

ENHANCED OVERSIGHT OF STATE AND LOCAL
ECONOMIC RECOVERY ACT

MAY 18, 2009.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2182]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 2182) to amend the American Recovery
and Reinvestment Act of 2009 to provide for enhanced State and
local oversight of activities conducted pursuant to such Act, and for
other purposes, having considered the same, report favorably there-
on without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 2182, the “Enhanced Oversight of State and Local Economic Recovery Act,” was introduced by Oversight and Government Reform Committee Chairman Edolphus Towns and Ranking Member Darrell Issa on April 29, 2009. The bill makes a number of changes to the American Recovery and Reinvestment Act of 2009 (P.L. 111–5) to assist state and local governments in their efforts to oversee the spending directed by that Act.

The bill directs Federal agencies to adjust the administrative cost associated with grants and contracts awarded to or through state and local governments to include costs associated with auditing, contract and grant planning and management, and investigations of waste, fraud, and abuse, subject to guidance from the Office of Management and Budget. This would allow state and local governments to use a greater portion of grant or contract funds for these purposes. The bill also authorizes state and local governments to use up to 0.5 percent of funds awarded under the Recovery Act, in addition to any funds already allocated to administrative expenditures, to conduct planning and oversight to prevent and detect waste, fraud, or abuse of stimulus dollars.

H.R. 2182 would also allow state and local governments to use the Federal supply schedules of the General Services Administration to purchase goods and services that are funded by the Recovery Act. The Federal supply schedules are a series of schedules comprised of contracts for commonly-used supplies and services available to government agencies at specified prices. By law, the prices offered must be no greater than the lowest commercially-available price. Use of the schedules may allow state and local governments to acquire covered items without engaging in time-consuming contracting procedures, while guaranteeing the lowest prices for such items.

Finally, the bill requires the Director of the Office of Management and Budget to issue guidance to ensure that the reporting by state and local governments of “jobs created” and “jobs retained” is accurate and consistent.

BACKGROUND AND NEED FOR LEGISLATION

The need for legislation to assist state and local governments in implementing the oversight and accountability requirements of the American Recovery and Reinvestment Act was demonstrated at Oversight and Government Reform Committee hearings on the economic stimulus. (See, e.g., House Committee on Oversight and Government Reform, *Hearing on The American Recovery and Reinvestment Act of 2009: The Role of State and Local Governments*, 111th Cong. (April 21, 2009) (held in Brooklyn, NY); House Committee on Oversight and Government Reform, *Hearing on Preventing Stimulus Waste, Fraud, and Abuse: Who are the Watchdogs*, 111th Cong. (March 19, 2009)).

At the hearings, state and local officials responsible for overseeing spending of stimulus dollars explained that their auditors are already under tremendous pressures to conduct normal oversight work, and are therefore having difficulty coping with the increased transparency and accountability requirements from the Recovery Act. For example, William J. Holland, the Illinois Auditor

General, speaking on behalf of the National Association of State Auditors, Comptrollers, and Treasurers, explained that federal departments and agencies, such as the Government Accountability Office and the Recovery Accountability and Transparency Board, received substantial dollars for the purpose of maintaining accountability of Recovery Act funds. However, while “state auditors already bear significant responsibility for oversight of federal program spending by state agencies,” no comparable Recovery Act appropriations were made to compensate for the increased burden on these agencies. Similarly, Mr. Jerome Heer, Director of Audits for Milwaukee County, Wisconsin, on behalf of the Association of Local Government Auditors (ALGA), noted that the economic downturn had already resulted in budget reductions at most local government auditing organizations. He explained that these organizations are “carrying out important, innovative work, [but] they do not currently have the ability to take on additional tasks.”

These hearings made clear that state and local governments need additional resources to monitor the large infusion of funds that the Recovery Act directed to state-administered federal programs. H.R. 2182 addresses this omission by providing state and local governments with the flexibility they need to set aside a portion of stimulus funds for auditing, contract and grant planning and management, and investigations of waste, fraud, and abuse. The Committee also believes that a critical approach to planning and oversight is project and program management. State and local agencies should have in place strong and effective project and program management processes so that opportunities for fraud, waste, and abuse are limited.

The bill will also assist state and local governments by permitting them to use the federal supply schedules of the General Services Administration (GSA) for stimulus projects. The GSA schedules are pre-negotiated federal contracts for a range of common goods and services. This will allow state and local governments to acquire certain items without engaging in time-consuming contracting procedures, while guaranteeing the lowest prices for such items.

Lastly, in response to requests from state and local compliance officials for clarifications in this area, H.R. 2182 requires the Office of Management and Budget to give detailed guidance to state and local governments to ensure consistency in their reporting of job creation data.

The Committee recognizes that state and local governments are on the front lines of the effort to fight mismanagement of Recovery Act dollars. Their success is vital to making the stimulus work for the American people.

LEGISLATIVE HISTORY

On March 19, 2009, the House Committee on Oversight and Government Reform held a hearing on “The American Recovery and Reinvestment Act of 2009: The Role of State and Local Governments.” On April 21, 2009, the Committee held a field hearing in Brooklyn, New York, on “Preventing Stimulus Waste, Fraud, and Abuse: Who are the Watchdogs.” The Oversight and Government Reform Committee held a markup session on the bill on May 6, 2009. The Committee ordered the bill to be reported by voice vote.

SECTION-BY-SECTION

Sec. 1. Short title

The short title of the bill is the Enhanced Oversight of State and Local Economic Recovery Act.

Sec. 2. Requirements for funding for state and local oversight under American Recovery and Reinvestment Act of 2009

This section would amend the American Recovery and Reinvestment Act to require Federal agencies, subject to guidance from the Director of the Office of Management and Budget, to adjust applicable limits on administrative expenditures for Federal awards to help award recipients defray the costs of data collection requirements, auditing, contract and grant planning and management, and investigations of waste, fraud, and abuse.

The section further amends the Recovery Act to allow state and local governments receiving funds under the Recovery Act to set aside an amount up to 0.5 percent of such funds, in addition to any funds already allocated to administrative expenditures, to conduct planning and oversight to prevent and detect waste, fraud, and abuse.

Sec. 3. Authorization for acquisition by state and local governments through Federal supply schedules

This section amends section 502 of title 40, United States Code, by providing the Administrator of the General Services Administration with the authority to provide for the use by state or local governments of the Federal supply schedules for goods or services that are funded by the Recovery Act. Participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary.

Sec. 4. Definition of jobs created and jobs retained

This section amends section 1512(g) of the Recovery Act by requiring the Director of the Office of Management and Budget to issue guidance to state and local government agencies and other funding recipients to ensure accurate and consistent reporting of “jobs created” and “jobs retained” through Recovery Act projects.

EXPLANATION OF AMENDMENTS

No amendments were offered by Committee Members.

COMMITTEE CONSIDERATION

On Wednesday, May 6, 2009, the Committee met in open session and favorably ordered H.R. 2182 to be reported to the House by a voice vote.

ROLL CALL VOTES

No roll call votes were taken.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of P.L. 104–1 requires a description of the application of this bill to the legislative branch where the bill relates

to terms and conditions of employment or access to public services and accommodations.

H.R. 2182 amends the American Recovery and Reinvestment Act by providing additional resources to state and local governments for oversight of Recovery Act projects, and for other purposes. This bill does not relate to employment or access to public services and accommodations in the legislative branch.

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, including the need to increase the availability of oversight funds for use by state and local governments.

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 goals and objectives are reflected in the descriptive portions of this report, including the need to increase the availability of oversight funds available to state and local governments.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 2182. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

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 MANDATES STATEMENT

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

EARMARK IDENTIFICATION

H.R. 2182 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Com-

mittee of the costs that would be incurred in carrying out H.R. 2182. However, clause 3(d)(3)(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.

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 H.R. 2182 from the Director of the Congressional Budget Office:

MAY 12, 2009.

Hon. EDOLPHUS TOWNS,
*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. 2182, the Enhanced Oversight of State and Local Economic Recovery Act.

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

Sincerely,

DOUGLAS W. ELMENDORF,

Enclosure.

H.R. 2182—Enhanced Oversight of State and Local Economic Recovery Act

H.R. 2182 would allow state and local governments to purchase certain goods and services at the same discounted prices charged to the federal government. Eligible purchases under the bill would include those funded through grants provided in Public Law 111–5, the American Recovery and Reinvestment Act (Recovery Act). The legislation also would allow state and local governments to use a portion of their Recovery Act funds to monitor and account for those funds. CBO estimates that enacting H.R. 2182 would increase offsetting collections and associated spending of fees charged by the General Services Administration (GSA), but the net effect on the federal budget would be negligible. The bill would have no effect on revenues.

Under current law, state and local governments are able to use GSA's federal supply schedule to purchase goods from willing commercial vendors if those purchases are related to law enforcement, fire fighting, disaster recovery, or information technology. GSA charges a 0.75 percent fee on all purchases to recover the administrative costs of maintaining the supply schedule.

H.R. 2182 would temporarily expand the program to include any purchase made by those governments using Recovery Act funds. Based on information from GSA on the anticipated additional demand by the state and local governments, CBO estimates that ad-

ditional purchases would increase GSA's offsetting collections by about \$15 million annually over the next few years. Because such fees are spent by GSA without further appropriation, the net budgetary impact would be negligible.

In addition, section 2 would allow funds previously appropriated by the Recovery Act to state and local governments to be used for planning and auditing activities as well as investigations of waste and fraud. CBO expects that provision would not change the amount or the timing of expenditures to state and local governments. We therefore estimate that implementing that provision would have no significant effect on direct spending.

H.R. 2182 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The bill would benefit state and local governments by allowing them to use the federal supply schedule to purchase additional goods and services.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, 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, existing law in which no change is proposed is shown in roman):

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

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TITLE XV—ACCOUNTABILITY AND TRANSPARENCY

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Subtitle A—Transparency and Oversight Requirements

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SEC. 1512. REPORTS ON USE OF FUNDS.

(a) * * *

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(g) GUIDANCE.—Federal agencies, in coordination with the Director of the Office of Management and Budget, shall provide for user-friendly means for recipients of covered funds to meet the requirements of this section. *The Director of the Office of Management and Budget shall issue guidance to ensure accurate and consistent re-*

porting of “jobs created” and “jobs retained” as those terms are used in subsection (c)(3)(D).

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Subtitle D—Additional Accountability and Transparency Requirements

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[SEC. 1552. SET-ASIDE FOR STATE AND LOCAL GOVERNMENT REPORTING AND RECORDKEEPING.]

SEC. 1552. FUNDING FOR STATE AND LOCAL GOVERNMENT OVERSIGHT.

(a) FEDERAL AGENCY REQUIREMENT.—Federal agencies receiving funds under this Act, [may, after following the notice and comment rulemaking requirements under the Administrative Procedures Act (5 U.S.C. 500), reasonably] shall, subject to guidance from the Director of the Office of Management and Budget, adjust applicable limits on administrative expenditures for Federal awards to help award recipients defray the costs of [data collection requirements] data collection requirements, auditing, contract and grant planning and management, and investigations of waste, fraud, and abuse initiated pursuant to this Act.

(b) STATE AND LOCAL GOVERNMENT AUTHORITY.—Notwithstanding any other provision of law, State and local governments receiving funds under this Act may set aside an amount up to 0.5 percent of such funds, in addition to any funds already allocated to administrative expenditures, to conduct planning and oversight to prevent and detect waste, fraud, and abuse.

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SECTION 502 OF TITLE 40, UNITED STATES CODE

§ 502. Services for other entities

(a) * * *

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(e) USE OF SUPPLY SCHEDULES FOR ECONOMIC RECOVERY.—

(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for goods or services that are funded by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(2) VOLUNTARY USE.—In the case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

(3) DEFINITIONS.—The definitions in subsection (c)(3) shall apply for purposes of this subsection.

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