



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 29, 2012

S. 241 **Nonfederal Employee Whistleblower Protection Act of 2012**

*As ordered reported by the Senate Committee on Homeland Security
and Governmental Affairs on April 25, 2012*

SUMMARY

S. 241 would amend federal law to give new legal protection to certain nonfederal employees (contractors, grantees, state and local government employees, or others employed by entities that receive federal funds) who report waste, fraud, or abuse involving federal funds. Specifically, under the bill, anyone who reports the misuse of federal funds could not be demoted, discharged, or discriminated against because of the disclosure.

Based on information from the offices of some federal Inspectors General (IGs), CBO estimates that implementing S. 241 would cost \$85 million over the 2013-2017 period, assuming appropriation of the necessary amounts. Enacting the bill could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would be negligible. Enacting S. 241 would not affect revenues.

S. 241 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs to state or local governments would result from complying with conditions of assistance.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 241 is shown in the following table. The costs of this legislation fall within budget function 800 (general government) and all other budget functions that include spending for the salaries and expenses of IG officers.

	By Fiscal Year, in Millions of Dollars					2013- 2017
	2013	2014	2015	2016	2017	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	10	15	20	20	20	85
Estimated Outlays	10	15	20	20	20	85

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted by the end of 2012, that the necessary amounts will be appropriated each year, and that spending will follow historical patterns for salaries and expenses of IG offices.

Under current law, some nonfederal employees who report on waste, fraud, and abuse are given the same whistleblower protections available to federal employees. Nonfederal employees that currently have such protection include some Department of Defense (DoD) contractors, anyone receiving funding under the American Recovery and Reinvestment Act of 2009 (ARRA), and individuals who pursue a case under the False Claims Act.

The cost to implement S. 241 would depend on the number of whistleblower claims made by nonfederal employees who do not currently have such protections. Under current law, few such claims are made by nonfederal employees who currently are protected. For example, according to DoD, only about 100 whistleblower claims are made by defense contractor employees each year. Surveys made by the Council of Inspectors General on Integrity and Efficiency show that nonfederal employees working under ARRA filed 18 whistleblower complaints in the past few years.

In contrast, the Office of Special Counsel reports that in 2012, it spent \$10 million to investigate about 1,300 whistleblower claims brought by federal employees. There are approximately 2 million federal employees. The number of nonfederal workers that would be covered by this legislation is uncertain, but federal and private labor experts suggest that there are more than 8 million contract employees working for the federal government—four times the number of federal employees. Because few claims have been made by nonfederal whistleblowers under ARRA or by DoD contract employees, CBO expects that the rate of claims among nonfederal employees would be significantly lower than for federal employees. CBO estimates about 2,500 whistleblower suits would be brought by nonfederal employees each year.

CBO expects that federal Inspectors General would have to conduct additional investigations of the new cases brought under the bill. Based on the cost of investigating such cases under the current law, CBO estimates that implementing S. 241 would cost about \$85 million over the 2013-2017 period, assuming appropriation of the necessary amounts. Costs in the early years would cover initial training and employee education for nonfederal entities affected by the bill. Later years' costs would primarily cover additional investigations by IGs governmentwide.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting S. 241 could affect direct spending by agencies not funded through the appropriations process, but CBO estimates that the net effects would not be significant in any year. Enacting S. 241 would not affect revenues.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 241 contains no intergovernmental or private-sector mandates as defined in UMRA. Any costs to state and local governments would result from complying with conditions of assistance.

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