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113TH CONGRESS }
2d Session

SENATE

{ REPORT
113-243

TAXPAYERS RIGHT-TO-KNOW ACT

R E P O R T

OF THE

**COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

TO ACCOMPANY

S. 2113

TO PROVIDE TAXPAYERS WITH AN ANNUAL REPORT DISCLOSING
THE COST AND PERFORMANCE OF GOVERNMENT PROGRAMS
AND AREAS OF DUPLICATION AMONG THEM, AND FOR OTHER
PURPOSES



AUGUST 26, 2014.—Ordered to be printed

Filed, under authority of the order of the Senate of August 5 (legislative
day, August 1), 2014

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TAXPAYERS RIGHT-TO-KNOW ACT

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Mr. CARPER, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2113]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2113), to provide taxpayers with an annual report disclosing the cost and performance of Government programs and areas of duplication among them, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The Taxpayers Right-To-Know Act of 2014 (S. 2113) will provide the public with better and more useful information on the breadth, cost, and performance of programs administered by the federal government. It will do so by refining existing requirements under the Government Performance and Results Modernization Act for agencies to create, update, and make public an inventory of their programs. Specifically, by providing a uniform definition of the term

“program,” better detailing the information agencies must provide, and requiring the inclusion of financial data about programs, S. 2113 will give the American taxpayer a much better sense of the programs they are paying for and how those programs are performing.

II. BACKGROUND AND NEED FOR LEGISLATION

Over twenty years ago, Congress passed the Government Performance and Results Act (GPRA) (P.L. 103–62), a law premised on the belief that the regular and systemic measurement and reporting of how government programs are working will help those programs to work better.¹

GPRA required agencies to take a number of steps to better plan and budget for their activities. It also required agencies to provide information about that planning and budgeting, so that Congress had the data it needed when considering changes to, or authorizing spending on, federal programs.² GPRA implementation, combined with other statutory efforts in the 1990s addressing long-standing management problems,³ has provided a powerful framework for developing and integrating information about agencies’ strategic priorities, the results-oriented performance goals that flow from those priorities, performance data showing the level of achievement of those goals, and the relationship of reliable and audited financial information and information technology investments to the achievement of those goals.⁴

In the years since GPRA’s enactment, that statute has led to many improvements in the federal government’s performance, but experience in implementing GPRA has also shown that Congress must regularly step in to refine that law’s mandates. For example, in 2010, Congress passed the Government Performance and Results Modernization Act (GPRA Modernization) (P.L. 111–352). GPRA Modernization addressed weaknesses in the original GPRA by requiring: the Office of Management and Budget (OMB) to provide government-wide priority goals; increased frequency and enhanced quality of agency reporting; and improved transparency of performance reporting. Additionally, GPRA Modernization also required OMB to publish information about programs identified by agencies. This last provision required agencies to describe the purposes of programs meeting OMB’s inventory criteria, explain how those programs contribute to the mission and goals of the agency, and state the amount the program cost for the current and two previous fiscal years. The purpose of a central program list is to facilitate coordination across agencies and programs by making it easier for federal agencies and Congress to find programs seeking to serve a shared goal. A program list with detailed performance and financial information also has the potential to assist Congress in com-

¹ See U.S. Senate Committee on Governmental Affairs, *Government Performance and Results Act, 1993 (S. 20), Together with Dissenting and Separate Views*, (103 S. Rpt. 103–58), p. 2. The Committee on Governmental Affairs is the former name of this Committee.

² GPRA, §§(a)(1) and 2(b)(5).

³ This includes the Chief Financial Officers Act of 1990 (P.L. 111–204), as amended by the Government Management Reform Act of 1994 (P.L. 103–356), and information technology reform legislation, including the Paperwork Reduction Act of 1995 (P.L. 104–13) and the Clinger-Cohen Act of 1996 (P.L. 104–106).

⁴ GAO, *Results-Oriented Government: GPRA Has Established a Solid Foundation for Achieving Greater Results*, GAO–04–38 (Washington, D.C.: March 10, 2004) p. 25.

paring similar programs across different agencies and assessing whether there is duplication, overlap, fragmentation, or inefficiencies within government programs. As the Government Accountability Office (GAO) noted in its first annual report on duplication in 2010, “needed information on program performance is not readily available; the level of funding in agency budgets devoted to overlapping or fragmented programs is not clear; and the implementation costs that might be associated with program consolidations or terminations, among other variables, are difficult to predict.”⁵ Reviewing 44 duplicative employment training programs in that same report, GAO explained that “the extent to which individuals receive the same services from these programs is unknown due to program data limitations.”⁶

The first program inventory was published in May 2013 on www.performance.gov, a website established by OMB. GAO immediately expressed concern that the program inventory did not meet the requirements under the GPRA Modernization Act and that the inventory therefore would not enable Congress to compare similar programs government-wide. In testimony before this Committee, the Comptroller General of the United States, Gene Dodaro, reported that GAO’s preliminary review of the inventories yielded concerns about the usefulness of the information being developed and the extent to which it would assist executive branch and congressional efforts to identify and address fragmentation, overlap, and duplication.⁷ Among the problems identified by GAO were OMB’s guidance for developing the inventories, which allowed agencies flexibility to define their programs in various ways, including by outcomes, customers, products/services, organization structure, and budget structure. As a result, agencies—and even the components within an agency—took different approaches to define their programs. The variation in how agencies defined their programs limited comparability among like programs. Additionally, federal budget and cost information was not available for all programs.

The Taxpayers Right-To-Know Act was introduced to ensure that future program inventories will reflect what this Committee and Congress envisioned when GPRA Modernization was passed. Instead of requiring OMB to provide agencies with guidance on how to define a program for the purposes of the program inventory, the legislation itself defines the term “program,” thereby providing for uniformity of reporting. The Taxpayers Right-To-Know Act also requires agencies to identify and publish the specific statute authorizing each program and any regulations specific to the program, and to provide links to any evaluation, assessment, or program performance reviews by the agency, an Inspector General, or the Government Accountability Office for the preceding five years. For any program that provides grants or other financial assistance to individuals or entities, agencies are also required to publish an estimate of the number of individuals served by the program and beneficiaries who received financial assistance under the program, an

⁵ GAO, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (Washington, D.C.: March, 2011) p. 3.

⁶ *Id.*

⁷ Statement of Gene Dodaro (Comptroller General of the United States), Hearing before the Senate Committee on Homeland Security and Governmental Affairs, *Management Matters: Creating a 21st Century Government* (March 12, 2014), GAO-14-436T, p. 7.

estimate of the number of full-time equivalents who administer the program, and the number of full-time equivalents who administer or assist in administering the program whose salary is paid in part or full by the federal government through a grant, contract, cooperative agreement, or another form of financial award or assistance.

In order for Congress and the public to get a complete picture of a program, the Committee believes it is important to link a program's performance information with its financial information. On September 13, 2006, President Bush signed into law the Federal Funding Accountability and Transparency Act (FFATA), landmark legislation which fundamentally changed the way that federal spending was reported to the public.

In order to further refine and improve the financial reporting required under FFATA, the Committee and Congress passed the Digital Accountability and Transparency Act (DATA Act) (P.L. 113–101), which was signed into law by President Obama on May 9, 2014. The DATA Act requires the federal government to increase the availability, accuracy, and usefulness of on-line information regarding federal spending. Specifically, it requires federal agencies to publish spending information online to cover virtually all forms of government spending, mandates that the information appear in a form that is both easily searchable and downloadable, and makes uniform the manner in which agencies provide such data for online posting. The Taxpayers Right-To-Know Act would require that program inventories also include, to the extent available, financial information for each program required to be reported under the DATA Act or a direct web link to the information. When fully enacted, the Taxpayers Right-to-Know Act will result in detailed financial and performance information for every federal program, all in one place.

III. LEGISLATIVE HISTORY

On March 12, 2014, Senator Coburn and nineteen original cosponsors⁸ introduced S. 2113, the Taxpayers Right-To-Know Act of 2014, which was referred to the Senate Committee on Homeland Security and Governmental Affairs.

The Committee considered the bill at a business meeting on May 21, 2014, at which point the legislation had 37 total cosponsors. The Committee adopted a substitute amendment offered by Senator Coburn and then ordered the underlying bill reported favorably, both by voice vote. The substitute added a definition for the term “program” for the purposes of the program inventory and specified the information that agencies must provide for each program. Members present for the vote on the amendment and on the bill were Senators Carper, Pryor, Landrieu, McCaskill, Tester, Begich, Coburn, Johnson, Portman, and Enzi.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1: Short title

The short title of the bill is the “Taxpayers Right-To-Know Act.”

⁸The original co-sponsors of S. 2113 are Senators Ayotte, Begich, Burr, Chambliss, Collins, Cruz, Enzi, Flake, Hatch, Inhofe, Ron Johnson, McCain, McCaskill, Paul, Portman, Risch, Scott, Vitter, and Warner.

Section 2: Cost and performance of Government programs

Definition of Program. This section defines the term “program” for the purposes of 31 U.S.C. § 1122 (the provision establishing the requirement for OMB to publish an inventory of agency programs) as an organized set of activities by one or more agencies directed toward a common purpose or goal.

Website and Program Inventory. This section directs the OMB Director to publish a program inventory that identifies each program of the federal government on the website where performance information is posted pursuant to the Government Performance and Results Modernization Act. Additionally, this section requires the program inventory to include: (1) any activity that is commonly referred to as a program; (2) any activity specifically created by law, or referenced in law, as a program; (3) each program that has an application process; (4) each program for which financial awards are made on a competitive basis; and, (5) any activity identified as a program activity in a budget request. The listing for each program must also state the specific statute that authorizes the program and any regulations specific to the program. Any program that provides grants or other financial assistance to individuals or entities is also required to include an estimate of the number of individuals served by the program and beneficiaries who received financial assistance under the program, an estimate of the number of full time equivalents who administer the program, and the number of full-time equivalents whose salary is paid in part or full by the federal government through a grant, contract, cooperative agreement, or another form of financial award or assistance who administer or assist in any way in administering the program. Programs listed in the program inventory must also include web links to any evaluation, assessment, or program performance reviews by the agency, an Inspector General, or the Government Accountability Office that was issued in the preceding five years. Finally, to the extent available, financial information for each program that is required to be reported under section 3(b) of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note), as amended by the DATA Act, is also required to be included in the program inventory. In lieu of republishing this financial information, a direct web link to such information is also allowed.

Guidance. This section requires the Director of the Office of Management and Budget to issue guidance that will assist agencies in identifying the program activities listed in the President’s budget submission to Congress that correspond with programs identified in the program inventory that is required by this legislation. Additionally, the OMB Director is authorized to issue guidance to agencies on how to more closely align programs in the program inventory for purposes of the budget that the President submits to Congress.

Section 3: Regulations and implementation

Regulations. This section requires the OMB Director to issue regulations or other guidance to implement this legislation within 120 days after enactment of this Act.

Implementation. This section requires the provisions in this legislation to be implemented no later than one year after the date of enactment of this Act.

V. ESTIMATED COST OF LEGISLATION

JULY 31, 2014.

Hon. TOM CARPER,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2113, the Taxpayers Right-To-Know 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.

S. 2113—Taxpayers Right-To-Know Act

Summary: S. 2113 would amend federal law to increase the amount of information about federal programs that the Office of Management and Budget (OMB) provides online. The legislation would require that each program administered by a federal agency be described on the agency's website, including the number of people served by or benefiting from the program, the number of federal employees and contract staff involved, and links to reviews of the program including those by the Government Accountability Office (GAO) and Inspectors General.

Based on information from several agencies, CBO estimates that implementing S. 2113 would cost \$60 million over the 2015–2019 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. 2113 would not affect revenues.

S. 2113 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2113 is shown in the following table. The costs of this legislation fall within all budget functions that include spending on administrative activities for government programs.

	By fiscal year, in millions of dollars—					
	2015	2016	2017	2018	2019	2015–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	20	20	10	5	5	60
Estimated Outlays	20	20	10	5	5	60

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2014, that the necessary amounts will be appropriated each year, and that spending will follow historical patterns for federal salaries and expenses.

Under current law, agencies regularly produce information on program management, budgets, strategic plans, and annual per-

formance. A recent amendment to the Government Performance and Results Act (GPRA) requires agencies to describe every program they administer. Consequently, CBO expects that some of the provisions in S. 2113 would codify or only slightly modify current requirements.

However, the legislation also would expand the definition of a federal program to require agencies to report each governmental activity as an individual program, along with the number of federal employees and contract staff involved. The Catalog of Federal Domestic Assistance lists more than 2,200 federal programs, projects, services, and activities that provide assistance or benefits to the public, although some programs may be listed more than once. Using information from OMB and selected agencies about the costs to implement GPRA, CBO estimates that assembling such information about each government activity that provides benefits or services to the public would cost less than \$1 million annually per agency, or \$60 million over the 2015–2019 period. Most costs would occur over the first three years to identify the programs and develop the necessary information for posting.

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. 2113 could affect direct spending by agencies not funded through the appropriation process, but CBO estimates that any change in net spending would not be significant in any year. Enacting S. 2113 would not affect revenues.

Intergovernmental and private-sector impact: S. 2113 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On August 22, 2013, CBO transmitted a cost estimate for H.R. 1423, the Taxpayers-Right-To-Know Act, as ordered reported by the House Committee on Oversight and Government Reform on July 24, 2013. The two pieces of legislation would affect the management of information about federal programs. However, the bills have different definitions of a federal program and different reporting requirements. Those differences are reflected in the CBO cost estimates.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Michael Hirsch and Leo Lex; Impact on the Private Sector: John Rodier and Patrice Gordon.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill.

The Committee agrees with the Congressional Budget Office that the bill 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, or private entities. The enactment of this legislation would not have significant regulatory impact.

VII. CHANGES IN EXISTING STATUTE MADE BY THE BILL, AS
REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the following changes in existing law made by S. 994, 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).

UNITED STATES CODE

TITLE 31—MONEY AND FINANCE

* * * * *

SUBTITLE II—THE BUDGET PROCESS

* * * * *

**CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND
PROGRAM INFORMATION**

* * * * *

Section 1101. Definitions. * * *

§ 1122. Transparency of programs, priority goals, and results.

(a) TRANSPARENCY OF AGENCY PROGRAMS.

(1) *DEFINITION OF PROGRAM.*—*For purposes of this subsection, the term ‘program’ means an organized set of activities by 1 or more agencies directed toward a common purpose or goal.*

(2) **IN GENERAL.**—Not later than October 1, 2012, the Office of Management and Budget shall **WEBSITE AND PROGRAM INVENTORY.**—*The Director of the Office of Management and Budget shall—*

(A) ensure the effective operation of a single website;

(B) at a minimum, update the website on a quarterly basis; and

(C) **include on the website information about each program identified by the agencies.** *include on the website—*

(i) *a program inventory that shall identify each program of the Federal Government, which shall include—*

(I) *any activity that is commonly referred to as a program;*

(II) *any activity specifically created by law, or referenced in law, as a program;*

(III) *each program that has an application process;*

(IV) *each program for which financial awards are made on a competitive basis; and*

(V) *any activity identified as a program activity in a budget request; and*

(ii) *for each program identified in the program inventory, the information required under paragraph (3).*

(3) INFORMATION.—Information for each program **described under paragraph (1)** *identified in the program inventory required under paragraph (2)* shall include—

(A) **an identification of how the agency defines the term “program”, consistent with guidance provided by the Director of the Office of Management and Budget, including the program activities that are aggregated, disaggregated, or consolidated to be considered a program by the agency;** *the program activities that are considered a program by the agency;*

(B) a description of the purposes of the program and the contribution of the program to the mission and goals of the agency; **and**

(C) an identification of funding for the current fiscal year and previous 2 fiscal years**;**

(D) *an identification of the specific statute that authorizes the program and any regulations specific to the program;*

(E) *for any program that provides grants or other financial assistance to individuals or entities, for the most recent fiscal year—*

(i) *an estimate of the number of individuals served by the program and beneficiaries who received financial assistance under the program; and*

(ii) *an estimate of—*

(I) *the number of full-time equivalents who administer the program; and*

(II) *the number of full-time equivalents whose salary is paid in part or full by the Federal Government through a grant, contract, cooperative agreement, or another form of financial award or assistance who administer or assist in any way in administering the program;*

(F) *links to any evaluation, assessment, or program performance reviews by the agency, an Inspector General, or the Government Accountability Office (including program performance reports required under section 1116) released during the preceding 5 years; and*

(G) *to the extent available, financial information for each program required to be reported under section 3(b) of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note), or a direct link to such information for a specific program on the website established under section 2 of that Act.*

(b) * * *

(c) * * *

(d) * * *