

intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The title amendment was agreed to.

The bill (S. 2936), as amended, was read a third time and passed.

IMPROPER PAYMENTS REDUCTION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 727, H.R. 4878.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4878) to provide for estimates and reports of improper payments by Federal agencies.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 4878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

[This Act may be cited as the "Improper Payments Information Act of 2002".]

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

[(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

[(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

[(1) estimate the annual amount of improper payments; and

[(2) include that estimate in its annual budget submission.

[(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed one percent of the total program or activity budget or \$1,000,000 annually (whichever is less), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

[(1) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

[(2) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

[(3) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

[(d) DEFINITIONS.—For the purposes of 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 service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

[(3) PAYMENT.—The term "payment" means any payment (including a commitment for future payment, such as a loan guarantee) that is—

[(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

[(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

[(e) APPLICATION.—This section—

[(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

[(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

[(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improper Payments Information Act of 2002".

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

(1) estimate the annual amount of improper payments; and

(2) submit those estimates to Congress before March 31 of the following applicable year, with all agencies using the same method of reporting, as determined by the Director of the Office of Management and Budget.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed \$10,000,000, the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

(1) a discussion of the causes of the improper payments identified, actions taken to correct those causes, and results of the actions taken to address those causes;

(2) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

(3) if the agency does not have such systems and infrastructure, a description of the re-

sources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

(4) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

(d) DEFINITIONS.—For the purposes of 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 service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term "payment" means any payment (including a commitment for future payment, such as a loan guarantee) that is—

(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

(e) APPLICATION.—This section—

(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.

Mr. REID. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments in the nature of a substitute was agreed to.

The bill (H.R. 4878), as amended, was read a third time and passed.

THE MEDICAL DEVICE USER FEE AND MODERNIZATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H.R. 5651.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5651) to amend the Federal Food, Drug and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I am pleased to support passage of H.R. 5651, "The Medical Device User Fee and