

119TH CONGRESS  
2D SESSION

**S.**

---

To combat fraud in Federal programs, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

---

Ms. ERNST introduced the following bill; which was read twice and referred  
to the Committee on \_\_\_\_\_

---

**A BILL**

To combat fraud 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 “Putting an N to  
5       Learing about Fraud Act”.

6       **SEC. 2. PREVENTING FRAUD IN CHILD CARE SERVICES.**

7       (a) STATE PLAN.—Section 658E of the Child Care  
8       and Development Block Grant Act of 1990 (42 U.S.C.  
9       9858c) is amended—

10                   (1) in subsection (c)(2), by adding by striking  
11                   subparagraph (S) and inserting the following:

1                     “(S) ATTENDANCE-BASED BILLING.—The  
2                     plan shall include an assurance that the lead  
3                     agency will provide payment under this sub-  
4                     chapter to a child care provider based on re-  
5                     corded attendance, rather than enrollment  
6                     alone, in the program of the provider.”; and

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

8                     “(e) TIMING OF PAYMENT.—Nothing in this sub-  
9                     chapter shall be construed to require a lead agency to  
10                    make a payment to a child care provider prior to the provi-  
11                    sion of child care services. The lead agency shall make  
12                    a payment under this subchapter to such a provider as  
13                    reimbursement, in a timely manner, and on the basis of  
14                    the provider’s provision of child care services.”.

15                    (b) AUDITS.—Section 658K of the Child Care and  
16                    Development Block Grant Act of 1990 (42 U.S.C. 9858i)  
17                    is amended by adding at the end the following:

18                    “(c) FEDERAL AUDITS.—Each child care provider  
19                    that receives a payment under this subchapter shall pre-  
20                    pare a record of attendance in the provider’s program and  
21                    of the provider’s provision of child care services, and main-  
22                    tain the record for a period of 7 years after the date of  
23                    preparation of such record. The provider shall make such  
24                    records available for audits by the Secretary, the Attorney

1 General, and the Comptroller General of the United  
2 States.”.

3 **SEC. 3. IDENTIFYING FRAUD IN HEALTH CARE SERVICES.**

4 (a) MEDICARE.—

5 (1) IN GENERAL.—The Secretary of Health and  
6 Human Services shall, not later than 60 days after  
7 making a determination described in paragraph (2),  
8 notify the Inspector General of the Department of  
9 Health and Human Services of such determination.

10 (2) DETERMINATION.—A determination de-  
11 scribed in this paragraph is a determination that—

12 (A) the aggregate amount paid under the  
13 Medicare program under title XVIII of the So-  
14 cial Security Act (42 U.S.C. 1395 et seq.) for  
15 an item or service or items or services in a zip  
16 code and county or county equivalent increased  
17 by more than 100 percent in a single year; or

18 (B) the number of provider of services or  
19 suppliers (as those terms are defined under sec-  
20 tion 1861 of the Social Security Act (42 U.S.C.  
21 1395x)) who received payment for items or  
22 services furnished under the Medicare program  
23 increased in a zip code and county or county  
24 equivalent by more than 100 percent in a single  
25 year.

1       (b) QUALIFIED HEALTH PLANS UNDER THE AMER-  
2 ICAN HEALTH BENEFIT EXCHANGES.—

3           (1) IN GENERAL.—The Secretary of Health and  
4 Human Services shall, not later than 60 days after  
5 making a determination described in paragraph (2),  
6 notify the Inspector General of the Department of  
7 Health and Human Services of such determination.

8           (2) DETERMINATION.—A determination de-  
9 scribed in this paragraph is a determination that—

10           (A) the aggregate amount paid under all  
11 qualified health plans offered through the  
12 American Health Benefit Exchanges established  
13 under sections 1311 and 1321 of the Patient  
14 Protection and Affordable Care Act (42 U.S.C.  
15 18031, 18041) for an item or service or items  
16 or services in a zip code and county or county  
17 equivalent increased by more than 100 percent  
18 in a single year; or

19           (B) the number of providers of services  
20 who received payment for items or services  
21 under such qualified health plans increased in a  
22 zip code and county or county equivalent by  
23 more than 100 percent in a single year.

24           (3) REQUIREMENT TO SUBMIT CERTAIN INFOR-  
25 MATION.—Annually, each American Health Benefit

1        Exchange established under section 1311 or 1321 of  
2        the Patient Protection and Affordable Care Act (42  
3        U.S.C. 18031, 18041) shall collect from each qualifi-  
4        ed health plan offered through such an Exchange,  
5        and submit to the Secretary of Health and Human  
6        Services, the information necessary for the Secretary  
7        to make a determination described in paragraph (2).

8        (c) MEDICAID AND CHIP.—

9                (1) MEDICAID.—Section 1902 of the Social Se-  
10          curity Act (42 U.S.C. 1396a) is amended—

11                (A) in subsection (a)—

12                        (i) in paragraph (88), by striking “;  
13                        and” and inserting a semicolon;  
14                        (ii) in paragraph (89), by striking the  
15                        period at the end and inserting “; and”;  
16                        and

17                        (iii) by adding after paragraph (89)  
18                        the following new paragraph:

19                        “(90) provide that, not later than 60 days after  
20                        making a determination described in subsection (yy),  
21                        the State agency shall notify the Secretary and the  
22                        Inspector General of the Department of Health and  
23                        Human Services of such determination.”; and

24                        (B) by adding at the end the following new  
25                        subsection:

1       “(yy) DETERMINATION OF CERTAIN INCREASED  
2 PAYMENTS OR PROVIDERS IN A SINGLE YEAR.—For pur-  
3 poses of subsection (a)(90), a determination described in  
4 this subsection is a determination that—

5           “(1) the aggregate amount paid under the  
6 State plan under this title, or under a waiver of such  
7 plan, for an item or service or items or services in  
8 a zip code and county or county equivalent increased  
9 by more than 100 percent in a single year; or

10           “(2) the number of providers of items or serv-  
11 ices who received payments for items or services fur-  
12 nished in a zip code and county or county equivalent  
13 under such State plan or waiver increased by more  
14 than 100 percent in a single year.”.

15           (2) CHIP.—Section 2107(e)(1) of the Social  
16 Security Act (42 U.S.C. 1397gg(e)(1)) is amended  
17 by—

18           (A) redesignating subparagraphs (I)  
19 through (W) as subparagraphs (J) through (X),  
20 respectively; and

21           (B) inserting after subparagraph (H) the  
22 following subparagraph:

23           “(I) Subsections (a)(90) and (yy) of sec-  
24 tion 1902 (relating to determination of certain  
25 increased payments or providers in a single year

1                   and notification to the Secretary and the In-  
2                   spector General of Health and Human Serv-  
3                   ices).”.

4                   (d) AUDIT BY THE INSPECTOR GENERAL OF HEALTH  
5 AND HUMAN SERVICES.—Not later than 5 years after the  
6 date of enactment of this Act, and annually thereafter,  
7 the Inspector General of Health and Human Services  
8 shall—

9                   (1) identify, based on the results of any notifi-  
10                   cations received under subsection (a) or (b), or  
11                   under section 1902(a)(90) of the Social Security Act  
12                   (42 U.S.C. 1396a(a)(90)) or section 2107(e)(1)(I) of  
13                   such Act (42 U.S.C. 1397gg(e)(1)(I)), any program  
14                   or State plan or waiver (in the case of Medicaid and  
15                   the State Children’s Health Insurance Program)  
16                   under which the aggregate amount paid for an item  
17                   or service or items or services in a zip code and  
18                   county or county equivalent or the number of pro-  
19                   viders of items or services or suppliers, as applicable,  
20                   who received payments for items or services fur-  
21                   nished in a zip code and county or county equivalent  
22                   increased by at least 400 percent during the pre-  
23                   ceding 5-year period; and

24                   (2) audit any such program, State plan, or  
25                   waiver.

## 1       (e) EFFECTIVE DATE.—

2               (1) MEDICARE.—Subsection (a) shall take ef-  
3               fect on the date that is 180 days after the date of  
4               enactment of this Act.5               (2) QUALIFIED HEALTH PLANS UNDER THE  
6               AMERICAN HEALTH BENEFIT EXCHANGES.—Sub-  
7               section (b) shall take effect on the date that is 180  
8               days after the date of enactment of this Act.

## 9               (3) MEDICAID AND CHIP.—

10               (A) IN GENERAL.—Except as provided in  
11               subparagraph (B), the amendments made by  
12               subsection (c) shall take effect on the date that  
13               is 180 days after the date of enactment of this  
14               Act.15               (B) DELAY PERMITTED IF STATE LEGISLA-  
16               TION REQUIRED.—In the case of a State plan  
17               approved under title XIX of the Social Security  
18               Act (42 U.S.C. 1396 et seq.) or title XXI of  
19               such Act (42 U.S.C. 1397aa et seq.) which the  
20               Secretary of Health and Human Services deter-  
21               mines requires State legislation (other than leg-  
22               islation appropriating funds) in order for the  
23               plan to meet the additional requirements im-  
24               posed by the amendments made by subsection  
25               (c), the State plan shall not be regarded as fail-

## 14 SEC. 4. RECOVERING IMPROPER PAYMENTS.

15 (a) GUIDANCE.—The Director of the Office of Man-  
16 agement and Budget shall prescribe guidance to all agen-  
17 cies (as defined in section 551 of title 5, United States  
18 Code) to ensure that all improper payments (as defined  
19 in section 3351 of title 31, United States Code) are recov-  
20 ered.

21 (b) ANNUAL INSPECTOR GENERAL REPORT.—Section 3353(a)(1) of title 31, United States Code, is amended—  
22  
23 ed—

24 (1) in subparagraph (A), by striking “and” at  
25 the end;

3 (3) by adding at the end the following: