

BONUSES FOR COST-CUTTERS ACT OF 2017

OCTOBER 10, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 378]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 378) 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.

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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 2017”.

SEC. 2. COST SAVINGS ENHANCEMENTS.

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

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

(2) in subsection (a)—

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

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

“this subchapter—

“(1) the term”; and

(C) by adding at the end the following:

“(2) the term ‘wasteful expenses’ means amounts made available for salaries and expenses accounts, operations and maintenance accounts, or other equivalent accounts—

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

“(B) that the Chief Financial Officer of the agency determines are not required for the purpose for which the amounts were made available.”.

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

(1) in subsection (a)—

(A) by inserting “The head of an agency may pay a cash award to any employee of such agency whose identification of wasteful expenses to the Chief Financial Officer of the agency has resulted in cost savings for the agency.” after the first sentence;

(B) in paragraph (1) by striking “\$10,000” and inserting “\$20,000”;

(C) in paragraph (2)—

(i) by inserting “Chief Financial Officer,” after “Inspector General,” ;

(ii) by striking “employee designated under subsection (b)” and inserting “designated employee”; and

(iii) by inserting “or identification” after “disclosure”; and

(D) in the matter following paragraph (2)—

(i) by inserting “, Chief Financial Officer,” after “Inspector General”; and

(ii) by inserting “or identification” after “disclosure”;

(2) in subsection (b) by striking “awards permitted under this section” and inserting “awards for the disclosure of fraud, waste, or mismanagement under this section”; and

(3) by adding at the end the following:

“(c)(1) If the Chief Financial Officer of the agency determines that potential wasteful expenses identified by an employee meet the requirements of section 4511(a)(2)(B), the head of the agency shall notify the President for purposes of proposing the expenses for rescission under title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

“(2) In the case of an agency for which there is no Chief Financial Officer, the head of the agency shall designate an agency employee who shall have the authority to make the determinations for identification of wasteful expenses under this section.

“(d) The head of each agency shall make available, along with, and in the same manner and form as, the provision of information required under section 1116 of title 31, information on disclosures of wasteful expenses under this section, including—

“(1) a description of each disclosure of possible wasteful expenses identified by an employee and determined by the agency to have merit; and

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

“(e) An individual may not receive a cash award under this subchapter if the individual is—

“(1) an officer or employee of the Office of the Inspector General of an agency;

or

“(2) ineligible for a cash award under section 4509.

“(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 2017, and every 3 years thereafter for 6 years, the Comptroller Gen-

eral 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.”.

(c) 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.”.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 378, the *Bonuses for Cost-Cutters Act of 2017*, permits federal agencies to award employees up to \$20,000 for the disclosure of wasteful expenses that result in cost savings. If the agency’s Chief Financial Officer determines the expenses are wasteful, the head of the agency must report the spending to the President, who may in turn request that Congress rescind the funds. Agencies must include a description of each disclosure determined to have merit as well as any awards distributed in the agency’s annual, publicly available performance reporting. The bill prohibits distribution of awards to executive schedule officers and officers or employees of Inspectors General.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 378 addresses wasteful spending by providing a financial incentive for federal employees to report instances of potentially unnecessary spending in salaries and expense accounts and maintenance and operations accounts. H.R. 378 includes safeguards to ensure agency operations are not compromised when they consider eliminating these funds identified as unnecessary. An agency’s chief financial officer must determine that such funds are not required for the purpose for which the amounts were made available.

LEGISLATIVE HISTORY

On January 9, 2017, Representative Charles Fleischmann (R–TN) introduced H.R. 378, the *Bonuses for Cost-Cutters Act of 2017*, with Representative Jim Cooper (D–TN). H.R. 378 was referred to the House Committee on Oversight and Government Reform. The Committee considered H.R. 378 at a business meeting on July 19, 2017, and ordered the bill reported favorably, as amended, by voice vote.

In the 114th Congress, Representative Fleischmann introduced a similar bill to H.R. 378, which was H.R. 2532, the *Employees of America Streamlining for Your Savings Act of 2015*, or the *EASY Savings Act of 2015*. Representative Fleischmann introduced H.R. 2532 on May 21, 2015, with Representative Jim Cooper. H.R. 2532 was referred to the House Committee on Oversight and Government Reform. The Committee considered H.R. 2532 at a business meeting on September 15, 2016 and ordered the bill reported favorably, as amended, by voice vote.

On May 19, 2015, Senator Rand Paul (R–KY) introduced S. 1378, the *Bonuses for Cost-Cutters Act of 2015* and Senate companion to H.R. 2532, with Senators Mark Warner (D–VA), Michael Enzi (R–WY), Cory Gardner (R–CO), and Pat Toomey (R–PA). S. 1378 was referred to the Senate Committee on Homeland Security and Governmental Affairs. The Committee considered S. 1378 at a markup

on May 25, 2016, and ordered that bill reported favorably, as amended, by a roll call vote of nine in favor and five against.

In the 113th Congress—on May 9, 2013—Representative Fleischmann introduced a similar bill, H.R. 1931, the *Employees of America Streamlining for Your Savings Act of 2013*, or the EASY Savings Act of 2013, with Representatives Dan Benishek (R–MI), Marsha Blackburn (R–TN), Susan Brooks (R–IN), Rodney Davis (R–IL), Walter Jones (R–NC), and Delegate Eleanor Holmes Norton (D–DC). H.R. 1931 was referred to the House Committee on Oversight and Government Reform.

On March 21, 2013, Senator Paul introduced S. 643, the *Bonuses for Cost-Cutters Act of 2013* and Senate companion to H.R. 1931, with Senators Mark Begich (D–AK) and Saxby Chambliss (R–GA). S. 643 was referred to the Senate Committee on Homeland Security and Governmental Affairs.

In the 112th Congress—March 21, 2012—Representative Fleischmann introduced a similar bill, H.R. 4237, the *Employees of America Streamlining Your Savings Act of 2012*, or *EASY Savings Act of 2012*. H.R. 4237 was referred to the House Committee on Oversight and Government Reform.

On February 9, 2012, Senator Paul introduced S. 2085, the *Cost Savings Enhancements Act of 2012* and Senate companion to H.R. 4237, with Senators Ron Johnson (R–WI) and Mike Lee (R–UT). S. 2085 was referred to the Senate Committee on Homeland Security and Governmental Affairs.

SECTION-BY-SECTION

Section 1. Short title

The short title is the “Bonuses for Cost-Cutters Act of 2017.”

Section 2. Cost savings enhancements

Subsection (a) of section 2 amends section 4511 of title 5, United States Code, by adding a definition of “wasteful expenses,” meaning amounts made available for salaries and expense accounts, operations and maintenance accounts, or similar accounts that are identified by an employee of the agency as wasteful and that the chief financial officer (CFO) of the agency determines are not required for the purpose for which the amounts were made available.

Subsection (b) of section 2 amends section 4512 of title 5, United States Code. Paragraph (1) of subsection (b) inserts language allowing the head of an agency to pay a cash award to any employee that identifies wasteful expenses to the agency CFO resulting in cost savings. Subsection (b) increases the amount payable to such an employee from \$10,000 to \$20,000.

Paragraph (1) of subsection (b) also amends section 4512 of title 5, United States Code, by allowing the agency’s CFO, in addition to the agency’s inspector general, to take into account agency cost savings projected for subsequent fiscal years attributable to an employee’s identification of wasteful expenses.

Paragraph (2) of subsection (b) amends section 4512(b) of title 5, United States Code, which states that in the case of an agency for which there is no Inspector General, the head of the agency shall designate an agency employee that shall have the authority to make the determinations and grant the awards permitted under

section 4512. Paragraph (2) amends section 4512(b) to clarify that the authority pertains to the awards for the disclosure of fraud, waste, or mismanagement under that subsection.

Paragraph (3) of subsection (b) adds several new provisions to the end of section 4512 of title 5, United States Code. The first creates a subsection (c)(1), which requires the CFO of an agency to notify the President of the wasteful expenses identified by an employee. The President may then notify Congress for potential rescission of the funds through the procedure described in the Congressional Budget and Impoundment Control Act of 1974—codified in section 681 et seq. of title 2, United States Code.

A new subsection (c)(2) of section 4512 of title 5, United States Code, establishes that for agencies without a CFO, the head of the agency shall designate an employee to have authority in determining that wasteful expenses identified by employees are, in fact, wasteful.

A new subsection (d) of section 4512 of title 5, United States Code, creates a reporting requirement whereby the head of each agency will describe disclosures of possible wasteful expenses determined by the agency to have merit, as well as the number and amount of subsequent cash awards.

A new subsection (e) of section 4512 of title 5, United States Code, prohibits giving cash awards to an officer or employee of the office of the agency's Inspector General or any other individual ineligible for cash award under section 4509 of title 5, United States Code.

A new subsection (f) of section 4512 of title 5, United States Code, requires the Director of the Office of Personnel Management to oversee the cash award program and submit to Congress an annual certification on whether the cash award program of each agency complies with the bill's requirements.

Finally, a new subsection (g) of section 4512 of title 5, United States Code, instructs GAO to submit a report to Congress on the operation of the cost savings and awards programs established under the bill and any recommendations for legislative changes.

Subsection (c) of section 2 updates the table of sections.

EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative John Duncan (R-TN) offered an amendment in the nature of a substitute to change the manner in which potentially wasteful expenses are evaluated for possible rescission. The original process allowed the agency's Chief Financial Officer to certify that spending was wasteful, thereby triggering rescission of funds. Under this amendment, potentially wasteful funds must be certified by the Chief Financial Officer of the agency as wasteful and reported to the President. The President may then report the funds in question to Congress, which in turn can consider whether rescission of funds would be appropriate. The Committee agreed to the amendment by voice vote.

COMMITTEE CONSIDERATION

On July 19, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported, as amended, by voice vote.

ROLL CALL VOTES

There were no roll call votes requested or conducted during Committee consideration of H.R. 378.

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 or objective of this 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

In accordance with clause 2(c)(5) of rule XIII 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 section 551 of title 5, United States Code.

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 Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67) the Committee has included a letter received from the Congressional Budget Office below.

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

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 18, 2017.

Hon. TREY GOWDY,
*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. 378, the Bonuses for Cost-Cutters Act of 2017.

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. 378—Bonuses for Cost-Cutters Act of 2017

H.R. 378 would amend federal law to allow federal agencies to pay cash awards to employees who report wasteful spending. The bill also would increase the maximum amount payable from \$10,000 to \$20,000. Under current law, only Inspectors General (IG) can pay bonuses to federal employees who identify waste, fraud, or mismanagement of funds. Agencies would publicly report on the funds and the Government Accountability Office would report on cost savings and the award program every three years.

Under current law and policy the government has many tools to combat unnecessary spending. In 2016 the government spent \$2.7 billion for the activities of 73 IGs and their 13,000 employees to detect and deter fraud, waste, and mismanagement of government

funds. Because of the large scale of these ongoing activities, CBO estimates that there would be no significant cost to produce additional reports concerning fraud or for increasing the amount of the awards payable to employees. We also estimate that there would be no significant reduction in federal spending because of increased identification of wasteful or fraudulent spending as a result of enacting the bill.

Because salaries and expenses for some agencies are mandatory appropriations, enacting the bill could have an insignificant effect on direct spending; therefore, pay-as-you-go procedures apply. Enacting H.R. 378 would not affect revenues.

CBO estimates that enacting H.R. 378 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 378 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.

The CBO staff contact for this estimate is 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 italic, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

* * * * *

SUBPART C—EMPLOYEE PERFORMANCE

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CHAPTER 45—INCENTIVE AWARDS

SUBCHAPTER I—AWARDS FOR SUPERIOR ACCOMPLISHMENTS

Sec.

4501. Definitions.

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SUBCHAPTER II—AWARDS FOR COST SAVINGS DISCLOSURES

[4511. Definition and general provisions.]

4511. Definitions and general provisions.

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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 “wasteful expenses” means amounts made available for salaries and expenses accounts, operations and maintenance accounts, or other equivalent accounts—*
 - (A) *that are identified by an employee of the agency under section 4512(a) as wasteful; and*
 - (B) *that the Chief Financial Officer of the agency determines are not required for the purpose 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 to the Inspector General of the agency, or to such other designated agency employee, has resulted in cost savings for the agency. *The head of an agency may pay a cash award to any employee of such agency whose identification of wasteful expenses to the Chief Financial Officer of the agency 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]~~ \$20,000; or
- (2) an amount equal to 1 percent of the agency’s cost savings which the Inspector General, *Chief Financial Officer*, or other [employee designated under subsection (b)] *designated employee*, determines to be the total savings attributable to the employee’s disclosure *or identification*.

For purposes of paragraph (2), the Inspector General, *Chief Financial Officer*, 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] *awards for the disclosure of fraud, waste, or mismanagement under this section*.

(c)(1) *If the Chief Financial Officer of the agency determines that potential wasteful expenses identified by an employee meet the requirements of section 4511(a)(2)(B), the head of the agency shall notify the President for purposes of proposing the expenses for rescission under title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).*

(2) *In the case of an agency for which there is no Chief Financial Officer, the head of the agency shall designate an agency employee*

who shall have the authority to make the determinations for identification of wasteful expenses under this section.

(d) The head of each agency shall make available, along with, and in the same manner and form as, the provision of information required under section 1116 of title 31, information on disclosures of wasteful expenses under this section, including—

(1) a description of each disclosure of possible wasteful expenses identified by an employee and determined by the agency to have merit; and

(2) the number and amount of cash awards provided by the agency under subsection (a).

(e) An individual may not receive a cash award under this subchapter if the individual is—

(1) an officer or employee of the Office of the Inspector General of an agency; or

(2) ineligible for a cash award under section 4509.

(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 2017, and every 3 years thereafter for 6 years, 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.

* * * * *