

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8467
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SEC. 1 SHORT TITLE.

2 This Act may be cited as the “Zeroing Out Monetary
3 Benefits Improperly Expended Act” or the “ZOMBIE
4 Act”.

**5 SEC. 2. REFORMS TO PAYMENT INTEGRITY INFORMATION
6 ACT OF 2019.**

7 (a) DEFINITIONS.—Section 3351 of title 31, United
8 States Code, is amended—

9 (1) in paragraph (2)—

10 (A) in subparagraph (A)—

11 (i) in clause (i)—

12 (I) by inserting “information on”
13 before “improper payments”;

14 (II) by striking “information
15 with” and inserting “resulting in fi-
16 nancial loss to the Government in the
17 accompanying materials to”; and

1 (III) by striking “and” at the
2 end; and

3 (ii) by inserting after clause (ii) the
4 following new clause:

5 “(iii) published information on im-
6 proper payments resulting in financial loss
7 to the Government with the annual budget
8 justification of the executive agency for the
9 most recent fiscal year;”;

10 (B) by redesignating subparagraphs (B)
11 and (C) as clauses (iv) and (v), respectively
12 (and by redesignating subparagraphs (D)
13 through (F) as subparagraphs (B) through (D),
14 respectively);

15 (C) in subparagraph (A)(iv), as so redesign-
16 nated, by striking “if required, has”;

17 (D) in subparagraph (A)(v), as so redesign-
18 nated, by striking “if required, publishes” and
19 inserting “published”;

20 (E) by striking subparagraph (B), as so
21 redesignated; and

22 (F) by redesignating subparagraphs (C)
23 and (D), as so redesignated, as subparagraphs
24 (B) and (C); and

1 (2) by adding at the end the following new
2 paragraph:

3 “(9) FINANCIAL LOSS TO THE GOVERNMENT.—

4 The term ‘financial loss to the Government’—

5 “(A) means any payment or part of a pay-
6 ment made in excess of the correct amount au-
7 thorized by law that results in a financial loss
8 to the Federal Government; and

9 “(B) does not include any payment or part
10 of a payment made to the correct person or en-
11 tity for the correct amount authorized by law
12 but not made in accordance with certain admin-
13 istrative procedures applicable to the executive
14 agency (excluding any such procedure necessary
15 to establish eligibility or to verify that any pay-
16 ment or part of a payment was made in such
17 correct amount).”.

18 (b) ESTIMATES OF IMPROPER PAYMENTS RESULT-
19 ING IN FINANCIAL LOSS TO THE GOVERNMENT AND RE-
20 PORTS ON ACTIONS TO REDUCE SUCH PAYMENTS.—Sec-
21 tion 3352 of title 31, United States Code, is amended—

22 (1) in the heading—

23 (A) by inserting “**RESULTING IN FINAN-**
24 **CIAL LOSS TO THE GOVERNMENT**” before
25 “**AND REPORTS**”; and

1 (B) by striking “**REDUCE IMPROPER**
2 **PAYMENTS**” and inserting “**REDUCE SUCH**
3 **PAYMENTS**”;

4 (2) in subsection (a)—

5 (A) in paragraph (1)—

6 (i) in subparagraph (A), by striking
7 “periodically review all programs and ac-
8 tivities” and inserting “submit annually a
9 list of each program and activity required
10 to be reported on the Program Inventory
11 under section 1122”; and

12 (ii) in subparagraph (B)—

13 (I) by striking “all programs and
14 activities” and inserting “each pro-
15 gram and activity from each such
16 list”; and

17 (II) by striking “(3)” and insert-
18 ing “(2)”;

19 (B) by striking paragraph (2);

20 (C) by redesignating paragraph (3) as
21 paragraph (2); and

22 (D) in paragraph (2), as so redesignated—

23 (i) in subparagraph (A), by striking
24 “improper payments and payments whose
25 propriety cannot be determined” and in-

1 serting “improper payments resulting in fi-
2 nancial loss to the Government and pay-
3 ments lacking sufficient documentation to
4 determine whether the payments result in
5 financial loss to the Government”;

6 (ii) by redesignating subparagraphs
7 (B) and (C) as subparagraphs (D) and
8 (E), respectively;

9 (iii) by inserting after subparagraph
10 (A) the following new subparagraphs:

11 “(B) DEVELOPMENT OF RISK ASSESSMENT
12 GUIDANCE.—Not later than 1 year after the
13 date of the enactment of this Act, the Secretary
14 of the Treasury shall develop risk assessment
15 guidance to assess the risk of improper pay-
16 ments resulting in financial loss to the Govern-
17 ment that addresses the following:

18 “(i) The likelihood of payment errors
19 and the magnitude of such errors that do
20 not result in financial loss to the Govern-
21 ment.

22 “(ii) The likelihood of payment errors
23 and the magnitude of such errors that do
24 result in financial loss to the Government.

1 “(iii) A formula for estimating finan-
2 cial loss to the Government.

3 “(iv) Relevant governmentwide docu-
4 ments and best practices for managing im-
5 proper payments and mitigating fraud
6 risks in Federal programs, such as the
7 document of the Government Account-
8 ability Office entitled ‘A Framework for
9 Managing Fraud Risks in Federal Pro-
10 grams’ (or any successor document), as ap-
11 plicable and appropriate.

12 “(C) SCOPE.—In preparing a list under
13 paragraph (1)(A), the head of each executive
14 agency shall require, within 6 months after
15 issuing the risk assessment guidance, a risk as-
16 sessment using the guidance developed under
17 subparagraph (B) for each program or activity
18 listed under paragraph (1)(A) for each—

19 “(i) existing programs or activities
20 prior to the next disbursement of Federal
21 funds with respect to the program or activ-
22 ity; and

23 “(ii) newly authorized programs and
24 activities prior to any disbursement of

1 Federal funds with respect to the program
2 or activity.”;

3 (iv) in subparagraph (D), as so reded-
4 ignated—

5 (I) in the heading, by striking
6 “SCOPE” and inserting “REQUIRE-
7 MENTS”;

8 (II) in the matter preceding
9 clause (i)—

10 (aa) by striking “In con-
11 ducting a review under para-
12 graph (1), the head of each exec-
13 utive agency shall” and inserting
14 “Risk assessments are to be con-
15 ducted on an ongoing basis, but
16 no less frequently than once
17 every 3 years, and”;

18 (bb) by inserting “, includ-
19 ing with respect to fraud in any
20 program or activity listed under
21 paragraph (1)(A) that causes im-
22 proper payments resulting in fi-
23 nancial loss to the Government”
24 before “, such as”;

1 (III) in clause (x), by striking
2 “data systems” and inserting “data
3 assets”; and

4 (IV) in clause (xi)—

5 (aa) by inserting “or im-
6 proper payments” before “as as-
7 sessed”; and

8 (bb) by inserting “, or any
9 successor document” after
10 “(commonly known as the ‘Green
11 Book’)”; and

12 (v) in subparagraph (E), as so redes-
13 ignated—

14 (I) in the heading, by striking
15 “ANNUAL REPORT” and inserting
16 “REPORTS”;

17 (II) in the matter preceding
18 clause (i), by striking “Each executive
19 agency shall publish an annual re-
20 port” and inserting “Not less than
21 once every 3 years, the head of each
22 executive agency shall publish a re-
23 port, which may be included in a re-
24 port required under subsection
25 (b)(2)(F) by such head with respect to

1 a high-priority Federal program or ac-
2 tivity,”;

3 (III) in clause (i), by striking “;
4 and” and inserting a semicolon;

5 (IV) in clause (ii), by striking the
6 period at the end and inserting “;
7 and”; and

8 (V) by adding at the end the fol-
9 lowing new clause:

10 “(iii) a prioritized listing of risks iden-
11 tified in subparagraph (D) associated with
12 each program and activity listed under
13 paragraph (1)(A) and any corresponding
14 financial and administrative control to
15 mitigate any such risk, including the use of
16 the Do Not Pay Initiative (or any suc-
17 cessor system) and any other system or
18 data asset maintained by the Secretary of
19 the Treasury or the Inspector General of
20 the executive agency to prevent fraud or
21 improper payments resulting in financial
22 loss to the Government prior to making an
23 eligibility determination to receive Federal
24 funds with respect to any such program or
25 activity listed under paragraph (1)(A),

1 issuing an award, or requesting a pay-
2 ment.”;

3 (3) in subsection (b)—

4 (A) in the heading, by inserting “THAT
5 RESULT IN FINANCIAL LOSS TO THE GOVERN-
6 MENT” after “IMPROPER PAYMENTS”;

7 (B) in paragraph (1)—

8 (i) in subparagraph (A)—

9 (I) by inserting “and activities”
10 after “high-priority Federal pro-
11 grams”; and

12 (II) by inserting “that result in
13 financial loss” after “improper pay-
14 ments” each place it appears; and

15 (ii) in subparagraph (B), by striking
16 “associated” and inserting “and financial
17 loss associated”; and

18 (C) in paragraph (2)—

19 (i) in the heading, by inserting “THAT
20 RESULT IN FINANCIAL LOSS TO THE GOV-
21 ERNMENT” after “IMPROPER PAYMENTS”;

22 (ii) in subparagraph (A), by striking
23 “shall on an annual basis” and inserting “,
24 not less frequently than once every 3 years,
25 shall”;

- 1 (iii) in subparagraph (B)—
- 2 (I) in clause (i)—
- 3 (aa) in subclause (I)—
- 4 (AA) by inserting “that
- 5 result in financial loss to the
- 6 Government” after “im-
- 7 proper payments”; and
- 8 (BB) by striking “;
- 9 and” and inserting a semi-
- 10 colon;
- 11 (bb) in subclause (II), by in-
- 12 serting “that result in financial
- 13 loss to the Government, including
- 14 by making it harder for fraudu-
- 15 lent actors to exploit the pro-
- 16 gram” after “improper pay-
- 17 ments”; and
- 18 (cc) by adding at the end
- 19 the following new subclause:
- 20 “(III) has taken or plans to take
- 21 to reduce the percentage of improper
- 22 payments that result in financial loss
- 23 to the Government;”; and
- 24 (II) by inserting after clause (i)
- 25 the following new clause (and redesi-

1 nating the succeeding clause accord-
2 ingly):
3 “(ii) shall include—
4 “(I) an estimate of the total
5 amount of the payments that result in
6 financial loss to the Government;
7 “(II) an estimate of the total
8 amount of the payments that do not
9 result in financial loss to the Govern-
10 ment;
11 “(III) the percentage of pay-
12 ments that result in financial loss to
13 the Government;
14 “(IV) an assessment of the por-
15 tion of the total amount of payments
16 that result in financial loss to the
17 Government that are due to fraudu-
18 lent actions by the recipient of such
19 payments;
20 “(V) the total amount of dis-
21 bursed payments; and
22 “(VI) a description of resources
23 or legislative changes proposed to im-
24 prove or maintain the integrity of the
25 relevant program or activity; and”;

1 (iv) in subparagraph (E)(i)—

2 (I) in subclause (I), by striking
3 “improper payment” and inserting
4 “improper payments that result in fi-
5 nancial loss”;

6 (II) in subclause (II)—

7 (aa) by striking “improper
8 payments” and inserting “im-
9 proper payments that result in fi-
10 nancial loss”; and

11 (bb) by striking “; and” and
12 inserting a semicolon; and

13 (III) by adding at the end the
14 following new subclause:

15 “(III) each statistically valid esti-
16 mate developed under subsection
17 (c)(1)(A) and make a recommendation
18 to the head of the executive agency on
19 whether the agency estimate should be
20 reassessed and reestablished; and”;

21 (v) by amending subparagraph (F) to
22 read as follows:

23 “(F) AGENCY LIAISON DESIGNATION AND
24 MANDATORY COORDINATION MEETINGS.—Not
25 less frequently than once every fiscal year, the

1 head of each executive agency with a high-pri-
2 ority Federal program or activity identified
3 under paragraph (1)(B) shall designate a senior
4 official of the executive agency to serve as the
5 liaison of the executive agency for work under
6 this subchapter who shall meet for a non-audit
7 or investigative purpose with the Director of the
8 Office of Management and Budget (or a des-
9 ignee of the Director), the Commissioner of the
10 Bureau of the Fiscal Service of the Department
11 of the Treasury (or a designee of the Commis-
12 sioner), the Inspector General of the executive
13 agency (or a designee of the Inspector General),
14 and the Pandemic Response Accountability
15 Committee established under section 15010 of
16 the CARES Act (Public Law 116–136; 134
17 Stat. 533) (or any successor organization) to
18 report on any action taken during the preceding
19 fiscal year and any planned action, including
20 any reform to any financial or administrative
21 control, to prevent improper payments (with a
22 focus on improper payments that lead to finan-
23 cial loss to the Government) and mitigate fraud
24 in such program or activity.”; and

1 (vi) by adding at the end the following
2 new subparagraph:

3 “(G) FEDERAL-STATE COORDINATION
4 MEETINGS.—Not less frequently than once
5 every fiscal year, the Director of the Office of
6 Management and Budget and the Secretary of
7 the Treasury shall convene a meeting of State
8 officials responsible for program and payment
9 integrity in programs administered on behalf of
10 the Federal Government by a State or local
11 government to review fraud prevention perform-
12 ance, share best practices, and identify ongoing
13 coordination challenges.”;

14 (4) in subsection (c)—

15 (A) in the heading, by inserting “THAT
16 RESULT IN FINANCIAL LOSS TO THE GOVERN-
17 MENT” after “IMPROPER PAYMENTS”;

18 (B) in paragraph (1)—

19 (i) by amending subparagraph (A) to
20 read as follows:

21 “(A) develop a statistically valid estimate
22 of improper payments that result in financial
23 loss to the Government;”;

24 (ii) by striking subparagraph (B); and

1 (iii) by adding at the end the fol-
2 lowing new subparagraphs:

3 “(B) include such estimate in the annual
4 budget justification of the executive agency; and

5 “(C) revise such estimate if the head of the
6 executive agency determines, which may be
7 based on a recommendation from the Director
8 in consultation with the Secretary of the Treas-
9 ury and the Inspector General of the executive
10 agency, that there is a need to reestablish the
11 estimate of improper payments that result in fi-
12 nancial loss to the Government due to—

13 “(i) a significant change, as deter-
14 mined by the agency head, to the program
15 or activity’s appropriation or authorization;

16 “(ii) newly establishing the program
17 or activity; or

18 “(iii) a recommendation from the
19 agency Inspector General in the annual
20 compliance report issued under section
21 3353(a).”; and

22 (C) in paragraph (2)—

23 (i) in subparagraph (A), by inserting
24 “resulting in financial loss to the Govern-
25 ment,” after “improper payment”; and

1 (ii) in subparagraph (B), by striking
2 “improper payments” before “estimate”;

3 (5) in subsection (d)—

4 (A) in the heading—

5 (i) by striking “REDUCE” and insert-
6 ing “REDUCE AND PREVENT”; and

7 (ii) by inserting “THAT RESULT IN
8 FINANCIAL LOSS TO THE GOVERNMENT”
9 after “IMPROPER PAYMENTS”;

10 (B) in the matter preceding paragraph
11 (1)—

12 (i) by inserting “that result in finan-
13 cial loss to the Government” after “esti-
14 mated improper payments”; and

15 (ii) by striking “reduce improper pay-
16 ments” and inserting “reduce and prevent
17 such payments”;

18 (C) in paragraph (1), by inserting “that
19 result in financial loss to the Government (in-
20 cluding actions used to commit fraud)” after
21 “improper payments”;

22 (D) in paragraph (2)—

23 (i) in the matter preceding subpara-
24 graph (A), by inserting “that result in fi-

1 nancial loss to the Government” after “in
2 order to reduce improper payments”;

3 (ii) in subparagraph (B), by striking
4 “; and” and inserting a semicolon at the
5 end;

6 (iii) in subparagraph (C), by striking
7 the period at the end and inserting “;
8 and”; and

9 (iv) by adding at the end the following
10 new subparagraph:

11 “(D) access to appropriate records and
12 data assets, whether maintained by an executive
13 agency, a State or local government, or a pri-
14 vate sector organization;”;

15 (E) in paragraph (4), by inserting “that
16 result in financial loss to the Government” after
17 “improper payments”;

18 (F) in paragraph (5)—

19 (i) by inserting “that result in finan-
20 cial loss to the Government” after “im-
21 proper payments” each place it appears;
22 and

23 (ii) in subparagraph (B)(ii), by strik-
24 ing “; and” and inserting a semicolon at
25 the end;

1 (G) by amending paragraph (6) to read as
2 follows:

3 “(6) a description of how the level of planned
4 or completed actions by the executive agency to ad-
5 dress the causes of the improper payments that re-
6 sult in financial loss to the Government matched the
7 level of improper payments that resulted in financial
8 loss to the Government, including a breakdown by
9 category of such improper payments and specific
10 timelines for completion of those actions; and”;

11 (H) by adding at the end the following new
12 paragraph:

13 “(7) information on the progress of the execu-
14 tive agency with respect to—

15 “(A) implementing the financial and ad-
16 ministrative controls required to be established
17 under subsection (a)(2)(E)(iii);

18 “(B) implementing relevant government-
19 wide documents and best practices for man-
20 aging improper payments and mitigating fraud
21 risks in Federal programs, such as the docu-
22 ment of the Government Accountability Office
23 entitled ‘A Framework for Managing Fraud
24 Risks in Federal Programs’ (or any successor

1 document), as applicable and appropriate, in-
2 cluding with respect to the identification of—

3 “(i) any dedicated entity that leads
4 the fraud risk management activity of the
5 executive agency;

6 “(ii) responsibilities of such entity, in-
7 cluding any program or operation for
8 which the entity is responsible;

9 “(iii) capacity, including any limita-
10 tions, to strategically manage fraud risks;

11 “(iv) any program or operation within
12 the executive agency for which there is not
13 a dedicated entity that leads fraud risk
14 management, along with a detailed jus-
15 tification for not having such a dedicated
16 entity; and

17 “(v) the status of implementing the
18 overarching concepts with associated lead-
19 ing practices identified in such document
20 entitled ‘A Framework for Managing
21 Fraud Risks in Federal Programs’ (or any
22 such successor document), as applicable
23 and appropriate;

24 “(C) implementing the Office of Manage-
25 ment and Budget Circular A-123, or any suc-

1 cessor policy, with respect to leading practices
2 for managing fraud and improper payments
3 risk;

4 “(D) identifying fraud risks and
5 vulnerabilities, including but not limited to pay-
6 roll, beneficiary payments, grants, large con-
7 tracts, and purchase and travel cards; and

8 “(E) establishing strategies, procedures,
9 and other steps to prevent, detect, and respond
10 to fraud.”;

11 (6) in subsection (e)—

12 (A) in the matter preceding paragraph
13 (1)—

14 (i) by inserting “that result in finan-
15 cial loss to the Government,” after “With
16 respect to improper payments”; and

17 (ii) by striking “the improper pay-
18 ments” and inserting “such payments”;

19 (B) in paragraph (1), by inserting “that
20 result in financial loss to the Government,”
21 after “improper payments”; and

22 (C) in paragraph (2), by inserting “that
23 result in financial loss to the Government,”
24 after “improper payments”;

25 (7) in subsection (f)—

1 (A) in paragraph (1)—

2 (i) in the matter preceding subpara-
3 graph (A)—

4 (I) by inserting “that result in fi-
5 nancial loss to the Government” after
6 “regarding improper payments”; and

7 (II) by inserting “such” after
8 “recover”;

9 (ii) in subparagraph (B)—

10 (I) by inserting “Government”
11 before “Reform”; and

12 (II) by striking “and” at the end;
13 and

14 (iii) by inserting after subparagraph
15 (B) the following new subparagraphs (and
16 redesignating the succeeding subparagraph
17 accordingly):

18 “(C) the Committee on the Budget of the
19 Senate;

20 “(D) the Committee on the Budget of the
21 House of Representatives;

22 “(E) the Committee on Appropriations of
23 the Senate;

24 “(F) the Committee on Appropriations of
25 the House of Representatives; and”;

1 (B) in paragraph (2)—

2 (i) in subparagraph (A), by inserting
3 “that result in financial loss to the Govern-
4 ment” after “improper payments”;

5 (ii) in subparagraph (C), by inserting
6 “that result in financial loss to the Govern-
7 ment” after “improper payment”;

8 (iii) in subparagraph (D), by inserting
9 “that result in financial loss to the Govern-
10 ment” after “improper payments”; and

11 (iv) in subsection (E), by inserting
12 “that result in financial loss to the Govern-
13 ment” after “improper payment”;

14 (8) in subsection (g)—

15 (A) in paragraph (1), by inserting “and
16 periodically thereafter,” after “Not later than 1
17 year after the date of enactment of this sec-
18 tion”; and

19 (B) in paragraph (2)(B), by striking “pre-
20 payment and postpayment” and inserting “pre-
21 award, pre-payment, and post-payment”; and

22 (9) in subsection (i)(2)—

23 (A) in subparagraph (C), by striking “25”
24 and inserting “10”; and

1 (B) in subparagraph (D), by striking “25”
2 and inserting “75”.

3 **SEC. 3. REFORMS TO ANNUAL COMPLIANCE REPORT BY IN-**
4 **SPECTORS GENERAL OF EXECUTIVE AGEN-**
5 **CIES.**

6 (a) OMB GUIDANCE.—Section 3353(a)(3) of title 31,
7 United States Code, is amended—

8 (1) in the matter preceding subparagraph (A)—

9 (A) by striking “date of enactment of this
10 section” and inserting “date of the enactment
11 of the amendments made to this section by the
12 ‘Zeroing Out Monetary Benefits Improperly Ex-
13 pended Act’ or the ‘ZOMBIE Act’ ”;

14 (B) by striking “shall develop and promul-
15 gate guidance” and inserting “shall revise exist-
16 ing guidance issued under this section”; and

17 (C) by striking “that-” and inserting
18 “that—”;

19 (2) in subparagraph (B)—

20 (A) by striking “improper payment esti-
21 mates methodology” and inserting “estimation
22 methodologies”; and

23 (B) by inserting “that result in financial
24 loss to the Government” after “improper pay-
25 ments”;

1 (3) in subparagraph (C), by inserting “that re-
2 sult in financial loss to the Government” after “im-
3 proper payments”;

4 (4) in subparagraph (D), by inserting “that re-
5 sult in financial loss to the Government” after “im-
6 proper payments”; and

7 (5) in subparagraph (E)—

8 (A) by striking “Inspectors General in-
9 clude” and inserting “Inspectors General shall
10 include”; and

11 (B) by inserting “that result in financial
12 loss to the Government” after “improper pay-
13 ments”.

14 (b) CIGIE GUIDANCE.—Section 3353(a)(4) of title
15 31, United States Code, is amended—

16 (1) in the matter preceding subparagraph (A)—

17 (A) by striking “date of enactment of this
18 section” and inserting “date of the enactment
19 of the amendments made to this section by the
20 ‘Zeroing Out Monetary Benefits Improperly Ex-
21 pended Act’ or the ‘ZOMBIE Act’ ”;

22 (B) by striking “develop and promulgate
23 guidance” and inserting “revise existing guid-
24 ance issued under this section”; and

- 1 (C) by striking “Inspectors General-” and
2 inserting “Inspectors General—”; and
3 (2) in subparagraph (B)—
4 (A) in clause (i)—
5 (i) by striking “section 3351(2)(B)”
6 and inserting “section 3351(2)(A)(iv)”;
7 and
8 (ii) by inserting “that result in finan-
9 cial loss to the Government” after “im-
10 proper payments” each place it appears;
11 (B) in clause (ii), by striking “section
12 3351(2)(C)” and inserting “section
13 3351(2)(A)(v)”;
14 (C) by striking clause (iii) and redesign-
15 ating the succeeding clauses accordingly;
16 (D) in clause (iii), as so redesignated, by
17 inserting “that result in financial loss to the
18 Government” after “improper payments”; and
19 (E) in clause (iv), as so redesignated, by
20 inserting “that result in financial loss to the
21 Government” after “improper payments”.

