

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8464
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stopping Fraudulent
3 Payments Act”.

4 **SEC. 2. AUTHORITY TO PAUSE PAYMENTS FOR FURTHER
5 REVIEW AND CORRECTIVE ACTION.**

6 (a) **TREASURY PAYMENT VOUCHER WAIVER AU-**
7 **THORITY.—**

8 (1) **AMENDMENT.—**Subchapter II of chapter 33
9 of title 31, United States Code, is amended by add-
10 ing at the end the following:

11 **“§ 3337. Authority to pause payments for further re-**
12 **view and corrective action**

13 “(a) **AGENCY OBLIGATION TO PAUSE DISBURSE-**
14 **MENT REQUESTS FOR CORRECTIVE ACTION.—**The head
15 of an agency shall take a corrective action to temporarily
16 delay, condition, or segment a disbursement request before
17 the certification of a payment voucher under section 3325

1 of this title if, as determined by an official designated by
2 the head of the agency, the agency—

3 “(1) has sufficient reason to determine that the
4 payment presents an elevated risk of fraud based on
5 a fraud-risk indicator or an improper payment re-
6 sulting in financial loss to the Government as esti-
7 mated under the requirements of section 3352 of
8 this title in accordance with the statutorily-defined
9 eligibility requirements or other legally-established
10 condition of the program for a payee to be eligible
11 to receive payment;

12 “(2) has sufficient reason to determine, based
13 on a notification by the relevant State or local gov-
14 ernment official in the case of a payment from Fed-
15 eral funds disbursed by a State or local government
16 under a State-administered and federally-funded
17 program, that the payment presents an elevated risk
18 of fraud based on a fraud-risk indicator or an im-
19 proper payment resulting in financial loss to the
20 Government as estimated under the requirements of
21 section 3352 of this title in accordance with the
22 statutorily-defined eligibility requirements or other
23 legally-established condition of the program for a
24 payee to be eligible to receive payment; or

1 “(3) has been notified of an order from the Sec-
2 retary of the Treasury described under subsection
3 (b).

4 “(b) TREASURY OBLIGATION TO RETURN PAYMENT
5 VOUCHER AND ISSUE CORRECTIVE ACTION ORDER.—Ex-
6 cept where otherwise required by law, the Secretary shall
7 promptly notify the relevant certifying official of an order
8 to return a certified payment voucher submitted to a dis-
9 bursing official under section 3325 and issue a corrective
10 action order to the head of an agency not later than 2
11 days after the Secretary makes a determination that in
12 accordance with the statutorily-defined eligibility require-
13 ments or other legally-established condition of the pro-
14 gram for a payee to be eligible to receive payment that
15 such payment presents an elevated risk of fraud based on
16 a fraud-risk indicator or an improper payment resulting
17 in financial loss to the Government based on an output
18 of the Do Not Pay system under section 3354.

19 “(c) AGENCY DOCUMENTATION AND TIME-LIMITED
20 CORRECTIVE ACTION.—An action taken by the head of
21 an agency under subsection (a) shall—

22 “(1) be based on an objective, documented
23 fraud-risk indicator;

24 “(2) be narrowly applied to the portion of the
25 payment presenting the elevated risk; and

1 “(3) be limited in duration to the minimum pe-
2 riod necessary, as determined by the head of the
3 agency, to verify eligibility of the payee or accuracy
4 of the payment per any program requirement associ-
5 ated with the payment or as stipulated under law.

6 “(d) PAYEE NOTIFICATION AND TIME LIMIT OF
7 PAUSED DISBURSEMENT REQUESTS.—With respect to a
8 disbursement request that has been delayed, conditioned,
9 or segmented pursuant to subsection (a) or a payment
10 voucher that is returned pursuant subsection (b), the head
11 of the agency shall take the following actions:

12 “(1) Promptly provide to the payee (not later
13 than 2 days after a determination under subsection
14 (a) or a notification to the agency under subsection
15 (b)), as appropriate, and for a case in which the
16 payment from Federal funds disbursed by a State or
17 local government under a State-administered and
18 federally-funded program also provides to such rel-
19 evant State or local government official, a notifica-
20 tion that—

21 “(A) a disbursement has been temporarily
22 paused, conditioned, or segmented;

23 “(B) identifies the nature of the fraud-risk
24 indicator or improper payment relied upon by
25 the agency to make the corrective action deter-

1 mination under subsection (a) or notification to
2 the agency under subsection (b); and

3 “(C) outlines the process for the corrective
4 action review period.

5 “(2) Use a process tailored to the specific re-
6 quirements and design of the agency program for a
7 payee, or the State or local government described
8 under paragraph (1), to contest any factual inaccu-
9 racy or provide clarifying information during the
10 corrective action review period.

11 “(3) Issue such payment not later than 30 days
12 after a determination to take a corrective action is
13 made by the head of the agency under subsection (a)
14 or the agency was notified by the Secretary under
15 subsection (b) of a corrective action order, but not
16 later than 7 days after the date on which the payee
17 contests the corrective action under the process es-
18 tablished pursuant to paragraph (2), if the head of
19 the agency determines that the payment does not
20 present an elevated risk of fraud or an improper
21 payment resulting in financial loss to the Govern-
22 ment.

23 “(e) SEGMENTATION OF LOW-RISK PAYMENTS.—To
24 the maximum extent practicable, the head of each agency
25 shall allow a routine, historically consistent payment

1 amount to proceed while temporarily holding an anoma-
2 lous, unusually large, or high-risk portion of a payment,
3 or class of payments, pending review and resolution of an
4 agency corrective action determination under subsection
5 (a) or a corrective action order under subsection (b).

6 “(f) EXEMPTIONS FOR LAW ENFORCEMENT ACTIVI-
7 TIES.—The head of an agency, in consultation with the
8 Secretary and the Attorney General, may waive any provi-
9 sion in this section on a case-by-case basis if notified of
10 or instructed by a Federal law enforcement authority, in-
11 cluding an agency Inspector General, that the action will
12 jeopardize an active criminal investigation or legal pro-
13 ceeding related to an effort to defraud the Federal Govern-
14 ment or violate sections 3729 through 3733 of title 31
15 (commonly known as the ‘False Claims Act’).

16 “(g) LIMITATION OF LIABILITY.—No officer or em-
17 ployee of the Federal Government shall be personally liable
18 for an action taken in good faith under this section. An
19 action taken under this section may not constitute a final
20 determination of eligibility, liability, or wrongdoing on the
21 part of a payee.

22 “(h) RULE OF CONSTRUCTION FOR PROGRAM AU-
23 THORIZING STATUTE.—Nothing in this section may be
24 construed to supersede any other provision of law with re-

1 spect to any statute that authorizes the payment or pro-
2 gram the payment is made under.

3 “(i) REGULATIONS.—Not later than 180 days after
4 the date of the enactment of this section, and annually
5 thereafter, the Secretary, in consultation with the Direc-
6 tor, shall issue regulations and establish procedures to ad-
7 minister the requirements of this section that shall be pub-
8 lished in the Federal Register that, at a minimum, specify
9 the following:

10 “(1) The minimum seniority of an agency offi-
11 cial designated under subsection (a) authorized to
12 make a determination to issue a corrective action.

13 “(2) The procedures by which the Secretary of
14 the Treasury will use the Do Not Pay system under
15 section 3354 to make a determination under sub-
16 section (b) in accordance with the statutorily-defined
17 eligibility requirements or other legally-established
18 condition of a program for a payee to be eligible to
19 receive payment.

20 “(3) The procedure for an agency to dispute an
21 order to return a certified payment voucher and ap-
22 peal a related corrective action order under sub-
23 section (b) to the Fiscal Assistant Secretary, which
24 shall at a minimum include a requirement for the
25 agency to receive a response not later than five days

1 after making such a dispute or appeal to the De-
2 partment of the Treasury.

3 “(4) The minimum information requirements of
4 a notification required under subsection (d)(1).

5 “(j) DEFINITIONS.—In this section:

6 “(1) DIRECTOR.—The term ‘Director’ means
7 the Director of the Office of Management and Budg-
8 et.

9 “(2) FRAUD-RISK INDICATOR.—The term
10 ‘fraud-risk indicator’ means an objective data point
11 or analytic signal that indicates an anomalous pay-
12 ment pattern or increase in the volume of a payment
13 amount, a verified data mismatch, network or behav-
14 ioral anomaly, or match identified by the Do Not
15 Pay system under section 3354 of this title and any
16 payment, account, or payee validation program or
17 service administered by the Secretary that would re-
18 sult in financial loss to the Government.

19 “(3) ROUTINE, HISTORICALLY CONSISTENT
20 PAYMENT AMOUNT.—The term ‘routine, historically
21 consistent payment amount’ means a payment
22 amount that is consistent with previous payment his-
23 tory of the payee, established program use patterns,
24 or other objective benchmarks determined by the
25 certifying agency.

1 made as a result of a good faith effort to comply
2 with the requirements of section 3337 of this title”.

3 (d) REQUIREMENTS AND AUTHORITIES OF PAYMENT
4 CERTIFYING OFFICIALS.—Subsection (a) of section 3528
5 of title 31, United States Code, is amended—

6 (1) in paragraph (4)(C), by striking “; and”
7 and inserting a semicolon;

8 (2) in paragraph (5), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following

11 “(6) complying with an order to take a correc-
12 tive action to temporarily delay, condition, or seg-
13 ment a disbursement request pursuant to section
14 3337 of this title.”.

15 (e) RELIEF OF CERTIFYING OFFICIALS.—Subsection
16 (b)(1) of section 3528 of title 31, United States Code—

17 (1) in subparagraph (A), by striking “; or” and
18 inserting a semicolon;

19 (2) in subparagraph (B)(iii), by striking the pe-
20 riod at the end and inserting “; or”; and

21 (3) by inserting at the end the following new
22 subparagraph

23 “(C) the certification was made as a result
24 of a good faith effort to comply with the re-
25 quirements of section 3337 of this title.”.

1 (f) REPORT ON RESULTS OF PAYMENTS PAUSED FOR
2 FURTHER REVIEW AND CORRECTIVE ACTION.—Not later
3 than 18 months after the date of the enactment of this
4 Act, and annually thereafter, the Secretary of the Treas-
5 ury shall submit to the Director of the Office of Manage-
6 ment and Budget, the Committees on Appropriations of
7 the Senate and the House of Representatives, the Com-
8 mittee on Homeland Security and Governmental Affairs
9 of the Senate, and the Committee on Oversight and Gov-
10 ernment Reform of the House of Representatives, a report
11 on the following:

12 (1) The total number of orders to return a cer-
13 tified payment voucher submitted to a disbursing of-
14 ficial under section 3325 of title 31, United States
15 Code, and corrective action orders issued to the head
16 of an agency under the authorities provided by sec-
17 tion 3337(b) of such title, as added by this section.

18 (2) The percentage of such payments that are
19 issued by the agency, including by successful con-
20 testations filed by the recipient or payee with the
21 agency, and recommendations to mitigate such er-
22 rors in the fraud-risk indicators of the Department
23 of the Treasury in the future.

24 (3) The total savings to the Federal Govern-
25 ment in payments determined to be fraudulent or re-

1 sult in financial loss to the Government under the
2 authorities provided by subsections (a) and (b) of
3 section 3337 of title 31, United States Code, as
4 added by this section.

5 (4) Any necessary policy, regulatory, or legisla-
6 tive recommendations related to the authorities and
7 requirements under section of section 3337 of title
8 31, United States Code, as added by this section, or
9 other relevant law.

10 (g) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect 1 year after the date of the
12 enactment of this Act.

