not later than 180 days after
 10 the date of enactment of this section, the Director of the
 11 Office of Management and Budget, in consultation with
 12 the heads of appropriate agencies and the Council of the
 13 Inspectors General on Integrity and Efficiency, shall de-
 14 velop policy recommendations, including potential legisla-
 15 tive proposals, designed to reduce improper payments, in-
 16 cluding improper payments caused by error, waste, fraud,
 17 and abuse, across Federal programs without compro-
 18 mising program access.

19 “(b) INCLUSION.—The recommendations developed
 20 under subsection (a) shall be included, as appropriate, in
 21 the budget of the President under section 1105(a) of title
 22 31, United States Code for fiscal year 2023 and each fis-
 23 cal year thereafter.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subchapter IV of chapter 33 of title 31, United States
3 Code, is amended by adding at the end the following:

“3359. Transparency and public participation.

“3360. Agency accountability and coordination.

“3361. Enhanced focus on contractors and working with State and local stake-
holders.

“3362. Policy proposals.”.

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