



June 23, 2015

The Honorable Ron Johnson
Chairman
Committee on Homeland
Security and Governmental Affairs
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Homeland
Security and Governmental Affairs
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Carper:

The Federal-Postal Coalition, which represents more than five million federal and postal workers and retirees, strongly opposes S. 742, the “Stop Wasteful Federal Bonuses Act of 2015,” which has been referred to your committee. The legislation would prohibit a federal agency from awarding a bonus to any employee for five years after the end of a fiscal year in which the Inspector General of the agency or another senior ethics official or the Government Accountability Office Comptroller General makes an adverse finding relating to the employee. It also would require repayment of a bonus awarded in any year in which an adverse finding is made.

We oppose this legislation because it lacks basic fairness, due process and proportionality between wrongdoing and penalty. It is unfair because it fails to distinguish between minor infractions and criminal wrongs by employees, all of which can arise from an “adverse finding” against the underlying employee.

Adverse findings can result in a range of penalties and personnel actions, from written warnings to terminations. Yet the legislation would impose harsh consequences – a ban on bonuses for five years – upon all employees subject to an adverse finding, regardless of their underlying conduct. Imposition of the same punishment on an employee subject to a one-day suspension, compared to an employee who has been terminated or imprisoned, is arbitrary and unfair. Distinct behavior should trigger punishment that reflects proportionality between the offense and the penalty. Penalizing an outstanding, high performing employee for a minor violation is entirely different from taking action against an employee who has violated the law through reckless negligence or criminal behavior.

S. 742 further fails to distinguish between severe adverse findings and lesser ones before banning an employee for five years from receiving bonuses. The same regard for proportionality of punishment is lodged in the right of appeal by federal employees over adverse actions to the U.S. Merit Systems Protection Board (MSPB). Current law entitles federal employees to appeal major personnel actions, but not lesser ones, to the Merit Systems Protection Board. Removals and suspensions of 14 or more days are appealable by employees to MSPB, but suspensions of less than 14 days are not appealable. Furthermore, the bill’s ban on bonuses would remain in effect for five years, regardless of whether the employee performed with distinction and provided extraordinary contributions to their agencies and taxpayers in the subsequent years.



Finally, the bill's proposed plan for recouping previously awarded bonuses lacks due process, as the bill fails to afford any type of administrative hearing before a federal employee may be stripped of a bonus in any year in which an adverse finding is made. Our system of law recognizes the right of a hearing before a neutral third-party before property may be taken by the government. Additionally, no consideration is given to connect the bonus awarded and the adverse finding. Federal employees could be punished unjustly despite previous outstanding work.

During a time of staggeringly low morale throughout the federal government, bonuses recognize federal employees who go above and beyond the call of duty. Encouragement of exemplary achievements by federal employees does nothing but create an environment that calls for best practices and a high-functioning federal government.

For these reasons, we oppose this legislation and urge your Committee to refrain from taking action on it. Thank you for your consideration of our views. Please do not hesitate to contact Alan Lopatin, Chair of the Coalition, if you would like to discuss this issue further in detail.

Sincerely,

American Federation of Government Employees (AFGE)
American Federation of State, County and Municipal Employees (AFSCME)
American Foreign Service Association (AFSA)
FAA Managers Association (FAAMA)
Federal Managers Association (FMA)
Federally Employed Women (FEW)
International Federation of Professional & Technical Engineers (IFPTE)
Laborers' International Union of North America (LIUNA)
National Active and Retired Federal Employees Association (NARFE)
National Association of Assistant United States Attorneys (NAAUSA)
National Association of Government Employees (NAGE)
National Association of Federal Veterinarians (NAFV)
National Council of Social Security Management Associations (NCSSMA)
National Federation of Federal Employees (NFFE)
National Postal Mail Handlers Union (NPMHU)
National Treasury Employees Union (NTEU)
National Weather Service Employees Organization (NWSEO)
Organization of Professional Employees at the U.S. Dept. of Agriculture (OPEDA)
Patent Office Professional Association (POPA)
Professional Aviation Safety Specialists (PASS)
Professional Managers Association (PMA)
Senior Executives Association (SEA)

Staff Contact:

Alan Lopatin, Chairman of the Federal-Postal Coalition

E-mail: alan@ledgecounsel.com