February 3, 2026

The Honorable James Comer
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Robert Garcia
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

RE: H.R. 5438, the "Incentivize Savings Act"

Dear Chairman Comer and Ranking Member Garcia:

We write to express our concerns regarding H.R. 5438, the "Incentivize Savings Act," which we understand may soon be taken up for consideration by the Committee. The bill establishes a new process for allocating an agency's unexpended, expired funds at the end of a fiscal year—with 49% remaining available for another fiscal year, 49% to be used to pay off the public debt, and 2% to be used for retention bonuses—while restricting how much funding a president can request in their annual budget submission.

Despite the bill's purported goal of encouraging fiscal responsibility, its fundamental structure would incentivize the unlawful withholding of funds while reducing congressional control over how agencies use funds that have expired, prevent the president from effectively communicating with Congress, and disrupt government operations. Because this legislation would undermine Congress's power of the purse at a time when that authority is already under attack, we respectfully urge the Committee to reject this legislation.

Under current law, agencies must prudently obligate the funds that Congress appropriates and may not decline to spend them during the period specified by law without the approval of Congress. This bill, however, appears to normalize unlawful withholdings while encouraging employees to spend less than Congress has appropriated by making a percentage of expired funds available for employee retention bonuses. Because the bill establishes this incentive structure without amending the current laws that prohibit impoundments, agency officials would be left with both a mandate to spend appropriated funds and a conflicting motive to unlawfully withhold funds to increase the amounts available for these employee payments.

Additionally, the bill automatically extends the period of availability of nearly half of an agency's unspent funds at the end of the fiscal year. This provision ignores the carefully negotiated time limits that Congress imposes on these agency appropriations, and effectively cedes congressional control of the period of availability of those amounts to the executive branch. And contrary to the bill's apparent intent of promoting fiscal responsibility, this structure risks increasing government spending. Expired funds are ordinarily returned to the Treasury after five fiscal years. Until then, expired funds can be used only for the limited purpose of making payments on prior legal commitments. This bill, however, would make expired funds available for *new* obligations for an additional fiscal year.

The bill also could prevent open and accurate communication between the executive and legislative branches regarding the budget. In the president's annual budget submission, Congress relies on the president to share important information about the financial condition of the government and the president's vision for the executive branch moving forward. This bill, however, constrains how much funding the president can request for each agency through this process. Although in theory these constraints apply only if an agency does not expend all available funds before they expire, in practice this provision will affect every agency every fiscal year. Because prudent fiscal management requires agencies to balance their duty to implement programs with the limits imposed by the Antideficiency Act, every agency will end the fiscal year with some balance in their accounts, thus triggering these restraints on the president's budget request and preventing the president—from the date of enactment on—from accounting for any changed circumstances, proposing new programs to benefit the American people, or asking for additional funding for any agency for any reason other than inflation.

Finally, as drafted the bill would dangerously disrupt federal government operations. Because the bill requires an agency to immediately pay to the Treasury 49% of expired funds that are not yet "expended," this provision covers not only unobligated funds, but also obligated funds that have been legally committed, but not yet paid.

Agencies routinely obligate funds during their period of availability, but make payments on those obligations for up to five years after they expire. As written, however, agencies that dutifully obligate funds by the end of the period fixed by Congress, and prepare to pay out on those contracts and grants over the coming years as usual, may find themselves without enough funding to do so: Under this bill, nearly half of these "unexpended" funds would be returned to the Treasury. Not only would this jeopardize the long-term viability of programs such as capital projects, through which agencies routinely obligate funding in the first year but pay out over a longer period of time, but it also would place agencies at risk of a deficiency because they no longer have enough money to cover their existing obligations.

The Incentivize Savings Act would create fiscal chaos rather than fiscal savings. We respectfully urge the Committee to reject this legislation.

Sincerely,

Citizens for Responsibility and Ethics in Washington
Project On Government Oversight
Protect Democracy
Public Citizen