

BONUSES FOR COST-CUTTERS ACT OF 2016

NOVEMBER 14, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2532]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 2532) to amend title 5, United States Code, to enhance the authority under which Federal agencies may pay cash awards to employees for making cost saving disclosures, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Committee Statement and Views	3
Section-by-Section	5
Explanation of Amendments	6
Committee Consideration	6
Roll Call Votes	6
Application of Law to the Legislative Branch	6
Statement of Oversight Findings and Recommendations of the Committee	7
Statement of General Performance Goals and Objectives	7
Duplication of Federal Programs	7
Disclosure of Directed Rule Makings	7
Federal Advisory Committee Act	7
Unfunded Mandate Statement	7
Earmark Identification	7
Committee Estimate	8
Budget Authority and Congressional Budget Office Cost Estimate	8
Changes in Existing Law Made by the Bill, as Reported	9
Minority Views	13

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Bonuses for Cost-Cutters Act of 2016”.

SEC. 2. COST SAVINGS ENHANCEMENTS.

(a) IN GENERAL.—

(1) DEFINITIONS.—Section 4511 of title 5, United States Code, is amended—

(A) in the section heading, by striking “**Definition**” and inserting “**Definitions**”; and

(B) in subsection (a)—

(i) by striking the period at the end and inserting “; and”; and

(ii) by striking “this subchapter, the term” and inserting the following: “this subchapter—

“(1) the term”;

(iii) by adding at the end the following:

“(2) the term ‘surplus salaries and expenses funds’ means amounts made available for the salaries and expenses account, or equivalent account, of an agency—

“(A) that are identified by an employee of the agency under section 4512(a) as unnecessary;

“(B) that the Inspector General of the agency or other agency employee designated under section 4512(b) determines are not required for the purpose for which the amounts were made available;

“(C) that the Chief Financial Officer of the agency determines are not required for the purpose for which the amounts were made available; and

“(D) the rescission of which would not be detrimental to the full execution of the purposes for which the amounts were made available.”.

(2) AUTHORITY.—Section 4512 of title 5, United States Code, is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by inserting “or identification of surplus salaries and expenses funds” after “mismanagement”;

(ii) in paragraph (2), by inserting “or identification” after “disclosure”; and

(iii) in the matter following paragraph (2), by inserting “or identification” after “disclosure”; and

(B) by adding at the end the following:

“(c)(1) The Inspector General of an agency or other agency employee designated under subsection (b) shall refer to the Chief Financial Officer of the agency any potential surplus salaries and expenses funds identified by an employee that the Inspector General or other agency employee determines meets the requirements under subparagraphs (B) and (D) of section 4511(a)(2), along with any recommendations of the Inspector General or other agency employee.

“(2)(A) If the Chief Financial Officer of the agency determines that potential surplus salaries and expenses funds referred under paragraph (1) meet the requirements under section 4511(a)(2), except as provided in subsection (d), the head of the agency shall transfer the amount of the surplus funds or unnecessary budget authority from the applicable appropriations account to the general fund of the Treasury.

“(B) Any amounts transferred under subparagraph (A) shall be deposited in the Treasury and used for deficit reduction, except that in the case of a fiscal year for which there is no Federal budget deficit, such amounts shall be used to reduce the Federal debt (in such manner as the Secretary of the Treasury considers appropriate).

“(3) The Inspector General or other agency employee designated under subsection (b) for each agency and the Chief Financial Officer for each agency shall issue standards and definitions for purposes of making determinations relating to potential surplus salaries and expenses funds identified by an employee under this subsection.

“(d)(1) The head of an agency may retain not more than 10 percent of amounts to be transferred to the general fund of the Treasury under subsection (c)(2).

“(2) Amounts retained by the head of an agency under paragraph (1) may be—

“(A) used for the purpose of paying a cash award under subsection (a) to 1 or more employees who identified the surplus salaries and expenses funds; and

“(B) to the extent amounts remain after paying cash awards under subsection (a), transferred or reprogrammed for use by the agency, in accordance with any limitation on such a transfer or reprogramming under any other provision of law.

“(e)(1) Not later than October 1 of each fiscal year, the head of each agency shall submit to the Secretary of the Treasury a report identifying the total savings achieved during the previous fiscal year through disclosures of possible fraud, waste, or mismanagement and identifications of surplus salaries and expenses funds by an employee.

“(2) Not later than September 30 of each fiscal year, the head of each agency shall submit to the Secretary of the Treasury a report that, for the previous fiscal year—

“(A) describes each disclosure of possible fraud, waste, or mismanagement or identification of potentially surplus salaries and expenses funds by an employee of the agency determined by the agency to have merit; and

“(B) provides the number and amount of cash awards by the agency under subsection (a).

“(3) The head of each agency shall include the information described in paragraphs (1) and (2) in each budget request of the agency submitted to the Office of Management and Budget as part of the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31.

“(4) The Secretary of the Treasury shall submit to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the Government Accountability Office an annual report on Federal cost saving and awards based on the reports submitted under paragraphs (1) and (2).

“(f) The Director of the Office of Personnel Management shall—

“(1) ensure that the cash award program of each agency complies with this section; and

“(2) submit to Congress an annual certification indicating whether the cash award program of each agency complies with this section.

“(g) Not later than 3 years after the date of enactment of the Bonuses for Cost-Cutters Act of 2016, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report on the operation of the cost savings and awards program under this section, including any recommendations for legislative changes.”.

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 45 of title 5, United States Code, is amended by striking the item relating to section 4511 and inserting the following:

“4511. Definitions and general provisions.”.

(b) OFFICERS ELIGIBLE FOR CASH AWARDS.—

(1) IN GENERAL.—Section 4509 of title 5, United States Code, is amended to read as follows:

“§ 4509. Prohibition of cash award to certain officers

“(a) DEFINITIONS.—In this section, the term ‘agency’—

“(1) has the meaning given that term under section 551(1); but

“(2) includes an entity described in subparagraphs (A) through (G) of section 4501(1).

“(b) PROHIBITION.—An officer may not receive a cash award under this subchapter if the officer—

“(1) serves in a position at level I of the Executive Schedule;

“(2) is the head of an agency; or

“(3) is a commissioner, board member, or other voting member of an independent establishment.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by striking the item relating to section 4509 and inserting the following:

“4509. Prohibition of cash award to certain officers.”.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 2532, the Bonuses for Cost-Cutters Act of 2016, expands the award program for disclosures by federal employees of fraud, waste, or mismanagement that result in cost savings to the employee’s agency to include identification of surplus salaries and expenses funds. H.R. 2532 also directs any savings resulting from the identification of such funds or budget authority to be deposited in the U.S. Treasury and used to reduce a budget deficit or the federal debt.

BACKGROUND AND NEED FOR LEGISLATION

“Use it or lose it” spending is a phenomenon where government agencies race to spend unused budget authority before it expires at the end of a federal fiscal year. Recent academic studies using government contracting data have confirmed that end of fiscal year spending surges at many agencies.¹ One study published by the National Bureau of Economic Research (NBER) found that as end-of-year spending ramps up, the quality of purchases goes down.² According to that report, “spending in the last week of the year is 4.9 times higher than the rest-of-the-year weekly average . . . [and] quality scores for year-end projects are 2.2 to 5.6 times more likely to be below the central value [lower quality].”³ The same NBER study found that as the fiscal year expires, money shifts from government offices in the Eastern Time Zone to the Pacific Time Zone to gain three extra hours for last minute spending.⁴

H.R. 2532 addresses wasteful year-end spending by providing a financial incentive for federal employees to report instances of potentially unnecessary salaries and expense account funds. H.R. 2532 includes safeguards to ensure agency operations are not compromised when they consider eliminating salaries and expense account funds identified as unnecessary. Both the agency inspector general and chief financial officer must determine that such funds are not required for the purpose for which the amounts were made available.

H.R. 2532 directs any savings resulting from the identification of such funds or budget authority to be deposited in the Treasury and used for deficit reduction or, in the case of a fiscal year when there is no federal budget deficit, be used to reduce the federal debt. The bill permits the head of an agency to retain up to 10 percent of such savings for the purpose of paying cash awards to employees who identify surplus salaries and expenses funds. Amounts remaining after paying cash awards may be transferred or reprogrammed by the agency. The bill prohibits the payment of awards to: (1) the head of an agency; (2) federal officers who serve in a position at level I of the Executive Schedule; or (3) a voting member of an independent establishment.

LEGISLATIVE HISTORY

H.R. 2532, the Employees of America Streamlining for Your (EASY) Savings Act of 2015, was introduced by Representative Charles Fleischmann (R-TN) on May 21, 2015 and referred to the Committee on Oversight and Government Reform. On September 15, 2016, the Committee held a business meeting to consider the bill. Chairman Jason Chaffetz (R-UT) offered an amendment in the nature of a substitute, which was adopted by voice vote. The bill,

¹For example, see: *Curbing the Surge in Year-End Federal Government Spending: Reforming “Use It or Lose It” Rules*; Fichtner, Jason J. and Greene, Robert; Mercatus Center at George Mason University; September 2014; and *Do Expiring Budgets Lead to Wasteful Year-End Spending? Evidence from Federal Procurement*; Liebman, Jeffrey, & Mahoney, Neale; National Bureau of Economic Research; September 2013.

²*Do Expiring Budgets Lead to Wasteful Year-End Spending? Evidence from Federal Procurement*; Liebman, Jeffrey, & Mahoney, Neale; National Bureau of Economic Research; September 2013.

³*Id.*

⁴*Id.*

as amended, was ordered favorably reported to the House by voice vote.

Similar legislation, S. 1378, was introduced in the Senate by Senator Rand Paul (R-KY) and was ordered favorably reported by the Senate Committee on Homeland Security and Governmental Affairs on May 25, 2016 by a record vote of 11 to 5.

SECTION-BY-SECTION

Section 1. Short title

Designates the short title of the bill as the “Bonuses for Cost-Cutters Act of 2016”.

Section 2. Cost savings enhancements

Subsection (a)(1) amends Section 4511 of title 5, United States Code, by adding a definition for the new term “surplus salaries and expenses funds” to mean: amounts made available for the salaries and expenses account of an agency that: (a) are identified by an employee as unnecessary; (b) the Inspector General determines are not required for the purpose for which the amounts were made available; (c) the Chief Financial Officer of the agency determines are not required for the purpose for which the amounts were made available; and (d) the rescission of which would not be detrimental to the full execution of the purposes for which the amounts were made available.

Subsection (a)(2) amends Section 4512 of title 5 to add “identification of surplus salaries and expenses funds” as an action for which an employee can be eligible for a cash award. The legislation directs the Inspector General (IG) of an agency to refer to the agency Chief Financial Officer (CFO) any potential surplus benefits and expenses funds identified by an employee that the IG determines meets the terms specified under the bill.

If the CFO determines that potential surplus salaries and expenses funds meet the requirements, the head of the agency is to transfer the amount of the surplus funds or unnecessary budget authority from the applicable appropriations account to the general fund of the Treasury. Transferred amounts are to be used for deficit reduction, except in the case of a fiscal year when there is no federal budget deficit. In that case, transferred amounts will be used to reduce the federal debt in such a manner that the Secretary of the Treasury considers appropriate. The agency IG and CFO are responsible for issuing standards and definitions for the purposes of making determinations relating to surplus salaries and expenses identified by an employee.

The head of an agency can retain up to 10 percent of amounts to be transferred to the Treasury. The head of the agency can use these amounts to pay cash to one or more employees who identified the surplus salaries and expenses funds. Remaining funds after paying cash awards may be transferred or reprogrammed for use by the agency.

There are a number of reports associated with ensuring accountability for this program. The head of the agency is required to send two reports to the Secretary of the Treasury regarding identification of possible fraud, waste, or mismanagement and identification of surplus salaries and expenses funds by an employee. First, each

year by October 1, they are to submit a report that identifies the total savings achieved during the previous fiscal year from such identification of waste, fraud, etc. Second, each year by September 30, they are to submit a report that describes each disclosure of waste, fraud, etc. and the number and amount of cash awards by the agency. The agency is also to include information from these two reports in each budget request the agency submits to the Office of Management and Budget as part of the preparation for the President's budget. The Secretary of the Treasury will submit an annual report on cost savings and awards based on the two reports mentioned above in this paragraph to both House and Senate Committees on Appropriations and the Government Accountability Office. The Office of Personnel Management is responsible for ensuring that the cash award program of each agency complies with the rules above and submits to Congress an annual certification of its assessment. Three years after enactment and every three years thereafter, the Comptroller General will submit a report to Congress on the operation of this program and any recommendations for legislative changes.

The bill prohibits the payment of cash awards if the employee: (1) serves in a position at Level I of the Executive Schedule; (2) is the head of an agency; or (3) is a commissioner, board member, or other voting member of an independent establishment.

EXPLANATION OF AMENDMENTS

During Full Committee consideration of the bill, Chairman Jason Chaffetz (R-UT) offered an amendment in the nature of a substitute to the bill. The amendment: adds "identification of surplus salaries and expenses funds" as an area for which an employee can be eligible for a cash award under Section 4511 of title 5; directs any savings resulting from the identification of such funds or budget authority be deposited in the U.S. Treasury and used to reduce a budget deficit or the federal debt, while allowing the agency to retain up to ten percent of the savings (after cash award amounts to the employee) to be transferred or reprogrammed for use by the agency; specifies oversight reporting; designates the short title of the bill as the "Bonuses for Cost-Cutters Act of 2016"; eliminates a six-year sunset clause in the original bill; and updates the definition of agency. The amendment in the nature of a substitute was adopted by voice vote.

COMMITTEE CONSIDERATION

On September 15, 2016, the Committee met in open session and ordered reported favorably the bill, H.R. 2532, as amended, by voice vote, a quorum being present.

ROLL CALL VOTES

No roll call votes were requested or conducted during Full Committee consideration of H.R. 2532.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill

relates to the terms and conditions of employment or access to public services and accommodations. This bill enhances the authority under which Federal agencies may pay cash awards to employees for making cost saving disclosures. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal and objective of the bill is to enhance the authority under which Federal agencies may pay cash awards to employees for making cost saving disclosures.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

SEPTEMBER 23, 2016.

Hon. JASON CHAFFETZ,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2532, the Bonuses for Cost-Cutters Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2532—Bonuses for Cost-Cutters Act of 2016

Under current law, Inspectors General (IG) can pay bonuses to federal employees who identify waste, fraud, or mismanagement of funds. H.R. 2532 would authorize agencies to pay bonuses to employees who identify unnecessary expenditures from amounts provided for agencies' salaries and expenses. Under the bill, if an agency's IG and its Chief Financial Officer agree that funds appropriated to the agency are no longer required then 90 percent of those surplus amounts would be transferred to the Treasury. The agency would retain 10 percent of the surplus funds and could pay a bonus to the employee who identified those surplus amounts.

To the extent that the process envisioned under H.R. 2532 results in fewer unnecessary expenditures, implementing the bill could reduce federal spending; however, CBO has no basis for estimating any reductions in spending under the bill.

Because salaries and expenses for some agencies are mandatory appropriations, enacting the bill could affect direct spending; therefore, pay-as-you-go procedures apply. Enacting H.R. 2532 would not affect revenues.

CBO estimates that enacting H.R. 2532 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 2532 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On July 29, 2016, CBO provided a cost estimate for S. 1378, Bonuses for Cost-Cutters Act of 2016, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 25, 2016. The two pieces of legislation are similar and CBO’s estimates of their budgetary effects are the same.

The CBO staff contacts for this estimate are Megan Carroll and Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

SUBPART C—EMPLOYEE PERFORMANCE

* * * * *

CHAPTER 45—INCENTIVE AWARDS

* * * * *

SUBCHAPTER I—AWARDS FOR SUPERIOR ACCOMPLISHMENTS

Sec.
4501. Definitions.

* * * * *

[4509. Prohibition of cash award to Executive Schedule officers.]
4509. Prohibition of cash award to certain officers.

SUBCHAPTER II—AWARDS FOR COST SAVINGS DISCLOSURES

[4511. Definition and general provisions.]
4511. Definitions and general provisions.

SUBCHAPTER I—AWARDS FOR SUPERIOR ACCOMPLISHMENTS

* * * * *

§ 4509. Prohibition of cash award to Executive Schedule officer

[No officer may receive a cash award under the provisions of this subchapter, if such officer—

[(1) serves in—

[(A) an Executive Schedule position under subchapter II of chapter 53; or

[(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

[(2) was appointed to such position by the President, by and with the advice and consent of the Senate.]

§ 4509. Prohibition of cash award to certain officers

(a) *DEFINITIONS.*—*In this section, the term “agency”—*

(1) has the meaning given that term under section 551(1); but

(2) includes an entity described in subparagraphs (A) through (G) of section 4501(1).

(b) *PROHIBITION.*—*An officer may not receive a cash award under this subchapter if the officer—*

(1) serves in a position at level I of the Executive Schedule;

(2) is the head of an agency; or

(3) is a commissioner, board member, or other voting member of an independent establishment.

SUBCHAPTER II—AWARDS FOR COST SAVINGS
DISCLOSURES

§ 4511. [Definition] Definitions and general provisions

(a) For purposes of [this subchapter, the term] *this subchapter—*

(1) the term “agency” means any Executive agency[.]; and

(2) the term “surplus salaries and expenses funds” means amounts made available for the salaries and expenses account, or equivalent account, of an agency—

(A) that are identified by an employee of the agency under section 4512(a) as unnecessary;

(B) that the Inspector General of the agency or other agency employee designated under section 4512(b) determines are not required for the purpose for which the amounts were made available;

(C) that the Chief Financial Officer of the agency determines are not required for the purpose for which the amounts were made available; and

(D) the rescission of which would not be detrimental to the full execution of the purposes for which the amounts were made available.

(b) A cash award under this subchapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this subchapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee, his heirs, or assigns.

§ 4512. Agency awards for cost savings disclosures

(a) The Inspector General of an agency, or any other agency employee designated under subsection (b), may pay a cash award to any employee of such agency whose disclosure of fraud, waste, or mismanagement *or identification of surplus salaries and expenses funds* to the Inspector General of the agency, or to such other designated agency employee, has resulted in cost savings for the agency. The amount of an award under this section may not exceed the lesser of—

(1) \$10,000; or

(2) an amount equal to 1 percent of the agency's cost savings which the Inspector General, or other employee designated under subsection (b), determines to be the total savings attributable to the employee's disclosure *or identification* .

For purposes of paragraph (2), the Inspector General or other designated employee may take into account agency cost savings projected for subsequent fiscal years which will be attributable to such disclosure *or identification* .

(b) In the case of an agency for which there is no Inspector General, the head of the agency shall designate an agency employee who shall have the authority to make the determinations and grant the awards permitted under this section.

(c)(1) *The Inspector General of an agency or other agency employee designated under subsection (b) shall refer to the Chief Financial Officer of the agency any potential surplus salaries and expenses funds identified by an employee that the Inspector General or other agency employee determines meets the requirements under subparagraphs (B) and (D) of section 4511(a)(2), along with any recommendations of the Inspector General or other agency employee.*

(2)(A) *If the Chief Financial Officer of the agency determines that potential surplus salaries and expenses funds referred under paragraph (1) meet the requirements under section 4511(a)(2), except as provided in subsection (d), the head of the agency shall transfer the amount of the surplus funds or unnecessary budget authority from the applicable appropriations account to the general fund of the Treasury.*

(B) *Any amounts transferred under subparagraph (A) shall be deposited in the Treasury and used for deficit reduction, except that in the case of a fiscal year for which there is no Federal budget deficit, such amounts shall be used to reduce the Federal debt (in such manner as the Secretary of the Treasury considers appropriate).*

(3) *The Inspector General or other agency employee designated under subsection (b) for each agency and the Chief Financial Officer for each agency shall issues standards and definitions for purposes of making determinations relating to potential surplus salaries and expenses funds identified by an employee under this subsection.*

(d)(1) *The head of an agency may retain not more than 10 percent of amounts to be transferred to the general fund of the Treasury under subsection (c)(2).*

(2) *Amounts retained by the head of an agency under paragraph (1) may be—*

(A) *used for the purpose of paying a cash award under subsection (a) to 1 or more employees who identified the surplus salaries and expenses funds; and*

(B) to the extent amounts remain after paying cash awards under subsection (a), transferred or reprogrammed for use by the agency, in accordance with any limitation on such a transfer or reprogramming under any other provision of law.

(e)(1) Not later than October 1 of each fiscal year, the head of each agency shall submit to the Secretary of the Treasury a report identifying the total savings achieved during the previous fiscal year through disclosures of possible fraud, waste, or mismanagement and identifications of surplus salaries and expenses funds by an employee.

(2) Not later than September 30 of each fiscal year, the head of each agency shall submit to the Secretary of the Treasury a report that, for the previous fiscal year—

(A) describes each disclosure of possible fraud, waste, or mismanagement or identification of potentially surplus salaries and expenses funds by an employee of the agency determined by the agency to have merit; and

(B) provides the number and amount of cash awards by the agency under subsection (a).

(3) The head of each agency shall include the information described in paragraphs (1) and (2) in each budget request of the agency submitted to the Office of Management and Budget as part of the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31.

(4) The Secretary of the Treasury shall submit to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the Government Accountability Office an annual report on Federal cost saving and awards based on the reports submitted under paragraphs (1) and (2).

(f) The Director of the Office of Personnel Management shall—

(1) ensure that the cash award program of each agency complies with this section; and

(2) submit to Congress an annual certification indicating whether the cash award program of each agency complies with this section.

(g) Not later than 3 years after the date of enactment of the Bonuses for Cost-Cutters Act of 2016, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report on the operation of the cost savings and awards program under this section, including any recommendations for legislative changes.

* * * * *

MINORITY VIEWS

Democratic Members of the Committee strongly support reducing waste across the federal government, but oppose H.R. 2532 as currently drafted.

The Bonuses for Cost-Cutters Act of 2016 provides for bonuses for employees who identify “surplus salaries and expenses” that the Inspector General (IG) and agency Chief Financial Officer (CFO) determine are not required for the purposes for which they were made available. Under this bill, 90% of savings from identified “surplus salaries and expenses” must be returned to the Treasury and used for deficit reduction, and up to 10% may be used by the agency to provide a bonus to the employee who identified the savings. Any remaining amount of the 10% may be transferred or re-programmed by the agency pursuant to current law.

Providing incentives for employees who identify cost savings makes sense when it is done the right way. When government dollars are wasted, no one benefits. But this bill could have unintended consequences that have not been examined by this Committee. For example, the bill requires Inspectors General to determine whether funds are being used for the appropriate purpose. This could put IGs in the position of making judgments about program operations, potentially jeopardizing their independence and oversight role.

This bill also raises Constitutional concerns about Congress’s authority to direct spending to authorized programs. It is unclear whether an agency could use this bill to reduce funding for a program that it deems wasteful, even though Congress has appropriated funds for the program.

The bill also could provide misaligned incentives to employees and agencies. It could create a conflict of interest for those employees who work on the budget process, who would stand to benefit from inflating projected salaries and expenses with the prospect of receiving an individual bonus by later identifying a surplus.

Current law already permits bonuses to federal employees who identify waste, fraud, and abuse. 5 U.S.C. section 4512 permits the IG of an agency or other designated agency employee to pay a cash award to any employee whose disclosure of fraud, waste, or mismanagement results in cost savings. The Majority has not identified any gaps in this authority that would prevent an employee from receiving a bonus for identifying waste related to an agency’s salaries and expenses account.

The Committee has not held a single hearing to explore concerns raised about the bill or how it would work in practice. The Committee should examine the impact of this bill before rushing to enact it.

The American Federation of Government Employees (AFGE), which represents approximately 670,000 federal and District of Columbia employees, opposes this bill.

Committee Democrats strongly support reducing wasteful government spending and are willing to work together towards developing language this is carefully crafted towards fulfilling that goal. This bill may be well-intentioned, but we need to resolve these concerns before enacting a law that could have negative unintended consequences.

ELIJAH E. CUMMINGS,
Ranking Member.

